

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 EXECUTIVE COMMITTEE

RE: Legislative Report #35

The White House press release upon the President's signing the Omnibus appropriations bill last week stated:

" . . . as we close the books on the first budget surplus in a generation, the budget agreement honors the President's commitment to save the budget surplus until Social Security is reformed for the 21st century, allowing the President and Congress to start making important decisions on how to ensure the solvency of Social Security for years to come." The President made similar remarks on his Saturday radio broadcast, adding that the White House conference on Social Security has been scheduled for December 8.

I may not yet have a full accounting of impacts on federal employees from the Omnibus funding bill (the sheer 4,000 page size of the bill and the last-minuteness of many decisions mean we could still discover some surprises), but following are the bits and pieces I believe to have the most direct impact on the federal employee community:

A 3.6% pay raise was funded for federal civilian employees for calendar year 1999; the range is expected to be 3.41% to 3.98% when locality adjustments are announced next month.

Congress also directs the Administration to make a report by May, 1999, regarding its views of the Federal Employees Pay Comparability Act (FEPCA). The formula developed and surveys used under that Act indicate a continuing pay gap of 13% on average resulting from alternative pay raises being set by the President each year. Speculation is that the House and Senate civil service authorizing committees may hold hearings next year, after receipt of the Administration's report, to consider the need for a new means of determining pay increases or even establishment of an entirely new pay system. OPM's project, due to be completed next year, to analyze total federal compensation in relation to the private sector and to advance human resource management innovations, including pay banding to replace a rigid GS system, will contribute significantly to the dialogue on the future of federal pay and benefits structures.

Contraceptive coverage under FEHBP is now required in all plans which cover other prescription medications. This was a highly controversial proposal which, although it had been passed by both the House and Senate in Treasury/Postal appropriations measures, was dropped later in the process, and then reinstated in the Omnibus bill during the final hours of negotiation.

Personnel flexibilities in the flux at the final hours included the right for FAA employees to appeal to the MSPB regarding agency personnel decisions. That right was one of the guarantees lost when the FAA was given broad discretion to develop its own personnel system; both the House and Senate reinstated MSPB appeal rights in separate measures this year, but because of minor differences in the two versions, the restoration was dropped at the last minute from the Omnibus bill. As a member of the Coalition for Effective Change, NCSSMA has joined with numerous organizations calling for maintenance of basic benefits and rights protections for federal employees when agencies modify their personnel systems. Most of the merit principles, and protections such as the MSPB appeal right, are included in the bare bones guarantees the CEC believes are important to the integrity of the civil service. NCSSMA therefore contributes to the effort to maintain and restore such guarantees at agencies governmentwide, and we can expect to be involved on an ongoing basis as these battles move into the new Congress.

PBO: The Administration has successfully shepherded through Congress its first Performance Based Organization: the Dept. of Education's Student Loan Program. Again, NCSSMA will remain involved in the dialogue regarding appropriate versus inappropriate Federal organizations and functions proposed as candidates for PBO status, which involves the hiring of a CEO with broad operational and personnel management discretion, including full contracting-out authority, who receives significant compensation through bonuses based on achievement of specific performance objectives.

The President also signed two freestanding bills on Oct. 19 which affect federal employees on Oct. 19:

Federal Travel Reform: authorizing GSA to require that federal employees use government charge cards for travel (instead of using personal credit cards). The government expects agencies to save money through rebates and to improve recordkeeping. The bill also requires that agencies audit travel expense bills before payment but reimburse employees for travel expenses within 30 days or pay a late fee to be determined by GSA.

Federal Activities Inventory Reform: directing federal agencies (except GAO, government corporations, and some armed forces/DOD agencies) to prepare and submit by the third quarter of each year a list of activities performed by the agency which it does not deem to be "inherently governmental." These lists will be published and submitted to Congress. The Director of OMB will review the lists and consult with agency heads prior to final publication. When a competitive process is used for non-inherently governmental activities, it must include all costs. Interested parties may challenge, under procedures spelled out in the law, the omission or inclusion of particular activities. This law represents compromise legislation substituted for earlier proposals which would have required that agencies open to private competition all non-inherently governmental activities.

Some issues now awaiting the next Congress:

Corrections to the retirement errors caused by mistaken placement of employees in FERS who should have been under CSRS, and vice versa, were not included in the Omnibus bill. To date, House and Senate proposals for fixing this problem are significantly different regarding how to compensate employees for missed thrift savings plan investments.

Medical Savings Accounts under FEHBP will remain a government cost-savings option on the table in the next Congress; proposals to include MSAs have met with varying degrees of success in both the House and Senate. It was included and then dropped twice this past year in bills which were slated for House floor vote (the budget bill and then the patients' bill of rights).

Since the Administration plans to continue to press for patient's bill of rights legislation, the FEHBP/MSA question will arise again early in the 106th.

A long-term care option for federal employees, at no cost to the government, is also certain to see committee action early next year (assuming that Chairman Mica remains as head of the Civil Service Subcommittee, although he has indicated he would like to move elsewhere). The benefit to federal employees would reportedly be the ability to purchase long-term care at lower cost than they could obtain independently because of the large pool of enrollees.

Civil service reforms affecting the weight of performance ratings in RIFs, agencies' ability to use pass/fail performance systems; broadening demonstration opportunities to include benefits experimentation; and the financing of federal retirement benefits should also be expected to reappear, despite the lack of support they received as part of an omnibus reform bill earlier this year. Keep in mind that Chairman Mica and the Civil Service Subcommittee control action (or non-action) on proposals to raise **the overtime cap** for employees at GS 10 and higher who are FLSA exempt. As I reported last week, Reps Davis, Morella and Cummings have committed to re-introducing H.R. 3956 and asked OPM for its alternative recommendations; Chairman Mica, however, controls the Subcommittee's agenda, and we will need his cooperation to advance the bill in the House. NCSSMA will re-visit the Senate authorizing committee as well to try to enlarge the base of support for this effort.

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