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Employment Law Letter

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LEGISLATIVE UPDATE

North Dakota lawmakers ponder 3 bills of interest to employers

by KrisAnn Norby-Jahner

North Dakota's 65th legislative session is well under way, and there are three bills of interest in the employment law realm:

(1) *House Bill (HB) 1139, relating to joint-employer liability;*

(2) *HB 1386, relating to prohibiting discrimination based on sexual orientation; and*

(3) *HB 1246, relating to state employees' claims of employment discrimination.*

Let's take a closer look at all three bills.

HB 1139: joint-employer liability

HB 1139, introduced in the house by Representative George Keiser (R-Bismarck) on January 3, 2017, passed both the house and the senate and was signed by Governor Doug Burgum and filed with the secretary of state on March 22. The bill calls for an act to create a new section of North Dakota's franchise investment law, North Dakota Century Code (NDCC) Chapter 51-19, related to joint-employer liability. The new section, titled "Franchisor-Franchisee Liability Protection," is intended to clarify that regardless of other state or federal law or any contrary agreements with the U.S. Department of Labor (DOL), "a franchisee or an employee of a franchisee is not considered an employee of the franchisor" under North Dakota law.

HB 1139 is a direct response to the National Labor Relations Board's (NLRB) Administrator's Interpretation No. 2016-1, issued in January 2016, and an August 2015 ruling that expanded the definition of "joint employer" to include any employer that shares control over a worker's terms and conditions of employment, regardless of whether the employer actually exercises control. Indirect or potential control is sufficient to constitute a joint-employment relationship, according to the Board. The NLRB's rulings have had a significant effect on franchisor liability, employers that contract employees through staffing firms, and employers that deal with contractors who use subcontractors.

The NLRB has created two particular fears for business owners who have purchased or are considering purchasing franchises:

(1) Franchisors may become too controlling over franchisees (thus making franchise ownership a less desirable option for small business owners because they lose control of hiring practices, working conditions, wages, and hours.

(2) Franchisors may become too "hands off" (thus making franchisees pay for employment assistance products and services that they used to receive as part of their franchise fee).

The effect of getting HB 1139 passed and signed into law is that joint-employer liability will now be removed for franchisors at the state level. That means a franchisor with franchisee operations in North Dakota won't face state liability for an employment matter involving wages, hours, working conditions, or other employee issues that arises against a franchisee. North Dakota franchise owners likely hope that the new law will restore the balance in the franchisor-franchisee relationship, ensuring that franchisors are not too controlling but also not too hands off. Similar laws are in place in Louisiana, Michigan, Tennessee, Texas, and Wisconsin. While the state laws don't govern or have any impact on federal cases or issues before the NLRB, they do operate to curtail state law claims against franchisors.

HB 1386 would have enacted a state policy prohibiting discrimination on the basis of sexual orientation.

Now that HB 1139 is signed into law, franchisors and franchisees operating in North Dakota should:

(1) Amend their franchise agreements to reflect the new law and plainly state that a franchisee or an employee of a franchisee is not considered an employee of the franchisor;

(2) Review all franchisor business interactions with the franchisee and its employees to reduce the risk of a federal joint-employer claim; and

(3) Work with legal counsel to ensure compliance and understanding of federal and state law risks.

HB 1386: prohibition on sexual orientation discrimination

HB 1386 was introduced in the house by Representatives Joshua Boschee (D-Fargo), Pamela Anderson (D-Fargo), Thomas Beadle (R-Fargo), Lois Delmore (D-Grand Forks), Gretchen Dobervich (D-Fargo), Ron Guggisberg (D-Fargo), Kathy Hogan (D-Fargo), Mary Johnson (R-Fargo), and Mary Schneider (D-Fargo) and Senator Carolyn Nelson (D-Fargo) on January 3. Because it twice failed to pass the house in February, it will not reach the senate or be signed into law.

