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TO: NATIONAL COUNCIL SSMA OFFICERS & EXECUTIVE COMMITTEE
MAUREEN McCONAGHY, NATIONAL GRASSROOTS COORDINATOR
WILLIAM DIXON, EDITOR 'MASS MEDIA'

RE: Legislative Report #25

Congress recessed Friday afternoon until July 8th. Activities on FY 97 Appropriations bills are in full swing, with Republican leaders in the House maintaining that all 13 bills can be finalized by the end of September. There is, however, an undercurrent of skepticism about the prospects for compromises on major funding issues in several of the bills, which could lead to the need for a Continuing Resolution to cover some agencies and programs until January. Despite that speculation, no one doubts that some combination of funding measures will be in place by October 1st to keep the government fully functioning during the final weeks of the political campaigns and the months immediately following the election.

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Good news regarding agency-association relationship regulations: OPM published (Federal Register of June 26th) final regulations replacing the abolished Federal Personnel Manual's Chapters 251 and 252. The Coalition for Effective Change has been instrumental in obtaining restoration of these protections; NCSSMA was among the CEC groups which met with OPM and worked on language for these regulations last year. We have been working for final publication since last October and can count this as a major success. (The Federal Times tried to reach me on a very short deadline for an NC comment last Wednesday evening before the current issue went to press; I am sorry to have missed the opportunity.)

The new regulations have the force of law, which strengthens them beyond the level of the former FPM directives. The regs stipulate that "Agencies must establish consultative relationships with associations whose membership is primarily composed of federal supervisory and/or managerial personnel, provided that such associations are not affiliated with any labor organization and that they have a sufficient agency membership to assure a worthwhile dialogue with executive management." (Sec. 251.201) Consultations are to cover "the improvement of managerial effectiveness and the working conditions of supervisors and managers, as well as the identification and resolution of problems affecting agency operations and employees, including supervisors and managers." Section. 251.202 sets out the agency support which

may be provided associations, including permitting employees to use agency equipment or administrative support services for some work; paying expenses to attend professional organizational meetings; providing meeting space, the use of bulletin boards, internal mail distribution systems and electronic information systems.

In addition, the needed companion legislation, H.R. 782, which clarifies that federal employees may express their association views within the Executive Branch without fear of violation of criminal law, may very soon advance to the Senate floor, now that non-controversial Unanimous Consent measures (of which this is one) are once again moving along during breaks in Senate debate and voting on DOD authorization and other major bills. I should have more certain news on this next week.

Elsewhere on the federal employee front there is little that has changed during the past two weeks. In the aftermath of three Civil Service Subcommittee hearings, at which the Republicans were joined by Ranking Democrat Jim Moran of Va. in strong criticism of the administration's proposal for governmentwide buy-out authority, agencies wishing buy-out authority should be developing and submitting to OMB detailed plans to justify their use of buy-outs and identify the positions to be targeted. Once OMB signs off on an agency's plan, the Civil Service Subcommittee wants the opportunity to approve them.

Some agency-specific buy-out plans will be included in the appropriations bills as they move through Congress. For example, the Treasury/Postal Appropriations bill proposed by the House Committee (controversially) cuts IRS staffing by an additional 2,000 FTEs; it also includes language allowing the IRS to offer buy-outs of \$25,000 between October 1, 1996 and February 1, 1997 to non-retirement-eligible employees only. The language of this bill does not conform to Civil Service Subcommittee guidelines which limit buy-outs to \$20,000 and set other constraints, so the final outcome on the language is not yet certain. The outcome for IRS may become the model for other agencies which seek and receive buy-out authority. No provisions authorizing buy-outs at SSA are currently in the House Labor/HHS/Education Appropriations bill which is ready for House floor vote after the recess.

The full Government Reform and Oversight Committee favorably reported for House floor consideration H.R. 3586, "The Veterans Employment Opportunities Act of 1996," with only slight variations from the Subcommittee version. The concern expressed by the Committee is about opportunities for veterans; they cited OPM statistics showing a higher percentage of veterans than other groups leaving federal employment. OPM reports that between 1992 and 1994, the number of veterans in the workforce declined by 42%, seven times the percentage reduction in the overall size of the workforce.

