STATE-LEVEL ADVOCACY IN THE TRUMP ERA
CRUCIAL TO EMPLOYMENT GROWTH

BEN EBBINK (SACRAMENTO)
RICK GRIMALDI (PHILADELPHIA)
FP ADVOCACY LLC
FISHER PHILLIPS LLP

HONORABLE JOHN ALBERS
GEORGIA STATE SENATOR (DISTRICT 56)
FISHER PHILLIPS LLP

I. Introduction

Former House Speaker Tip O'Neil famously once said, "All politics is local." For American employers, this may even be more accurate now than ever before. For the last few decades, and particularly for employers in "blue" states, employment and labor policy has largely been driven at the local level – either at the state or municipal level – rather than from Congress.

With the Democrats recapturing the House in the recent midterm elections, Congress will be divided and fractured, meaning there will be a lot of talk and heated rhetoric about employment issues – but not much in terms of meaningful federal legislation. That means that states and local jurisdictions will continue to be the primary focus for the development of labor and employment policy, driven mainly by "blue" states where Democrats control and organized labor has significant influence.

II. What Does A Divided Congress Mean For Employers?

As many predicted, Democrats recaptured the House for the first time in eight years in the recent November midterm elections, while Republicans retained and modestly strengthened their grip on the Senate. That has led to a dynamic in Washington, D.C. that the Trump administration had previously been yet to face: a fractured Congress and a tug-of-war at the federal level.

A. House Bills Will Showcase Democrat Agenda And Presidential Ambitions

Eager to repay the support they received that vaulted them into power, Democrats in the House are likely to introduce a slew of worker-friendly measures. In light of the Republican control of the Senate, and President Trump's continued presence in the Oval Office, most of these actions would be largely symbolic and stand little chance of actually being enacted into law.

It would not be surprising to see newly installed members of Congress swiftly pass a series of bills aimed directly at employers. Among them, you might see a repeal of the *Epic Systems case* that cleared the use of class waivers, a full-scale prohibition on mandatory arbitration agreements, measures to limit right-to-work laws, a passage of card-check provisions to streamline union organizing (like previous efforts at the "Employee Free Choice Act"), a return of the expansive persuader rule, the expansion of the worker-friendly ABC test for determining independent contractor status, and a boosting of the federal minimum wage towards $15 per hour.

For Democrats, pushing the employment policy "envelope" (even if not successful) will fulfill two important purposes. First, it will allow Democrats to clearly contrast their policies with those of President Trump and the GOP in advance of the 2020 national elections. And if Democrats can champion "pocketbook" issues without having to worry about how to actually pay for or implement such proposals, it may enamor them with working-class voters that voted for President Trump in 2016. Second, such legislation will be a rallying cry for the long list of potential Democrat candidates for president in 2020.

So you can expect a lot of posturing and grandstanding on employment issues over the next two years, but not much in terms of actual change. However, there are a couple of areas where you could see bipartisan compromise.

B. Paid Family Leave/Paid Sick Leave

Of all of the measures expected to be pushed by the new House, it seems fairly likely that paid family leave and/or paid sick leave will be on the top of the agenda when it comes to realistic goals. After all, many Republican members of Congress have indicated support for such a law, and even President Trump has provided words of support for some form of paid family leave.

The devil is in the details, however, and it remains to be seen what form of paid leave would be agreed upon by the Senate and the president.

Some Republicans have floated the concept of a voluntary paid leave program, or one that is borne by employees themselves through a reduction in Social Security or other benefits, which has not been well received by Democratic leadership. Employers should monitor this development to see if House and Senate members can work out a bipartisan solution that would be amenable to all and to President Trump.

C. Immigration Reform

Perhaps the most hot-button issue of the day, immigration will continue to be a matter of significant attention and interest for the new Congress. With Democratic control of the House, they will almost certainly seek to curb some of the more controversial positions taken by the White House. You can expect to see greater oversight attempted over the administration's aggressive immigration agenda, but it is an open question as to whether they will be able to have a significant impact.

What may change that dynamic is whether Republicans view being tied to Trump's immigration policies as a political liability, especially in light of demographic changes in the electorate in key states. If so, they could seek for forge compromise with Democrats on key immigration policies (such as DACA) in order to minimize further electoral damage in the 2020 election. And broad swaths of the business community still favor comprehensive immigration reform to address workforce needs, which could put further pressure on Republicans to reach consensus on this issue.

