



Benefits News

Helping you take care of your employees, so they can take care

November-Announcing Our New Partnership

November 2011

It's your friend, Barry Cohn at RGEB here. We hope you are all having a great November so far and tolerating the colder weather! We are very proud to announce our new strategic partnership with McCabe Consultants, a leading human resources consulting company. This newsletter describes all of the details about what McCabe Consultants offers in addition to RGEB's usual services! We hope you are as excited about this addition to our team as we are!

Who & Where We Are

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RGEB

A Message from McCabe Consultants:

Need Human Resource support but don't want a fulltime HR resource? We have just the solution. Our HR Solutions involves us providing an experienced HR professional to work with you on a regular, part-time, or as needed basis.

The HR professional will provide your business with the advantage of an independent and objective HR advisor. We undertake a range of activities to meet your specific business needs. This solution is perfect for businesses looking for cost effective reliable HR.

Services include but not limited to:


- HR Compliance
- HR Audits
- Day to day HR management
- Benefits Administration
- Safety Compliance
- Investigations
- Performance Management and

Insurance
Agency
#0D60724

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reviews

- Hiring and Firing
- And much more!!!!

Good HR is hard to come by. Take advantage of the knowledge and capability of our professional staff—as and when you need us.

With continuous healthcare changes and foreseen regulation changes through 2014, McCabe Consultants continues to provide its clients with superior and innovative HR services through its partnership with **RGEB**, (Really Great Employee Benefits).

This partnership will not only reduce, in most cases, employer costs, it will significantly mitigate employers' risks through invaluable information provided by **RGEB**.

For further information about our services, please contact our team at [818.704.7838](tel:818.704.7838) or email victoria@mccabeconsultants.com

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HR Tip of the Month

Lack of proper documentation is the number one reason companies lose Department of Labor and Employment Development Department claims.

Remember, the employer is the "record keeper" meaning, if you do not have proper records, they will side with the employee.

Check out McCabe Consultants online at the links below:

[Facebook](#)

[Official Website](#)

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Expert Advice, Practical Solutions

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News From McCabe and RGEB

Right to Know Rule. By October 2011, the Wage and Hour Division seeks to issue a proposed rule updating the recordkeeping regulations under the Fair Labor Standards Act (FLSA) in order to enhance the transparency and disclosure to workers of their status. The recordkeeping requirements would provide an explanation about how workers are classified as an employee or as an independent contractor and how their pay is computed.

American Jobs Act. On September 12, 2011, President Obama revealed the Jobs Bill that encompasses several employment-related provisions. Some of the provisions offer relief from payroll taxes and provide tax credits for hiring the long-term unemployed individuals and

veterans. More details will be available as they are released by the government.

OSHA'S 2011 Site-Specific Targeting Plan. On September 9, 2011, the Occupational Safety and Health Administration (OSHA) announced its 2011 Site-Specific Targeting (SST) plan, the agency's annual inspection program for general industry establishments with high numbers of injuries and illnesses. This year's SST has been expanded to include establishments with as few as 20 employees. The SST does not apply to employers in states with their own state occupational safety and health agency, although state agencies may choose to adopt the federal program in lieu of creating their own. Construction worksites are also excluded from the SST. While the new program is called Site-Specific Targeting 2011 (SST-11), the inspections could continue through September 2012.

Executive Order 13495 Final Rule. On August 29, 2011, the Department of Labor's Wage and Hour Division (WHD) issued a final rule to

Division (WHD) issued a final rule to implement President Obama's Executive Order 13495, Nondisplacement of Qualified Workers Under Service Contracts. The Executive Order requires federal contractors and subcontractors that are successors to certain government contracts to offer employment on a "first right of refusal" to employees (not including managerial or supervisory employees) employed under the predecessor contract, whose employment would be otherwise terminated at the end of the predecessor contract.

Health Insurance Premium Tax Credit. On August 12, 2011, the Departments of Treasury and Health and Human Services released Proposed Regulations to provide guidance to individuals who enroll in qualified health plans through State-based Exchanges, as envisioned under the Affordable Care Act, and to provide guidance to Exchanges that make qualified health plans available to individuals and employers. Comments must be submitted by October 31, 2011.

Proposed Rental Development

Proposed Parental Bereavement Act. On July 13, 2011, the Parental Bereavement Act was introduced in Congress. The bill would amend the federal Family Medical Leave Act (FMLA) by adding a new job-protected leave category for the death of an employee's son or daughter. If passed, an eligible employee would be entitled to a total of 12 workweeks of unpaid leave during any 12-month period due to the death of a child.

