

Louisiana Society for Human Resource Management

2018 Regular Session Bills of Interest

The following are summaries of the official bill Digests for bills that are pending before the Louisiana Legislature during the 2018 Regular Session (which concludes on June 4, 2018), and their status as of April 30, 2018. Please review the bills and contact your legislature to discuss as you deem appropriate.

If you have any questions, please do not hesitate to contact me, Michael Weiner, Louisiana SHRM's Legislative Director, at mweiner@mfweiner.com or 985-875-7710.

Copies of the bills and more information can be found at www.legis.la.gov.

❖ House Bill 126 by Jordan:

- Abstract: Creates a state minimum wage rate for tipped employees.
- **PENDING HOUSE LABOR AND INDUSTRIAL RELATIONS – CONSIDERED 4/13/18**
- Present law provides in the Fair Labor and Standards Act that an employer shall compensate a tipped employee at a rate of \$2.13 per hour, and if the employee fails to earn sufficient tips to bring his hourly earnings to the federal minimum wage rate of \$7.25, the employer shall pay the difference to ensure the employee earns at least \$7.25 per hour.
- Proposed law creates a state minimum wage rate for tipped employees and sets it at the rate set by the federal Fair Labor and Standards Act (FLSA) rate required to be paid to any employee engaged in interstate commerce.
- Proposed law further requires that the rate be adjusted to match the rate set by the FLSA if the FLSA rate is increased.
- Proposed law defines a tipped employee as an employee who regularly earns at least \$30 per month in tips.
- Proposed law directs the La. Workforce Commission to promulgate rules for the enforcement of proposed law.

❖ House Bill 170 by Foil:

- Abstract: Invalidates the provisions of a non-compete agreement in the case of involuntary termination.
- **PENDING HOUSE LABOR AND INDUSTRIAL RELATIONS – CONSIDERED 3/29/18**
- Present law nullifies the effects of any agreement or contract that prohibits a person from practicing his trade, except as provided by exceptions in present law.
- Proposed law retains the nullification of any agreement or contract that prohibits a person from practicing his trade or making a living but supersedes any exception to that nullification when an employee has been involuntarily terminated

❖ House Bill 192 by Bouie

- Abstract: Establishes a state minimum wage rate.
- **INVOLUNTARILY DEFERRED IN LABOR AND INDUSTRIAL RELATIONS**
- Proposed law establishes a state minimum wage and sets it at \$15 per hour beginning Jan.1, 2019.
- Proposed law requires that if the federal minimum wage is raised, the state minimum wage shall also be raised.
- Proposed law provides a fine of not less than \$500 and not more than \$1,000 per employee for failure to pay minimum wage.
- Proposed law further requires that an employer who fails to pay his employee minimum wage shall pay the employee the difference between what the employee was paid and minimum wage rate.
- Proposed law provides that the La. Workforce Commission shall be in charge of enforcement of the minimum wage laws and authorizes the agency to promulgate rules and regulations necessary in its implementation.
- Proposed law provides the procedure for the executive director of the La. Workforce Commission to impose penalties.
- Proposed law excludes student workers employed with the state and with state colleges and universities from the minimum wage requirement.
- Proposed law directs the La. Workforce Commission to promulgate rules for the enforcement of proposed law.

❖ House Bill 251 by Bouie:

- Abstract: Requires that any contractor who enters into a contract with a public entity comply with the La. Equal Pay for Women Act.
- **INVOLUNTARILY DEFERRED IN LABOR AND INDUSTRIAL RELATIONS**
- Present law (R.S. 23:661 et seq.) creates the La. Equal Pay for Women Act to provide for pay equality for women who are employees of any department, office, division, agency, commission, board, committee, or other organizational unit of the state.
- Present law prohibits pay discrimination based on sex and provides for definitions, procedures, and exceptions, as well as a complaint procedure, damages, and a limitation of actions.
- Proposed law provides for equal pay in public government contracts, which requires any contractor who enters into a contract with a public entity to comply with the provisions of present law.
- Proposed law requires any contractor or subcontractor who enters into a contract with a public entity to submit an affidavit certifying that he is in compliance with present law.

❖ House Bill 328 by Jefferson

- Abstract: Allows but does not require an employee to inquire, discuss, or disclose his wage rate information without fear of retaliation or discrimination.
- **INVOLUNTARILY DEFERRED IN HOUSE LABOR AND INDUSTRIAL RELATIONS**
- Present law prohibits intentional discrimination in employment.

