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Legislative Bulletin……………………………….………December 8, 2006

Contents:

H.R. 6407—Postal Accountability and Enhancement Act—*as introduced* (Davis, T., R-VA)

Order of Business: H.R. 6407 is expected to be considered on Friday, December 8, 2006, under a motion to suspend the rules and pass the bill.

Background: On July 26, 2005, the House passed an earlier version of the Postal Accountability and Enhancement Act (H.R. 22), and the Senate passed its version on February 9, 2006. The Administration issued a veto threat against H.R 22 "should the final bill have such an adverse impact on the federal budget," and negotiations ensued to produce a more acceptable bill. H.R. 6407 is the embodiment of such negotiations. However, many of the original provisions that contributed to the bill's cost—albeit lessened—have not been completely resolved (see below).

Summary: H.R. 6407 makes numerous changes to the operation of the United States Postal Service (USPS). Below are the *highlights:*

- **Rate Cap:** Limits any annual increase in postal rates to inflation as measured by the Consumer Price Index. This rate cap may be breached under "either extraordinary or exceptional circumstances" with permission from the Postal Regulatory Commission (PRC)—a tighter rate cap than the one included the House-passed bill (H.R. 22) which could be breached whenever it was "reasonable, equitable, and necessary to enable the Postal Service…to maintain and continue the development of postal services of the kind and quality adapted to the needs of the United States." However, while the USPS cannot attempt to adjust its rate unless it asserts that it is experiencing extraordinary or exceptional circumstances, the PRC's determination is based on the softer reasonable and necessary standard. It is unclear whether such language has the effect of vitiating the seemingly tighter rate cap included in this legislation. In addition, the CBO has stated that USPS will still be able to increase rates by roughly the same amount as under current law but will do so more frequently and in smaller increments.

- **Workshare Discounts:** Requires the PRC to regulate workshare discounts to ensure that such discounts do not exceed the cost that USPS avoids as the result of workshare activity, unless the discount is associated with a new service, the discount is necessary to secure mailer participation and will be phased out over time, the discount is necessary to mitigate against a rate shock or would lead to a loss in mail volume, or it is in conjunction with mailing certain forms of educational or cultural material. Workshare discounts are agreements whereby mailers perform functions such as presorting by ZIP Code, barcode, and transport mail to help minimize USPS' workforce and infrastructure, in exchange for reduced postage rates.

- **Labor Slot on the Board of Governors:** Does *not* include the provision in the House-passed bill that required that the first vacant slot on the Board of Governors to be filled by an individual with unanimous backing by "all labor organizations."

- **New Postal Regulatory Commission:** Replaces the Postal Rate Commission with a new Postal Regulatory Commission (PRC) composed of five commissioners, with not more than three coming from the same political party. The commissioners would serve six-year terms. The intent of the legislation is to provide a more robust regulator of USPS.

- **Workers Compensation:** States that USPS employees are not entitled to workers compensation for the first three days of temporary disability and must use annual leave, sick leave, or leave without pay during that brief period. If the disability exceeds 14 days or is followed by permanent disability, the employee may have the sick leave or annual leave reinstated. In addition, the bill requires long-term disabled employees to tap retirement pay at retirement age instead of being allowed to continue receiving workers compensation benefits. These reforms were not included in the original House-passed version.

- **Competitive Products Fund:** Establishes a Postal Service Competitive Products Fund (CPF) for the payment of costs attributable and revenues stemming from competitive products. USPS would be authorized to borrow against the Treasury and issue corporate debt with the implicit guarantee that it will be backed by the full-faith-and-credit of the federal government. In addition, USPS would be required to compute an "assumed federal income tax" for its competitive products income *if* such income was taxable and transfer that amount from the CPF to the Postal Service Fund, for the purpose of monopoly operations.

