

WEBINAR SERIES

Navigating Midwest and Western States Employment Law for 2025: Key Updates & Insights

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Today's Presenters



Carrie Pilon

Associate General Counsel/
Sr. HR Consultant
PrestigePEO



Rhonda Wheelous

Director of Client Services,
Southeast Region
PrestigePEO

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The materials contained in the following presentation have been prepared as general information and to inform the attendees of important changes that may impact their business. Neither this presentation nor any of the materials contained herein are intended as legal advice. Attendees should consult with counsel before taking any actions that may impact their legal rights.

Today's Agenda

- Federal Employment Law Updates
- Case Law Updates
- State Legislative Updates: IL, IN, MI, MN, MO, OH, KY, WY, CO, & ID
- Trends Impacting HR in 2025

Webinar Forum

All participants are muted.

Please type questions in the side navigation panel and we will try to address most questions during today's session.

Today's presentation will be posted online at prestigepeo.com/webinars

Federal Employment Law Updates

U.S. Department of Labor Overtime Rule Vacated

A proposed rule increasing the salary threshold for exempt employees was invalidated by a federal court in November 2024.

Current Thresholds:

- Exempt Employees: \$35,568 annually (\$684 per week)
- Highly Compensated Employees: \$107,432 annually

NLRB Joint Employer Rule Vacated

- A 2023 rule by the National Labor Relations Board (NLRB) expanding joint employer liability was vacated in March 2024.
- Current Standard: Entities are joint employers only if they exercise “substantial direct and immediate control” over employment terms.

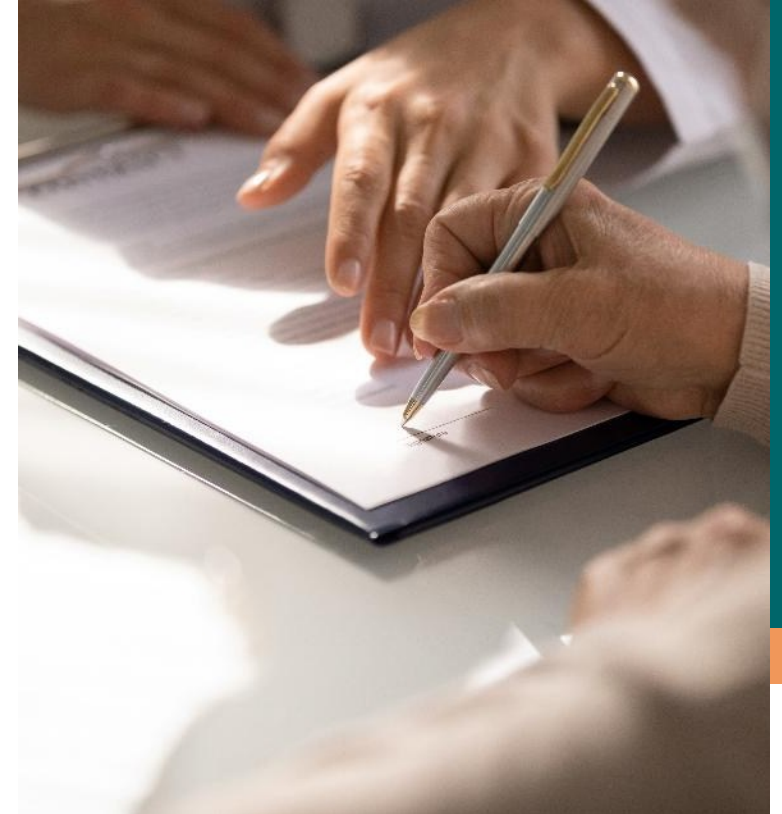


Other NLRB Changes

- Under the new administration, an Acting General Counsel was appointed and has already begun carving out significant changes to the direction this agency is likely to take in the coming months and years.
- The February 14, 2025, General Counsel Memorandum 25-05 rolled back a number of policies issued by the previous general counsel under the Biden administration.
- This Memorandum changed the NLRB's position on number of trending issues including non-compete agreements, stay-or-pay provisions, whether college athletes should be considered employees, and others.
- It is important to keep in mind that the Memo is not binding law and we will continue to monitor these updates.

FTC Non-Compete Ban Overturned

- A nationwide ban on non-compete agreements was overturned in August 2024.
- FTC appeals are pending, creating uncertainty.



