The SESCO management consultants Report

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What's Next for Labor and Employment Policy Following the Midterms?

With the midterm elections behind us, employers must start looking ahead. With the Democrats now in control of both houses and many states, they will undoubtedly use their new power to scrutinize and investigate federal agencies and staff and begin proposing their legislative agenda.

From a statewide level, there will be enacted a bevy of new labor and employment laws, which, frankly, has been the trend over the past many years. The next two (2) years will be an extremely challenging time for employers as relates to labor, employment and profitability landscapes.

From a Federal Standpoint

Democrats, as promised, will use their majority to increase oversight. Congressional committees can subpoena records, call witnesses and scrutinize agency activities and staffers. **Bobby Scott (D-VA)** has already told labor and employment agencies to expect scrutiny. The letter was provided to the heads of the Equal Employment Opportunity Commission (EEOC), U.S. Department of Labor (DOL), and the National Labor Relations Board (NLRB), among others.

Democrats are expected to introduce or reintroduce bills on longstanding priorities including:

- Minimum wage
- Non-compete agreements
- Pro-union reforms
- Paid Family Leave

However, many of these bills stand little chance of becoming law unless the Democrats filibuster the Senate, which they have promised.

A few bills could get serious consideration before then. These include:

- **FLCA - Faster Labor Contracts Act -** Would amend the National Labor Relations Act to require interest arbitration for first contracts.
- **The Senate Health, Education, Labor, and Pensions (HELP) -** Will likely get a new Chair, Senator **Bernie Sanders (I-VT)** who has been a vocal supporter of union legislation.

What to Expect from Governmental Agencies

As for the governmental agencies, they will likely continue on the same path and that is more and more regulation and oversight. The DOL has multiple major rulings pending including rules on:

- Independent-contractor status and joint employment



- **The agency is also expected to take up overtime salary thresholds**

The EEOC will likely stay the course including:

- Religious discrimination
- Anti-American discrimination
- Diversity, Equity and Inclusion (DEI) initiatives

What to Expect From States

The states will continue to pass their own labor and employment laws which has been the trend over the past many years. Expect Democratic states to pass the following:

- Paid Sick Leave
- Non-compete reforms
- Pay-transparency rules requiring written/published compensation plans
- Increased minimum wages
- Bans on training-repayment agreements

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POLICY FOLLOWING MIDTERMS

- Pro-union legislation such as captive-audience bans and "tripartite" regulatory boards

The Wild Card

The wild card is the filibuster. The Democratic agenda could rise and fall based on the Democrats eliminating the filibuster which will not require 60 Senator votes per "cloture" - i.e., to end debate. Lawmakers have periodically considered eliminating that requirement and allowing legislation to move forward with a simple majority of 50% plus one (1), which the Democrats have. Obviously, if the Democrats eliminate the filibuster, a number of laws will be passed to include labor laws such as the Protect the Right to Organize (PRO) Act - a pro-union bill that Democrats support which will make union organizing much easier.

SESCO's Recommendations

Continue to read SESCO's *The SESCO Report*, our newsletter, as well as weekly SESCO updates. We will closely monitor federal and state employment law developments and alert clients immediately. Ensure that key staff are receiving these emails and hard copy newsletters and please share these with your business friends in the community to include your Chamber of Commerce so that other business and industries are well informed.

Specific SESCO recommendations include:

- Ensure your labor law posters are up to date which SESCO provides clients at a discounted fee basis.
- Ensure that your employee handbook is reviewed and complies with federal and state laws as well as is proactive and employer-employee friendly.
- Conduct an audit of your pay plans to ensure compliance with the FLSA (exempt vs. nonexempt) and related overtime rules.

Take advantage of SESCO's hotline provided to retainer clients at no additional charge to discuss day-to-day employment matters such as hiring, firing and related legal and HR matters.

If you are not a retainer client or if you wish to promote SESCO to your friends and colleagues, we certainly appreciate the opportunity to expand our presence and services across the country.

The Importance of Compensation Administration

(Minimum Wage, Pay Compression, Labor Cost, External Equity)

In today's competitive labor market, an employer, regardless of size, must implement a defined system to administer compensation. Unfortunately, we find few of our clients regardless of size, throughout all industries have failed to implement an effective compensation system. The result is by not knowing what the appropriate value of a position (not incumbent) should be, often times a decision is made to pay employees based solely on what is being transpired in the marketplace or negotiated at time of hire. There will always be higher and lower rates in your marketplace, and an incorrect decision can be detrimental to your organization as your labor cost and the management thereof is the difference between a profitable or failing business. Accordingly, all employers must understand how to identify the **"right price"** of all positions within the organization and subsequently communicate to employees how to obtain the job value based on defined expectations and position requirements.

