

## RIFDA NATIONAL LEGISLATIVE UPDATE

### **Update on Mandated Premium Pay for Grocery Workers:**

Efforts to mandate premium pay for grocery workers – or essential workers more broadly – continued this week in states and municipalities. Legislation is now pending in at least nine states and roughly 15 California localities. To date, six jurisdictions have enacted mandates that are currently in effect or set to take effect shortly: Long Beach, Coachella, Montebello and Oakland, California, as well as Burien and Seattle, Washington. Coachella enacted its urgency ordinance this week and is in effect. Unlike many of its California counterparts, the Coachella ordinance covers not just grocery workers, but also agricultural, restaurant and retail pharmacy workers.

Also of note this past week, the momentum for “emergency” ordinances, which take effect immediately, appeared to slow, California Grocers Association (CGA) reports. Both the Irvine and San Jose city councils this week failed to muster the requisite votes to pass an emergency measure, with councilmembers citing concerns over premium pay's impact on their constituents and its potential to lead to legal challenges. Both ordinances must now be voted on a second time before final adoption, which would then trigger a 30-day implementation period before they could take effect. Likewise, local governments in the cities of Alhambra, Belmont, Los Angeles and South San Francisco all decided to hold off on premium pay mandates this week, pointing to the potential for legal challenges. Also tied to the legal front, both Los Angeles and Santa Clara Counties have pushed their premium pay hearings out past the hearing date (Feb. 19) for CGA's request for a preliminary injunction against the Long Beach ordinance.

Elsewhere in the country, the Maryland state House and Senate held hearings this week on the “Maryland Essential Workers’ Protection Act” (HB 581/SB 486). This bill would mandate a variety of protections for essential workers, including \$3 per hour of extra pay retroactive to the start of the emergency. The Maryland Retailers Association testified against the legislation in both the House and Senate this week and was the lead opponent.

### **Ways and Means Reconciliation Package Includes Pension Reform:**

The reconciliation package marked up by the House Ways and Means Committee pursuant to the budget resolution passed by Congress last week includes language reforming both the multiemployer and single-employer pension systems. The multiemployer reforms mirror those included in the *Emergency Pension Plan Relief Act of 2021*, introduced by Chairmen Richard Neal and Bobby Scott earlier this month. While there are several aspects to this language, primarily it creates special partition relief for endangered plans, a fund to pay for this relief administered by the PBGC and the repeal of any benefit cuts previously enacted for troubled plans.

On the single-employer side, it provides for enhanced interest rate smoothing to address economic damage caused by the pandemic. While it remains to be seen if the Senate will include similar language in their reconciliation proposals, it does appear that the language used by the House can survive a point of order under the Byrd Rule, which requires reconciliation provisions to have a significant budgetary impact. While this view could change, and is ultimately in the purview of the parliamentarian, early indications are that the proposal will stand.

### **House Committees Include Nutrition Programs in Reconciliation Provisions:**

This week, the House Education & Labor Committee and the House Agriculture Committee passed their portions of the reconciliation package. Both committees included federal feeding program provisions. The bills passed out of their respective committees and will be added to the other 10 committee prints before being sent to the full House for passage.

1. House Education & Labor Committee provisions:
  - a. Increases the amount states can provide in cash value vouchers (CVV) to WIC participants from \$11 a month to \$35. As a reminder, states issue CVVs to WIC participants to buy fruits and vegetables outside of their WIC prescription. The bill allows for the increase through fiscal year 2021.
  - b. The bill also provides an additional \$390 million in funding for WIC program modernization. The funding, which runs through FY24, can be used to “carry out outreach, innovation, and program modernization efforts, including appropriate waivers and flexibility, to increase participation in and redemption of benefits.” The bill specifically excludes any waivers specific to the content of the WIC food package. FMI has been working with the committee to include report language that urges USDA to consider size and packaging flexibilities that may increase redemption within an allowed food category content of the WIC Food Packages, a policy FMI has long advocated for.
  - c. The bill also extends P-EBT authorization beyond the 2020-2021 school year to anytime there is a federal health emergency declaration.
  - d. Finally, the bill extends P-EBT into summer months if the school was impacted in the spring.
2. House Agriculture Committee provisions:
  - a. Extends the 15% increase in SNAP benefits through the end of fiscal year 2021.
  - b. Appropriates \$4 billion for the Secretary to use for several things, including purchasing various commodities and distributing them to those in need. In short, this is a continuation of the farmers to families food box program.
  - c. Provides \$25 million to make technical improvement to Online SNAP, modernize EBT, support mobile pilots and provide technical assistance to educate retailers on the process and requirements of becoming SNAP online authorized.

### **Proposal on Recycling Released:**

The Recycling Leadership Council released its proposal for improving the United States’ recycling infrastructure last week. *The Blueprint for America’s Recycling System* outlines a national strategy for improving recycling, with a specific focus on three areas: “data collection; system standardization and harmonization; and financing and end-market development.”

Each section contains a list of recommendations designed to help stand-up recycling infrastructure and move the country beyond the relatively low rate of recycling that has been consistent over the past thirty years. With the recommendations released, the RLC will focus on converting ideas into action by seeking legislative approaches at the federal, state and local level.

### **Biden Administration Announces Federal COVID Vaccine Pharmacy Program:**

Last week, the White House announced the Federal Retail Pharmacy Program for COVID-19 Vaccination, a collaboration between the federal government, states/jurisdictions and pharmacy partners, including those of supermarket companies, in order to expand access to vaccinations. Under the new program,

the federal government will begin shipping 1 million doses of vaccine to 6,500 pharmacy locations across the country. However, as vaccine supplies increase, the weekly allocations will be upped along with the number of pharmacy partners and locations.

During a press conference, White House coronavirus response coordinator Jeff Zients told reporters the goal is for as many as 40,000 pharmacies nationwide to eventually provide COVID vaccinations via the federal initiative. Importantly, the vaccine sent directly to pharmacies starting next week will be in addition to the weekly shipments to states, which have been increased to roughly 10.5 million doses, a 22% uptick since President Biden took office on January 20.

Meanwhile, two House Energy and Commerce subcommittees held vaccine hearings. The Subcommittee on Oversight and Investigations held a hearing on solutions to increase COVID vaccinations in the states, with witnesses including officials from Illinois, Michigan, West Virginia, Louisiana and Colorado. Also, last week the Health Subcommittee held a hearing on ramping up COVID-19 vaccines, testing, and the medical supply chain.

**Bill to Regulate CBD as Dietary Supplements is Reintroduced as FDA Pauses CBD Regulatory Work:**

Reps. Kurt Schrader (D-OR) and Morgan Griffith (R-VA) reintroduced a bipartisan bill (previously [H.R. 8179](#), now H.R. 841) that would allow CBD and other hemp-derived compounds to be marketed and sold as dietary supplements. Under the proposal, hemp-derived dietary products would still be required to comply with FDA rules regarding new dietary ingredients as well as federal requirements on packaging and labeling. However, our industry notes that because the supplement industry is subject to only limited regulation by FDA, the safety, purity, and accuracy of product information remains a top concern for our members.

That said, we also understand FDA's delay regarding its ongoing review of CBD has created significant regulatory and legal uncertainty – a delay that will be prolonged due to the presidential transition. As a result of the White House memo issued after President Biden took office asking agencies to withdraw any rules that had not yet been released, the FDA withdrew its draft CBD enforcement guidance, which was submitted to the White House Office of Management and Budget for final review in July 2020.