



Labor & Employment Issues Client Alert

Pitta LLP
For Clients
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TRUMP SIGNS THE CARES ACT TO PROVIDE ECONOMIC RELIEF TO AMERICANS AFFECTED BY THE COVID-19 PANDEMIC

President Donald J. Trump signed the bi-partisan Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”) Public Law No: 116-136, a \$2.2 trillion economic relief package designed, it is hoped, to cushion the economic and social welfare effects of the COVID-19 outbreak. Below is a summary of the CARES Act’s provisions. This alert is an updated version of the Pitta LLP client alert issued on March 26, before the CARES Act was signed into law.

UNEMPLOYMENT INSURANCE

The CARES Act makes major improvements to unemployment benefits totaling \$260 billion. The CARES Act directs the waiver of waiting periods, a step New York put in place last week; and provides an extension of benefits by an additional 13 weeks of federally funded payments. The CARES Act expands the benefits to permit part-time, self-employed, and “gig” workers to participate. The CARES Act also increases unemployment insurance by \$600 per week and is in addition to whatever the state benefit provides. The goal is to cover 100 percent of wages by including state and federal benefits, but with a maximum cap. There is no partial benefit if a worker loses hours only. However, if states initiate a “short-time compensation program,” the federal government would pay 50%.

DIRECT PAYMENTS

The CARES Act calls for direct payments of up to \$1,200 per adult and \$500 per child. The payments to adults phase out based on income of \$75,000 annually for individuals and \$150,000 for family. Payments for children are not phased out.

BAILOUT FOR DISTRESSED INDUSTRIES

The CARES Act contains a \$500 billion government bailout fund for distressed industries impacted by the COVID-19 pandemic, such as hospitality, restaurants and retail. The CARES Act creates a Treasury Department Special Inspector General for Pandemic Recovery to provide oversight of Treasury loans and investments and a Pandemic Response Accountability Committee to protect taxpayer dollars.

Moreover, conditions of any government loans to businesses include:

1. No stock buybacks or dividends for the length of any loan provided by the Treasury plus 1 year;
2. Restrictions on any increases to executive compensation;
3. Protection of collective bargaining agreements; and
4. Real-time public reporting of Treasury transactions under the CARES Act, including terms of loans, investments or other assistance to corporations; prohibition on businesses controlled by the President, Vice President, Members of Congress, and heads of Executive Departments getting loans or investments from Treasury programs.

The CARES Act also calls for the creation of a Congressional Oversight Commission, with subpoena power, to enhance legislative oversight of pandemic response.

HOSPITALS AND HEALTHCARE

The CARES Act includes \$150 billion for all types of hospitals and medical providers to address COVID-19, and it will be available to fund whatever is needed to defeat this virus. This could include: equipment and infrastructure like personal protective equipment, testing supplies, increased workforce and training, new construction to house patients, emergency operation centers and additional hospital beds.

In addition, the CARES Act will provide funding to deliver Medicare payment increases to all hospitals and providers, new investments in the Strategic National Stockpile, surge capacity and medical research into COVID-19.

STATE AND LOCAL CORONAVIRUS EXPENDITURES FUND

The CARES Act provides a fund of \$150 billion to cover “new expenses” related to COVID-19 response. The fund has a minimum of \$1.5 billion per state and a Tribal carve out of \$8 billion.

SMALL BUSINESS/NOT-FOR-PROFIT ASSISTANCE

The CARES Act establishes a \$377 billion small business fund, including \$350 billion in “loan forgiveness” grants to small businesses and non-profits to maintain their existing workforce and help pay for other expenses like rent, mortgage, and utilities. In addition, the bill calls for \$10 billion for Small Business Administration emergency grants of up to \$10,000 to provide immediate relief for small business operating costs and \$17 billion for SBA to cover 6 months of payments for small businesses with existing SBA loans.

PUBLIC TRANSIT

The Federal Transit Administration would receive \$25 billion for public transit grants. Those would be subject to “fiscal year 2020 apportionment formulas” and must go out within a week of enactment. The Metropolitan Transit Authority will receive \$4 billion in assistance to remain solvent.