- Present law further prohibits any employer from paying employees of the opposite sex differently for equal work.
- Proposed law retains present law and further prohibits an employer from coercing an employee to sign an agreement to keep his wage information confidential.
- Proposed law prohibits an employer from retaliating or discriminating against an employee who voluntarily discloses his own wage information.
- Proposed law does not extend protection to an employee who has access to wage information as a result of his position unless that employee is discussing his own wage rate or unless the wage information he discloses is pursuant to a charge, complaint, investigation, court order, proceeding, hearing, or is otherwise required by law.
- Proposed law provides that prior salary history shall not be considered when determining fair pay.

❖ House Bill 402 by Edmonds:

- Abstract: Provides for reimbursement of the costs associated with a preemployment criminal background check in certain circumstances.
- **PASSED HOUSE. REPORTED FAVORABLY BY SENATE COMMERCE, CONSUMER PROTECTION AND INTERNATIONAL AFFAIRS AND REFERRED TO THE LEGISLATIVE BUREAU**
- Present law provides that it is unlawful for any public or private employer to require any employee to pay for any of the following costs:
 - Fingerprinting.
 - Medical examination or a drug test.
 - The furnishing of any records available to the employer or required by the employer as a condition of employment.
- Present law provides that whoever violates present law will be fined not more than \$100 or imprisoned for not more than 90 days, or both.
- Present law provides that, in addition to criminal penalties, present law provides that the employer who violates present law shall be subject to a civil penalty of up to \$500 and liable for reasonable litigation expenses not exceeding \$7,500.
- Proposed law retains present law.
- Present law provides an exception in that an employer has a right of reimbursement from an employee or an applicant for the costs of the employee's preemployment medical examination or drug test provided that the employee meets all of the following criteria:
 - The employee is compensated at a rate equivalent to not less than \$1 above the existing federal minimum wage.
 - The employee is not a part-time or seasonal employee.
 - The employee terminates the employment relationship sooner than 90 working days after his first day of work or never reports to work, unless such termination is attributable to a substantial change made to the employment by the employer for purpose of unemployment compensation.
- Proposed law retains present law but adds the costs attributable to criminal background checks to the list of costs for which an employee may be charged if the criminal background check is required by law as a condition of employment

❖ House Bill 519 by Smith:

- Abstract: Creates the La. Wage Payment Act.
- **PENDING HOUSE LABOR AND INDUSTRIAL RELATIONS**
- Present law requires that upon separation of employment, an employer pay his employee the amount owed in the usual fashion on or before the next payday, or within 15 days, whichever is sooner.
- Present law provides that in the case of a dispute of the amount of wages due, the employer shall pay the undisputed amount and that the employee may file a wage claim for the balance in question.
- Proposed law provides that if an employee is still employed with the employer and has not received wages, that he may make a written demand to which the employer shall answer within seven days.
- Proposed law provides that after termination, if a former employee is not paid as required by proposed law that he must make a written demand to which the employer shall respond within seven days with reasons for nonpayment.
- Proposed law retains present law by requiring that the employer pay any wages not in dispute at the time of demand.
- Proposed law provides for civil remedies and damages for nonpayment of wages when appropriate.
- Present law requires that employers post a notice indicating that the employer has a duty to notify each employee as to the terms of his employment including his wage rate, method, and place of payment.
- Proposed law retains present law regarding the notice and further provides a form outlining the basic terms of employment so that expectations are clear for both parties.
- Proposed law requires that the employer maintain the records for a period of three years total for a period of at least five years after termination.
- Proposed law provides that paid leave is considered a wage due if it has been earned and accrued and unused.

