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HAPPENINGS FROM THE HILL

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October 6, 2005

POLITICS! - POLITICS! - POLITICS!

Sometimes, the news from Washington has less to do with “what is happening” and more to do with “what might happen”. This seems to be one of those times. One could say that “politics” has definitely taken center stage as we move into fall.

Congress was expected to return from their summer recess after Labor Day with an agenda that included discussions on social security, prescription drugs, the war in Iraq, and the '06 budget. All of this changed with the landfall of hurricanes Katrina and Rita, as well as other unforeseen issues.

Let's look at some of the issues:

'06 Federal Budget

Because of the expected cost of \$200 billion for recovery and rebuilding of hurricane-ravaged areas, there has been much talk of “how do we pay for this?” Some say we need to cut the budget and remove all of the “pork” that routinely shows up in each of the appropriations bills. Others say raise taxes. Still others say we should simply get out of Iraq.

Three separate bills have been introduced in Congress that would essentially cut existing discretionary spending across the board. One bill calls for a one percent cut, another calls for a two percent cut, and still another calls for a five percent cut. But it won't happen!

One must understand that we are already in an election cycle for 2006. With all members of the House and one third of the Senate up for reelection, Members are concerned about enacting any cuts in spending. Frankly, Congress expected to return from their summer recess and focus on issues that would become election issues – social security, prescription drugs for seniors, the war on terrorism, etc. If anything, these issues will essentially disappear from the political landscape for the

foreseeable future. The money just isn't there!

What can we expect to see? The '06 federal budget was supposed to be enacted and begin on October 1. A 45-day continuing resolution has been adopted to keep the government running until mid-November. Expect to see another continuing resolution adopted that would take us to the end of the year. However, also expect to see Congress move quickly to enact the '06 budget before the end of the year. This budget will probably include no cuts and simply increase the deficit to cover hurricane recovery. Again, with an election year coming soon, no one will want to hinder recovery efforts or cut spending on other fronts.

All of this makes the upcoming election very difficult for incumbents:

- They can't raise taxes in an election year
- They can't cut spending for hurricane recovery or in other areas
- Other election issues have been "shut down" for the foreseeable future

Ethics Concerns

Another issue expected to take a lot of time and keep the political fires burning will be the "explosion" of ethics issues on the Hill. We have investigations into the CIA leak, campaign finance indictments in Texas, possible insider stock trading, a fight over House leadership, and even the possibility of a spy in the west wing of the White House. The politicians are walking very carefully around town waiting for the next shoe to drop.

Supreme Court

And don't forget the continued interest in the Supreme Court. With one nominee confirmed, the Capitol is now abuzz with a second nominee to consider for the second vacancy. Expect this be a little more difficult confirmation than the first one.

Adjournment

Congress was scheduled to adjourn in mid-October. This has been scuttled and no date has been set, but expect it to be around mid-December.

Federal Legislative Activity

On the legislative front, there also seems to be a lot of activity, but nothing you can put your finger on.

The OSHA reform bills that passed the House, sponsored by Rep. Charlie Norwood, still await action in the Senate. We expect Senator Michael Enzi to introduce these bills in the Senate as one bill, and add a provision that would increase criminal penalties for willful violations of the OSH Act. There was even talk that Senator Johnny Isakson (Chairman of the Senate Subcommittee with OSHA

oversight) was prepared to tack on language that would address the continued debate over ACGIH and the TLVs being referenced in federal standards. We believe Senator Isakson has backed off this proposal.

Senator Enzi is also expected to introduce legislation addressing the MSDS and GHS issue, as well as a new SAFE Act that would include reference to a third party workplace review program.

These bills were expected to be introduced by now, but with all of the other activity taking place, no timetable has been set.