Case Law Update

E.M.D. Sales, Inc. v. Carrera

- **Background:** At issue in this matter was the United States Supreme Court's consideration of which standard of proof applies to an employer's burden when determining whether an employee is exempt from the minimum wage and overtime requirements under the Fair Labor Standards Act. In an earlier United States Court of Appeals for the Fourth Circuit decision, it was ruled that the higher standard of proof, or that of "clear and convincing evidence" must be established by an employer in order to contend that an overtime exemption under the FLSA applies to an employee's status.
- **Issue:** Does the burden of proof the employer has to satisfy to meet the overtime exemption turn on a mere preponderance of the evidence or the higher standard of clear and convincing evidence?
- **Holding:** The Supreme Court reversed the Fourth Circuit's ruling, holding that an employer need only establish that an overtime exemption may be applicable through the lower "preponderance of the evidence" standard, which lessens the burden on the employer when establishing FLSA exemptions. While the initial ruling specifically involved eligibility under the FLSA's outside sales exemption, the recent SCOTUS ruling applies to all FLSA exemptions.

Williams v. Reed

- **Background:** An Alabama case involving unemployed workers' efforts to seek unemployment insurance benefits was heard by the Supreme Court. At issue was the state of Alabama's requirement that workers pursuing unemployment claims must first exhaust all available state administrative processes before they could avail themselves of any remedies afforded by pursuing federal due process claims in state court.
- **Issue:** Are citizens required to avail themselves of all administrative remedies before pursuing a claim under federal civil rights law, 42 U.S.C. §1983, which allows people to sue state government officials for violating their civil rights under federal law?
- **Holding:** In a 5 to 4 decision, the Supreme Court agreed with the group of unemployed Alabama workers, renewing their civil rights claims under 42 U.S.C. §1983. Justice Kavanaugh noted that the administrative exhaustion rule created a "Catch-22" for the workers, as it prevented the workers from pursuing relief in state court while waiting on state processes. The Court found that the rules in Alabama otherwise "in effect immunizes state officials from those kinds of §1983 suits for injunctive relief."

Williams v. Reed, continued

Justice Brett Kavanaugh wrote in the majority opinion: “[T]hat ruling created a catch-22: Because the claimants cannot sue until they complete the administrative process, they can never sue under §1983 to obtain an order expediting the administrative process. This Court’s precedents do not permit States to immunize state officials from §1983 suits in that way.”



Lackey v. Stinnie

- **Background:** In this Virginia case, the Plaintiffs had their driver's licenses suspended under a VA law for failure to pay fines and court fees. Plaintiffs claimed it violated their due process rights and sought a preliminary injunction from a court which did rule to reinstate their licenses, while the administrative action was still pending. The VA court reasoned that they believed the Plaintiffs were likely to succeed on the merits of their claims in the administrative process. While the administrative matter was still pending, VA repealed the related law and the Plaintiffs case was dismissed as moot. Plaintiffs claimed to be prevailing parties and sought attorney's fees.
- **Issue:** Although this is not a direct employment related matter, experts have been keeping an eye on this due to the implications on the definition of "*prevailing parties*" and the determination of when a party subject to recover attorney's fees.
- **Holding:** The Supreme Court held that the Plaintiffs only gained preliminary injunctive relief before the action became moot due to the change in the state law, therefore the Plaintiffs do not qualify as prevailing parties and are otherwise not eligible for attorney's fees under 42 U.S.C. §1988(b) because no court conclusively resolved their claims by granting enduring relief on the merits that altered the legal relationship between the parties.

Other SCOTUS cases to monitor

- ***Stanley v. City of Sanford, Florida***: case challenges a retired employee's standing to pursue ADA claims against a former employer. 11th Circuit said she could not bring a claim as she was a *former* employee, advancing the argument that ADA protects against discrimination in fringe benefits, which are considered conditions of employment held by current employees. SCOTUS will make the final call. Oral arguments were held January 13, 2025, and the Court's Opinion has not yet been published.
- ***Medical Marijuana, Inc. v. Horn***: This case questions whether a cannabis company can be liable for an employee's failed drug test. Oral arguments were held October 15, 2024, and the Court's Opinion has not yet been published.



State Law Updates

Illinois

Biometric Information Privacy Act (BIPA)

- Amendment outlines new limitations and regulations on the collection, use, and storage of biometric information.
- Limits damages to a single violation when capturing biometrics using the same method for the same use in multiple instances.
- Employer can use an electronic signature for consent to capture biometric data.