As we consider compensation and subsequent realities, please consider:

The Fundamentals of Compensation

Understanding the basic fundamentals of an effective compensation program is critical. We, at SESCO, identify these at three (3) separate levels:

- **Responsibilities/action of organization owners and officers**
  - Make the important determination of how much of your revenue dollars (gross sales) should be spent on payroll and benefits. Every employer's largest single controllable cost.
  - Identify the positions and subsequent number of staff needed to perform the tasks.
  - Conduct a survey of your market and confirm competitive levels of wages and benefits.



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COMPENSATION ADMINISTRATION

- Determine the best utilization of the organization's buying power (labor costs) to match the market value to the best of your affordability.
- Develop a system of equitable administration and distribution of compensation to include not only external equity, but also more importantly internal equity and affordability.

- **Responsibility/action for first-line managers and supervisors**
  - Recruit, screen, hire, orient, and train applicants needed to fill functions/positions.
  - Effectively communicate wage and benefit opportunities to applicants and subsequent employees.
  - Monitor constantly employee behavior and performance and provide change and/or support coaching with effective performance appraisals.
  - Provide ongoing evaluation, training and leadership to help employees individually and collectively aspire to optimum levels of contribution and job satisfaction.
- **Responsibility/action for employees**
  - Recipients of a compensation system that readily explains position duties and responsibilities, standards of performance and the compensation opportunities available to them.
  - Have knowledge, confidence and belief that their employer has a credible and equitable system of compensation administration and performance evaluation.
  - Possess a high degree of job satisfaction and self-esteem as derived from the psychological and monetary rewards of good job performance.
  - Understand that every effort is being made to provide the best in long-term opportunity and success to them, their fellow workers and the organization itself.

How to Combat Pay Compression

Wage compression is a significant and very challenging issue and resolving it, frankly, is not simple. SESCO recommends various steps that employers can take beginning with identifying appropriate pay rates by using three (3) sources of data: 1) market survey, 2) internal pay rates, 3) affordability = your right price.

So here are some suggestions to address internal pay compression and inequities:

1. **Assess current pay practices to include:**
   - Do your current pay practices reflect market demand?
   - Are there obvious wage inconsistencies between managers and staff and within job families?
   - Do your pay levels reflect your company's vision and goals?
2. **Market conditions**

   When considering external labor factors, look at:
   - Minimum wage laws
   - A tight skilled worker supply
   - Rapidly escalating wages for high demand jobs
3. **Encourage collaboration between human resources and financial staff**

   Adjustments in pay are obviously extremely expensive, especially if they haven't been accounted for in the organization's budget. That's why HR and finance professionals need to work together. Typically, human resource professionals state that we need to match the market, and financial professionals state that we can only pay what we can afford to. These two (2) professionals must come together and develop a plan utilizing the basic tenets as noted above.

In Summary

All employers know or should know that their labor costs are the largest single controllable costs and as such, need to manage these costs. Further, employers cannot say to an applicant, "Come to work, do a good job and we'll take care of you." Today's employees are well informed of market rates, benefits and other business realities. If you as the employer do not have a story to tell the applicant with some formal compensation opportunities, an employee handbook and job descriptions, then you will have a very difficult time in hiring and subsequently retaining good employees. Finally, developing an effective compensation program protects yourself from yourself. It prevents you from paying based on applicant or employee demand, fear of someone leaving, pay based on someone's personal experience and history versus the position's value and your defined budget.

SESCO specializes in reviewing and developing compensation plans, philosophy and policy.

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A Special Holiday Message to Our Valued SESCO Clients

This is a time to count our blessings! A brief review of this year reveals that we had thousands of client calls and visits resulting in many satisfying engagements providing clients with results-oriented consulting and peace of mind. We at SESCO sincerely have appreciated these opportunities to serve you, our valued clients, in addressing your human resource questions and issues and we look forward to serving you in the coming year. We extend our sincere appreciation for your loyalty…good will…and wish you best wishes for a happy holiday season and that the coming year will bring you peace of mind -- good will -- good cheer and prosperity.

Two thousand twenty-six (2026) has brought many challenging times to many of those that we serve. To those, we want you to know that our door and staff are always open to serving your needs regardless of financial constraints. As we believe if we give and help those in need, we will receive more pleasure and joy in knowing that we are able to help. We are always as close as your phone.

From the Management and Staff of SESCO Management Consultants