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### **Labor Department**

## **Obama's Pick for Wage and Hour Predicted to Be a Tough Enforcer**



*By Gayle Cinquegrani*

Sept. 12 — David Weil, the Boston University economics professor nominated by President Barack Obama Sept. 11 to fill the long-vacant post of administrator at the Labor Department's Wage and Hour Division, is likely to take a tough stance on enforcement, observers told Bloomberg BNA Sept. 12.

Obama's choice "indicates both a continued commitment to the division's aggressive enforcement strategy and a willingness to endure potentially heated confirmation proceedings," Michael S. Kun, a partner at Epstein Becker Green in Los Angeles, told Bloomberg BNA Sept. 12. Kun is chair of the firm's management-side national wage-hour practice group.

After the president's first two attempts to fill the post were withdrawn, some people may have speculated that he would nominate "something of a 'compromise' candidate," Kun said. "Dr. Weil's writings, which are considered to be the blueprint for the Division's beefed-up enforcement practices during the Obama administration, would certainly indicate that he is no 'compromise' candidate, and that, if this is a battle Senate Republicans choose to take up, the confirmation hearings could be protracted and contentious," he said.

If Weil is confirmed, Kun said, there is "every reason" to believe the division's "aggressive enforcement strategy" will continue. "And there is a possibility that they could be even more aggressive," he added.

Weil teaches economics at the Boston University School of Management and is a co-director of the Transparency Policy Project at the Harvard University John F. Kennedy School of Government. He also has been a lecturer and research fellow at the Harvard Law School Labor and Worklife Program. His Web page lists industrial and labor relations policy and regulatory performance as some of his research interests.

### **'An Interesting Selection.'**

Robert Boonin, a partner in the Ann Arbor, Mich., law firm of Butzel Long and chair of the Wage and Hour Defense Institute, called Obama's nomination of Weil "an interesting selection." Speaking to Bloomberg BNA Sept. 12, Boonin called Weil "an academic," adding, "He's never been a practitioner. He's never been an employer."

The Wage and Hour Defense Institute is an association of lawyers who represent employers in labor and employment litigation. Lawyers who represent employers often contend the Labor Department should devote more resources to helping employers comply with laws and regulations instead of concentrating on penalizing them for infractions.

Based on papers and reports that Weil has written, Boonin predicted that Weil will continue the Labor Department's emphasis on enforcement rather than compliance assistance. "That's been the focus of his academic career," Boonin said.

In 2010, Weil was the principal investigator on a report for the agency titled "Improving Workplace Conditions through Strategic Enforcement," which is posted on the DOL website.

Supporters of the nomination told Bloomberg BNA they do not think Weil's academic background would hinder his performance at the Wage and Hour Division if he is confirmed.

Joseph A. McCartin, the director of Georgetown University's Kalmanovitz Initiative for Labor and the Working Poor, expressed support for Weil. "I can't think of anybody better qualified than David Weil," he told Bloomberg BNA Sept. 12. "He is one of the nation's leading experts on labor standards," McCartin said. Weil is "informed on the trends that have reshaped the workplace and employment patterns in the last generation" and therefore can "see the big picture" better than many legal practitioners and employers, who may focus primarily on their situation or the situation of their clients, McCartin said.

### **Familiarity With Business Practices**

Catherine K. Ruckelshaus, legal co-director for the National Employment Law Project, cited Weil's connection with BU's business school and said he "knows very well how employers operate." NELP promotes policies that help low-wage and unemployed workers.

"I think he has a really good instinct about how business decisions are made," Ruckelshaus told Bloomberg BNA Sept. 12. "He has studied and has the data for how to encourage consistent employer compliance in those industries where there are persistent violations," she said.

Kim Bobo, executive director of Interfaith Worker Justice, a group that engages faith communities to advance workers' rights, said in a Sept. 12 statement that Weil is "one of the most thoughtful advocates for a strong and effective Wage and Hour Division."

"He doesn't want to just pull workers out of a river of abuse, he wants to go upstream and address the systemic problems," she said. "In this current economic environment in which too many employers shirk responsibilities for their employees, sometimes even pretending they don't have employees, David Weil will shine a light on the crisis and work with the team at the Department of Labor to stop wage theft and payroll fraud," Bobo said.

Weil was named best master's of business administration instructor at BU's School of Management in 2011 and 2012. He received a B.S. degree from Cornell University's School of Industrial and Labor Relations and a Ph.D. in public policy from Harvard University.

Weil's nomination has been referred to the Senate Committee on Health, Education, Labor, and Pensions.

Kun, the lawyer from Becker Epstein Green, predicted that Weil may face difficult questions at his confirmation hearing. "Hearings involving academics like Dr. Weil are naturally more involved for the simple reason that, unlike many who build their careers within the government, academics often have dozens of published articles for Congress to pick through," he said. "And you know that already some interns have been assigned the task of plowing through the footnotes of Dr. Weil's articles to see what could be used at those proceedings."

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