

Legislative News



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MAY 2010

Senate Closing in on Financial Regulatory Reform Legislation

The U.S. Senate is moving toward passage of a major piece of legislation overhauling the regulation of the financial industry. With a major stumbling block relative to the creation of a consumer protection office out of the way, it appears as of the writing of this report that the Senate will vote on the bill this month.

Having gained the votes of Republican Sens. Olympia Snowe of Maine and Charles Grassley of Iowa, the Senate Democrats were able to defeat an amendment advanced by the Republicans to curtail the authority of a new consumer bureau that is to be housed in the Federal Reserve. The new agency will have the authority to write and enforce rules protecting consumers from abusive and predatory practices related to mortgages, credit cards and other loans. Republicans had argued that establishing this new bureaucracy would translate into higher costs for consumers. However, they saw their side come up short in a vote of 61–38 on an amendment they put forth to reduce the agency’s powers. The vote was also, in essence, a signal that a vote on the bill as a whole would likely be in the near future, as trying to determine what would be an appropriate role for a consumer watchdog

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had been a major point of contention between the two caucuses. With that issue behind them, it is likely that the bill will see a vote soon.

However, there is language in the bill relative to the use of buying and selling derivatives that is of concern to both private and public pension plans. The National Association of State Retirement Administrators (NASRA) and the National Council on Teacher Retirement, organizations to which STRS Ohio belongs, are working with other industry organizations to change a provision that could impact the use of swaps and other derivatives by requiring swaps dealers to take on a fiduciary obligation when doing business with pension plans and other entities.

Efforts to strike the fiduciary language are meeting with strong opposition from consumer groups. One middle-ground alternative reportedly under way is a proposal from Sen. Arlen Specter (D-PA) to allow the Securities and Exchange Commission to decide, in a more deliberate manner, what fiduciary standards, if any, should be imposed on swaps dealers. STRS Ohio will continue to monitor this situation.

President Obama to Debt Commission: Everything Is on the Table

Earlier this year, President Barack Obama established the National Commission on Fiscal Responsibility and Reform by executive order after legislation that would

have done the same thing was defeated. At the group’s first meeting on April 27, the president told members “everything has to be on the table.”

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Though the group's members come from both major political parties, the atmosphere surrounding the commission has been politically charged — the Right saying it's a cover for tax increases while the Left argues it is a means to do away with certain social programs. Co-chairs of the commission are two Washington veterans: former Wyoming Sen. Alan Simpson, a Republican, and former Clinton White House chief-of-staff Erskine Bowles.

The commission is charged with recommending measures to reduce the deficit to no more than \$550 billion by 2015, an amount equal to about 3% of the total U.S. economy. That would require deficit savings in the range of \$250 billion or more to stabilize the debt-to-gross domestic product (GDP) ratio at an acceptable level once the economy recovers — a key measure of fiscal sustainability.

The commission is also tasked with proposing policies to meaningfully improve the long-run fiscal outlook. The options for curbing the deficit — cutting spending on popular entitlement programs and broad-based tax increases — are politically toxic. This is part of the reason the panel set its deadline after the November midterm election.

In an interview on Fox News, Simpson said there are no sacred cows when it comes to taxes or spending because the

minor economic comeback so far this year can do nothing to sustain the rate of debt. "If that's the wind, that's got to be a sparrow belch in a typhoon. We can't grow our way out of this. Doubling the rates of growth in 30 years wouldn't grow out of this," he said. He further noted the United States is going to borrow to pay for war, homeland security, education and veteran benefits — not to mention the cost of obligations through Social Security, Medicare and Medicaid. Finding common ground will be the biggest challenge.

STRS Ohio will monitor the work of the commission and its working groups as it meets over the course of the next seven months. There is always a concern with these commissions about potential suggestions for mandatory Social Security coverage of public employees as part of the funding solution.

The commission will meet the last week of each month, except for August and October when Congress is not in session. There have been three working groups established — tax reform, non-discretionary spending and discretionary spending — that will be meeting every month and making recommendations to the full commission. Fortunately, STRS Ohio has friends staffing these groups that will help us follow the direction of the discussions and provide input.

Health Care Reform Implementation — Nine Years From Start to Finish

As was reported in April, federal health care reform legislation was passed by Congress and signed by President Barack Obama in late March. What follows is the arduous task of implementation. STRS Ohio, through its participation in the Public Sector HealthCare Roundtable, will monitor this process and weigh in where appropriate. The changes that the new laws establish will be phased in over nine years. There are a number of significant provisions that begin to take effect in 2010; plans such as STRS Ohio's would be required to be compliant as of the beginning of the new plan year on Jan. 1, 2011. Below is a synopsis of some of the changes:

- Application of Internal Revenue Code Section 105(h) nondiscrimination provisions (which prohibit discrimination in favor of highly compensated employees); new rules for processing claims appeals; and the requirement to provide "essential benefits" without any cost-sharing for those benefits. STRS Ohio is already in compliance with these requirements except for the "no cost-sharing" for essential benefits, and will be in compliance as of the new plan year.
- Coverage cannot be denied to children (under age 19) with preexisting conditions. (Adults with preexisting

conditions, who have been uninsured for at least six months, will be eligible to join high-risk pools with policies that cannot cost more than \$5,900 for singles/\$11,000 for families. These will be funded with \$5 billion in federal grants.) This is current STRS Ohio practice.