❖ House Bill 524 by Carpenter:

- Abstract: Each agency head in state and local government is to develop and institute a policy to prevent sexual harassment
- **PASSED HOUSE. PENDING SENATE FINAL PASSAGE – SCHEDULED FOR 4/30/18**
- Proposed law requires each agency head to develop and institute a policy to prevent sexual harassment which is applicable to all public servants in the agency. Requires the policy at a minimum to contain:
 - (1) a clear statement that unwelcome conduct of a sexual nature constitutes sexual harassment under specified circumstances and shall not be tolerated;
 - (2) an effective complaint or grievance process that includes taking immediate and appropriate action when a complaint is received; and
 - (3) a clear prohibition against retaliation against an individual for filing a complaint or participating in any way in an investigation or other proceeding involving a complaint.
- Proposed law requires each public servant to receive a minimum of one hour of education and training on preventing sexual harassment during each full calendar year of his public employment or term of office

- Proposed law further requires each agency head to compile an annual report containing information from the previous calendar year regarding his agency's compliance with the requirements of proposed law including:
 - the number and percentage of public servants in his agency who have completed the training requirements,
 - the number of sexual harassment complaints received by his agency, and
 - the amount of time it took to resolve each complaint.
 - Proposed law requires the Dept. of State Civil Service to develop and make available education and training materials, at no cost, to assist agency heads and public servants in complying with the requirements of proposed law.

- ❖ House Bill 578 by Johnson:
 - Abstract: Prohibits an employer from mandating forced arbitration in sexual harassment or veteran discrimination claims.
 - **FAILED HOUSE FINAL PASSAGE**
 - Proposed law prohibits an employer from requiring an employee to sign a contract that would force arbitration in the instance of a sexual harassment claim or a claim of discrimination against a veteran. Proposed law otherwise retains present law.

- ❖ House Bill 605 by Norton:
 - Abstract: Provides that pay equality shall extend to all persons employed in the state of La.
 - **INVOLUNTARILY DEFERRED IN HOUSE LABOR AND INDUSTRIAL RELATIONS**
 - Present law provides that women employed as public employees shall be entitled to the same compensation as men employed as public employees.
 - Proposed law extends present law to provide that pay equality shall apply to all employed in the state.
 - Proposed law extends present law to provide that an "employer" is an individual, partnership, corporation, association, business, trust, person, labor organization as defined in this Section, or entity for whom fifteen or more employees are gainfully employed within the state and includes the state of La. any state officer, any department or agency, any unit of local government, and any school district.
 - Present law makes it unlawful for an employer to pay wages to an employee at a rate less than the rate at which the employer pays wages to another employee of the opposite sex for the same or substantially similar work in the same workplace.
 - Proposed law retains present law.
 - Present law provides for a one-year prescriptive period for bringing any action to recover from the time the employee knows about the violation.
 - Proposed law retains present law.

- ❖ House Bill 626 by Nancy Landry:
 - Abstract: Establishes an administrative fee for the costs associated with the withholding of certain authorized payroll deductions.
 - **PENDING HOUSE APPROPRIATIONS**
 - Present law authorizes state employee payroll withholdings for the following:

- (1) Mandated federal or state income withholdings, credit unions, garnishments, liens, union dues, savings bonds programs, qualified United Way entities, health and life insurance products offered through the Office of Group Benefits, products having state participating contributions, sponsored by the Office of Group Benefits, which qualify and are offered under Section 125 of the Internal Revenue Code (Cafeteria Plan).
 - (2) Products offered without state contributory participation which have been evaluated and approved in accordance with rules and procedures promulgated by the commissioner of administration.
 - Proposed law retains present law and adds dues to professional associations and professional organizations to the list of authorized payroll withholdings.
 - Present law authorizes any state, parish, or city employee to withhold from his salary a specific amount for payment of his dues to any labor organization to which he belongs.
 - Proposed law clarifies that present law withholds union dues for professional organizations.
 - Proposed law requires that an administrative fee of up to 3% be withheld from any authorized payroll withholding for any professional organization or union dues to recover any costs associated with making the withholding.
 - Proposed law requires that if an employing authority elects to make deductions for one union, professional association, or professional organization, it shall make deductions for all competing unions, professional associations, or professional organizations, collecting the administrative fee for each.
- ❖ House Bill 748 by Emerson:
- Abstract: Establishes the Occupational Licensing Review Act
 - **PASSED HOUSE PENDING IN SENATE COMMERCE, CONSUMER PROTECTION AND INTERNATIONAL AFFAIRS**
 - Proposed law prohibits individuals who have a certification from a private organization from using the term “Certified” in their title.
 - Proposed requires the office of the governor to annually review approximately 20% of the state's current occupational regulations. Requires the office to review all occupational regulations within the subsequent five years.
 - Proposed law requires the office to repeat the review process in five-year intervals. Proposed law requires the office, beginning on January 1, 2019, to annually report the findings of its reviews to the speaker of the House of Representatives, the president of the Senate, and the attorney general.
 - Proposed law requires the office's report to recommend the legislature propose legislation that may do any of the following: (1) Repeal occupational regulations. (2) Convert the occupational regulations to less restrictive regulations. (3) Instruct the relevant licensing board or agency to promulgate revised regulations reflecting the legislature's decision to use a less restrictive regulation.
- ❖ Senate Bill 57 by Milkovich:
- Abstract: Amends Police Officer Bill of Rights regarding when an investigation ends, and notice delay for pre-disciplinary hearing.
 - **PENDING STATE JUDICIARY B – CONSIDERED 4/24/18**