OSHA

Over at OSHA, there also seems to be lot taking place:

Assistant Secretary

First, we have the announcement that Edwin Foulke has been nominated as the next Assistant Secretary of Labor for OSHA. When a confirmation hearing will be held is anyone's guess, but we understand that Senator Enzi has been reviewing the paperwork, meaning the confirmation may take place sooner rather than later. The Senate Health, Education, Labor and Pensions Committee (HELP), chaired by Senator Enzi, is the Committee overseeing this confirmation. Expect to see this confirmation take place before the mid-December adjournment. AIHA has sent a letter to Members of the Senate HELP Committee in support of the Foulke nomination. The National Safety Council has also publicly endorsed Mr. Foulke.

As for the Acting Assistant Secretary Jonathan Snare, no word yet on his future. However, recent OSHA releases and other comments have recognized Mr. Snare as the Deputy Assistant Secretary. This could mean that Mr. Snare will be staying on at OSHA in the number two slot.

Budget

There was some talk that Congress might halt OSHA from distributing more than \$10 million in Susan Harwood Training Grants at the end of September and return those dollars to the federal budget to assist in the hurricane relief. That didn't happen. The grants were awarded as promised, yet nearly half of the grants awarded went to recipients involved with cleaning up and rebuilding after the Hurricanes.

The grants are also being debated in the '06 budget. The House removed the grants from the budget, the Senate Committee restored them. Look for these grants to remain in the final budget, whenever that occurs.

OSHA has also been provided funds from FEMA to assist in the hurricane recovery operation. These funds were appropriated following FEMA's implementation of the Worker Safety and Health Support Annex under the National Response Plan. There was some criticism about the delay in FEMA implementing this Annex and one can assume there will be considerable debate about the role that OSHA should play under the National Response Plan.

Legislation

And, let's not forget Congress in all of this. Word is that Senator Michael Enzi and Senator Edward Kennedy have joined forces to draft a bill that would provide OSHA with additional appropriations to assist OSHA with hurricane recovery efforts. The additional money would be used for agency inspections and other activities. The bill is expected to be introduced in the next few days and will be introduced directly on the Senate floor.

Globally Harmonized System (GHS)

OSHA continues to move forward with efforts to implement the GHS classification and labeling of chemicals. An advanced notice of proposed rulemaking is expected to be announced shortly. The ANPR will propose that the U.S. adopt those aspects of the GHS that are most consistent with existing U.S. hazard communication standards.

This advanced notice of proposed rulemaking is the first of many different issues that must be reviewed when looking at the GHS. The United Nations hopes to have member governments implement the full GHS by 2008. As mentioned earlier, one of the bills to be introduced by Senator Enzi will include language creating a commission to look at the steps necessary for the United States to take in considering whether or not to adopt the GHS.

Ergonomics

And finally, OSHA has launched a partnership with the state of Wisconsin, six foundries, and four unions to implement a three-year, trial ergonomics program. The program will provide incentives to those employers participating in the program.

And speaking of ergonomics, the issue continues to receive attention in the state of Michigan. The most recent action involves the state budget, which includes language stating that Michigan may not expend any state dollars to support the development of an ergonomics standard. The Governor, who had threatened to veto the budget because of this language, went ahead and signed the budget. However, this doesn't end the fight. The Governor believes the language is unenforceable; and at least one Michigan legislator is preparing a bill that would prevent Michigan OSHA from enacting any new rules. Both sides expect the fight to continue.

As you can see, Washington seems to be in a situation where the politicians have more issues to consider than ever before, but they aren't quite sure what the impact will be with any of them. It's a situation in which they seldom find themselves and it is making them very uncomfortable.

Federal and State Legislative Action Centers

Visit the AIHA Federal Legislative Action Center to stay abreast of national issues important to occupational health and safety. The center can be found within the members-only section of the AIHA web page.

The State Center offers AIHA members the opportunity to monitor all state legislative sites, scan IH

professional recognition/title protection laws in states where adopted, and even review and follow all state legislation being monitored in the state legislatures throughout the year. Included under each State site is access to the various state agencies, including the Governor's office and OSHA state plan sites. If professional recognition/title protection legislation has been enacted in a particular state, this law can also be found.

Another important feature is member access to each of the weekly legislative/regulatory reports sent to each state. With this access, members can follow any piece of legislation that may be of interest.

For information on any of the items in this report, please contact Aaron Tripler.