H.R. 3586 expands preference eligible and three-year-active-service veteran access to announced vacancies. (They cannot be barred from competition because they lack competitive status or because they are not employed by a particular agency.) It also provides additional protections in RIFs and provides greater opportunities for appeal when they are RIFed or not hired for a position. Many employee unions and associations fear a negative impact on women and minorities resulting from these changes, an especially strong possibility during government downsizing; advocacy groups for women and minorities are lobbying strongly against it. Congress however, is very likely to pass it or something close to it, because now that it has moved out of Committee, action to stop it will be portrayed as "anti-veteran," a serious election-year problem. First reports are that the Governmental Affairs Committee in the Senate is not willing to de-rail this one, and that the President would be most unlikely to veto whatever he is ultimately presented with.

Thrift Plan: Another pending bill, S. 1080 by Chairman Stevens of the Senate Governmental Affairs Committee, would allow federal employees to withdraw thrift savings money after age 59-1/2 (rather than require that they wait until they leave government); to borrow at their discretion from their thrift savings account and repay the money by payroll deduction; to expand options for how money can be withdrawn at retirement; to invest in two new options -- an international stock index fund and a small-capitalization fund. These provisions would become effective at varying times -- from one year to three years after passage, if S. 1080 were adopted. The bill should come to the Senate floor soon; some liberalizations of the thrift savings plan are supported in the House as well, and a bill introduced by Rep. Morella (MD), H.R. 2306 would also increase the amount of money federal employees can put into the thrift savings account. Some of these Thrift Plan improvements are expected to be enacted -- but precisely which provisions is uncertain.

On the Social Security Front:

Full House Appropriations Committee mark-up of the FY 97 Labor/HHS/Education bill was completed last week, and the bill is scheduled for the House floor the week of July 8. SSA lost about \$22 million from its Limitation on Administrative Expenses during the normal give-and-take of full Committee negotiating when all the members seek additional funds for their favored programs. Proposed additional appropriations for CDRs and IWS/LAN were not reduced from the Subcommittee level. (See Legis. Report #24) Part of the loss to SSA's LAE money went to SSA's IG office, which was increased by about \$1.5 million to reach the Administration's request level.

Social Security Chairman Bunning held last week the continuation of his hearing on the costs to the trust funds of union activities at SSA. Commissioner Chater was joined by John Dyer and Ruth Pierce in representing SSA and responding to the GAO audit which was the subject of the previous hearing. There were no other witnesses scheduled to appear. Chairman Bunning continued critically to connect the rise in recent years in the costs of union activities to the implementation of President Clinton's 1993 Executive Order requiring union-management partnership activities throughout government. Regarding the fact that agency funding of union activities is required by law, Bunning stated: "Just because it is common practice, and legal, for SSA to pay full-time union representatives from the trust funds does not mean this Subcommittee should turn a blind eye when spending for union activity doubles in three years."

In a new procedure for this committee (although it has become common practice over the past two years in other oversight committees of the Congress) the Commissioner and her deputies were sworn in before they testified. Although in good-natured tones, Ranking Democrat Andy Jacobs took exception, stating strongly that Comm. Chater was above reproach and asking (in his inimitable style) that if she were to be sworn in, he, too, wanted to be sworn in. He also said he took exception with "the idea that partnership is bad" adding that SSA "must be doing something right" to have made the improvements it has. (He used overcoming 800# "impediments" as an example.)

The rest was predictable. Comm. Chater testified to the good that flows for SSA and the public as a result of "the assistance and support of labor-management partnership" including a "highly productive workplace" which involves employees and their representatives in "decisionmaking, not just implementation." She listed as recent accomplishments: 800# busy rate half as high in 1995 as it was in 1993; 41% more hearings processed in 1995 over 1993; DIB reviews increased from 116,000 in 1993 to 285,000 in 1995; SS number assignment time halved from 1993 to 1995; DIB claims processing time down by 11%. She also noted that in the past few months alone ALJ decision-writing backlogs had been reduced from 47,000 to 27,000. She also noted that the money spent on union activities was less than 3/10 of one percent of SSA's administrative budget and that an offsetting \$7 million savings from fewer grievances should be considered. Rep. Jacobs agreed and made his own comments about the need for "perspective."