- Proposed law requires that the police employee or law enforcement officer be notified in writing of a pre-disciplinary hearing at least three days prior to scheduling of the pre-disciplinary hearing.
 - Present law provides that the investigation shall be considered complete upon notice to the police employee or law enforcement officer under investigation of a pre-disciplinary hearing or a determination of an unfounded or unsustained complaint.
 - Proposed law provides that the investigation shall be considered complete upon conducting and completion of a pre-disciplinary hearing or a determination of an unfounded or unsustained complaint.
- ❖ Senate Bill 97 by Morrell:
- Abstract: Amended prescriptive period from 1 year to 2 years for employment claims.
 - **SUBJECT TO CALL – SENATE FINAL PASSAGE – SCHEDULED FOR 4/30/18**
 - Present law relative to prohibited discrimination in employment provides that a plaintiff may file civil suit in a district court seeking damages against his employer, employment agency or labor organization. Further provides that a plaintiff will be held liable if the court determines he has brought a frivolous claim.
 - Present law provides that such cause is subject to a prescriptive period of one year. Further provides that this one year period shall be suspended under certain circumstances.
 - Proposed law changes prescriptive period from one year to two years and retains remainder of present law.
 - Present law relative to the La. Commission on Human Rights provides procedures to file a claim by an individual who alleges certain unlawful practices.
 - Present law further provides that such complaint shall be filed within 180 days after the alleged unlawful practice occurs.
 - Proposed law changes the filing time from 180 days to two years, and retains the remainder of the present law
- ❖ Senate Bill 117 by Morrell:
- Abstract: Requires that any contractor who enters into a contract with a state entity comply with the Louisiana Equal Pay for Women Act.
 - **SUBJECT TO CALL – SENATE FINAL PASSAGE – SCHEDULED FOR 4/30/18**
 - Present law provides for The Equal Pay for Women Act.
 - Present law prohibits the State from paying wages to an employee at a rate less than the rate at which the state pays wages to another employee of the opposite sex for the same or substantially similar work within the same state agency.
 - Proposed law retains present law but extends present law to cover any business or person who enters into a procurement or services contract with any department, office, division, agency, commission, board, committee, or other organizational unit of the state.
 - Proposed law provides that any written procurement or services contract entered into with any department, office, division, agency, commission, board, committee, or other organizational unit of the state contain an acknowledgment by the contractor that contractor is subject to the provisions of The Equal Pay for Women Act.

❖ Senate Bill 118 by Morrell:

- Abstract: Provides that the Louisiana Equal Pay Act be applicable to men and private employers and requires government contractors to verify equal pay practices
- **PENDING SENATE LABOR AND INDUSTRIAL RELATIONS – CONSIDERED 3/15/18**
- Present law provides that women working as employees of the state of Louisiana shall be entitled to the same compensation as men employed by the state of Louisiana.
- Proposed law retains present law but extends present law to cover men as well as women.
- Proposed law retains present law but extends present law to cover local government employees and private sector employees.
- Proposed law changes the definition of "employee" to mean any person who performs work for compensation.
- Proposed law extends the definition of "employer" from an organizational unit of the state to all employers that employ 50 or more persons.
- Present law prohibits an employer from paying wages to an employee at a rate less than the rate at which the employer pays wages to another employee of the opposite sex for the same or substantially similar work within the same state agency.
- Proposed law removes the specific reference to "within the same agency" and further provides that the work performed that is eligible for equal pay may be the same or equal to the work done by another employee.
- Present law allows exceptions for pay differences in instances in which pay is made under a seniority system, a merit system, a system that measures earnings by quantity or quality of production, or a difference based on a factor other than sex so long as the system is job related or furthers a legitimate business purpose.
- Proposed law retains present law but allows for an exception in differences in pay if the difference is based on a factor other than sex and is consistent with a business necessity.
- Proposed law removes the provision in present law authorizing an exception if no alternative employment practice would serve the same legitimate business purpose without producing such pay difference.
- Proposed law disallows discrimination based on sex regardless of whether the discrimination is intentional or unintentional.
- Present law prohibits an employer from interfering with, restraining, or denying the exercise of, or attempted exercise of, an employee's right to equal pay and the employee's right to object and bring action to remedy the discrimination.
- Proposed law retains present law but clarifies that an employer is prohibited from retaliating against an employee for providing information or testimony for a fellow employee to pursue his rights under the law.
- Proposed law provides that an employee's agreement to work at a rate of compensation that is less than the rate to which such employee is entitled may not be used as a defense by the employer in any action against him brought pursuant to proposed law unless such employee negotiated the lesser compensation for specific accommodations.
- Present law sets forth a complaint procedure for suspected violations of present law. Present law provides that any employee who believes that his employer is discriminating in compensation may provide written notice to the employer of the violation. Present law provides that, upon receiving the notice, the employer is allowed 60 days to remedy the violation.

