



# Happy Holidays? COVID-19 Legislation Status... What Happens Now?

*Over the weekend, Congress reached a deal on a \$900 billion COVID-19 relief bill. This round of legislation only addresses the financial burden of Americans, with other needs—such as leave protections set to expire on December 31, 2020—left for another day to debate. What it did cover is financial pains of employers, transportation, and small businesses, as well as the necessary provisions on COVID-19 testing.*

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A lot rode on Congress's ability to agree. Democrats fought hard against employer liability protections and won. Republicans fought hard against funding for state and local governments, and they won. With the holiday break around the corner, there was incentive to get the deal done. And that they did!

## STATUS OF THE LATEST COVID-19 LEGISLATION

As Congress heads out for their holiday break, a deal is reached. The bill heads off to be put into effect with supplementary guidance, processes, and procedures. While the hold-up was around funding for state and local governments and employer protections\*, a deal was, nevertheless, imminent. Therefore, those provisions were scrapped in an effort to reach a deal.

*\*Some states already provide for employer protection against liability for employees contracting COVID-19, arguably, at work. It is ultimately the employer's responsibility to provide a safe working environment under federal law.*

### The bill consists of two separate proposals or rounds of legislation:

#### ► FIRST ROUND

- Worth an estimated \$748 billion
- Unemployment benefits

#### ► SECOND ROUND

- Small business relief
- Vaccine distribution

Unlike previous COVID-19 legislation, which included the Families First Coronavirus Relief Act (or [FFCRA](#)) and the Coronavirus Aid, Relief and Economic Security (or [CARES Act](#)), there are no provisions addressing leaves to-date. (Meaning the extended FMLA and paid leave rights to FFCRA-provided leaves may go away on December 31, 2020. Details as to what happens next are yet to be released. Leavitt Group will be sure to let you know in an analysis soon!) It appears this round of legislation is intended to address financial hardships of businesses and the unemployed.

## SUMMARY

The [Emergency COVID-19 Relief Act of 2020\\*](#), final details yet to be released, includes:

- Extension of unemployment assistance for 11 weeks with supplemental \$300 per week
- Extension of unemployment period from 26 to 39 weeks (reauthorized)
- Second round of PPP for small businesses and loan forgiveness
- Rental assistance and eviction moratorium through January 31, 2021
- Student loan forbearance through April 1, 2021
- Extension of telehealth flexibility through December 31, 2021
- \$45 billion in emergency funding for transportation sector
  - » Assistance for airlines, airports, buses, Amtrak, and public transit
  - » \$4 billion funding for airports, including set-asides for airport concessionaires, Essential Air Service (EAS), and the Small Community Air Service Development Program (SCASDP) through March 31, 2021
- [No Surprises Act\\*\\*](#)
  - » Prohibition on surprise medical billing for out-of-network emergency room visits
  - » Participant only obligated to pay copay, coinsurance, or other cost-sharing
  - » Provider must negotiate fair price with insurer—applies to doctors, hospitals, and air ambulances (not ground)

In a separate “round” of legislation, the [Small Business Protection Act of 2020](#) provides for another round of funding for small business relief. Full details to come.

*\*Links to summary from December 14, 2020, which includes all provisions above with the exception of the addition of the prohibition on surprise medical billing and an adjusted number of weeks for unemployment financial assistance. Linking to older summary as final details have yet to be released.*

*\*\*Leavitt Group will be releasing an analysis of this Act in the near future. Be sure you are signed up for our [news alerts](#) to receive a copy.*



## EMPLOYER PROTECTIONS

One day it was in the bill, and the next, it is not. Wednesday's version of this article included employer liability protections that the Democratic party vigorously contended against.

This liability shield was intended to lessen the burdens on businesses through elimination of the risk of COVID-19 related litigation. If enacted, this rule would have retroactively applied and run through September 30, 2024. But alas, it is no more.

## STATE & LOCAL GOVERNMENT FUNDING

Another provision that held up reaching a deal until the 11th hour was funding for state, local, and tribal governments. Originally an agreement in principle, the bill would have provided \$160 billion to governments and municipalities.

This provision remained in the draft bill until it evaporated overnight during the December 16th negotiations.



*Leavitt Group will continue to monitor the changing event and will let you know once the final details are released. If you have not already, [sign up](#) for Leavitt Group news alerts for updates and breaking news.*

## FAMILIES FIRST, CARES ACT & WORKERS COMPENSATION

This legislation did not provide any details on how to approach the impending end of the FFCRA leave protections for employees who lost their job or who could not work due to school closures because of the pandemic. For details on the FFCRA and CARES Act insurance provision rules, see the Leavitt Group [article](#).

The Department of Labor (DOL) provided rules in September clarifying when employers must offer paid leave under FFCRA. See the Leavitt Group [article on FFCRA temporary rules](#).

Also see the Leavitt Group [COVID-19 Resource Center](#) for full details, including multiple articles on COVID-19, FFCRA, and the CARES Act.

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*Each state enacts their own emergency orders which can be tracked [here](#). The Kaiser Family Foundation is a nonprofit that provides an ongoing summary of state legislatures and actions. See the [workers' compensation state law summary](#) and the [summary of state actions related to COVID-19](#).*



### ADDITIONAL FFCRA LEAVE RESOURCES

[DOL Quick Tip Paid Leave Flowchart](#)

[Employee Rights Poster](#)

[FFCRA Webinar Slides](#)

### ADDITIONAL UTAH RESOURCES

While Utah law provides no additional leaves or employee protections in addition to FFCRA, CARES, and federal law, the state does have a resources page with available content: [Coronavirus Utah Government Workplace Resources](#)

### Employer Action Plan

- Employers should consult with an employment and tax professional to assist them in understanding how to take advantage of the small business opportunities, and additional funding for state and local municipalities and certain transportation industries. Leavitt Group is here to help you with any of your related insurance needs along the way.
- Wondering what to do about FFCRA leaves? Employees have an available FFCRA leave **application tool**. Employers may find this helpful in determining application to a specific employee.
- Employers should consult their state laws for additional leave requirements. For example, **California AB 1867** extends paid sick leave to all California private employers, including healthcare and emergency workers.