

**The National Council of Social Security Management Associations, Inc.**

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- **Department of Homeland Security**

The 170,000 federal employees set to move to the new Department of Homeland Security aren't the only ones who will be affected by the legislation (H.R. 5005 – P.L. 107-296) signed by President Bush on November 25, 2002. The legislation creates the Department of Homeland Security and pulls together 22 agencies currently scattered throughout the government. It also grants the administration the authority to shape the personnel rules for the new department. Many believe that this will open the door for reforms in other agencies in the near future.

President Bush has nominated current Homeland Security Director Tom Ridge to head the department and Navy Secretary Gordon England to serve as his deputy. Former Arkansas Rep. Asa Hutchinson (R), currently the head of the Drug Enforcement Administration, will be in charge of the border and transportation security division.

The administration has 60 days to write a transition plan for the new department. After the plan is submitted to the appropriate Congressional committees the president must wait at least 90 days to start shifting personnel and equipment.

Congress has yet to decide how to oversee or fund this new department. Committee chairmen have been vying for jurisdiction over the department since the president endorsed the idea of the new Cabinet department six months ago. It must be decided which authorizing committees will have temporary jurisdiction, and both chambers must have a compatible means of actually funding the new department. Some lawmakers have called for a new appropriations subcommittee to be created to oversee homeland security funding – as well as a new permanent authorizing committee. Many lawmakers seem to be resistant to the idea of adding a 14<sup>th</sup> appropriations subcommittee – in fact a House Appropriations spokesman said, “There is sentiment on the committee that we don't need a 14<sup>th</sup> subcommittee because we have enough problems passing the 13 [bills] we have.”

Senate leaders plan to decide by the first day of the 108<sup>th</sup> Congress who will have jurisdiction over the new department. Senate Parliamentarian Alan S. Frumin will recommend which committee should get jurisdiction over confirmation of nominees, but Republican Leader Trent Lott (MS) and Democratic Leader Tom Daschle (SD) will make the final decisions over jurisdictional issues.

The legislation contains many of the personnel-related reforms offered by Sen. George V. Voinovich (R-OH) in S. 1603 earlier in the Congressional session. Sen. Voinovich has been an active voice in the civil service reform conversation. It is likely that Sen. Voinovich will be

named Chairman of the Senate Governmental Affairs Subcommittee on Oversight of Government Management, Restructuring and the District of Columbia in the 108<sup>th</sup> Congress. It is also very likely that Sen. Voinovich will push for additional civil service reforms either by inserting them in the spending package Congress will take up in January (that will fund agencies through September 30, 2003) or by introducing new legislation. Possible provisions include: expanding the use of personnel demonstration projects; allowing agencies to offer bonuses for recruitment, retention, and relocation; and making it easier for agencies to take advantage of alternative pay systems.

Now that some of the dust has settled, here are some of the provisions of the law that will affect all executive branch workers:

- Eliminates the “rule of three,” which mandates that agencies may only consider the top three candidates for a job based on a numerical ranking. Agencies will be able to use categorical ranking, in which applicants are divided into groups based on how qualified they are. Managers then pick employees from the top group.
- Creates a chief human capital officer – called “chicos” for short – in 24 agencies and departments to manage each agency’s workforce. Like chief information officers for technology and chief financial officers for finance, the positions are designed to elevate the importance of personnel issues in federal agencies. The legislation mandates these agencies should have their officers in place within 180 days.
  - SSA is included in the list of departments and agencies. SSA was not included in the initial legislation offered by Sen. Voinovich, but it has been added to the provision included in the Homeland Security legislation.
  - The 24 departments and agencies are:
    - Department of Agriculture
    - Department of Commerce
    - Department of Defense
    - Department of Education
    - Department of Energy
    - Department of Health and Human Services
    - Department of Housing and Urban Development
    - Department of the Interior
    - Department of Justice
    - Department of Labor
    - Department of State
    - Department of Transportation
    - Department of the Treasury
    - Department of Veterans Affairs
    - Environmental Protection Agency
    - National Aeronautics and Space Administration
    - Agency for International Development
    - Federal Emergency Management Agency
    - General Services Administration
    - National Science Foundation

- Nuclear Regulatory Commission
- Office of Personnel Management
- Small Business Administration
- Social Security Administration
- Allows agencies to offer buyouts to workers whose jobs have become obsolete. Agencies will be able to offer buyouts to employees without eliminating any positions in their agencies.
- Gives OPM the authority to allow agencies to expedite the hiring process in situations where there is a severe shortage of candidates or a need to hire someone immediately.
- Requires agencies to incorporate workforce planning in their strategic plans.
- Permits agencies to provide transit subsidies to student volunteers.
- Raises the annual compensation cap for members of the Senior Executive Service by \$25,900, based on 2002 rates. This means executives who receive a performance bonus can collect the full amount in the same year. However, agencies must clear their performance appraisal systems with OMB and OPM before taking advantage of the higher cap. Agencies must prove to OMB and OPM that their senior executive performance appraisal systems make meaningful distinctions among executives' performance.
- Repeals redundant recertification requirements for senior executives. Agencies will no longer have to recertify their senior executives every three years.

We will continue to monitor the implementation of the Homeland Security Act – but please do not hesitate to let us know if you have questions or need additional information.

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