

## **National Legislative Update: Federal Labor Report**

**August 2013**

*(Condensed and formatted from FMI GMR Updates & Monthly Labor Reports)*

### Senate Approves Five NLRB Nominees:

As expected, the Senate voted to confirm President Obama's five nominees to the National Labor Relations Board (NLRB). Senate approval of the five nominees gives the NLRB a full complement of Board members for the first time in over a decade. The log jam clearing the way for a Senate vote came when the White House agreed to withdraw the nominations of recess appointees Sharon Block and Richard Griffin in exchange for a commitment from Senate Republicans to have a simple majority vote on each of five nominees. This last minute agreement avoided a showdown with Senate Majority Leader Harry Reid (D-NV) who threatened to use the so-called "nuclear" option and change the Senate's filibuster rules.

### Senate Confirms Thomas Perez as Labor Secretary:

The Senate recently voted to confirm Thomas Perez as the next Secretary of Labor. Perez won confirmation by the Senate on a party-line vote of 54 to 46. Senate Republicans were highly critical of the Perez nomination, citing his tenure as the head of the Department of Justice's (DOJ) civil rights division.

Installation of Perez as Labor Secretary has triggered fears by the employer community that Perez will push forward with a new wave of regulatory initiatives including the contentious "persuader" regulations. The Department's rule, as proposed, would drastically narrow the scope of the long-standing "advice exemption" under Section 230 of the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA) that would result in increased employer, attorney and consultant reporting obligations on all matters relating to labor relations and union organizing activities.

### NLRB Petitions D.C. Circuit Court of Appeals on Notice Posting Decision:

The National Labor Relations Board (NLRB) has filed a petition seeking an en banc review of the U.S. Court of Appeals for the District of Columbia's decision, which struck down the Board's regulation that would have required most private sector employers to post a notice at their worksite that would advise employees of their rights under the National Labor Relations Act.

The controversial notice posting rule was scheduled to take effect on April 30, 2012, but the Board delayed its implementation due to numerous legal challenges, in which three different circuit court decisions ruled unfavorably against the rulemaking. OFCCP Rulemaking on

### Affirmative Action Goes To OMB:

An Office of Federal Contract Compliance Programs (OFCCP) proposed rulemaking that would strengthen affirmative action requirements in Section 503 of the Rehabilitation Act of 1973 is getting closer toward implementation.

The proposed rulemaking, which obligates federal contractors and subcontractors to ensure there are equal employment opportunities for veterans and qualified workers with disabilities, has been formally submitted to the Office of Management and Budget (OMB) for review. This is the last step in the rulemaking process prior to its implementation as a final rule. Typically, OMB takes up to 90-days to review agencies' regulatory proposals.