- Proposed law retains present law and prohibits any employee from seeking unpaid wages from an employer if such employer has remedied the discriminatory differential in pay.
- Present law provides that if the employer does not remedy the pay differential within the allotted 60 days, the employee may bring an action against the employer with the Human Rights Commission pursuant to present law.
- Proposed law retains present law and in addition to the complaint procedure set forth in present law (R.S. 51:2257) also allows for the use of the complaint procedure set forth in present law (Chapter 3-A of Title 23) regarding discrimination in employment.
- Present law provides that if the commission finds evidence of discriminatory action on the part of the employer but fails to resolve the dispute, or fails to render a decision on the dispute, the employee may institute a civil suit in district court.
- Proposed law retains present law and limits the time period the commission is allowed to decide on the dispute to 180 days from the filing of the complaint.
- Proposed law changes jurisdiction and venue of suits from the 19th JDC to a district court of competent jurisdiction. Prohibits any employee from filing a civil suit prior to the expiration of 180 days from the filing of the complaint with the commission.
- Proposed law requires the employer to be liable for unpaid wages and interest. Further requires the award for unpaid wages not to exceed the payment of such unpaid wages for 36 months. Requires the prevailing party to be awarded reasonable attorney fees. Authorizes the court to reinstate employment, grant a promotion, or compensate the employee for lost benefits.
- Present law limits monetary relief for a violation of the law to a 36-month period prior to the employee's written notice. Provides that monetary relief cannot be awarded for losses incurred between the time of the district court's final decision and the final determination of an appellate court.
- Proposed law deletes present law and allows monetary relief beyond attorney fees to be awarded for losses incurred between the time of the district court's final decision and the final determination of an appellate court.
- Present law allows an employee and his employer to come to an agreement to settle the claim for an amount less than the amount the employee believes he is owed.
- Proposed law retains present law and clarifies that the agreement be voluntary.
- Present law requires employers to make and preserve records that document names, addresses, positions, and wages of each employee and requires that the records be preserved for at least three years from the last date of employment.
- Proposed law retains present law but further requires the sex of each employee be recorded and retained.
- Proposed law requires any records created, preserved, or obtained to be confidential and privileged, and not subject to disclosure under the Public Records Law when in the custody or control of the commission. Authorizes the employer to seek a protective order and an in-camera inspection by the court of competent jurisdiction of such records prior to any public disclosure.
- Proposed law provides that nothing in present law is intended to provide any additional remedies or causes of action for any other category of employment discrimination.

