Federal Legislative Update

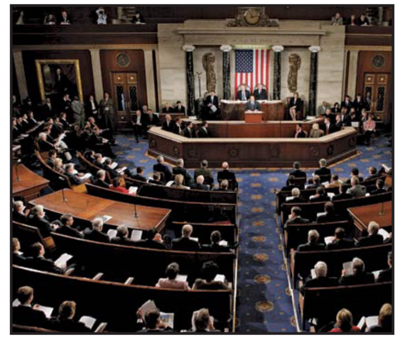
Quarter 1, January 2012

Introduction

The Texas Workforce Investment Council's *Federal Legislative Update* will appear several times throughout the year. The update is intended to inform readers about developments in federal legislation that impact workforce policy. This first update focuses on recent legislation considered by the Congress toward the end of 2011.

Each United States Congress is two years in length and is made up of two sessions. The first session convenes on January 3 of odd-numbered years and subsequently adjourns on January 3 of the following year. The second session convenes from January 3 of even-numbered years, and continues to the following January 3.

The current 112th Congress will run from January 2011 to January 2013. The second session of the 112th Congress was convened on January 3, 2012.



U.S. House of Representatives

The Senate President is Joe Biden, the Senate President Pro Tempore is Daniel Inouye and the House Speaker is John Boehnor. There are 100 Senators, 435 House Representatives and six non-voting members.

Appropriations

On December 23, 2011, the President signed a large appropriations bill that will keep the Federal government running through the end of 2012. This "megabus" package was comprised of the underlying Military Construction-Veterans Affairs bill (HR 2055) and the following eight spending measures: Defense; Energy and Water; Financial Services; Homeland Security; Interior -Environment, Labor-Health and Human Services-Education; Legislative Branch; and State-Foreign Operations. The funding legislation for the Departments of Labor (DOL), Health and Human Services and Education has been frequently referred to as the "Labor-H" bill.

Congress enacted a "minibus" appropriations bill in November 2011 that contained the other three spending bills: Agriculture; Commerce-Justice-Science; and Transportation-Housing.

The final version of this bill makes cuts to DOL job training programs of about $155 million from fiscal year (FY) 2011 levels. It also includes changes to the Pell Grant program. Generally, workforce policy watchers say that overall cuts are not as deep as had been feared.

- Workforce Innovation Fund had the greatest reduction in funding. It declined from $125 million in FY 2011 to $50 million in FY 2012.
- Workforce Investment Act (WIA) Dislocated Worker program funding decreased by approximately $55 million for FY 2012.
- The Native American program went from $52.7 million in FY 2011 to $47.7 million in FY 2012. Similarly, pilots and demonstration programs went from $10 million to $6.6 million.
- Programs for ex-offenders went from $85.6 million in FY 2011 to $80.4 million in FY 2012.
- The Workforce Data Quality Initiative went from $12.5 million in FY 2011 to $6.5 million in FY 2012.

Remaining DOL programs were level-funded at FY 2011 amounts, but all programs were subject to an across-the-board rescission of 0.189 percent. This applies to FY 2012 spending under the appropriations bill and to advance funding covered under the FY 2011 appropriations bills. There is a possibility that there will be another similar across-the-board cut to offset a pending disaster relief bill.

Despite considerable discussion, the final bill did not shift DOL program funding from a program year to a fiscal year basis. Nor did it eliminate advance funding for the WIA Adult and Dislocated Worker programs. Job Corps advance funding was eliminated, but the program's overall funding level was maintained.

The WIA state set-aside, another important issue that has received much attention, remains at five percent. Also kept was language introduced under the 2009 American Recovery and Reinvestment Act permitting local boards to contract with various training providers and community colleges for training in high-demand occupations.

In addition, the appropriations bill contains language calling for the Government Accountability Office to evaluate whether the Adult and Dislocated Worker programs adequately prepare workers for jobs that are currently available.