HB 1386 called for various amendments to NDCC § 14-02.4 that would have enacted a state policy prohibiting discrimination on the basis of sexual orientation. "Sexual orientation" was defined as "actual or perceived heterosexuality, bisexuality, homosexuality, or gender identity." State law already prohibits discrimination on the basis of race, color, religion, sex, national origin, age, the presence of any mental or physical disability, status with regard to marriage or public assistance, or participation in any lawful activity off the employer's premises during nonworking hours that is not in direct conflict with the essential business-related interests of the employer.

From an employment law standpoint, the failure of HB 1386 to pass the house means sexual orientation will not have protected class status under North Dakota law. That means employees will not be able to make claims of discrimination based on sexual orientation to the North Dakota Department of Labor and Human Rights (NDDOL) or in state court. The plain text of Title VII of the Civil Rights Act of 1964 (the federal law prohibiting discrimination in the workplace) also excludes the term "sexual orientation" from its list of protected class statuses.

However, employees may still attempt to bring state or federal law claims of discrimination based on sexual orientation under the protected class status of "sex." The Equal Employment Opportunity Commission (EEOC) has issued specific rulings and guidelines indicating that as the federal agency enforcing Title VII, it interprets the prohibition on "sex discrimination" as forbidding any employment discrimination based on gender identity or sexual orientation. Furthermore, the U.S. 7th Circuit Court of Appeals just ruled in an 8-3 decision this month that sexual orientation discrimination lawsuits can be brought under Title VII, and companies cannot discriminate against employees based on sexual orientation. This decision will likely lead to a U.S. Supreme Court battle. In the meantime, despite the failure of HB 1386 to become law, you should still be mindful of sex as a protected class status when you draft and enforce workplace discrimination policies.

HB 1246: state employee claims of employment discrimination

HB 1246, introduced in the house by Representative Keiser on January 9, called for a new section in NDCC Chapter 54-44.3 (governing Human Resource Management Services) that would have allowed public employees to waive their state employer's or division's grievance processes and file a charge of employment

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QUESTION CORNER

Be cautious at the intersection of the ADA and the FMLA

by KrisAnn Norby-Jahner

Q *We have an employee with a certified disability who went out on Family and Medical Leave Act (FMLA) leave 12 weeks ago. We just received certification from her treating physician that she won't be cleared to return to work for another two weeks and will then need a reduced schedule. Can we terminate her when she fails to return to work next week, or do we need to grant her an additional two weeks of leave plus a reduced schedule upon her return?*

A No, you *should not* automatically terminate your employee when she fails to return from FMLA leave because there are identifiable issues to address under the Americans with Disabilities Act (ADA). The intersection of the FMLA and the ADA is complex and can be difficult to navigate. As you likely know, an approved and certified FMLA leave will protect an employee's job and allow her to be restored to either the same position she held or an equivalent position. It's true that job protection may end under the FMLA when an employee fails to return to work upon the expiration of her 12-week leave. However, job protection may remain under the ADA.

In some circumstances, you may need to grant an extended leave of absence as a reasonable accommodation under the ADA after an employee has exhausted her 12 weeks of FMLA leave. The Equal Employment Opportunity Commission (EEOC) has made it clear that employers must engage in an interactive process and evaluate any notice or request for an extended leave of absence through a reasonable accommodation lens. (See "Employer-Provided Leave and the Americans with Disabilities Act," available at www.eeoc.gov/eeoc/publications/ada-leave.cfm.)

Because your employee's treating physician has indicated that she needs an additional two weeks of leave *and* a reduced work schedule, you have two accommodations to analyze for reasonableness and undue hardship. Normally, when considering an ADA accommodation request, you would identify the essential job functions to determine whether a qualified employee could perform them with or without a reasonable accommodation. However, when the accommodation request is for an extended leave of absence or a reduced work schedule (which may speak less to an essential job function), you need to specifically consider whether the request may be granted without causing an undue hardship.