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- Only "restricted limits" — as defined by U.S. Health and Human Services (HHS) regulations — will be permitted on the annual dollar value of essential benefits. STRS Ohio will be implementing this requirement next year. Staff is awaiting the promulgation of the regulation.
- Coverage cannot be cancelled after someone has submitted medical claims (referred to as a "rescission") except in cases of fraud. This is current STRS Ohio practice.

At its April 2010 meeting, the State Teachers Retirement Board authorized staff to implement these additional changes contained in the federal legislation:

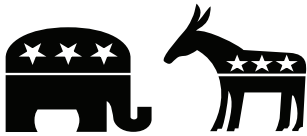
- Certain preventive care benefits must be provided without cost-sharing.

- Lifetime maximum dollar limits on coverage of essential benefits are prohibited.
- Upon request of the parents, coverage for dependents must be provided, regardless of their marital status, until the end of the year in which they turn age 26, as long as the dependents do not have access to other employer-sponsored health coverage.

One of the most significant provisions of the health care reform law also takes effect in 2010 — the creation of a \$5 billion retiree reinsurance program to annually reimburse plan sponsors for 80% of claims between \$15,000–\$90,000 for retirees age 55–64 who are neither an active employee nor eligible for Medicare. Reimbursement is also available for a retiree’s spouse and dependents enrolled in the plan. The reinsurance “corridor” of \$15,000–\$90,000 will be adjusted in subsequent fiscal years by the medical component of the consumer price index.

It is important to keep in mind that this reinsurance feature is temporary and expires in 2014, or whenever the \$5 billion is exhausted — whichever comes first. Furthermore, it appears that the money could be made available on a first-come, first-serve basis, with no prioritization of applicants. Proposed regulations on the reinsurance provisions were just released May 4 and are under review. STRS Ohio anticipates participating in this important program. Staff is reviewing the recent release of information from HHS.

May Statewide Primaries Generate No Surprises



The primaries held on May 4 didn’t produce any major upsets in the statewide races. In one of the races where there were actual primary opponents, Lt. Gov. Lee Fisher, a Democrat from the Cleveland area, walked away the winner in the election to determine who would be the

Democratic nominee in the race to replace retiring U.S. Sen. George Voinovich (R-Cleveland). Fisher ran against Ohio’s current secretary of state, Jennifer Brunner, and will face former Ohio congressman Rob Portman (R-Cincinnati) in the general election in November.

State Sen. Jon Husted (R-Kettering) was an easy winner in the campaign for the Republican nominee for secretary of state. His opponent, Sandra O’Brien, while not as well known around the Statehouse as Husted, was definitely a credible candidate, having beat fellow Republican Jeanette Bradley in 2006 in the Republican primary for state treasurer. Husted’s Democratic competition in the general election is Franklin County commissioner Mary Ellen O’Shaughnessy, who did not have a primary opponent.

In the other statewide office in which there was a Republican primary, first-term state Rep. Seth Morgan (R-Huber Heights), whose candidacy was highly favored by the local Tea Party organizations, was bested by Delaware County Auditor Dave Yost, who had the backing of the state Republican Party. The race was perhaps the most interesting to watch for political observers, since Yost essentially left the race for attorney general so former U.S. Sen. Mike DeWine would have no primary opposition. In doing this, Yost gained the party backing. Yost will be facing Hamilton County Auditor David Pepper in the general election for state auditor.

Those vying for the attorney general’s office — DeWine and current Attorney General Richard Cordray — had no primary opposition. There also were no primary opponents for the two men campaigning for the job of state treasurer — Republican Josh Mandel, and Democrat and current state Treasurer Kevin Boyce.

File Under: Truth Stranger Than Fiction

When it comes to former Youngstown, Ohio, congressman Jim Traficant, truly, all bets are off. Recently, it was reported that Traficant, who served a seven-year prison sentence after being found guilty of corruption charges, has filed to run this November as an independent in the 17th Congressional District against Rep. Tim Ryan (D-Niles). The district includes much of the Mahoning Valley constituency Traficant represented as a Democrat from 1985 until he was expelled from the House in 2002.

Interestingly, Traficant has apparently also considered a run in the 6th Congressional District, a more conservative-leaning and rural district that runs along the Ohio River and is represented by Rep. Charlie Wilson (D-St. Clairsville).

Election officials must certify independent candidates for the November ballot by July 15. While there is no state law barring Traficant from running in two districts, we can definitely see this as an issue for the lame duck session in November/December.

According to the *Congressional Quarterly*, Traficant, who hosts a radio show in Cleveland, hasn’t raised any money or opened a campaign committee. He last appeared on a ballot in November 2002, three-and-a-half months after his expulsion, when he won 15% of the vote as an independent candidate in a race won by Ryan.