Bunning felt the GAO study and findings represented a "gross underestimation" of the costs of union activities and wanted more information on union activities in all components and by union part timers (Ruth Pierce is to submit it for the record).

Bunning asked for "quantifiable proof" of "big savings to the American public" flowing from these costs; he noted that DIB

hearing decisions were not being made faster, saying that in fact SSA was down to 12% (from 15% in 1992) of decisions made in 120 days, and Chater responded by discussing long-term goals and DIB reengineering.

Rep. Johnson (R-TX) asked if there were an "unwritten policy" that managers "do not say no to the union," and Chater said there was not, that managers know they have the responsibility to say no when necessary. Ruth Pierce reported on a recent memo to field managers that "public service comes first" and if a union employee was needed for public service, that took precedent.

Johnson tried to link the introduction of the Pass-Fail appraisal system to the reduction in grievances.

Johnson wondered why the number of full time union work employees and the costs are going up at the same time the overall number of SSA employees is going down; Chater noted the need to work with the union to effectively downsize. The question of whether the Commissioner or the union was running the agency was raised by Rep. Laughlin (R-TX). Rep. Neal (D-MASS) supported Chater and the need for enhanced partnership activities, especially during times of downsizing and change.

Laughlin expressed concern that SSA may still not be able to control or contain further increases in union related costs in future and questioned the agency's administrative cost of collecting dues for the union.

Rep. Kennelly (D-Conn) noted that GAO had testified positively about SSA's record keeping for union activities, and Chater discussed the expansion of the automated system.

Kennelly engaged Chater in a description of the increasing number of private sector companies involved in partnership.

Two Republicans did not criticize SSA: Rep. English (Pa) merely passed on his opportunity to ask questions; although he asked one or two questions, and seemed concerned that the union contract had already been rolled over without consideration having been given to the question of union costs, Rep. Portman (Ohio) said he did not think the Committee had sufficient or accurate enough information to assess the situation.

Bunning read a letter regarding the N.Y. region's plan to pay FY 96 awards to "all employees," which he assumed included employees who spend 100% of their time on union activities, since he had information indicating that had occurred in FY 95. Questions/responses followed about the different kinds of awards, how employees doing union work qualified for awards, how each region negotiates its own awards, whether the N.Y. region was conforming to agency-wide guidelines which prohibit 100% union

employees from receiving performance awards, etc., and ending with the need for the agency to investigate and report back to the Committee.

Johnson raised the issue of how difficult it is for an SSA office to "de-certify" the union; Ruth Pierce said it was complex but not impossible and she would submit the process. Laughlin interrupted to say he had seen information on that process and determined that it would be "easier to impeach the President than de-certify the union."

Rep. Collins (R-Ga) asked "Why are we hearing back at home that this is not working . . . managers are frustrated and see the union as a stumbling block." Chater responded that it was true that some managers had raised concerns about partnership, but that in offices all over the country she had visited with both managers and union employees and heard many success stories. She acknowledged that it wasn't working perfectly and said SSA was working on strengthening the program.

In conclusion, Comm. Chater explained that many of the employees being referred to as doing union work were actually doing work directly related to SSA and public service and that if the union did not exist, SSA would be paying people to engage in precisely the same consultation and planning activities that these union employees were now doing. Ruth Pierce used the DIB redesign workgroup as an example; Bunning responded by saying that "maybe if they were doing CDRs instead, there would be fewer CDRs backing up."

Although the hearing was not very well attended and drew few reporters, NBC was there videotaping much of it. Tom Brokaw reportedly will cover this issue on his "Fleecing of America" segment Wednesday, July 3 or Wednesday, July 10.

End