Instead of automatically terminating the employee for failing to return from an FMLA leave, you should engage in the interactive process with her to determine (1) the specific reasons she needs an extended leave, (2) whether the extended leave will be a block of time or intermittent, and (3) when the leave will end. Depending on the information the employee and/or her treating physician provides, you can determine if the leave would create an undue hardship. Considerations may include an analysis of the impact the employee's absence will have on coworkers and whether specific job duties will be performed in an appropriate and timely manner as well as the impact on your operations and your ability to serve customers/clients in a timely manner (which may take into account the size of your business).

You should engage in a separate interactive process and inquiry for the employee's reduced schedule request. Remember, you may violate the ADA if you require a disabled employee to have absolutely no medical restrictions (i.e., be 100 percent healed or recovered) before returning to work unless you can prove undue hardship or show that the employee poses a "direct threat" of harm. Therefore, when an employee requests a reduced schedule upon returning from either an FMLA leave or extended leave under the ADA, you need to consider (1) the reason the reduced work schedule is needed, (2) the length of time the employee will need a reduced work schedule, (3) possible alternative accommodations that might effectively meet her disability-related needs, and (4) whether a reduced work schedule would cause an undue hardship.

Should you need more information from the employee's physician, the ADA requires you to receive the employee's permission to contact her healthcare provider to confirm or elaborate on the information provided. However, putting together specific questions for a treating physician to answer can be helpful in determining the need for leave, the amount and type of leave required, and whether reasonable accommodations other than (or in addition to) leave may be effective for the employee.

Careful consideration, open communication, engaging in a clear interactive process, and acting without haste are the keys to ensuring you remain in compliance with both FMLA and ADA requirements.

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discrimination with the NDDOL and the EEOC or file a discrimination complaint in court. The new law would have explicitly prohibited the state from interfering with an investigation conducted by the NDDOL or the EEOC and would have required the state to provide the employee a copy of the records related to any correlating internal discrimination investigation.

Under NDCC § 14-02.4-19(5), the North Dakota Human Rights Act requires public employees to exhaust any available internal grievance processes that provide recourse for discriminatory acts. A public employee can file a claim of discrimination with the NDDOL, which can investigate the claim, but neither the NDDOL nor the public employee can pursue a court action until all internal grievances and administrative remedies have been exhausted.

HB 1246 passed the house on February 6 and was discussed at a senate committee hearing on March 7. The senate committee issued a "do not pass" recommendation on March 23, and the second reading of the bill failed to pass the senate the next day.

Had HB 1246 passed and been signed into law, it would have had a tremendous impact on state employees and divisions, which would have been left to reconcile the language added to NDCC Ch. 54-44.3 (allowing public employees to waive internal grievance procedures) with the current language of NDCC § 14-02.4-19(5) (requiring public employees to exhaust internal grievance procedures and administrative remedies). For now, the current law requires public employees to exhaust their internal grievance procedures and administrative remedies before filing a lawsuit in court.

Even if the bill had passed and been signed into law, it would have had no bearing on private-sector employers, whose employees are not required to exhaust internal grievance procedures before filing charges of discrimination with the NDDOL or initiating state court actions. However, the new law potentially would have created an influx of discrimination lawsuits filed directly in state court by public employees wanting to forgo public grievance and administrative procedures.

Bottom line

As we near the end of this legislative session, we are left with one new employment law that has a direct effect on employers operating under franchise agreements. Those affected employers should consult legal counsel to review franchise agreements and daily practices occurring between the franchisor and franchisee.

All employers should also be mindful that despite the absence of "sexual orientation" as a protected class status under North Dakota state law, a recent federal ruling and EEOC guidelines indicate that sexual orientation may be a protected class status under federal law. All policies and practices in this regard should be monitored accordingly. The legislative session reached its 80th day and concluded on May 1.

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EMPLOYEE BENEFITS

FSAs: two exceptions to 'use it or lose it'

Generally speaking, money contributed to a health flexible spending account (FSA) in any plan year can be used only to reimburse qualified expenses incurred during that year. Money not used to reimburse eligible medical expenses incurred during the plan year is forfeited.

