



**111th Congress, Second Session
September 28, 2010**

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Small Business Jobs Bill

The House approved H.R. 5297 on September 23rd on a 237-187 vote and the bill has been sent to President Obama for his signature. The bill provides tax cuts, loans and revived stimulus provisions for small businesses to ease the flow of credit in order to boost the sagging U.S. economy. The Senate had approved the bill last week by a 61-38 vote.

The legislation will:

- revive stimulus provisions cutting fees and increasing limits on loan guarantees offered by the Small Business Administration;
- reinstate, through the rest of this year, provisions increasing to 90 percent the share of loans the agency insures and waiving fees that can total more than \$56,000 on a \$2 million loan; and
- provide \$56 billion in tax cuts over the next 12 months, with the bulk coming through "bonus depreciation" that allows companies to more quickly write off the cost of purchases. The tax cut would amount to \$12 billion over 10 years

Civil Rights for Gays & Lesbians in Military
Deferred

A Senate vote on September 21, 2010, effectively blocked an amendment to the National Defense Authorization bill, S. 3454, regarding the "Don't Ask, Don't Tell" law.

The Senate, after much partisan debate, failed to invoke cloture by a vote of 56-43. Invoking cloture would have allowed Senators, after another 30 hours of debate, to vote on authorizing the nation's national defense programs for FY 2011, including an amendment to end the discriminatory "Don't Ask, Don't Tell" policy enshrined into law in 1993. The policy prohibits openly gay persons from serving in the armed forces.

The Senate Armed Forces Committee had previously included Section 591 in the bill which authorized the President, Secretary of Defense, and Chairman of the Joint Chiefs of Staff to end to the policy by certifying to Congress the policy's repeal would be consistent with military readiness, effectiveness, unit cohesion and recruitment and retention in the Armed Forces. The proposed amendment would have strengthened this provision. A vote on the defense bill or amendments to repeal the Don't Ask, Don't Tell policy will likely not occur until after the November general election when Congress convenes during a lame-duck Session.

Short-term FAA Extension Bill Passed

Congress has once again passed a short-term extension of the nation's airport and aviation programs. By a voice vote on September 24th, the Senate passed H.R. 6190, extending federal aviation fuel and ticket taxes, program expenditures, and the federal Airport Improvement Program through December 31, 2010, and sending it on to the President for his signature. Each chamber has passed legislation (H.R. 915 by Rep. Oberstar and S. 1451 by Sen. Rockefeller) intended to modernize the air traffic control system, improve safety, reliability and availability of air transportation in the United States and reauthorize the Federal Aviation Administration (FAA), but lawmakers have been unable to agree on a final bill.

While no House and Senate conferees have been named, House and Senate lawmakers continue to meet informally to work out the details of the final authorization bill. Some of the more challenging issues facing lawmakers involve whether to increase the Passenger Facility Charge (PFC) to \$7.00 per flight segment from the current charge of \$4.50. It's likely the House and Senate may agree to raise PFCs, which fund airport capital improvements, to \$5.50. Other controversial issues that have impeded agreement so far include expanding long-distance flights to and from Ronald Reagan-Washington National Airport, and provisions that would allow FedEx ground workers to organize locally, rather than on a nationwide basis. If lawmakers are able to reach an agreement, a long-term authorization of federal airport and aviation programs may pass during the expected November lame-duck Session.

1099 Reporting/Health Care Reform

When Congress passed health care reform earlier this year, the bill included a provision intended to raise \$17 billion over 10 years to pay for the bill. Section 9006 of the Patient Protection and Affordable Care Act requires specified entities, including local governments, to file a 1099 income tax form for any purchase of goods or services totaling more than \$600 in a tax year. These new provisions become effective January 1, 2012.

Under current law, businesses only need to file 1099s for services and only when the vendor is an unincorporated person or business. A 1099 form is used by the IRS to document income other than wages and salaries of individual workers (reported on W-2's) and the IRS estimates that before passage of Section 9006, the federal government lost over \$300 billion in annual tax revenue on unreported income.

Section 9006 has two separate provisions that eliminate current exemptions to 1099 filings. Of particular concern to counties is Congress' elimination of the exemption on issuing 1099s to corporations and businesses that are incorporated and the requirement of issuing a 1099 for goods which had previously been exempt. The provision, thought to be costly and extremely burdensome to small businesses and local governments, may be altered.

In an attempt to repeal the new 1099 requirements, Sen. Johanns' offered an amendment to S. 5297, the Small Business Lending Fund Act of 2010, which failed 46-52. This amendment would have used the Prevention and Public Health Fund, also created with the enactment of the Affordable Care Act, as an offset to repeal the 1099 reporting requirement. The Prevention and Public Health Fund provides \$15 billion over 10 years for evidence-based prevention and public health activities. This year, the Prevention and Public Health Fund is being put to use in communities across the country to address key public health issues such as tobacco cessation, efforts to reduce obesity by encouraging better nutrition and increased physical activity, and prevention activities for chronic disease rates. The fund is intended to improve the health of the nation and control costs.