- ❖ Senate Bill 149 by Morrell:
 - Abstract: Prohibits employers from requiring prospective employees to disclose wage information.
 - **SUBJECT TO CALL – SENATE FINAL PASSAGE – SCHEDULED FOR 4/30/18**
 - Present law prohibits intentional discrimination on the basis of race, color, religion, sex, or national origin.
 - Proposed law retains present law but adds wage disclosure to the list of items which cannot be the subject of intentional discrimination.
 - Proposed law prohibits an employer from intentionally requiring, as a condition of employment, that an employee refrain from inquiring about, discussing, or disclosing the amount of his wages or the wages of another employee.
 - Proposed law prohibits an employer from intentionally requiring, as a condition of employment, that an employee sign a waiver, nondisclosure, or other document that denies the employee the right to inquire about, discuss, or disclose the amount of his wages.
 - Proposed law prohibits an employer from intentionally retaliating, disciplining, or discharging, or otherwise discriminating against an employee who has inquired about, discussed, or disclosed his own wages or another employee.
 - Proposed law provides that nothing in proposed law will be construed to create an obligation for an employee to disclose his wage information.
 - Proposed law provides that the protections provided in proposed law do not apply to instances in which an employee who has access to wage information of other employees as a part of the employee's essential job functions discloses the wages of another employee to individuals who do not otherwise have access to the information, unless the disclosure is in response to a complaint or charge or in furtherance of an investigation, proceeding, hearing or action pursuant to this proposed law including an investigation conducted by the employer.
 - Present law provides that it shall not be unlawful discrimination in employment for an employer to apply different standards of compensation or different terms, conditions, or privileges of employment pursuant to a bona fide seniority or merit system, or a system that measures earnings by quantity or quality of production, or any other differential based on any bona fide business factor other than sex and other than prior salary history, or to employees who work in different locations, provided that such differences are not the result of an intention to discriminate because of race, color, religion, sex, or national origin.
 - Proposed law retains present law but requires that factors other than sex and disclosure of wages must be a bona fide business factor.

- ❖ Senate Bill 159 by Carter:
 - Abstract: Repeals restrictions which prohibit local governmental subdivisions from enacting local labor ordinances which establish a minimum wage.
 - **PENDING SENATE LABOR AND INDUSTRIAL RELATIONS – CONSIDERED 3/15/18**
 - Present law provides that, pursuant to the police powers ultimately reserved to the state by Article VI, Sec. 9 of the La. Const. no local governmental subdivision shall establish a mandatory, minimum number of vacation or sick leave days, whether paid or unpaid, or a minimum wage rate which a private employer would be required to pay or grant employees.

- Proposed law retains present law which prohibits local governmental subdivisions from setting minimum vacation and sick leave days which must be provided by employers which are located within the boundaries of the local governmental subdivision.
 - Proposed law repeals present law prohibiting local governmental subdivisions from setting a minimum wage rate and allows local governmental subdivisions to set rates of minimum wage which must be provided by employers which are located within the boundaries of the local governmental subdivision.
- ❖ Senate Bill 162 by Carter:
- Abstract: Provides for an increase in the state minimum wage.
 - **SUBJECT TO CALL – SENATE FINAL PASSAGE – SCHEDULED FOR 4/30/18**
 - Proposed law establishes a state minimum wage and sets it at \$8.00 per hour beginning Jan. 1, 2019.
 - Proposed law provides that the state minimum wage shall be \$8.50 per hour beginning on Jan. 1, 2020.
 - Proposed law requires that if the federal minimum wage is raised, the state minimum wage shall also be raised to that level.
 - Proposed law provides that, in addition to any other remedy provided by law, an employee will have the right to file a civil lawsuit for damages against the employer for a violation of the provisions of proposed law.
 - Proposed law provides that an employer who violates the provisions of proposed law by paying an employee less than the state minimum wage will be liable to the affected employee in the amount of the difference between the amount that the employee was paid and the amount the employer was statutorily obligated to pay, plus reasonable attorney fees and court costs associated with the civil action.
 - Proposed law provides that a lawsuit filed by the employee to recover wages for a violation of proposed law must be commenced within three years from the date that an employee becomes aware that the employer is in violation of proposed law.
 - Proposed law requires the clerk for each court to maintain a docket for the record of cases filed that are filed pursuant to the provisions of proposed law. Provides that the dockets shall be submitted monthly to the Louisiana Workforce Commission, Wage and Hour Division beginning the first full month after the effective date of proposed law.
 - Proposed law requires the La. Workforce Commission to compile a list of the names of the employers who violated the provisions of proposed law, the number of employees affected thereby, and the dollar amount of each violation and submit an annual list of such information to the La. Senate Committee on Labor and Industrial Relations and the La. House Committee on Labor and Industrial Relations and to the governor's office.
 - Proposed law provides a civil fine or penalty of not less than \$100 and not more than \$500 per employee, per day, for each violation for failure to pay minimum wage.
 - Proposed law provides for the following exceptions to proposed law:
 - Student employees of the state.
 - Student employees of state colleges and universities.
 - Student employees of a private employer.
 - Employees who are also exempted from the standard federal minimum wage laws (federal Fair Labor Standards Act) as follows: Tipped employees, such as restaurant workers and Agriculture employees.

