

The National Council of Social Security Management Associations, Inc.

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- **Washington Overview**

There are two words that aptly describe Capitol Hill and its political environs these days: gridlock and fundraising. The fax machines are buzzing with political fundraising invitations as candidates try to raise the money necessary to buy last-minute television time. In one state, it is expected that the per voter expenditure will be about \$24.00. Ah, the price of democracy.

With the beginning of the next fiscal year only eight days away, the appropriations process is stuck like never before. The House has passed only five of thirteen appropriations bills and the Senate has passed three. Not one has been signed into law.

Discussion these days is not about passage of the individual appropriations bills, but rather the length of the Continuing Resolution(s) and whether there will be a lame duck session. The Continuing Resolution(s) could be as brief as ten days and as long as six months – it's anyone's guess at this point. Many Members of Congress feign alarm at a lame duck session but few can really imagine a scenario in which it won't happen.

In a nutshell, the House Republican Leadership wants to follow the President's budget, which is \$9 billion less than the Senate. However, moderate Republicans and Democrats feel that the President's budget does not allow for adequate growth in education and other domestic programs. The combined votes of moderate Republicans and Democrats would likely mean defeat for appropriations bills at the President's recommended budget levels. So, rather than risk an embarrassing defeat of the President's budget in the body of Congress controlled by the President's party, the bills have not come to the floor of the House for a vote. Historically, and in deference to the U.S. Constitution that requires that funding bills originate in the House, the Senate is awaiting House action.

The bill that includes the SSA's Limitation on Administrative Expenses (LAE) is a major sticking point in the House since it contains the lion's share of federal spending for non-defense domestic programs. The longer the delay, however, the more time NCSSMA members have to let their Members of Congress know the importance of directing more personnel resources to the field offices. So there is a bit of a silver lining in the Congressional impasse!

- **Pay Raise**

Both the House and Senate versions of the Treasury-Postal Appropriations legislation provide for a 4.1 percent pay raise for civilian federal workers. The House has passed its version and the

Senate has yet to vote on its measure. The Bush Administration continues to push for a 2.6 percent pay raise as originally proposed in the President's Budget – citing concerns about finding the additional \$1.5 billion necessary to pay for the larger increase. It is considered very unlikely that President Bush would veto the appropriations measure over the pay raise issue.

It is also interesting to note that President Bush's decision not to issue an alternative raise recommendation as allowed by federal pay law has thrown a new figure into the January 2003 federal pay raise mix: 3.1 percent. Under the federal pay law, the 3.1 percent increase is the amount that would be payable by default if Congress fails to specify a raise figure in a spending bill for the upcoming fiscal year. But, because both the House and Senate have specified a 4.1 percent increase in their Treasury-Postal Appropriations measures the 3.1 percent figure has relatively little significance – although one outcome that has been suggested is that the 3.1 percent figure will become the baseline for an “across-the-board” component of the raise with the money for the additional 1 percent divided up as locality pay.

- **Homeland Security**

The debate continues between the Bush Administration and the Senate regarding management flexibilities for the proposed Department of Homeland Security. The issue of workers' rights continues to be the obstacle in the negotiations. Sens. Phil Gramm (R-TX) and Zell Miller (D-GA) offered a proposal that would give President Bush the flexibility he wants in shaping workforce rules for the estimated 170,000 department personnel. In an effort to smooth relations with labor unions, the proposal by Sens. Gramm and Miller also includes a provision that the president be required to notify Congress before employees are removed from collective bargaining units for national security reasons. Their proposal mirrors the one passed by the House in July.

Democrats attempted to call a vote on their homeland security package on the 19th, but could not gather enough votes to end more than two weeks of debate. Sen. Miller is the first Democrat to openly side with the White House on this issue and has said that the federal personnel system is “as outdated as an oxcart on an expressway.”

Sens. John Breaux (D-LA) and Ben Nelson (D-NE) are pushing a provision that would give union employees a chance to appeal their removal before the Federal Labor Relations Authority. The period of time for the appeal could last no more than 120 days, and collective bargaining rights would be suspended during this period.

It seems that both chambers agree on the basics of the legislation that combines 22 existing federal agencies into one new department. Senate Democrats are seeking to make it more difficult for President Bush to move employees out of unions for national security reasons. The administration wants to protect the authority that the President has to curtail the rights of many employees for those same reasons. At this time, about 40,000 of the department's proposed 170,000 employees now belong to unions.

Our sources close to the negotiations discussed above tell us that there are major compromises currently underway and that we could see developments in the debate this week.

Although the above debate still remains in the spotlight there are other key issues involving federal workers contained in the homeland security legislation. As we've reported previously, the Senate measure contains a provision that would create new government-wide buyouts and early retirement programs. The House-approved legislation does not contain this provision.

- **OPM Signs Administrative Waiver for Blue Cross/Blue Shield**

OPM Director Kay Coles James has signed an administrative waiver that exempts insurance plans – including Blue Cross/Blue Shield – from cost accounting standards for federal contractors. OPM released a briefing paper that said, “the prospect of a BC/BS withdrawal was real”. The waiver will stay in place until altered or suspended by James or a future director of OPM.

The House version of the Treasury-Postal Appropriations bill includes language that would have repealed the exemption from cost accounting standards granted to Blue Cross by Congress since 1998. The language came in the form of a House floor amendment offered by Rep. Dennis J. Kucinich (D-OH). The amendment would require all Federal Employees Health Benefit program plans to comply with standard government contractor cost accounting standards.

The issue was effectively of interest only to Blue Cross/Blue Shield, which has about one-half of FEHBP enrollees – more than 4 million federal employees, retirees and family members. The FEHBP enrollees make up only a small fraction of the total enrollment of Blue Cross/Blue Shield affiliates and their accounting systems are set up primarily to accommodate their private sector enrollees. Blue Cross/Blue Shield said that full compliance with the cost accounting standards would be too costly and had threatened to leave the FEHBP if forced to comply. Members of Congress that support Blue Cross/Blue Shield's position have said that it meets most of the accounting standards and undergoes regular audits by an outside firm.

Congressman Kucinich and Bobby L. Harnage, President of AFGE, have both criticized the decision by James to issue the waiver. OPM has said that the FEHBP has statutory, regulatory, and contractual requirements that provide the necessary financial safeguards. OPM has also stated that additional regulations that reflect the cost accounting standards and are consistent with insurance company operations will be proposed.

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