

Post-Election Employment Implications in Illinois, Indiana, Missouri and Wisconsin

Labor & Employment Law Update

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With the dust mostly settled after election night, we can now look at the impact the election will have on employment laws in Illinois, Indiana, Missouri and Wisconsin, and at the federal level.

Illinois: The major story in Illinois is the election of J.B. Pritzker as governor. In short, his election is likely to usher in greater infrastructure spending—including an increase in prevailing wage jobs—and more aggressive enforcement efforts by state agencies charged with regulating employers and protecting employees. Beyond that, minimum wage increases, expansions to employee protections under the Illinois Human Rights Act, and more legislation favorable to employees are likely to receive strong consideration in the General Assembly in the near future.

Indiana: We do not expect to see any significant state-level changes in Indiana. Republicans maintained their supermajority in both chambers of the Indiana Statehouse and swept every statewide race on the ballot. Republican Eric Holcomb (elected to his first four year term in 2016) will continue as Indiana's Governor.

Missouri: In Missouri, the elected status quo kept. Governor Mike Parsons, serving out former Governor Eric Greitens' term, was not on the ballot. In the Legislature, Republicans maintained their supermajority status in both the Missouri State Senate and House of Representatives. In the Senate, the Republicans maintained their 24 to 10 seat lead over Democrats with no seats changing hands. In the House, preliminary results show that each party flipped three seats from the other, maintaining the Republicans' dominant 116 to 47 seat advantage.

Missouri voters did, however, approve Proposition B, a minimum wage increase measure by a 62% to 38% margin. The measure increases the state's current \$7.85 minimum wage incrementally over the next five years to: \$8.60 in 2019, \$9.45 in 2020, \$10.30 in 2021, \$11.15 in 2022 and \$12.00 in 2023. After 2023, the minimum wage will automatically increase or decrease based on Consumer Price

Index for Urban Wage Earners and Clerical Workers. The measure also increases the penalty for employers paying employees less than minimum wages. Affected workers can now recover the full amount of the wage rate and an additional amount equal to twice the unpaid wages as liquidated damages.

Wisconsin: In 2011, Governor Walker drew national attention to Wisconsin when he revealed his plan to eradicate collective bargaining for most public workers. Since 2013, the governor and the legislature in Wisconsin have been dominated by Republicans. Scott Walker's loss to Tony Evers, marks the end of that complete control. And based upon a law signed last year by Governor Walker, the margin of loss, while extremely narrow, is not narrow enough to demand a recount.

Evers campaigned on promises to cut income taxes by 10 percent for people making less than \$100,000 and for families making less than \$150,000. Evers has also stated that it is his goal to eliminate the limitations on unions (known as Act 10). However, with the legislature remaining primarily Republican, such a goal will likely remain out of reach.

Change does not happen overnight and a Republican legislature will slow any initiatives of Democrat, Tony Evers. However, the loss of a 5 year complete Republican majority of government will certainly have an effect on Wisconsin businesses.

Federal: At the federal level, little is likely to change over the next two years with respect to the Executive and Legislative branches of government. As long as Republicans remain in the White House, the composition and direction of the National Labor Relations Board (NLRB) is unlikely to shift dramatically from its current course. The Equal Employment Opportunity Commission (EEOC), Department of Labor (DOL), and other agencies charged with regulation and enforcement of employment-related laws are also likely to continue to operate much as they have for the last two years—albeit with less-aggressive enforcement initiatives directed at businesses and, perhaps, smaller budgets. The prospect of significant employment-related legislation—whether protective of employees or businesses—seems quite unlikely for the foreseeable future given that Democrats control the U.S. House of Representatives, and Republicans control the Senate. However, there is some talk that family paid medical leave and an infrastructure bill may receive bipartisan support. We shall see. Of course, Republicans are likely to continue to use their Senate majority to fill judicial vacancies with conservative judges.

Although gridlock is likely in the federal government, we expect plenty of employment-law related activity at the state level, particularly in Illinois, and we will continue to apprise you of new developments as they arise.

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