The unused portion of a participant's health FSA may not be paid to the participant in cash or any other benefit. Arrangements outside a cafeteria plan adjusting salary to compensate for health FSA forfeitures may jeopardize the qualification of the FSA because it could be viewed as impermissible risk-shifting.

Forfeitures are calculated after the expiration of an optional "run-out" period (typically three months). While an employer isn't required to offer run-out periods, they allow employees to continue submitting claims for reimbursement during a specified time following the end of the year. During that period, reimbursement is drawn against the prior year's health FSA for claims incurred during the previous plan year only.

Because the "use-it-or-lose-it" rule requires employees to forfeit any money that is left in their health FSA at the end of the plan year, it's the health FSA rule that is most relevant to employees. However, there are two key exceptions employers should be aware of.

Two exceptions

Grace period. An employer may offer employees a grace period of up to two months and 15 days to incur and be reimbursed for qualified medical expenses from their FSAs if the cafeteria plan document provides for that. The grace period, unlike the run-out period, essentially extends the length of the reimbursable year itself rather than merely the period for submitting claims from the previous 12 months.

Carryover rule. In 2013, the IRS gave employers another option. In Notice 2013-71, the agency announced that health FSAs can have up to a $500 carryover of unused amounts from the prior plan year to the next plan year. A health FSA carryover limit may be less than $500, and carryovers are optional. Employers don't need to adopt them. On the first day of the new plan year, the entire carryover amount is available. Note that a participant in the prior plan year need not participate in the health FSA in the new plan year to qualify for the carryover.

Employers must choose one or the other (or neither)

An employer cannot have a health FSA with both a carryover and a grace period. The two health FSA features are incompatible. Therefore, an employer that offers a health FSA with a current grace period must eliminate that period by the same deadline that applies to the carryover.

Which is better?

Readers have asked us whether it's better to offer a carryover or a grace period, and the answer is a firm "it depends." While both grace periods and carryovers tend to reduce the frantic year-end employee rush to spend unused FSA dollars, the grace period merely delays the panic by a few months.

For employers, allowing carryovers (which can continue carrying over year after year) can add to administrative and record-keeping burdens. From the employee perspective, depending on an individual employee's medical spending, it's a toss-up as to whether it's preferable to have $500 to use anytime during the following year (carryover) versus potentially a larger amount that must be used by mid-March (grace period).

Good communication is key

Regardless of whether you adopt a grace period, a carryover, or neither, it's important to educate employees about the importance of accurately predicting their annual out-of-pocket medical expenses. This would include deductibles, copayments, and all anticipated reimbursable expenses. Generally, it's better to underestimate the expenses and pay a little extra tax than to overestimate expenses and forfeit money.

Additionally, to help reduce forfeitures, employees should be notified of their health FSA balances before the plan year ends. Three months' notice should be sufficient, although many employers already provide monthly or quarterly health FSA reports as part of their employee communications. This advance notice period should allow employees time to schedule nonessential medical or other care so that the entire amount in a health FSA can be used. ✤

IMMIGRATION

Be in compliance with I-9 requirements for remote workers

The Trump administration's aggressive stance on immigration enforcement suggests that employers should be prepared for an increase in workplace audits and document inspections from U.S. Immigration and Customs Enforcement (ICE).

Here are some timely questions—and our guidance—on how best to comply with the requirements of Form I-9 when you have remote workers.

Questions answered

Q *Is it acceptable to use Skype or FaceTime to complete I-9s for remote workers?*

A Unfortunately, no—and U.S. Citizenship and Immigration Services (USCIS) addresses this directly in its FAQ (available at www.uscis.gov/i-9-central). When an employee presents authorization documents required by List A or Lists B and C of Form I-9, these documents must be *physically* examined by the person completing Section 2 of Form I-9. This review must also occur in the presence of the employee. So reviewing or examining these documents via webcam, Skype, FaceTime, or similar remote services isn't permissible.