Illinois

Day and Temporary Labor Services Act

- After 90 days temporary employment agencies must pay “equivalent benefits” to employees, ensuring timely and fair compensation.

E-Verify

- Changes to requirements and uses of the E-Verify system will potentially impact how businesses verify employee eligibility. Employers must now inform employees of a tentative nonconformity within 5 days and allow the employee to contest.

Equal Pay Act

- Amendments outline additional reporting requirements for employers regarding pay data, aimed at closing the gender pay gap.

Illinois

Freedom of Speech Act

- Prohibits employers mandating employee attendance to meetings expressing views on political or religious matters, including unionization.

Illinois Human Rights Act (IHRA)

- Statute of limitations increased to allow up to two years to file employment claims under IHRA. Family Responsibilities, defined as an employee's provision of personal care to a family member, and Reproductive Health Decisions are added to the list of protected classes.

Illinois

Paid Leave for All Workers Act

- Employers are required to provide up to 40 hours of paid leave days for all employees for any reason.

Pay Transparency Act

- Job postings must now include pay ranges and benefits information for all employers with 15 or more employees.

Employer Use of Artificial Intelligence

- Regulations include new guidelines and restrictions on how employers can utilize AI in the hiring and employment process to prevent discrimination.

Illinois

Whistleblower Protection Act

- Enhancements provide for expanded protections for employees who report illegal or unethical activities within their companies.

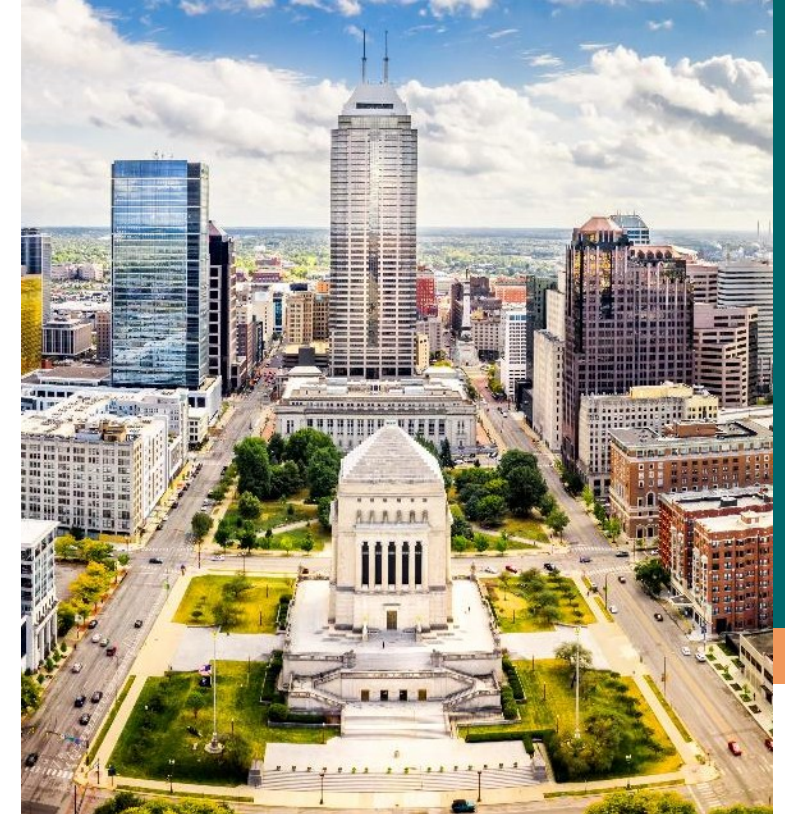
Illinois Personnel Record Review Act (IPRRA)

- Employee must request personnel record in writing. Expands scope of personnel record review to include handbooks, contracts, and policies governing qualifications for promotions, transfers.

Indiana Changes to the Child Labor Laws

Effective January 1, 2025:

- Indiana Youth Employment Laws changed to more align with federal child labor laws.
- 16 and 17 year olds may now work the same hours and days as adults.
- 16 and 17 year olds are now able to work longer and later hours with no advanced parental permission required.
- 14 and 15 year olds are still bound by the same hour and day restrictions but now may work until 9:00 pm on any day between June 1st and Labor Day.
- All restrictions on minors working in prohibited or hazardous occupations continue to mirror federal laws.
- Any employer that employs five (5) or more minors (aged 14-17) must register the minor in the Youth Employment System (YES).