Question and Answer

Uncollected Paychecks

Q. What do employers do with uncollected paychecks which either were not picked up by the employee or were returned to the employer as "address unknown?"

A. We recommend employers to consider the following:

- Aside from sending certified-mails to the former employee, call the person (i.e. cell / home phone) to notify him or her that paycheck(s) have been unclaimed and document when the paycheck(s) was mailed and when the employer called.
- Forward the check to the State Bureau of Unclaimed Property. Remember, the check is NOT the property of the employer.
- The state holds the items for the owner or heirs until a claim is filed to collect the property. (Note: If an un-cashed payroll check

property. (Note: If an un-cashed payroll check is voided, the money is then available in the company's payroll checking account. If later the funds are not available to pay the employee or to submit to the state, the employer and officers could find themselves under a breach of fiduciary responsibility.)

- The company must report these wages on the W-2 form and pay all taxes that are due as if the un-cashed unclaimed payroll checks had been cashed on a timely basis. State unemployment reports and taxes will also need to be filed and paid as if the payroll check was cashed.

Consider having a company unclaimed/un-cashed paycheck policy in place.

Denial of UI Benefits

EDD guidelines may allow for the disqualification of benefits under its "willful misconduct" rule where an employee is terminated for excessive complaining about working conditions, hours, wages, co-workers, supervision, or any one of a variety of things.

For example, excessive complaining by an employee would be misconduct if it is shown that the employee's work suffered, or if the employer's interests were otherwise damaged as a direct result of he or she persistently leaving their work station for the purpose of griping to co-workers.

Key things to consider when considering terminating an employee for filing complaints:

1. Were the complaints justified?
2. Were the complaints registered through proper channels?
3. Were the complaints affecting the claimant's work or that of other employees?

Remember, there is no misconduct when if the employees complaints are justified, and registered

through proper channels.

New NLRB Notice Requirement Puts Businesses Nationwide on Notice

The National Labor Relations Board (NLRB) issued a final rule requiring most private-sector employers to notify employees of their rights under the National Labor Relations Act (NLRA). The NLRB will enforce employers to post a new NLRA notice in the workplace. The posting requirement is effective **November 14, 2011**

Covered Employers

The posting requirement applies to all private-sector employers (including labor unions) subject to the National Labor Relations Act. Because NLRA rights apply to union and non-union workplaces, all employers subjected to the Board's jurisdiction (aside from the US Postal Service) will be required to post the notice. In general, the NLRA covers private employers that

have an impact on interstate commerce which is based much on the dollar volume of business a company generates. For example, the law covers retail or service establishments with annual gross receipts of at least \$500,000, manufacturing companies that ship at least \$50,000 worth of goods across state lines or purchases at least \$50,000 worth of goods from out of state.

Employers Not Covered

- * Government or Union Employers. Certain employers are specifically excluded by the NLRA: federal and state offices, Federal Reserve Banks, employers subject to the Railway Labor Act, labor unions and their officers and agents (except when they are acting as employers).
- * Companies that have a municipal function. A privately-owned company with an essentially municipal function is exempted from the NLRA.
- * Religious schools. An exception here is schools that are largely secular and not pervaded by a religious purpose

not pervaded by a religious purpose.

* Agricultural, railroad and airline employers are not impacted.

In a conspicuous area where employees can easily see and read it, the NLRA notice must be posted in English. If 20 percent or more of the staff is not proficient in English and speaks a language other than English, then the employer must post the notice in that other language.

However, if two or more groups comprising at least 20 percent of the staff speak different languages, then the employer must either physically post the notice in each of those languages or post the notice in the language spoken by the largest group of employees and provide a copy in the other language(s) to each of the other employees. If an employer customarily communicates workplace policies to employees in an electronic format (i.e. a company intranet), then it must electronically post the notice as well. Failure to post the notice may constitute an unfair labor practice under the NLRA.

This new poster requirement will

This new poster requirement will clearly bring more attention and increase interest in union organizing. As importantly, employers should anticipate an increase in complaints from non-union employees about work rules, especially those that run contrary to any of the poster information. In preparation, employers should become familiar with the NLRA language, review their company workplace policies and procedures to make sure that they do not conflict with the NLRA provisions, and be ready to discuss the NLRA rights with their employees.

Wishing you good health!

Barry
RGEB Employee
Benefits