If you have remote employees who won't report to the physical workplace premises, then you may have a third party act as an authorized representative of the employer to review these documents and fill out Form I-9. However, this authorized representative *must* be able to physically review the documents. If that isn't feasible, then another representative who can review the documents must be selected.

Q *Are we required to hire a notary public as our authorized representative?*

A When an organization has no authorized representative or agent in the same geographic area as the remote worker, the employer may use a notary public to perform this service. After all, USCIS specifically notes that employers "may designate or contract with someone such as a personnel officer, foreman, agent, or anyone else acting on your behalf, *including a notary public,* to complete Section 2." However, not only are you not required to do so, but a notary may not be the best choice.

First, it's important to understand that the authorized representative serves as an agent of the employer, so if

AGENCY ACTION

BLS figures show work stoppages down during recent decades. The U.S. Bureau of Labor Statistics (BLS) announced in February that there were 15 major work stoppages involving 99,000 workers during 2016. Private industry organizations accounted for more than 94% of the 1.54 million total days idle for major work stoppages in effect during 2016. Over the past four decades, major work stoppages declined approximately 90%. The period from 2007 to 2016 was the lowest decade on record, averaging approximately 14 major work stoppages per year. The lowest annual number of major work stoppages was five in 2009. In 2016, the information industry had the largest number of workers involved in major work stoppages, with 38,200. Educational services were the next largest industry, with 33,600, followed by health care and social assistance, with 12,100 workers. In 2016, the largest major work stoppage in terms of number of workers and days idle was between Verizon Communications and the Communications Workers of America union, which involved 36,500 workers. That work stoppage accounted for 1,204,500 total days idle.

New voluntary self-identification of disability form approved. The federal Office of Management and Budget (OMB) has approved a new form for workers to self-identify disabilities. No changes have been made to the form except for a new expiration date, which is now January 31, 2020. The Office of Federal Contract Compliance Programs (OFCCP) requires federal contractors to ask workers to voluntarily identify if they have a disability. Federal contractors need that information to measure their progress toward achieving equal opportunity for people with disabilities. In announcing the new form, the OFCCP reminded employers that ensuring equal employment opportunity is the law as well as good for business. The agency also reminded employees that the form is voluntary and can't be used against them or shared with supervisors or coworkers but that it enables contractors to measure their progress toward equal employment opportunity.

Earnings decrease reported. Real average hourly earnings for all employees decreased 0.5% from December to January, seasonally adjusted, according to figures from the U.S. Bureau of Labor Statistics (BLS). The decrease was attributed to a 0.1% increase in average hourly earnings combined with a 0.6% increase in the Consumer Price Index for All Urban Consumers. Real average hourly earnings for production and nonsupervisory employees decreased 0.4% from December to January, seasonally adjusted. This result stems from a 0.2% increase in average hourly earnings combined with a 0.6% increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers. ✤

the authorized representative makes a mistake or misrepresentation in verifying documentation or filling out Section 2 of Form I-9, then the employer—not the individual representative—is liable for the mistake. So it's in your best interest to ensure that the person reviewing your employees' documentation and completing Form I-9 is as familiar with the process—and its pitfalls—as you would be if you were completing the form yourself.

Yet some notaries may be no more familiar with the I-9 process than the average layperson—and many are decidedly *uncomfortable* with the process. For example, are you certain the notary is familiar enough with the various List A, B, and C documents to reasonably ascertain their validity if a document other than a driver's license or Social Security card is provided? Can you be certain that a notary, when presented with one of the more uncommon yet acceptable List A documents, won't ask to see a different form of identification with which he is familiar?

Though a notary may often be valuable in his official status as a trustworthy and impartial party, when serving as your *authorized representative,* it's more important that the notary adequately serve *your* needs—in this case, accurate compliance with the I-9 process.