Michigan



Reshaping of Minimum Wage Laws

- Michigan Legislature passed final version of Senate Bill 8, in late February 2025 impacting the Improved Workforce Opportunity Wage Act (IWOWA).
- Impact on the accelerated rise of minimum wage.
 - January 1, 2025 – \$10.56/hour
 - February 21, 2025 - \$12.48/hour
- Gradual increase of the tipped minimum hourly wage from the current 38% to 50% by January 1, 2031 – rather than eliminating the tipped credit altogether.
- There is a possible \$2,500 fine for violating the tipped minimum wage hourly wage provisions.
- Minimum wage is at 85% for minors under 18 years old

Michigan

Reshaping of Minimum Wage Laws, continued:

Date	Minimum Wage	Tipped Wage as a Percentage of the Minimum Wage
February 21, 2025	\$12.48	\$4.74 (38%)
January 1, 2026	\$13.73	\$5.49 (40%)
January 1, 2027	\$15.00	\$6.30 (42%)
January 1, 2028	Inflation-adjusted	44%
January 1, 2029	Inflation-adjusted	46%
January 1, 2030	Inflation-adjusted	48%
January 1, 2031	Inflation-adjusted	50%

Michigan:

Reshaping of Paid Sick Leave – Earned Sick Time Act

- Michigan Legislature passed the final version of House Bill 4002, in late February which contains substantive changes from the original version of the ESTA. All employers that have one or more employees are covered by this act. The act applies to all work performed by employees who are physically located in Michigan, regardless of the employer's location.
- **Waiting Period:** Anyone hired after February 21, 2025 may be required to wait 120 calendar days (rather than 90 days) to use accrued earned sick time.
- The MI Dept of Labor and Economic Opportunity has adopted the position that only accrual employers, not frontload employers may require a waiting period.
- Employees no longer have a private cause of action for any alleged violations. Only can avail themselves of filing an administrative complaint with the Department of Labor and Economic Opportunity.

Michigan

Reshaping of Paid Sick Leave – Earned Sick Time Act, continued

- **Smaller Employers:** Employers with 10 or fewer paid workers during a given week are required to follow lower requirement under the ESTA:
 - Only required to allow EE's to use up to 40 hours in a given year;
 - Small business have until October 1, 2025 to start complying with the ESTA.
- **Yearly Carryover Cap:** Employers can now cap carryover of accrued paid sick time at 72 hours per year or 40 hours for small employers.
- **Pay Rate:** the pay rate for earned sick time is now the greater of the EE's base wage/hourly wage or the minimum wage under IWOWA. Employers do not have to include overtime, bonuses, etc. in calculating the base/hourly wage for ESTA-covered time.

Minnesota

Pay Transparency

- Employers required to include salary ranges and benefits in all job postings.

Drug Testing

- Allows use of saliva swab for drug testing. Employers must allow retest upon request when test is positive, inconclusive, or invalid.

Wage Theft Prevention

- Employers provide new hires with an Employee Wage Notice by their first day of work.
- Statement of earnings must be provided on payday..



Missouri



- **Criminal History revisions:**

- **Statewide:** Effective January 1, 2025, job applicants with an expunged arrest can legally answer “no” if a potential employer inquires as to whether the applicant has ever been arrested or charged with a crime, provided there is no public record of the crime after the expungement.

Missouri

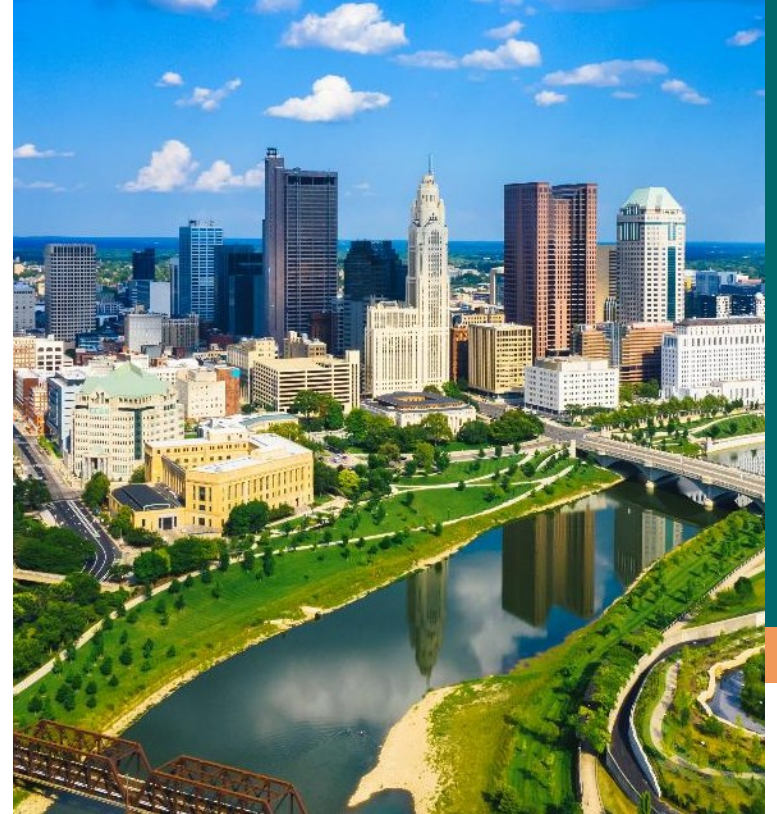
Criminal History revisions:

- **Kansas City, MO:** In late February 2025 Kansas City passed an ordinance adding individuals with criminal histories to its list of protected classes.
 - Now it is unlawful for employers in the city to discriminate against a person based on their criminal history in hiring, layoffs, demotions, housing, and business transactions.
 - This builds on the City's 2018 "Ban the Box" initiative, which prohibits employers from asking about criminal history until after the applicant interviews for the position and the employer determines the applicant is otherwise qualified for the position.

Ohio

Minimum Wage Increase

- \$10.70 as of January 1, 2025
- Cannabis legalized in 2023 for adult use. Employers are not mandated to change their drug policies or hiring decision based on drug use, including cannabis; but may want to consider how they would like their policies updated to reflect the changes in the law.



Pay Stub Protection Act

Effective April 9, 2025

- Mandates that every employer in the state provide each of their employees with a written or electronic paystub that indicates the employee's earnings and deductions for each pay period, on the employer's regular paydays.
- The wage statement must include:
 - Employee's name
 - Employee's address
 - Employer's name
 - Total gross wages earned, and total net paid to the employee
 - A listing of amounts and purpose of all additions and deductions from wages during the pay period
 - Date the employee is paid and the pay period dates

Pay Stub Protection Act, continued

- For hourly employees, the wage statement must include:
 - Total number of hours the employee worked in that pay period;
 - The hourly wage rate that the employee was paid; and
 - The hours worked in excess of 40 hours in one workweek.

If an employer fails to provide the require paystub information and more than ten (10) days have passed after the employee requests such a paystub, the employee may submit a claim to the state's Director of Commerce, which may result in an investigation and notice of violation.

Employees do not have a private cause of action against the employer.

Kentucky



Medical Marijuana

- Effective January 1, 2025, medical marijuana is legal.
- Employers can continue to limit drug use in the workplace and include zero tolerance drug policies and drug testing.

Wyoming

The Wyoming Legislature convened in mid-January with a slate full of proposed employment laws:

- **House Bill 32:** also known as the “What is a Women Act,” seeks to define terms such as male, and female according to biological sex at birth, not gender identity. Clarifies that sex-based distinctions in areas like sports, shelters, and restrooms are legally permissible under the law. Some provision of the bill have raised questions regarding the application the American with Disabilities Act (ADA).
- **Public Sector DEI Prohibition:** proposed bill would prohibit all gov’t employers in WY from engaging in any DEI programs or requiring any employee or contractor to participate in any DEI program or training.
 - This bill also defines and bans institutional discrimination including race-based preferential treatment.
- **Senate File 103:** prohibits the use of public funds on DEI programs.
- **Senate File 77:** prohibits all gov’t employers from requiring any employee to refer to another using preferred pronouns as a condition of employment or under threat of adverse employment action.



Wyoming

Proposed Employment Laws, continued:

- **Non-Compete Agreements:** Senate File 107 proposed to broadly void non-compete agreements, except those for executive and management positions or to protect trade secrets.
- **Voting Time Off:** House Bill 178 seeks to expand time off for voting for employees, increasing the required paid leave from one hour to two hours, allowing for its use on election day or during early voting.
- **Concealed Firearms:** although not proposed as an employment law, it would impact public employers in WY from prohibiting employees from carrying concealed weapons at work. Intended to repeal “gun free zones” by allowing citizens to carry in these zones who would otherwise be allowed to do so under the law, with or without a permit. Creates a criminal offense for those who prohibit concealed carry that is permitted by law.