Another amendment to lessen the impact of the 1099 requirement, offered by Sen. Bill Nelson also failed (56-42 – 60 affirmative votes were needed). This amendment would have exempted businesses with fewer than 25 employees, raised the reporting threshold to purchases over \$5,000, and would have excluded purchases made with a credit card. This legislation was offset by eliminating an income credit deduction for the five largest oil companies.

Two stand alone bills to repeal Section 9006 have been introduced and are pending: S. 3578, the Small Business Paperwork Mandate Elimination Act, sponsored by Sen. Johanns and companion bill H.R. 5141, sponsored by Rep. Lungren. The Senate bill has 24 cosponsors and is pending before the Senate Committee on Finance. The House bill has 163 cosponsors and is pending before the House Committee on Ways and Means. Neither bill provides an offset at this time.

Patient's Bill of Rights

Several provisions of the Affordable Care Act became effective on September 23rd, six months after the enactment of health care reform. Referred to as the Patient's Bill of Rights, the following provisions are now in effect for insured individuals:

- Free preventive care, like mammograms and cholesterol screenings. Under the new law, insurance companies must cover recommended preventive services, including mammograms, colonoscopies, immunizations and pre-natal and new baby

care, without charging deductibles, co-payments, or co-insurance.

- Elimination of lifetime coverage limits and annual limits start to phase out. The new law prohibits the use of lifetime limits in all health care plans. The new law will also phase out the use of annual dollar limits on individual health care plans over the next three years.
- No arbitrary rescission of health care insurance coverage. Currently, insurance companies are able to retroactively cancel coverage when an individual becomes ill if the individual or their employer made an unintentional mistake on the application. Under the new regulations, insurers and plans will be prohibited from voiding coverage for individuals or groups of people except in cases involving fraud or intentional misrepresentation. Additionally, insurers and plans seeking to rescind coverage must provide at least 30 days advance notice in order to provide ample time to appeal. There are no exceptions to this policy.
- Coverage for young adults by remaining on their family's health plan until they turn 26. In 2010, only those young adults not eligible for their employer's coverage can receive this benefit.
- No pre-existing condition exclusions for children under the age of 19. The new law prohibits insurance plans from denying coverage and limiting benefits for children based on a pre-existing condition. This protection applies to all health plans, except for "grandfathered" plans in the individual market and these protections will be extended to Americans of all ages starting in 2014.
- Accessible emergency services. Currently, some insurers will only pay for health care provided by a limited number or network of providers including emergency health care. Under the new rules, health plans and insurers will not be able to charge higher cost-sharing (copayments or coinsurance) for emergency services that are obtained out of a plan's network. This policy applies to all insurers and plans whether in the individual market or in group health plans, but does not apply to grandfathered plans.
- Increased choice of doctors. Pediatricians, obstetricians, and gynecologists will be allowed to have primary care physician

status thus eliminating the need for referrals and prior authorization. This policy applies to all individual market and group health insurance plans except those that are grandfathered.

- Improved appeals process. The new law requires insurers and plans to continue to pay for treatments during an appeals process and provides the right to appeal to an independent third party.

Many individuals will not be affected by these changes if they are covered by individual policies or if their insurer or plan has been grandfathered. Individuals covered through group plans may not experience the new regulations until their employer renews an annual policy.

County Presses for Port Funding in Washington

County staff traveled to Washington for meetings with the U.S. Army Corps of Engineers and congressional staff on September 15-16, 2010. Port and OIAPS staff, along with Federal Lobbyists from The Ferguson Group and Steinberg & Associates, met with senior officials at Corps Headquarters to press for funding of Port Everglades' appropriations requests for maintenance dredging of the federal channel; and to repair the south jetty at the entrance of the channel that is adjacent to the Federal Shore Protection Project.

Specifically, the County requested that the Corps make the County's \$5 million request part of its agency budget that will be delivered to the Office of Management and Budget (OMB) in October. A June 2009, Corps report about the condition of the federal channel showed shoaling on the east side of Port Everglades' 42-foot channel approaching and adjacent to the Southport Container Terminal. The shoaling extends about 100 feet into the channel in some areas and, in certain places, is at about a 32-foot depth. This condition is adversely impacting containership operations by limiting the loaded draft of larger container vessels using the Southport container terminals or restricting channel transit to narrow high tide periods. The Corps' Jacksonville District estimates that dredging and placement costs to remove this shoal would be about \$3 million.

In addition, the south jetty at the entrance of the federal channel is in need of repair and sand

tightening. The armor stones have been displaced along its north side and sand from the adjacent Federal Shore Protection Project has been eroding through the jetty and into the channel. A walkway on the jetty constructed in the 1980s to provide access for fishing and other recreational uses has also been damaged and rendered unsafe/unusable as a result of the shifting of the armor stones and other storm damage.

Including Port Everglades' channel maintenance dredging and jetty repair needs within the Corps' budget will make it more likely that project funding will be part of the President's FY 2012 budget. Corps officials committed to looking further into the situation and speaking to the Jacksonville District staff about the County's request. Meetings were also held with several congressional staff from Broward's Congressional Delegation, who committed to helping the County in its efforts to obtain funding for these port projects.