Coronavirus Notice: Daily Legislative Update

Coronavirus Aid, Relief, and Economic Security (CARES) Act Summary

On March 19th, Senate Majority Leader Mitch McConnell (R-KY) introduced the Coronavirus Aid, Relief, and Economic Security Act, or CARES, Act. The aim of the CARES Act is to provide emergency financial and health care assistance to individuals, families, and businesses affected by the coronavirus (COVID-19) pandemic.

Small Business Interruption Loans- The CARES Act expands the Small Business Administration’s (SBA) 7(a) loan program. The 7(a) loan program is the SBA’s primary, non-disaster lending program. The bill proposes to broaden the program’s authority significantly by including all small businesses and non-profit entities with 500 or fewer employees. Businesses with more than 500 employees would be allowed to qualify if the covered industry’s SBA standard size allows for more than 500 employees.

For eligibility purposes, the bill requires lenders to, instead of determining a business’s repayment ability, to determine whether a business was operational on March 1, 2020, and had employees for whom it paid salaries and payroll taxes.

The Act increases the Federal government’s guarantee of 7(a) loans to 100% through December 31, 2020 and appropriates $299.4 million for the cost of fully guaranteeing the loans. It also eliminates the limit on SBA’s 7(a) lending authority, which is currently $30 billion for 2020. Businesses will be able to completely defer 7(a) loan payments for not more than one year, and the SBA will issue guidance on the deferment process within 30 days of enactment.

Eligible expenses include payroll support, such as paid sick or medical leave, employee salaries, mortgage payments and any other debt obligations. Any borrower who receives a 7(a) loan for any of the above reasons is not allowed to receive an SBA economic injury disaster loan (EIDL) for the same purpose, or to comingle funds from another loan for the same purpose.

Relief for Businesses- The provision allows corporations to postpone estimated tax payments due after the date of enactment until October 15, 2020. There is no cap on the amount of tax payments postponed.

It also allows employers and self-employed individuals to defer payment of the employer share of the Social Security tax they otherwise are responsible for paying to the federal government with respect to their employees. All employers are responsible for paying a 6.2-percent Social Security tax on employee wages. The provision requires that the deferred employment tax be paid over the following two years, with half of the amount required to be paid by December 31, 2021 and the other half by December 31, 2022.

Leave Program Modifications- The measure would amend the emergency sick leave program enacted under the second coronavirus response measure.

Paid sick leave requirements for employers would expire after a worker has been paid for 80 hours of leave or returned to work after taking leave, whichever is earlier. Certain workers laid off on or after March 1, 2020, would be eligible to receive family leave benefits if they’re rehired.
The measure would expand the Labor Department’s authority to issue regulations to exempt businesses with fewer than 50 workers from paid sick leave requirements related to caregiving for another quarantined individual or child whose school or day care has closed. The measure would apply the same caps on the amount employers would be required to pay per employee for the leave programs, which are:

- $200 per day, or $10,000 total, for family leave related to care for a child whose school or day care has closed because of the coronavirus.
- $511 per day, or $5,100 total, for sick leave related to a worker’s quarantine or diagnosis.
- $200 per day, or $2,000 total, for sick leave related to caregiving for another quarantined individual or child whose school or day care has closed.

**Next Steps**- One reason for a possible delay is there are fundamental differences over what should be included in Phase 3 that need to be resolved. “We need to work together quickly and do something big and bold that helps the American people,” said Senate Minority Leader Chuck Schumer (D-N.Y.), before the start of the meeting. “Sen. McConnell’s bill is not pro worker at all, it puts corporations ahead of people.” Many Democrats have echoed the Minority Leader’s comments and Speaker Pelosi has made similar statements. Democrats continue to insist that their priority in talks will be on individuals and health care infrastructure. Negotiations are ongoing and everyone may end up getting most of what they want.

One issue that might be included in the Phase 3 legislation, outside interest groups are trying to inject clean energy taxes and infrastructure into the stimulus debate. The League of Conservation Voters, the Sierra Club and more than a dozen other green groups sent a letter to congressional leaders today asking them to exclude any support for fossil fuel companies and to boost industries “leading the transition to clean energy and net-zero carbon emissions.” Instead, they want money for public transit agencies suffering low ridership amid the pandemic and extensions for clean energy tax incentives, as companies put off business and delay rooftop solar installations.

"Extending the existing investment tax credit, and expanding it to include storage and offshore wind, and allowing the credit for these to be refundable in the short term could provide the necessary infusion of capital and stability in an essential, growing piece of our country's infrastructure and jobs market with a 800,000 strong workforce that we need working on climate solutions," the letter says.

Various other groups, including the Carbon Capture Coalition, are also asking for their priorities to be included. (https://www.eenews.net/eenewspm/2020/03/20/stories/1062656823)

Some Republicans are pressing for some oil and gas relief. Gulf Coast lawmakers, including House Minority Whip Steve Scalise (R-La.) and Rep. Dan Crenshaw (R-Texas), want the Interior Department to temporarily cut royalties for oil and gas drillers on public lands and waters. "Whip Scalise has been working on a number of fronts, including talking to the Secretary of Interior about the possibility of providing royalty rate relief, to help our American energy producers throughout this crisis," Scalise spokeswoman Lauren Fine said in a statement.

We do expect a Phase 3 bill to be passed next week but Monday may be a stretch depending on how negotiations go this afternoon and evening. We are also increasingly hearing about a Phase 4 bill, focused on appropriations for affected industries, and possibly other emergency bills to follow, depending on how the pandemic progresses and what happens with the economy. We should know more in the coming days about how Phase 3 is coming together and what will be included.