D. Democrats May Slow Down Regulatory Change

Employers have seen modest regulatory changes during the first two years of the Trump presidency, as his administration has sought to roll back some of the more onerous regulatory moves made under the previous administration. This effort has been slower than anticipated and impacted by delayed appointment of key administrative positions.

By using their power to seek additional information, hold hearings, and levy more control over executive activity, the new House could provide sufficient oversight over several federal agencies—namely the U.S. Department of Labor (USDOL) and the National Labor Relations Board (NLRB)—to slow down their agenda even further.

Expect to see the USDOL's effort to provide a more balanced overtime rule and the NLRB's move to return the joint employment rule to a more measured level both caught up in the political turmoil that will descend on the nation's capital.

III. States And Local Governments Will Continue To Be The Focus

For many years now, employment and labor policy has been driven at the local level with states and local jurisdictions increasingly regulating workplace issues. In light of the federal stalemate described above, it is clear that this focus will continue, particularly in "blue states" where labor-friendly policymakers seek to respond to any actual or perceived victories by the Trump administration.

The discussion below will analyze key areas of employment policy development at the local level, including likely areas of future development.

A. Labor Standards

1. Minimum Wage

While there is always some level of discussion about increasing the federal minimum wage, a divided Congress means that it is unlikely the federal minimum wage will be increased from its current $7.25 level. Labor advocates have generally stepped back from realistic expectations to dramatically increase the federal minimum wage and have instead shifted efforts to state and local minimum wages, as seen in the recent #FightFor15 movement.

Many states and local jurisdictions have enacted laws that will eventually establish minimum wage rates that reach (or exceed) $15 per hour, with several including automatic "indexing" provisions. In recent years, several states – including Arizona, Arkansas, Colorado, Maine, Missouri, and Washington – have placed minimum wage measures before voters through the use of ballot measures. These ballot measures generally fare well, even in "red states," so employers in these states are not immune from efforts to increase local minimum wages. These efforts are likely to continue for the foreseeable future.

2. Expansion Of Overtime Eligibility

Under the Obama administration, the Department of Labor attempted to increase the minimum "salary basis" that is required in order to maintain an employee's exemption from the requirement to pay overtime. This effort was halted by the courts and the Trump administration – which has hinted at rolling out a more modest proposal to increase the minimum salary level. However, House Democrat oversight activity over the Department of Labor may slow down (or halt) these administrative efforts. At the time of this writing, there were rumors that a revised overtime regulation was under review at the White House, but no formal proposal had been released.

States are not likely to wait for this issue to be resolved at the federal level. In fact, legislative proposals have been introduced in a number of states, including California, New York,

Pennsylvania and Washington, to increase state overtime salary thresholds to mirror what was attempted by the Obama administration. Therefore, employers in these states may soon face obligations to provide overtime pay to a wider class of employees.

3. Paid Sick Leave/Paid Family Leave

Although there are no federal laws mandating paid sick leave (yet), employers can expect that paid sick and family leave will continue to be a big issue, with states and localities picking up the slack. Currently, 11 states and the District of Columbia require some form of paid sick leave.

Additionally, various cities and counties have stepped in where states have not provided for such leave or to give more generous benefits than the state. Therefore, employers should anticipate an expansion of paid sick leave mandates in 2019. The New Jersey Paid Sick Leave Act went into effect October, while Michigan, Washington, and Westchester County (NY) all have paid sick leave laws going into effect this year.

Some "red states" have been successful in pursuing legal arguments or enacting state laws to preempt local efforts to establish such leave requirements. For example, a Texas appeals court recently ruled the Austin Paid Sick Leave Ordinance violates the state constitution because it is preempted by the Texas Minimum Wage Act. San Antonio passed its own sick leave ordinance in 2018, but it may only be a matter of time before it, too, is challenged in court.

4. Predictable Scheduling

A popular subject for local labor advocates in recent years has focused on so-called "fair" or "predictable" scheduling requirements. Aimed primarily at the retail and food service industries, these proposals generally require employers to provide written work schedules to employees at some advanced level (typically two weeks). In addition, these proposals generally

provide that if the employer changes work schedules after published, they are required to pay the employee some type of financial penalty.

San Francisco led the way in enacting the first such ordinance in 2014. This was followed by similar enactments in Emeryville (CA), Seattle, and New York City. The state of Oregon became the first to enact a statewide predictable scheduling law, which went into effect in 2017. Similar state and local efforts to enact such requirements are likely to continue in the near future.

