JANET M. GARRY
GOVERNMENT AFFAIRS CONSULTANT
P.O. BOX 749
ROCKVILLE, MD. 20848-0749
TELEPHONE (301) 770-1850/ FAX (301) 770-1852

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TO: NATIONAL COUNCIL SSMA OFFICERS AND EXECUTIVECOMM

RE: Legislative Report #17

NOTE: Congress recesses for the Memorial Day break beginning Friday May 22. **The next regular legislative report will be May 31**, but if Rep. Davis introduces the supervisory overtime bill this week prior to the recess, I will get out an alert with the bill numberas soon as possible.

The House Budget Resolution, which House leaders want to bring to the floor this week, **proposes unwelcome budget cuts affecting federal employees**, due to actions on the part of Chairman Kasich and Civil Service Subcommittee Chairman Mica. Kasich requested from all authorizing committees suggestions for additional budget cuts below those agreed to in the five-year plan; Mica served up two possibilities: repealing the "Fair Share" FEHBP law enacted last year to maintain the government contribution to premiums at 70% on average, and modifying the retirement systems by substituting a partially-employee-funded investment option for part or all of the defined benefit. Kasich reportedly also considered a proposal to extend the increase in employee retirement contributions (enacted as part of the five-year budget plan) beyond the 2002 cutoff. While I am reliably told that none of these proposals is explicitly included in the language of the resolution, a cut of $3.1 billion is proposed in the civil service budget figures. That amount is about equal to the projected savings associated with the FEHBP change -- to cap government contribution at the current average, increasing annually only for the rise in CPI -- which would mean higher employee and retiree shares of premium than under current law.

A bi-partisan group of federal employee supporters on the Hill is fighting these budget proposals. NCSSMA is weighing in with the Budget Committee in opposition.

If the budget passes the House floor with the civil service cut intact, the civil service authorizers (meaning Mica's Civil Service Subcomm. and the larger Gov. Reform Comm. of which it is a part) will have to identify and approve how that cut will be taken. Since there is no House-Senate conference planned on the budget resolution this year (recall that the Senate-passed resolution contains no additional civil service cuts), the battle would be fought during appropriations negotiations later this summer.

Unless the cut is dropped from the House budget now, we will likely be fighting it through the end of the appropriations process in September-October. Nancy Smolinski and I will quickly alert SSMA members through the grassroots network if and when there is an opportunity to influence the outcome through constituent contacts with legislators.

Expanded Contracting Out?: And, in other bad news, the Senate Governmental Affairs Committee may after all consider some version of a bill expanding contracting out for "non-inherently governmental" workloads. While House Chairman Horn attempts to move H.R. 716 (mark-up was cancelled again this week due to uncertainty about whether he has the committee votes to advance it), some Senate Republicans would like to see better House-Senate cooperation on this one and, to that end, are trying to craft something watered down but still substantial. While it's usually a long way from staff brainstorming to the Senate floor, even the possibility of Senate action on a bill on this subject means stepped up activities for groups opposing it. Should a bill pass both the House and Senate floor before the August recess, the likelihood grows that a House-Senate conference could result in an onerous bill being finalized. The Administration remains strong in its opposition to these bills, so we can predict a Presidential veto if things progressed logically. However, I am contributing to some CEC initiatives to aggregate and find ways to publicize examples of contracting-out problems, and I will work with Ron Niesing to develop an NCSSMA letter outlining "good government" concerns for use on the Hill in this matter.

FERS Open Season: Since I last reported on this two weeks ago, OPM has issued a benefits administration letter alerting agencies to set into motion activities to prepare for the FERS open season. Although the letter notes that the Administration continues to pursue repeal of the open season, it instructs agencies to publicize it, identify employees eligible to switch, and hold employee briefings. There is no realistic expectation of legislation moving in the next six weeks to which a repeal could be attached, even if opposition from key legislators in both the House and the Senate were not a factor.

OPM Personnel Flexibilities -- an update: At last week's meeting with OPM staff, at which CEC representatives were invited to make additional comments on the proposals (Legis Report #16 of May 11) OPM acknowledged that there are no legislative avenues to pursue in the brief remainder of this congressional year to enact proposals which require statutory change; they also said it was unlikely that they could finalize this year those which require only regulatory changes. I will continue to monitor OPM activity and watch the Federal Register for notices of proposed changes so that NCSSMA can comment on any concrete proposals as soon as they are advanced. Indications are that, at this time, although OPM staff have looked into the fact of the 32-year-old cap on supervisory overtime, OPM is not now considering anything more significant than a guarantee of pay equal to regular pay for those above the current law cap.

I am drafting a letter from NCSSMA to OPM Director Janice LaChance requesting reconsideration of the matter; after Ron Niesing makes revisions, we will distribute it to you.

Pay raise prospects: A clarification. In writing two weeks ago about the prospects for an increased pay raise for FY 99, I noted sentiments among some House and Senate appropriators to try to fund something greater than the 3.1% proposed in the President's Budget. I did not forget about the freestanding bills, H.R. 3251 and S. 1679 which would ensure that FEPCA were implemented. The enactment of those bills would be nothing short of miraculous -- they are being used to bargain with the Administration for a larger FY 99 raise. I do not believe, however, that the President will bend and propose a higher raise when the August deadline rolls around. Instead, Congress would have to take the lead. The House defense authorizing committee has proposed a higher military increase -- 3.6% -- reportedly to keep the military-private sector pay gap from growing even larger, but the Senate counterpart committee has not followed suit. Should the military pay raise go to 3.6%, the possibility is greater that the civilian raise could as well. However, agencies would probably be required to absorb the additional cost.

Social Security hearings:

The Bunning-Kennelly "Ticket to Work and Self-Sufficiency Act of 1998" (H.R. 3433) was favorably reported on May 6 by the full Ways and Means Committee. Next stop is the House floor. The bill would provide SSDI and SSI disability beneficiaries a ticket for voc rehab, employment and support services chosen from a public or private provider (or network of providers) of their choice. SSA would contract with program managers to administer the program and would be responsible for contracts with employment networks, resolution of disputes, and conducting quality reviews of the networks and cost-effectiveness studies of the program. Network providers would be paid as results are obtained; CDRS would not be conducted on beneficiaries while they participate in the program. An advisory panel of consumer representatives, service providers, employers and employees would advise the SSA Commissioner and report to Congress.

The bill was amended to drop the inclusion of a tax credit for the cost of assistive devices to help the disabled prepare for and engage in work. Chairman Archer stated that this should and would be considered within the context of other (unspecified) tax legislation rather than on the return-to-work bill.

This week's Social Security Subcommittee hearing is part of the series on the future of Social Security. The Members will hear from witnesses regarding extending mandatory Social Security coverage to all newly hired state and local government employees. Chairman Bunning's press advisory states that 96% of the U.S. workforce, including 70% of state and local workers, are covered by SS -- but that 4.9 million state and locals are not covered. Seventy-five percent of the non-covered live in California, Colorado, Illinois, Louisiana, Mass, Ohio and Texas; most are police, firefighters, and teachers.

In addition, as I reported last week, the Subcommittee will hear from representatives of federal, state and local employees about the impact of the GPO and Windfall provision. GAO will testify about their finding that some government employees receive larger SS benefits than they qualify for under current law because of inaccurate/incomplete information obtained by SSA.

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