



## *Happenings On The Hill*

### **American Industrial Hygiene Association Government Affairs Department**

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#### **President Proposes FY16 Budget –**

If it seems like we just finished talking about the FY15 budget, we did! But in Washington the federal budget has become a year-round discussion. Actually, it has become so difficult to adopt a federal budget that we simply adopt “continuing resolutions” and perhaps an “omnibus bill” every once in a while. So, while the FY15 budget essentially left every federal agency flat, the President has stepped way out of the box in his proposal for FY16 recommending increases in nearly every federal agency. Of course, his budget is *doa* (dead on arrival) in a Congress now controlled by the Republicans, especially considering the budget contains tax increases to pay for the spending increases.

Yet, the President’s budget proposal is the only thing we have to go on at this time so it deserves some attention. Let’s take a look.

#### **OSHA**

The President has proposed a 7 percent increase in the OSHA budget, increasing spending from the current \$552.8 million to \$592.1 million in fiscal 2016. While nearly every category received some sort of increase, notables ones are –

- + \$17,800,000 for Federal Enforcement
- + \$ 5,128,000 for the whistleblower program
- + \$ 3,487,000 for State Programs (state plan funding)
- + \$ 4,611,000 for Federal Compliance Assistance
- + \$ 3,306,000 for Safety and Health Standards
- + \$ 4,513,000 for Safety and Health Statistics
- \$0 increase for State Consultations/Compliance Assistance

Interesting that the President didn't provide any increase at all for state compliance assistance; yet it probably makes no difference as this budget proposal is not likely to be the final appropriation.

## **NIOSH**

The President has once again targeted NIOSH as an area where he believes cuts are required. That means we have our job cut out for us again to educate Congress on why NIOSH is so important. There are those on the Hill and in the Administration who simply don't understand that NIOSH is the sole federal government agency conducting occupational safety and health research. A look at the NIOSH budget –

The President proposed cutting the existing NIOSH spending level of \$334.9 million to \$283.4 million in fiscal 2016, a \$51.5 million reduction in spending. What's interesting in this proposal is that nearly every line item in the NIOSH budget received zero change except for two –

Education Research Center funding would be cut to zero

Agriculture, Forestry and Fishing Programs would be cut to zero

This is, I believe, the fifth year in a row the President has recommended to zero out funding for the ERCs and the AFF program. Can we once again succeed in retaining this funding? We shall see. My take is that if Congress decides to actually adopt a federal budget this year there will be no better than a 50-50 chance of saving this funding. However, if Congress ends up adopting a Continuing Resolution and a final Omnibus Spending Bill, we probably have a 90 percent chance of saving the funding.

## **Other Notable Budgets**

|                                       |   |
|---------------------------------------|---|
| Mine Safety and Health Administration | 5% increase to \$394.9 million          |
| Chemical Safety and Hazard Board      | 12% increase to \$12.3 million          |
| OSH Review Commission                 | 13.8% increase to \$13.2 million        |
| Environmental Protection Agency       | \$492 million increase to \$8.6 billion |

## **Bigger Issues Taking Precedence**

While it is prudent to discuss the funding proposals for occupational safety and health areas, the fact is that Congress is dealing with much bigger issues. In addition to the ongoing concerns about terrorism, Congress must do something with the one appropriation bill leftover from the last session of Congress – funding for the Department of Homeland Security. This funding is being held up by the House unless the President's Executive Order on immigration is overturned. The Senate wants to split these into separate issues and pass the homeland security bill separately. Keep your eyes and ears open this week as the deadline is Friday.

Congress also passed the Keystone XL Pipeline bill and, as promised, the president earlier this week vetoed the bill. It is doubtful Congress can override this veto.

## **Regulatory Reform Bills Moving Through Congress**

While there are yet no bills introduced that directly deal with occupational safety and health issues, the Republicans have wasted no time in moving forward on one of their top issues – regulatory reform. Bills keep appearing and several have already made their way through the House and have been sent to the Senate. Of course, the

President is likely to veto most, if not all, of these bills if they make their way to his desk. But don't be surprised if one or two of these bills make it all the way through. The President has previously indicated his desire to take a look at the regulatory process.

## **Agency Activity**

Has been a rather quiet month regarding regulatory activity in the agencies. OSHA has not made any major decisions and is moving forward on efforts to finalize the silica standard, waiting to hear from the White House on the beryllium issue and continues work on drafting an infectious diseases rule.

The one issue that made headlines this month is the one regarding the dispute between federal OSHA and the Arizona State Plan. If you recall, Arizona had passed a new fall protection rule that federal OSHA claimed "was not as effective" as the federal rule and warned Arizona that unless they repealed this change federal OSHA would find the state plan in violation. The Arizona legislature then got involved and passed a bill that said if federal OSHA rejected the Arizona fall protection change the new Arizona law would be repealed. Well, of course federal OSHA rejected the Arizona effort and the change has been repealed. This entire issue played out over a period of three years, yet most anyone could have looked at it three years ago and figured out how it was going to end.