B. Continued #MeToo Fallout

In many ways, 2018 was the year of the #MeToo movement, as widespread reports of sexual harassment rocked many high-profile industries, including the entertainment, sports, journalism and other industries, including government. The #MeToo movement spawned both an increase in sexual harassment litigation as well as proposed state legislation to address the issue. In state houses from California to New York, laws were proposed (and in some cases enacted) to expand liability, increase employer training requirements, and prohibit non-disclosure agreements or other settlement agreement terms related to sexual harassment claims.

This issue is not likely to fade away any time soon. Other states are likely to propose or enact similar legislation. Even in an employee-friendly state like California, a number of sexual harassment-related proposals were vetoed or otherwise unsuccessful in 2018, and are likely to be brought back for another shot in 2019.

C. Gig Economy/Contracting/Subcontracting

For many years, labor advocates have targeted non-traditional employment relationships for regulation at the state and local level. These include efforts aimed at subcontracting, the use of temporary staffing employees, franchise relationships, and the use of independent contractors. In recent years, these efforts have centered on what has become known as the "gig economy."

1. Independent Contractors And The ABC Test

In recent years, policy advocates have stepped up efforts to make it more difficult for employers to utilize independent contractors, either through legislation or the courts. In 2018, in dramatic fashion, the California Supreme Court in the *Dynamex* decision established a brand-new "ABC test" that presumes that individuals are employees and requires a purported employer who wishes to utilize independent contractors to prove: (A) that the worker is free from direction and control; (B) that the worker performs work outside of the usual course of business of the employer; and (C) that the worker is independently established in a trade, occupation or business.

This is an extremely employee-friendly test and will likely make it very difficult for employers in some industries to lawfully use independent contractors. Employers in other states should anticipate efforts to enact similar employee-friendly tests in their jurisdictions as well.

2. Joint Liability

Efforts have similarly been underway to impose joint liability on employers and contractors or subcontractors. At the federal level, the Obama NLRB adopted a new joint employer standard, and similar guidance regarding the FLSA was issued by the DOL. The NLRB standard is the subject of ongoing litigation and the Trump NLRB has announced plans to adopt a different standard. The Trump Administration rescinded the DOL guidance.

Again, the lesson for employers is that this back-and-forth at the federal level makes it increasingly likely that states will attempt to enact their own joint liability provisions under state law. California has led the way on this front – with legislation enacted in 2014 imposing joint liability on employers and labor contractors, and legislation enacted in 2017 imposing liability on general contractors and subcontractors. But other states are likely to follow suit, especially if the

Trump Administration is ultimately successful in reversing Obama Administration efforts in this regard,

3. Temporary Staffing Laws

Building upon previous efforts, in 2017 Illinois adopted a model temporary staffing agency "worker protection" law that regulates many aspects of the relationship between temporary staffing agencies and their workers. Among other things, the law imposes notice and reporting requirements on temporary staffing agencies and prohibits employees from being charged for certain items. Other states are likely to follow suit as the industry has long been the target of efforts by labor and worker advocates to regulate the industry.

D. Collective Bargaining Issues

Although collective bargaining issues involving private sector employees are generally the purview of federal law, states retain the ability to regulate public sector employees and others not covered under the National Labor Relations Act. Last year was a big one as the U.S. Supreme Court ruled in *Janus v. AFSCME* that the First Amendment prohibited compulsory "fair share" fees paid by public sector employees who choose not to belong to a union, but are still covered by a collective bargaining agreement. At the time of the decision, 22 states permitted such arrangements, all of which became unconstitutional following the *Janus* decision.

1. Labor Responses To Minimize Impact Of Janus *Decision*

The moment the *Janus* decision was published, public sector unions faced the potential loss of a valuable revenue stream: fair share fees. It has been estimated that unions could lose between 20 and 40 percent of their operating funds as a result. However, this is not an issue organized labor will take lying down.

For the past few years, the labor movement largely anticipated a stinging loss at the Supreme Court, and thus have already begun work to counteract the detrimental impact. For example, unions quietly began adding revocation windows to membership cards and dues deduction authorization forms over the last few years. These revocation windows can be as short as 10 days and are typically tied to an employee's anniversary date. In the post-*Janus* world, unions now rely on these revocation windows to stop employees from canceling dues deductions at their time of choosing. Employees who have asked to cancel dues deductions are often prevented from doing so because of these little-known provisions.