There is no need to have an I-9 notarized—in fact, notaries specifically should *not* affix their seals to the I-9 because they are *not* acting in their official capacity as notaries public. So there's no specific incentive to hire a notary for this task. In fact, some states prohibit or restrict notaries from participating in the I-9 process.

Bottom line

Because of the increase in risk of liability—both in increased fines and enforcement initiatives—employers that regularly hire remote workers should simply ensure that those employees' I-9s are completed with the same level of care that would be taken if the workers were in-house. Depending on your operations, this may mean using a third-party I-9 vendor that provides verification services across the United States, using other qualified authorized representatives in your new hires' locations, or arranging for your new hires to come to the company headquarters for a tour, introduction, and onboarding. ✤

SUPERVISOR ISSUES

Performance appraisals: the good, the bad, and the ugly

Sooner or later it will be that much-dreaded time of the year when annual performance appraisals are due. To make matters worse, there's always at least one team member who will drag the process out with questions about every single notation on his appraisal. So there you go, headed down the road of conflict.

Try to minimize the stress

Remember that one of the main objectives of the performance appraisal process is to develop staff members and

improve their contribution to the team. However, in many cases, both the leader and the staff member dread the performance meeting. How can you possibly turn that into a positive? Here are a few suggestions to help you improve your current performance appraisal process while relieving some of the stress the task often inflicts on both parties involved.

Get everyone on board

Ensure you've set clear, measurable goals at the beginning of the appraisal period. Too often the goals on performance appraisals are too subjective. Remember the old adage "You can't manage what you can't measure." Team members should ask for clarification on anything that's unclear or vague at the beginning of the appraisal period.

Set aside time to meet regularly with each staff member to discuss performance. Performance meetings need to be focused solely on performance. Don't discuss other issues during a performance meeting or you'll diminish the importance of what you're trying to accomplish. The more you can meet and discuss performance prior to the actual performance appraisal process, the smoother the overall process will go. Once a month is great, but if you can only meet every other month with a solid agenda, that should suffice.

If your manager cannot commit to meeting regularly, that may present more of a challenge and could be an indication of how she feels about the appraisal process. Staff members must push the issue. Your manager will respect staff members who show commitment to self-development because improving performance is high on just about every manager's wish list.

Go over specific performance goals at monthly meetings. Each subsequent meeting will provide an opportunity to gauge the staff member's progress since the previous meeting. Examine how he exceeded the performance goals or what needs to be improved upon to achieve the goals. Staff members should ask specific questions about how they can exceed performance goals.

Document and talk about the staff member's strengths and successes on the appraisal. This will reinforce the good behavior you want her to repeat. At this point, it should be a red flag if you're thinking, "What if the staff member doesn't have strengths and successes to point out?" If that's the case, the employee should already be in the performance improvement process.

Bottom line

When administered correctly, performance appraisals can be a very effective development tool for any organization. If you wait until near the end of the appraisal period to gather your data, far too often you'll really only capture the last few months of the appraisal period. Put in the work early, and the end result will be a smoother process for everyone involved. ✤