## **Updating the Permissible Exposure Limits (PELs)**

For the past 20 years the number one public policy issue of AIHA has been "updating the PELs". Efforts to update the PELs have fallen on deaf ears in Washington until recently when OSHA's Dr. Michaels placed the issue up front and center.

OSHA published a Request for Information (RFI) in the Federal register last October 10 stating that OSHA is reviewing its overall approach to managing chemical exposures in the workplace and seeks stakeholder input about more effective and efficient approaches that address challenges found with the current regulatory approach. The review involves considering issues relating to updating the PELs, as well as examining other strategies that could be implemented to address workplace conditions where workers are exposed to chemicals. In other words, not just updating the PELs but looking at additional options.

AIHA plans on submitting official comments on the RFI and has an Advisory Group working on draft comments at this time. However, AIHA national also contacted all of the AIHA Volunteer Groups (VGs) (technical committees) and offered these committees the opportunity to address any of the 50+ technical questions posed by OSHA. The hope is to have various VGs draft comments and AIHA national will then compile all and send to OSHA as an additional submission, looking at all viewpoints.

AIHA national is also interested in having individual AIHA members provide comments on the RFI. If you have any comments on one or more of the 50+ technical questions posed by OSHA in the RFI please submit these to my office. Again, they will not be submitted to OSHA as official AIHA comments and your name will not be used. AIHA will submit all of these comments as "input from AIHA members and Committees". The deadline for submission to OSHA is April 8, meaning individual comments need to be submitted to my office no later than March 15. Please consider taking a few minutes

to review the questions posed by OSHA. The RFI is very long (some 200 pages) and there are 50+ technical questions to be addressed. The link to the full RFI can be found at <http://www.gpo.gov/fdsys/pkg/FR-2014-10-10/pdf/2014-24009.pdf>

## **Another OSHA Request**

OSHA is also asking for some help from occupational safety and health professionals and others on an issue to make government a little more effective. The agency is always reviewing existing regulations to update rules that may be out of date, ineffective, insufficient or excessively burdensome.

So, here's your chance to pass along your thoughts on this issue. Send OSHA your ideas about which rules should be modified, streamlined, expanded, or even repealed. The agency has launched an interactive "Shaping Smarter Regulations" website where you can make suggestions from now until Wednesday, March 18, at <http://www.dol.gov/regulations/regreview/>. Questions posed by OSHA are listed on the web site.

## **State Activity**

As expected, legislative activity in the states has been very heavy since January first. If you would like to see any of these bills please contact me and I will forward. This month provides a quick look at a few of the bills out there. Way too many links to include each one here. Will cover additional issues next month.

Licensing in Public Contracts. Maryland has introduced legislation (SB279) that would essentially prohibit contractors from receiving publicly funded contracts if they have violated occupational safety and health laws and regulations. This issue is also being considered in Tennessee (SB1370 and HB1027) and there is talk that Massachusetts and New York may also take a look at the issue. Every year or two the same issue comes up on the federal level; but the issue is much more complicated than it sounds.

Maryland is also in the news for another bill (HB192) that would provide employers with advance notice that a state OSHA inspection will be forthcoming. Yes, you read that right! Kind of defeats the whole idea of an inspection if you call them up and tell them you will be inspecting next week. Doubt if this bill will make it through.

### Safe patient Handling

|              |              |
|--------------|--------------|
| Florida H685 | In Committee |
| Florida S750 | In Committee |
| MA HD1112    | Pending      |
| MA SD 1522   | Pending      |
| MO H963      | In Committee |
| OR H2631     | In Committee |

### Mold Licensing

|          |              |
|----------|--------------|
| NH S125  | Pending      |
| NJ A1006 | In Committee |
| NJ A1007 | Became law   |

|           |              |
|-----------|--------------|
| NJ S 2131 | In Committee |
| NY A395   | In Committee |
| NY A969   | In Committee |
| NY A4307  | In Committee |
| NY A4759  | In Committee |
| NY S3674  | In Committee |
| NY S3756  | In Committee |

Voluntary Protection Program

|          |                               |
|----------|-------------------------------|
| VA H1768 | Awaiting Governor's Signature |
| VA S881  | Awaiting Governor's Signature |

## **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. Simply go to the AIHA home page. Click on "government affairs", located on the "stay connected" tab at the top of the page. Once in government affairs, click on "Federal Legislation Action Center". Also available within this Action Center is the opportunity for any member to directly contact their elected officials in Washington simply by inserting their zip code. You can send an email or learn how to contact them by phone or mail. Take a look!

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.**