Prior to the *Janus* decision, public sector unions wielded considerable political clout, particularly on the state and local level. In the 18 months leading up to the *Janus* decision, unions mobilized their efforts and in California passed a law in 2017 that requires public sector employers to provide unions with access to new employee orientation. This gives unions a "captive audience" with new employees when they are most susceptible to influence. New York, New Jersey, and Washington followed suit last spring. In New Jersey, for example, employers must now allow unions to speak with new employees for at least 30 minutes during the first 90 days of employment.

In addition to letting unions have access to employees, New York also removed the union's obligation to provide services to non-member employees. In both the public and private sector, unions are bound by the duty of fair representation: it must represent all employees equally covered by its collective bargaining agreement regardless of whether they are union members. When that duty of fair representation is eliminated, unions no longer need to advocate on behalf of non-members or take their grievances to arbitration.

States have also passed legislation limiting a public employer's ability to communicate with employees about union membership. New Jersey prohibits employers from encouraging employees to leave their unions or revoke their dues deduction authorization. California and Oregon prohibit any act by a public employer to assist, promote, or deter union organizing, which includes influencing an employee's decision whether to become a member of the unions.

Public employers should remain vigilant, as other states may pass similar legislation in following the *Janus* decision.

2. Attempted Repeal Of Right-To-Work

Right-to-work laws generally make it unlawful to require a person to be or become a union member, or to pay union dues, as a condition of initial or continued employment. The name comes from the idea that people should be allowed to work without having to financially support organizations or causes that they do not morally support. Union advocates make the counterargument that employees who work in unionized workplaces should have to share in the cost of union representation.

The last few years have seen a flurry of activity as states such as Indiana, Michigan, Wisconsin, West Virginia, and Kentucky enacted right-to-work laws, bringing their total to 27 states to do so. However, labor has been on the offensive to repeal right-to-work laws. Although Missouri passed a right-to-work law in 2017, state voters subsequently rejected the law in a recent election and wiped it off the books.

With recent Democrat victories in some of the Midwestern states mentioned above, it is likely that there will be similar efforts to repeal right-to-work laws in these state. Unions spent millions in Missouri to defeat right-to-work, and this victory may galvanize support for the labor movement for future similar battles in other states.

E. The Use Of Government Contracting As Leverage

States and local governments wield powerful influence through the "power of the purse" – their ability to use public contracting and procurement to impose various workplace standards and requirements on contractors. In recent years, labor advocates have become highly adept in influencing policymakers to use this contracting function as leverage to impose requirements on employers that perhaps could not otherwise be mandated through legislation. This is especially true in that this leverage is generally asserted via executive power, without legislative approval (although legal arguments to this use of power can be made).

1. The Obama Administration Fair Pay And Safe Workplaces E.O.

The Obama administration famously attempted to utilize similar leverage when he announced his Fair Pay and Safe Workplaces executive order in 2014. Among other things, that executive order required federal contractors to disclose labor law violations going back three years, and prohibited companies with federal contracts of more than $1 million from requiring employees to sign mandatory arbitration agreements regarding employment discrimination and sexual harassment claims.

A federal court in Texas subsequently enjoined the executive order in 2016, and Congress repealed it in 2017 via the Congressional Review Act. However, labor advocates are likely to push state and local government leaders to impose similar requirements and prohibitions on those companies that work as government contractors in an effort to enact local versions of the Fair Pay and Safe Workplaces requirements.

2. Other Labor Standards

States and local governments are also increasingly likely to push for substantive labor standards to be imposed on government contractors or others that receive government subsidies

in one form or another. Local minimum wage or "living wage" requirements for government contractors are an obvious and frequent example.

However, labor is also being creative in imposing new labor standard requirements. For example, legislators in California recently tied state tax rebates on electric vehicles to a requirement that manufacturers are certified "as being fair and responsible in the treatment of their workers." This was a thinly veiled effort to leverage electric vehicle automaker Tesla, who is in the midst of a heated organizing campaign in California by the United Auto Workers.

Employers should be on the lookout for similar efforts to "tip the scales" in union organizing campaigns through imposing labor standards requirements via state and local legislation.

F. Arbitration

Arbitration agreements, particularly the use of mandatory arbitration agreements (including class action waivers) in employment have long been a target of labor and plaintiff attorneys. This past year was a mixed bag for employers. On the one hand, the United States Supreme Court issued its long-awaited decision in *Epic Systems* that confirmed that class action waivers contained in employment arbitration agreements do not violate the NLRA. However, the #MeToo movement has renewed attention on the use of arbitration agreements and has led one state (so far) to prohibit their use regarding sexual harassment claims.