TRANSPORTATION AND NATIONAL SECURITY

The CARES Act seeks to protect 2 million aviation industry jobs by providing the industry \$61 billion. The CARES Act will provide direct payroll payments to maintain current jobs. Airline companies will be prohibited from stock buybacks and dividends for the entire life of the grant plus one year. Collective Bargaining Agreements will be protected. Health Care benefits will be expanded for airline contract workers. It is not clear yet what the nature of the healthcare expansion would be. Moreover, it should be noted that should an aviation company file for bankruptcy, under the bankruptcy code, there are fairly straightforward means for the company to reject the CBA. It is not clear how the bill addresses this.

The bill includes \$10 billion for grants to airports, with at least \$100 million set aside for general aviation airports. Hub airports which receive the money would have to keep employing at least 90 percent of the people employed as of the day of the bill’s enactment until the end of the year. As many airport workers have already been laid off, it is not clear whether the bill would reinstate those workers. Amtrak will receive more than \$1 billion to continue operations. The CARES Act also provides Boeing \$17 billion in relief because it is deemed “critical to maintaining national security.”

FEDERAL AGENCIES

The CARES Act provides \$100 million for the TSA; \$140.8 million for the U.S. Coast Guard; \$250,000 for the Federal Railroad Administration; \$3.13 million for the Maritime Administration; \$1.75 million for DOT's Office of Secretary; \$5 million for the DOT's inspector general; and \$56 million to maintain essential air service.

EMERGENCY APPROPRIATIONS

The CARES Act appropriates the following for emergency appropriations:

1. \$16 billion to replenish the Strategic National Stockpile supplies of pharmaceuticals, personal protective equipment, and other medical supplies, which are distributed to State and local health agencies, hospitals and other healthcare entities facing shortages during emergencies;
2. \$1 billion for the Defense Production Act to bolster domestic supply chains, enabling industry to quickly ramp up production of personal protective equipment, ventilators, and other urgently needed medical supplies, and additional funding for federal, state, and local health agencies to purchase such equipment;
3. \$4.3 billion to support federal, state, and local public health agencies to prevent, prepare for, and respond to the coronavirus, including for the purchase of personal protective equipment; laboratory testing to detect positive cases; infection control and mitigation at the local level to prevent the spread of the virus; and other public health preparedness and response activities.

ELECTION SYSTEMS

The CARES Act appropriates \$400 million for election assistance for the states to help prepare for the 2020 election cycle, including to increase the ability to vote by mail, expand early voting and online registration, and increase the safety of voting in-person by providing additional voting facilities and more poll workers.

MISCELLANEOUS APPROPRIATIONS AND TAX RELIEF

The legislation allocates:

1. \$45 billion for FEMA's Disaster Relief Fund to provide for the immediate needs of state, local, tribal, and territorial governments to protect citizens and help them recover from the overwhelming effects of COVID-19.
2. \$30.75 billion for grants to provide emergency support to local school systems and higher education institutions to continue to provide educational services to their students and support the on-going functionality of school districts and institutions;
3. 3.5 billion in additional funding for the Child Care Development Block Grant to provide childcare assistance to health care sector employees, emergency responders, sanitation workers, and other workers deemed essential during the response to the coronavirus;
4. \$7 billion for affordable housing and homelessness assistance programs;
5. \$6.5 billion in Federal funding for CDBG, the Economic Development Administration, and the Manufacturing Extension Partnership to help mitigate the local economic crisis and rebuild specifically impacted industries such as tourism or manufacturing supply chains;
6. An "employee retention" tax credit that's estimated to provide \$50 billion to companies that retain employees on payroll and cover 50 percent of workers' paychecks. Companies would also be able to defer payment of the 6.2 percent Social Security payroll tax and

7. Student loan relief in the form of tax relief encouraging employers to implement student loan repayment programs. This provision will exclude up to \$5,250 in qualifying student loan repayments paid by the employer on behalf of the employee from income for income tax purposes.

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