Education Issues in the Labor-H Bill

Faced with a $1.3 billion shortfall, appropriators instituted several changes to the Pell Grant program:

- "Ability to benefit" is eliminated and may affect up to 100,000 students, including adults who are working and who are in career pathways programs.
- The Automatic Zero Expected Family Contribution has been reduced from a $30,000 to $23,000 limit per year, which may affect the way working students protect income for living expenses.
- The lifetime eligibility for Pell is reduced from 18 to 12 semesters.
- Maximum Pell Grants remain at $5,550.

Last, Adult Basic Education and Career Technical Education state grants remain at current levels, but they are subject to the appropriation bill's 0.189 percent across-the-board rescission. However, the Pell Grant awards are not subject to this rescission.

HRs 3630 and 3765

In the days leading up to the Christmas break, Congress was embroiled in the critical issue of how to deal with the extension of the federal payroll tax cut, and HR 3630 was the subject of much debate. Both Republican and Democratic leaders wanted to extend the payroll tax cut, but there was considerable disagreement about the best approach.

Democrats focused their attention on offsetting the cost of the tax cut with a surtax on modified annual adjusted gross income exceeding $1 million per year. In the House, Republicans worked on the legislation from a different angle, looking at paying for the measure with a variety of cuts, including extending the federal pay freeze, freezes for members of Congress, and the reduction of fraud and abuse in federal entitlement programs.

The House proposal also contained measures to spur job growth such as expediting the construction of the Keystone Pipeline, a pipeline for transporting crude oil that will stretch 2,000 miles from Canada to Texas.

House Speaker Boehner discusses the payroll tax issue, December 2011

The last major action on HR 3630 occurred on December 23, 2011, with conferees being appointed to continue to work out these differences in 2012.

Both Congressional houses eventually agreed to the Temporary Payroll Tax Cut, HR 3765, which was signed by the President on December 23. HR 3765 extended the payroll tax cut at 4.2 percent for two months, through February 2012.

HR 674 and the VOW to Hire Heroes Act

In late November 2011, the President signed Public Law 112-056, the Three Percent Withholding Repeal and Job Creation Act. The three percent withholding was originally seen as a tax compliance measure withholding tax on the payments earned by private companies from government contracts. However, it came to be viewed by many as a policy disrupting cash flow to businesses and threatening jobs, and support for its repeal was strong. Through the adoption of an amendment, this bill also contains the VOW to Hire Heroes Act. This significant legislation provides numerous benefits to veterans including improved retraining and transitional assistance programs.

It also provides an incentive to employers by allowing tax credits up to $9,600 for the hiring of unemployed veterans.

HR 3610 and HR 3611, Bills relating to the Workforce Investment Act (WIA)

On December 8, 2011 two bills with potential to significantly impact the WIA were introduced in the House.

The Streamlining Workforce Development Programs Act, HR 3610, was introduced by Rep. Virginia Foxx. It consolidates 33 of the 47 training programs identified in a January 2011 Government Accountability Office report titled *Workforce Investment Funds*. This legislation would establish the following:

- A Workforce Investment Fund, to provide formula funding to states for job training services for adults, unemployed workers, and youth seeking employment. The legislation authorizes $4.3 billion annually for FYs 2013-2018.
- A State Youth Workforce Investment Fund, to provide formula funds to states for the nation's disadvantaged youth, with emphasis on completing school. The bill authorizes $1.9 billion annually for FYs 2013-2018.
- A Veterans Workforce Investment Fund, to provide formula funds to states for employment and training services for veterans. The legislation authorizes $218 million annually for FYs 2013-2018.
- A Targeted Populations Workforce Investment Fund, which would provide formula funds to states for assistance to special populations, namely Native Americans and migrant and seasonal farm workers. The bill authorizes $581 million annually for FYs 2013-2018.