1. Efforts To Ban Mandatory Arbitration Agreements

State efforts to prohibit the use of mandatory arbitration agreements are not new – labor and plaintiff attorneys have sponsored several such bills over the years. However, the Federal Arbitration Act (FAA) reflects a federal "liberal policy" in favor of enforcing arbitration agreements, and courts have routinely struck down state laws that attempt to curtail arbitration

as preempted by the FAA. Moreover, the U.S. Supreme Court under President Trump has grown more conservative, making it even more likely that the Court would rule that state laws attempting to ban arbitration are preempted by federal law.

However, what is new is the linkage between the #MeToo movement and the effort to prohibit arbitration agreements. Critics have used the #MeToo movement to allege that arbitration agreements keep sexual harassment cases "behind closed doors," and allow perpetrators to continue to harass victims.

This added political dynamic has given new life to state efforts attacking arbitration agreements. For example, California passed a far-reaching measure in 2018 that would have banned arbitration agreements for almost all employment claims; however, that measure was vetoed. New York, on the other hand, enacted a narrower measure that ban pre-dispute arbitration agreements regarding sexual harassment claims. While the New York law is likely preempted by the FAA, it could take the courts several years to invalidate the statute.

Those who wish to prohibit arbitration agreements in employment are likely to continue state efforts in this regard, and are likely to continue to attach their efforts to the #MeToo movement in order to gain further political traction.

2. Beware Of Executive Orders

As discussed above, the use of executive power is an alternative method of achieving policy changes where legislative efforts are impractical or not possible. For example, Washington Governor Jay Inslee issued an executive order that prohibits state contractors from utilizing arbitration agreements with their employees (following the pattern of the Obama Administration executive order discussed above). Employers should expect state and local government leaders

to push for similar prohibitions on the use of arbitration agreements by state and local contractors.

G. Hiring/Discrimination Issues

1. Ban The Box

One of the most active areas of state and local legislation in recent years has involved efforts to restrict the type and manner in which criminal history information can be utilized by employers in making hiring decisions. These policies are often referred to as "ban the box" or "fair chance" initiatives. A majority of states – 33 of them – have adopted such laws that apply to public sector employers.

But a number of states (11 by last count), as well as many local jurisdictions, are adopting policies that apply to private employers as well. While these law generally still allow employers to utilize most criminal history information while making hiring decisions, they generally specify a process that must be followed and specify when in the hiring process such information can be utilized (after a first interview or after a conditional offer of employment has been made).

Employers should expect these efforts to continue in states and local jurisdictions that have not already adopted such laws. Moreover, a new local effort aims to amend state licensing laws to similarly reduce or eliminate criminal history restrictions for those seeking state licenses or other certificates.

2. Salary History

Keeping with the theme of limiting what information employers may consider in the hiring process, many states and local jurisdictions have begun to restrict "salary history" information from being used regarding applicants for employment. The argument for such restrictions generally comes from concerns over gender pay inequality – and the idea that if employers base

salary offers on previous salary history (which historically underpays women), then this type of gender pay inequity is perpetuated.

Therefore, these state and local laws generally prohibit employers from using prior salary history to make employment hiring decisions or determine pay offers. There are some First Amendment legal challenges pending regarding some of these efforts, but the legal outcome is uncertain. These types of policies are popular politically, and are likely to continue to gain traction at the state and municipal level.

3. Cannabis

The next great frontier in employment discrimination policy may involve cannabis. As an increasing number of states legalize either the medical or recreational use of cannabis (or both), employers are faced with complying with state law regarding a substance that remains unlawful under federal law.

This is a rapidly evolving area of the law that employers need to monitor closely. Some state laws legalizing cannabis specifically address employer obligations – either confirming or denying their obligation to accommodate cannabis use. However, even in states where cannabis laws do not specifically require employer accommodation, employers are seeing challenges under state disability and reasonable accommodation laws, particularly with respect to medical cannabis. The results of these claims have been mixed for employers, but this is one area of the law where advocates will continue to push the envelope.

In addition, several states make it unlawful for employers to discipline employees for "lawful, off-duty conduct." This raises interesting arguments in the context of cannabis. Cannabis may be lawful under a particular state's laws, but is still illegal under federal law. Therefore, is cannabis use "lawful, off-duty conduct" for purposes of these employment laws? At least one

court has said no, but this is an area that will be tested under state law in each jurisdiction with such provisions. This is an area of the law employers will have to watch closely to ensure compliance as more jurisdictions legalize the use of cannabis.