- **Military Service Credits**: Transfers to the Department of the Treasury the responsibility for paying pension costs associated with military service credits for employees who served in the armed forces (this would shift these costs from USPS to the taxpayer, something the Administration initially opposed http://reform.house.gov/UploadedFiles/Treasury%20-%20Snow%20Testimony.pdf). Under current law, if a service member leaves the military with pension credits built up, the individual loses those credits unless his or her next employment is with the federal government, including USPS. These costs are normally paid out of general revenues, but because USPS is held out as a government corporation competing with private sector companies, it is required to pay for these “military credits” so as to not to benefit from a subsidy. H.R. 6407 transfers these pension costs from postal ratepayers to the taxpayer.

- **Escrow Account:** Eliminates the requirement that savings from reduced Civil Service Retirement System (CSRS) payments under P.L. 108-18 must be put in an “escrow account” within the general fund of the Treasury. USPS is required to cover all pension costs accrued by their employees and make contributions to CSRS. USPS makes these payments to CSRS based on the number of their retirees, the cost of providing pension benefits, and the amount of interest that should be credited for transferring such funds to the federal treasury prospectively.

  In essence, USPS makes a contribution to the general fund of the Treasury. The funds are credited to CSRS in a “trust fund,” and then spent each year on government programs. This is not unlike the manner in which Social Security operates, where bonds are issued to the Social Security Trust Fund—or in other words, the Trust Fund receives a series of government IOUs. As a result of government bonds being worth more than expected on the financial markets, the interest rate that USPS was paying exceeded what was necessary to fund its pension liability, and in 2002, the Office of Personnel Management (OPM) concluded that USPS would “overfund” its contribution to CSRS at its current contribution rate at a later date.

  In 2003, President Bush signed the Postal Civil Service Retirement System Funding Reform Act (P.L. 108-18), costing $7.1 billion over ten years, that allowed USPS to reduce its CSRS contributions to reflect this overfunding. However, since these reduced payments would come from the general fund of the Treasury, it would have cost a sizable amount over ten years. Thus, P.L. 108-18 required that the savings be put in an escrow account within the general fund until a later date. H.R. 6407 eliminates this requirement and allows for this money to be used by USPS—meaning that billions will flow from general revenues to USPS. According to CBO, this will “allow the USPS to pay down debt, increase spending for capital improvements or other projects, postpone or diminish future rate increases, or some combination of the activities.”

- **Health Care Contributions:** Requires USPS to use much of the savings from its reduced CSRS contributions and no longer having to pay the military service credits of its employees to begin to address the large unfunded liability of providing health care to current and future retirees. H.R. 6407 requires USPS to contribute to a new Postal Service Retiree Health Benefits Fund to pre-fund its health care costs on an accrued basis instead of simply paying a portion of their retirees’ health premiums each year. As a result, these increased contributions would result in billions being infused into the general fund.

- **Postal Regulatory Commission and Inspector General Costs**: Shifts the costs for the Postal Regulatory Commission and Inspector General from mandatory spending to the appropriations process by authorizing the appropriation of “such sums as are necessary.” According to CBO, “enacting this [provision] would reduce direct spending—and therefore, increase spending subject to appropriation.” As a result, H.R. 6407 “saves”

$1.5 billion by this maneuver (even though it will still presumably be spent), and in doing so, lowers the overall cost of the legislation.

Cost to Taxpayer: Although USPS—like Social Security—is classified as "off budget," and therefore excluded by law from budget totals, H.R. 6407 has a substantial impact on the deficit. According to CBO, the net cost of H.R. 6407 is $1.5 billion over ten years (over five years, the bill saves $1 billion). OMB itself scores the legislation as budget neutral, using different assumptions than CBO, leading some to argue that the bill has no cost. In addition, these costs are lessened by the shift of $1.5 billion in funding obligations from mandatory to discretionary spending (see above).

Does the Bill Expand the Size and Scope of the Federal Government?: Yes, the bill requires the federal government to pay for the CSRS pension costs associated with USPS employees' service in the military and releases funds in escrow to the USPS. This drain on federal resources is greatly offset—but not completely—by the requirement that the USPS contribute to their long-term healthcare liabilities.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: An updated CBO estimate pertaining to unfunded mandates is not available. However, earlier estimates have concluded that no mandates are included.

Constitutional Authority: A committee report citing constitutional authority is unavailable.

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