

U.S. House HEROES Act and the Road Ahead

May 15, 2020

On May 15, 2020, the U.S. House of Representatives will return to pass the Health and Economic Recovery Omnibus Emergency Solutions (HEROES) Act, a \$3 trillion coronavirus (COVID-19) assistance package developed by Speaker Pelosi as a sequel to the Coronavirus Aid, Relief, and Economic Security (CARES) Act. The bill is expected to pass by a largely partisan vote and therefore has no chance of passage in the Republican-controlled Senate. Rather than cover the details of the HEROES Act, this alert takes a look at the road ahead.

Senate Majority Leader Mitch McConnell has recently begun to acknowledge that another rescue package (Phase 4) will be needed, given the continuing catastrophic impacts of the pandemic. However, he favors a more targeted approach than what the House has put together and is in the process of soliciting ideas from members. With the House controlled by Democrats, a 60-vote legislative threshold in the Senate, and a Republican White House, the path to any package being signed into law must be a bipartisan one.

Much like the CARES Act negotiation, each side will have a list of items they want and then there will be trades back and forth regarding what to include where there isn't bipartisan consensus. Everything one side wants will come with a corresponding cost or give. For example, additional state and local funding (a priority for Democrats) may be traded for some form of business liability protections (a Republican priority). The key players will also have to decide, in addition to funding issues, what if any policy can be included outside of the parameters of CARES. From a timing standpoint, we are likely looking at June before a package can be finalized. Of course, economic circumstances will play a big role here as well and can slide time in one direction or another.

It's also important to acknowledge the election calendar as we get closer and closer to November. Just this week, there have been two special elections in the House, growing polling evidence that the Senate map is expanding and becoming more contested, and this is all in addition to Presidential polling that is like a rollercoaster. We are also headed into the heat of not only summer, but political ad season. Historically, in a Presidential election year, Congress finishes the bulk of its pre-election legislating by the end of July. This year may see bills come together later in the summer, however, possibly including an infrastructure stimulus, either on its own or added to a further coronavirus package.

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While these times are far from normal and historical precedent has been thrown out the window, political realities may yet prevail to make another large bi-partisan deal beyond "Phase 4" very hard to come by. Thus, the next several weeks are absolutely critical for industries to convey their priorities to Congressional offices and the Administration. Doing this effectively in this new environment requires an approach based on key relationships for quick access and attention, tactical acumen, subject matter expertise, and political judgement. Cutting through the clutter and noise is key to success. Along those lines, it is worth noting that incumbents in swing states facing challenging re-elections are more likely to have their voices heard by Leadership during closed door negotiations for any final product.

Wiley attorneys are continuing to monitor developments related to the government's response to the COVID-19 crisis. Please visit our COVID-19 Resource Center for further information and updates.

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