WORKPLACE TRENDS

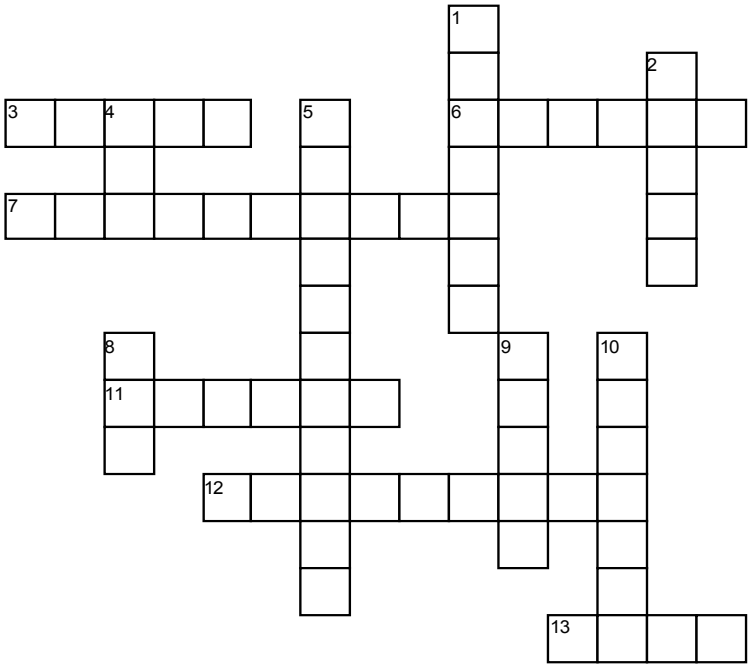
Research predicts automation of certain HR functions. A national study from CareerBuilder says that 72% of the employers surveyed expect that some roles within talent acquisition and human capital management will become completely automated within the next 10 years. The rate at which companies with 250-plus employees are adopting automation varies considerably. Although more are turning to technology to address time-consuming, labor-intensive talent acquisition and management tasks, which are susceptible to human error, the study shows a significant proportion continue to rely on manual processes. Thirty-four percent of employers don't use technology automation for recruiting candidates, 44% don't automate onboarding, and 60% don't automate human capital management activities for employees, according to the research. The study, which was conducted online from November 16 to December 1 and included 719 HR managers and recruiters at companies with more than 250 employees across industries in the private sector, shows that most of the automation is centered around messaging, benefits, and compensation.

Study explores why workers join on-demand economy. A new study from financial software giant Intuit Inc., "Dispatches from the New Economy: The On-Demand Workforce," looks at the motivations, attitudes, and challenges of the 3.9 million Americans working in the on-demand economy. The study, which features data from 6,247 people working via 12 on-demand economy and online talent marketplaces, found that people engaged in on-demand work are looking for flexible opportunities to smooth out unpredictable income while also testing ways to build a secure financial future. The findings show that on-demand work is used to supplement existing income, fill near-term financial needs, and build a sustainable future. The study also found that there is general satisfaction with on-demand work.

Research looks at why employees quit. Glassdoor has released a study showing that employees who stagnate in a job too long are more likely to leave their employers rather than move to a new role within the company. The research examined more than 5,000 job transitions from résumés submitted to Glassdoor's job and recruiting site and combined that data with company reviews and salaries shared by employees to understand the statistical impact of various factors on employee turnover. The report also finds high employee satisfaction, better opportunities for career advancement, the quality of an employer's culture and values, and higher pay lead to better employee retention. The report warns employers that employee turnover costs 21% of an employee's annual salary. ✤

JUST FOR FUN

Mindteaser of the month



ACROSS

3 Additional _____ may be a reasonable accommodation for an employee who exhausts her FMLA leave.

6 Use extreme caution if you contract with a _____ to verify I-9 documents for remote workers.

7 A new state law limits the liability of a _____ for employees of chains at the state level.

11 Discrimination based on _____ _____ is not expressly prohibited under either state or federal statutes, but it may be prohibited based on sex discrimination under Title VII (two words). See 5 Down.

12 State employees are required to exhaust the internal _____ process before filing discrimination lawsuits.

13 ____ is the acronym for the federal labor relations agency.

DOWN

1 Entities that jointly _____ a worker's terms and conditions of employment may face liability even if they aren't technically the payroll "employer."

2 The use-it-or-lose-it rule for FSAs may be extended by a _____ period adopted by an employer plan.

4 An employee who exhausts her FMLA leave may have additional rights under state law and the federal ___ (acronym).

5 See 11 Across.

8 An ___ is one type of benefit employees may use to cover healthcare expenses (abbreviation).

9 _____ employment liability may occur when a worker is considered an employee of more than one entity for compliance purposes.

10 Despite a new state law, franchisors may still be liable for employees of franchisees at the _____ level.

There was no puzzle in the March issue, so there's no puzzle solution this month.

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