

HRAGC LEGAL UPDATE

FEDERAL

APRIL 17, 2025

United States Supreme Court

On April 9, the Supreme Court stayed a lower court order finding that the termination of an NLRB member before the end of her term was illegal. The Board member was fired by the President, she challenged the termination in federal court contending that she could only be terminated for cause following notice and a hearing, and a federal District Court agreed. The District Court found the member was entitled to continue serving and she returned to work. The Administration appealed and a 3-judge panel of the D.C. Circuit Court of Appeals initially granted review and paused the District Court's order, but the full Court reversed the panel's ruling, again finding the termination was illegal. Just days later that decision was put on hold by the Supreme Court while the Administration's appeal proceeds. The impact of that order is the NLRB is again without a quorum and thus unable to do much of its work, including handling union elections and deciding cases. The Supreme Court is expected to rule during the current term and it may overrule longstanding precedent concerning the President's ability to terminate certain agency Board members before the end of their terms.

The EEOC continues to be without a quorum following the termination of some Commission members who were fired before the expiration of their terms. A different legal standard for termination applies to these members. One of the fired Commissioners filed suit last week alleging she could not be fired prior to the end of her term.

Federal Guidance

The U.S. Department of Justice and EEOC issued technical assistance documents on March 19 to "warn against unlawful DEI-related discrimination." The DOJ indicated in its press release the documents were "focused on educating the public about unlawful discrimination related to 'diversity, equity, and inclusion' (DEI) in the workplace." One document is entitled "What to do if You Experience Discrimination Related to DEI at Work" and the other is a Q & A document entitled "What You Should Know About DEI-Related Discrimination at Work." Though DEI is not defined, the Q&A explains "under Title VII, an employer initiative, policy, program, or practice may be unlawful if it involves an employer or other covered entity taking an employment action motivated—in whole or in part—by race, sex, or another protected characteristic."

NEW HAMPSHIRE

Legislature

Consideration of bills is underway, and committees are holding public hearings and working through the proposed legislation. A terrific resource to check on the status of a bill is www.legiscan.com/nh.

HB392	This bill directs the dissolution of the department of health and human services' office of health equity department of environmental services' functions for civil rights and environmental justice and the governor's council on diversity and inclusion. The bill was retained in the House Health, Human Services and Elderly Affairs Committee on February 25.
HB128	This bill proposes establishing a committee to study unemployment insurance. The bill was retained in the House Labor, Industrial and Rehabilitative Services Committee on January 31.

HB225	<p>This bill prohibits adverse action on account of a military spouse's involuntary deployment and provides reemployment rights.</p> <p>The bill was passed by the House with amendment on February 13 and is now pending in the Senate Commerce Committee.</p>
HB238	<p>This bill would prohibit collective bargaining agreements from requiring employees to join or contribute to a labor union.</p> <p>The bill was indefinitely postponed by the House on February 13.</p>
HB280	<p>This bill would repeal the weekly or biweekly wage payments and permit employers to decide when to pay their employees.</p> <p>The bill was passed by the House March 20 with amendment and is now pending in the Senate Commerce Committee.</p>
HB282	<p>This bill increases the maximum benefits for first responders critically injured in the line of duty.</p> <p>The bill was passed by the House on April 10 and is now pending in the Senate Executive Departments and Administration Committee.</p>
HB299	<p>This bill provides for an award of reasonable attorney's fees and costs to a prevailing party in worker's compensation cases.</p> <p>The bill was deemed Inexpedient to Legislate by the House on February 20.</p>
HB303	<p>Relative to requiring the department of labor review and adopt workers' occupational safety requirements that are similar to OSHA standards.</p> <p>The bill was retained in the House Labor, Industrial and Rehabilitative Services Committee.</p>
HB353	<p>Relative to hearing protection for employees of nightclubs and music venues.</p> <p>This bill was deemed Inexpedient to Legislate by the House on February 6.</p>
HB378	<p>Relative to an employee's unused earned time. This bill requires the payment of unused earned time.</p> <p>The bill was deemed Inexpedient to Legislate on March 20.</p>
HB379	<p>This bill clarifies the number of hours a minor may work and limits the evening hours that may be worked.</p> <p>The bill was deemed Inexpedient to Legislate on March 20.</p>
HB542	<p>This bill updates unemployment benefit payments.</p> <p>The bill was Laid on the Table by the House on March 6.</p>
HB744	<p>Relative to workers' compensation indemnity benefits percentage. The bill increases payments to 66 2/3% of the employee's average weekly wage.</p> <p>The bill was Laid on the Table by the House on March 6.</p>
HB442	<p>Relative to prohibiting payment of subminimum wages for certain tipped workers.</p> <p>The bill was Laid on the Table by the House on March 20.</p>
HR6	<p>A proposed House Resolution condemning the judicial doctrine of "disparate impact."</p> <p>The resolution was deemed Inexpedient to Legislate by the House on January 30.</p>

Peter G. Callaghan, Esq.
Preti Flaherty, PLLP
pcallaghan@preti.com
(603) 410-1500