Wyoming

Proposed Employment Laws, continued:

- **Protections for Healthcare Workers:** House Bills 115 and 222 aim to protect healthcare workers who decline to participate in procedures due to ethical, moral, or religious beliefs. The bill also provides whistleblower protections for employees reporting suspected legal or ethical violations.
- **Immigration:**
 - **House Bill 163:** creates a misdemeanor criminal offense for employing or contracting with a person who is or becomes unlawfully present in the U.S. in violation of federal law or who is not authorized to work or becomes not lawfully authorized to work in the U.S.
 - **Senate File 124:** would require every employer to ask potential employees or contractor about their immigration status before starting employment or entering into a contract.
 - If an employer finds out that an employee or contractor is not authorized to work, they are required to report to LEO or immigration authorities.

Colorado



Job Fairness Protection Age

- Provision to remove age-based discrimination from application process was effective as of July 2024. Employer cannot request information such as educational graduation dates and other age-based identifiers during the application process.

Crown Act

- In August 2024, the Crown Act was expanded to include hair length.

Colorado

Colorado Overtime and Minimum Pay Orders

- Effective January 1, 2025, employees who fall under the executive, administrative, or professional exemption must earn \$1,086.25 per week (\$56,485 annually).
- Highly compensated individuals must earn at least \$127,091.00.
- The hourly wage for highly technical computer employees is now \$34.07.
- Minimum wage is now \$14.81 per hour. This applies to hourly employees and non-hourly employees whose earnings are piece rate, commission, or salary.
- 10-minute paid rest break must be provided after four hours of work.
- 30 minute unpaid lunch break after 5 hours of work.

Colorado

Colorado Privacy Act (CPA)

- Effective July 1, 2025: New requirement for employers who collect biometric data to meet stringent notice and consent requirements if it used as a unique identifier.
- Biometric Data includes: fingerprints, voiceprints, retina or iris scans, facial mapping, facial geometry, facial templates.
- Employers are required to obtain written or electronic consent from Colorado employees before collecting their biometric data as well as obtain new consent if the data is to be use for a new purpose or involves additional types of biometric identifiers.

Colorado

Colorado Privacy Act (CPA)

- Effective October 1, 2025 – Children’s Privacy Protections
- All entities offering online services, products, or other features to consumers who is a known minor or willfully ignores the possibility that the consumer could be a minor must:
 - Obtain parental or guardian consent before processing a minor’s data.
 - Conduct data protection assessments for any features designed to significantly increase minors’ use of a product or service.
 - Limit the time the data is retained and avoid efforts to influence minors’ engagement.

Idaho – House Bill 421

House Bil 421

- **Became effective in 2024**
- Law recognizes:
 - only two sexes in human beings – male and female, and
 - the word “gender” shall be synonymous for the word “sex” and not considered a synonym for gender identity.
- Impact for Employers:
 - Opponents of the bill assert that the bill adopts a very restrictive and essentializing definition of the terms “sex” and “gender.”
 - Definitions apply across all laws, rules, and policies, including employment laws.
 - May be additional, unintended consequences including infringements on privacy protections and due process rights.



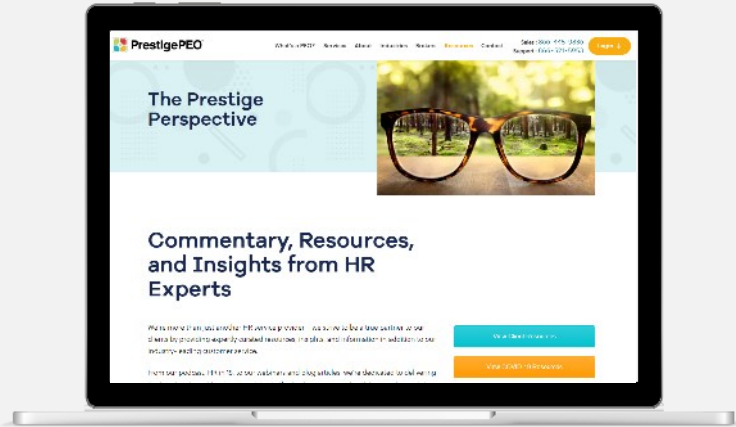
Trends Impacting HR in 2025

Trends Impacting HR

- Diversity, Equity, and Inclusion (DEI)
- Data Privacy and Employee Monitoring
- Climate-Related Workplace Safety
- Immigration Compliance
- Paid Leave Expansion
- Wage Increases
- State-Level Non-Compete Laws



Questions / Comments / Discussion?



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