- Proposed law authorizes the La. Workforce Commission to promulgate rules and regulations pursuant to the provisions of the A.P.A. which may be necessary for the implementation of the provisions of proposed law.
- ❖ Senate Bill 209 by Barrow:
 - Abstract: Requires advance notice of mass layoffs and closure of certain businesses.
 - **SUBJECT TO CALL SENATE FINAL PASSAGE – SCHEDULED FOR 4/30/18**
 - Proposed law provides for the "La. Worker Adjustment and Retraining Act" or the "La. WARN Act".
 - Proposed law provides that it is not the intent of the legislature to supersede the federal "Worker Adjustment and Retraining Notification (WARN) Act of 1988" and which law applies to employers who employ 100 or more employees.
 - Proposed law extends those same types of benefits provided in the federal WARN statute to La. employees who work for companies who employ between 50-99 employees.
- ❖ Senate Bill 219 by Carter
 - Abstract: Enacts the Louisiana Employment Non-Discrimination Act.
 - **SUBJECT TO CALL – SENATE FINAL PASSAGE – SCHEDULED FOR 4/30/18**
 - Present law contains no provision declaring that no person should be discriminated against for reasons of their sexual orientation, gender identity or expression.
 - Present law is not consistent in its prohibition of discrimination based upon age.
 - Proposed law has made these consistent throughout the law, adding the language prohibiting discrimination on the basis of sexual orientation, gender identity or expression, but not all provisions needed to have the age language added.
 - Proposed law adds the prohibition of discrimination based upon age only where it had not previously appeared.
 - Proposed law provides that nothing in present law or proposed law regarding intentional discrimination in employment (R.S. 23:332) shall be interpreted to infringe upon the freedom of expression, association, or the free exercise of religion.
 - Proposed law exempts corporations, associations, educational institutions or institutions of learning or society in accordance with federal law reenacted to authorize Sections 702 and 703 of Title 7 of the Civil Rights Act of 1964 (current site: 41 U.S.C. 2000(e)-1(a) or 2000(e)-2(e)).
- ❖ Senate Bill 252 by Carter:
 - Abstract: Constitutional amendment to provide, with certain exemptions, for a state minimum wage effective August 1, 2019.
 - **PENDING SENATE FINANCE – CONSIDERED 4/17/18**
 - Proposed constitutional amendment establishes a state minimum wage.
 - Proposed constitutional amendment provides that, effective Aug. 1, 2019, every employer the state minimum wage which is not less than \$8.00 per hour.
 - Proposed constitutional amendment provides that beginning Aug. 1, 2020, the state minimum wage shall be not less than \$8.50 per hour, thereafter annually adjusted for inflation, or the federal minimum wage, whichever is higher.
 - Proposed constitutional amendment further provides that the legislature shall provide for definitions and for certain exemptions from the minimum wage requirement to include but

not be limited to bona fide student employees and allowing an employer to take a tip credit toward its minimum wage obligation for tipped employees equal to the difference between the required cash wage and the required minimum wage.

❖ Senate Bill 256 by Peacock:

- Abstract: Allows employers to receive reimbursement for the costs of employee criminal background checks when certain employees terminate employment in less than ninety days
- **PENDING SENATE LABOR AND INDUSTRIAL RELATIONS – CONSIDERED 3/27/18**
- Present law provides that it is unlawful for any public or private employer to require any employee to pay for any of the following costs:
 - (1) Fingerprinting.
 - (2) Medical examination or a drug test.
 - (3) The furnishing of any records available to the employer or required by the employer as a condition of employment.
- Present law provides that whoever violates present law will be fined not more than \$100 or imprisoned for not more than 90 days, or both.
- Present law provides that, in addition to criminal penalties, present law provides that the employer who violates present law shall be subject to a civil penalty of up to \$500 and liable for reasonable litigation expenses not exceeding \$7,500.
- Proposed law retains present law.
- Present law provides an exception in that an employer has a right of reimbursement from an employee or an applicant for the costs of the employee's preemployment medical examination or drug test provided that the employee meets all of the following criteria:
 - (1) The employee is compensated at a rate equivalent to not less than \$1 above the existing federal minimum wage.
 - (2) The employee is not a part-time or seasonal employee.
 - (3) The employee terminates the employment relationship sooner than 90 working days after his first day of work or never reports to work, unless such termination is attributable to a substantial change made to the employment by the employer for purpose of unemployment compensation.
- Proposed law retains present law but adds the costs attributable to criminal background checks to the list of costs for which an employee may be charged if the criminal background check is required by law as a condition of employment.