H. Workplace Safety

Workplace health and safety law is another area likely to see much local action in the coming years, particularly as "blue states" attempt to respond or "resist" perceived rollbacks at federal OSHA under the Trump administration. Many states do not have their workplace safety standards and simply follow federal law. However, there are 22 "state plans," which are federally approved workplace safety and health programs operated by individual states or territories. In addition, another six state plans cover only state and local government employees.

The Trump administration has made some modest regulatory changes in the OSHA area, such as scaling back some proposed electronic reporting requirements and backing off a statute of limitations interpretation for recordkeeping requirements that would have extended for up to five years.

However, blue states have responded. For example, California recently passed a law that seeks to counteract both of these developments and enact state law in their place. In addition, employers in state plan jurisdictions should anticipate increased state activity as labor advocates and others push to continue rulemaking and new standards at the state level.

I. Non-Competes And Restrictive Covenants

State legislatures across the country have been active in recent years proposing and enacting legislation concerning employers' use of restrictive covenants. These new laws alter the legal landscape in an area where compliance was already difficult due to the vast differences between states. It is imperative that employers stay up-to-date on these changes.

Of course, state legislatures are not operating in a vacuum, and in this instance are acting on reform efforts that started in Washington, D.C. In 2015, Senator Christopher Murphy (D. Conn.) and former Senator Al Franken introduced a bill called the Mobility and Opportunity for Vulnerable Employees (MOVE) Act that would have prohibited non-compete agreements with respect to low wage earners. Ultimately, the bill was not successful but it created a stir. The calls for reform were picked up by the Obama administration. The Department of Treasury and White House issued two reports on the "overuse" of non-competes, culminating in October 2016 with the White House's Call to Action to state legislatures. The Call to Action included specific "Best-Practice Policy Objectives" aimed at curbing misuse of non-competes.

But states are where the action lies for the foreseeable future. Following the Obama White House's Call to Action in October 2016, state legislatures have been busy enacting restrictive covenant reform, particularly to non-compete laws. A number of states have enacted some type of reform since the Call to Action – including California, Colorado, Idaho, Illinois, Nevada, New Mexico, Oregon, and Utah.

In addition, after nearly a decade of activity, Massachusetts reformed the manner in which it treats noncompetition agreements. Among other things, the new law prohibits enforcement of noncompetition agreements against non-exempt employees, limits their length to just 12 months, and precludes the use of "continued employment" as acceptable consideration in any noncompetition agreement entered into on or after October 1, 2018.

In addition, so-called "no-poach" agreements have come under increasing state scrutiny. In July, attorneys general in 10 states and the District of Columbia launched an investigation into the employment practices of eight fast-food franchises. The group sent a joint letter to the

companies requesting information on their use of restrictive covenants including "employee non-competition," "no-solicitation," "no-poach," "no-hire," or "no-switching" agreements.

State-level scrutiny from legislators and attorneys general is not going away and likely only to increase. This is especially true if the new political stalemate in Washington hinders the push for federal legislation in these matters.

IV. Conclusion

In light of the federal stalemate described above, it is clear that the focus on employment and labor policy at the state level will continue, particularly in "blue states" where labor-friendly policymakers seek to respond to any actual or perceived victories by the Trump administration.

A. Employers Should Focus On Advocacy At The State Level

Employers should play close attention to legislative developments at the state (and increasingly, the local) level, and consider investing in political advocacy in order to positively impact such legislative proposals. We tend to view the political advocacy and "lobbying" game as a Washington, D.C phenomenon. However, these debates increasingly occur at the state house and city council level. Employers that ignore the public policy debate on labor and employment matters at the state and local level do so at their own peril.

B. What Happens In San Francisco Does Not Stay There

Employers in other parts of the country may wonder: why should I worry about what San Francisco imposes? I don't do business in San Francisco, or California, so why should I care? Or care about what another progressive jurisdiction enacts?

The answer is that San Francisco (and California generally) are the "laboratory" where many progressive labor and employment policies are enacted first. But these policies do not end there. From minimum wage to paid sick leave to mandated health care to "ban-the-box" and a

whole host of other issues, these matters are traditionally enacted first in liberal enclaves but inevitably spread like wildfire to other local jurisdictions or states.

The legislative and policy problems that employers face in California today may very well be your problem tomorrow. For this reason, employers across the country should monitor developments even in other jurisdictions.

If you would like further assistance regarding advocacy efforts or compliance with state and local labor and employment legislation, please contact Ben Ebbink or Rick Grimaldi or any member of our FP Advocacy LLC team.

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