HR 3610 would repeal authorization for several existing training and employment programs, such as Job Corps, Supplemental Nutrition Assistance Program Employment & Training, the Senior Community Service Employment Program, and many other activities currently authorized under the Wagner-Peyser Act.

In addition, the bill would require state and local leaders to set common performance measures for all employment and training programs. It would give governors greater power over the designation of workforce areas, and would allow states to submit single workforce development plans for all job training and related programs, including activities funded under Temporary Assistance for Needy Families and Perkins Career and Technical Education grants.

Another bill, the Local Job Opportunities and Business Success Act, HR 3611, was introduced by Rep. Joe Heck. This proposed legislation would mandate that two-thirds of all workforce investment board members be employers, and would eliminate representation requirements for WIA partner programs, local educational entities, and labor organizations. The bill would require local boards to reserve a minimum percentage of funds for training activities, according to criteria determined by such boards.

Committee Chairman of the House Committee on Education and the Workforce, John Kline, discussed the bills in a press release. He stated that along with HR 2295 that was introduced in June 2011 by Rep. McKeon, these bills will function as the framework for this House committee's work on WIA reauthorization in the months ahead.

On the same day, in a Senate Health Education Labor and Pensions (HELP) Committee meeting, Sen. Tom Harkin pledged there would be a vote on WIA reauthorization in January. The December 12, 2011 issue of *Employment & Training Reporter* expanded on the senator's comments, explaining that legislation prepared by the Committee has yet to be introduced, but was released last June in draft form. Sen. Harkin announced that his committee has been working 18 months on the bill and that he was willing to move it forward in January.

Among other things, the HELP committee draft allows for national branding of the one-stop system and requires mandatory collocation of employment service offices in one-stop career centers. It would require minimum qualifications for workforce agency professionals and allow governors to establish one-stop infrastructure funding streams.

Sen. Harkin's remarks were delivered at an "unscripted moment," during a HELP committee meeting. No testimony on WIA had been planned, but two members of the Committee commented on the stalled legislation, and this presumably prompted Sen. Harkin to speak. If the HELP committee draft is introduced, it brings a fourth substantial bill relating to WIA reauthorization before Congress.

Of Note

Super Committee Unsuccessful

On November 21, 2011, the Joint Select Committee on Deficit Reduction, also called the Super Committee, announced it had concluded its deliberations without agreeing on a plan to reduce future budget deficits by at least $1.2 trillion.

Without an agreement from the Super Committee, previously scheduled across-the-board cuts, or sequestrations, to both defense and non-defense spending will proceed in 2013. Many are concerned that defense spending will be severely affected.

Super Committee in session

The Super Committee was created in July 2011, pursuant to an agreement between the President and Congressional leaders to raise the federal debt ceiling. It called for the deficit to be reduced by at least $2 trillion over 10 years in order to offset the authorized $2.4 trillion increase in the amount that the Treasury Department may borrow.

Evenly made up of Democrats and Republicans, the Super Committee had until November 23 to act. Congress had until December 23 to vote upon and enact any recommendations. The agreement further stipulated that if the Super Committee failed, or if Congress did not act, $1.2 trillion in automatic spending cuts would begin in January 2013.

FERPA Regulations

New federal education privacy regulations posted to the *Federal Register* on December 2, 2011 should pave the way for state workforce agencies to more efficiently pair employment outcomes data with school records. These rules are amendments to the Federal Education Rights and Privacy Act, or "FERPA."

Since FERPA precludes the disclosure of "personally identifiable information," there has been some ambiguity as to how to approach program evaluation. The clarifications are intended to make it easier for school districts, public colleges and state education agencies to exchange data with workforce development entities and to improve longitudinal data systems.

The new regulations took effect January 3, 2012 and are in 34 CFR Part 99.

The Texas Workforce Investment Council promotes the development of a well-educated, highly skilled workforce for Texas and advocates a workforce system that provides quality workforce education and training opportunities.
For more information, visit: http://governor.state.tx.us/twic/