❖ Senate Bill 296 by Walsworth:

- Abstract: Reauthorizes the Incumbent Worker Training Program.
- **PENDING SENATE LABOR AND INDUSTRIAL RELATIONS**
- Present law provides for a special account within the Employment Security Administration Fund (i.e. the fund in which employers deposit their unemployment insurance taxes).
- Present law provides that monies from the special account are to be used only for the purpose of upgrading employee job skills through training.
- Present law provides that the Incumbent Worker Training Program reauthorization shall be expressly renewed by the legislature prior to July 1, 2018, in order for amounts to be charged and credited to the Incumbent Worker Training Account in the following calendar year for use in funding the program.

- Proposed law extends the authorization of the Incumbent Worker Training Program from July 1, 2018, to July 1, 2020.
- ❖ Senate Bill 404 by Hewitt:
 - Abstract: Provides relative to sexual harassment prevention policies and training for state officials and employees.
 - **PENDING SENATE AND GOVERNMENTAL AFFAIRS – CONSIDERED 4/18/18**
 - Proposed law provides for the "Louisiana State Employees' Sexual Harassment Prevention and Training Act."
 - Proposed law provides that the public policy of the state is that state government is committed to workplace decency and will not tolerate, condone, or permit any kind of sexual harassment of any state employee, applicant for state employment, or public official, or public official of the state.
 - Proposed law provides that it shall be unlawful for any state coworker to commit sexual harassment, as is defined in proposed law, against any employee.
 - Proposed law provides for a mechanism for reporting and investigating sexual harassment complaints by state employees
 - Proposed law provides for remedies against an employee should the employee be found to have violated the law.
 - Proposed law requires a minimum of one hour of sexual harassment training of state employees.
- ❖ Senate Bill 447 by Barrow
 - Abstract: Requires annual sexual harassment training for all public servants.
 - **PENDING SENATE AND GOVERNMENTAL AFFAIRS – CONSIDERED 4/18/18**
 - Proposed law requires each public employee and elected official to receive at least one hour of sexual harassment training annually.
 - Proposed law requires each agency head to designate at least one employee to be the Employee Relations Designee (ERD).
 - Proposed law requires Civil Service to make available to an ERD access to the education and training materials for the required sexual harassment training. Provides that only education and training materials made available through Civil Service will be considered in determining an employee or official's compliance with proposed law.
 - Proposed law provides that beginning in calendar year 2019, each public employee or elected official who supervises one or more subordinate employees shall be required to receive an additional one hour of education and training on sexual harassment annually.
 - Proposed law requires each agency head to adopt a policy on sexual harassment in the workplace consistent with the policy on sexual harassment adopted by the commissioner of administration. Provides the minimum components of the policy, including a description of prohibited behavior, contact information for agency's ERD, training requirements, complaint and investigation process, prohibition on reprisal or retaliation, confidentiality, due process, etc.

- ❖ Senate Bill 494 by Thompson:
 - Abstract: Establishes the Occupational Licensing Review Act
 - **PENDING IN SENATE COMMERCE, CONSUMER PROTECTION AND INTERNATIONAL AFFAIRS**
 - Same bill as HB 748 as originally proposed, but HB 748 was changed by amendment
 - Proposed law allows individuals who have a certification from a private organization from using the term “Certified” in their title.
 - Proposed requires the office of the governor to annually review approximately 20% of the state's current occupational regulations. Requires the office to review all occupational regulations within the subsequent five years.
 - Proposed law requires the office to repeat the review process in five-year intervals. Proposed law requires the office, beginning on January 1, 2019, to annually report the findings of its reviews to the speaker of the House of Representatives, the president of the Senate, and the attorney general.
 - Proposed law requires the office's report to recommend the legislature propose legislation that may do any of the following: (1) Repeal occupational regulations. (2) Convert the occupational regulations to less restrictive regulations. (3) Instruct the relevant licensing board or agency to promulgate revised regulations reflecting the legislature's decision to use a less restrictive regulation.