Search

Register To VOTE

In This Issue

Josh Bolten Nominated as New OMB Director

As President Bush gears up for his re-election bid, a number of senior level personnel changes are occurring. One key change is the replacement of OMB Director Mitch Daniels, who reportedly is headed back to Indiana to take a run at the governorship. The President has nominated the 48-year-old Joshua Brewster Bolten to replace Daniels. As his name was announced by the White House, there seemed to be a general murmur of “Josh Who?”

Bolten, a graduate of Princeton University and Stanford Law School, has been a loyal lieutenant to Bush since Bush's presidential campaign, when he was the Policy Director both for the campaign and the transition phase between the election and Bush taking office. Since then, Bolten has been the White House Deputy Chief of Staff and has carried considerable clout. As Bush said, "[He's one of my] closest and most trusted advisers."

Unlike Daniels, Bolten has shied away from the media and from being the center of attention. Some claim he is notorious for being inaccessible and operating in secret, without openness or transparency, evidenced in part by his unwillingness to grant interviews, much less letting his picture appear on public and government websites. He was a member of the National Energy Policy Development Group, whose records were refused to the public despite a subpoena.

His few public appearances attempt to give a sense of moderation. As he told a U.S. Conference of Mayors Advisory Board at a dinner on January 18, 2001, “we are not your typical slash and burn Republican administration.” However, his actions seem to defy this tone of moderation.

He has reportedly been the White House "traffic cop" for every Bush briefing, coordinated the legislation creating the new Department of Homeland Security including the provisions that increase government secrecy, coordinated the Columbia shuttle disaster response, and was one of the advisors present at the President's deliberation to launch first strike against Iraq. Apparently, he played a key role in recent changes to the administration’s economic team, and was one of the chief architects of the administration's tax-cutting agenda.

There are many differences between Bolten and his predecessor, Daniels. Unlike Daniels, Bolten shuns the media. Whereas Daniels is a fiscally conservative numbers guy uncomfortable with ideological driven conversations, Bolten is strong on ideology. Given these differences, and given that not much is known about Bolten, it remains uncertain what style he will embrace at OMB, assuming he is confirmed as the director. Daniels antagonized members of Congress, particularly appropriators, with his zeal to cut spending. As a result, he was able to deflect congressional anger away from the President on to himself. Will Bolten be the same way?

Since Bolten has strongly endorsed past and future tax cuts, it is inevitable that he will face a very difficult task as head of OMB. By all estimates, the deficit will be growing, possibly as high as 4% of GDP, breaking historical records. This will ultimately put pressure on Bolten to reduce the deficit, but how he will proceed is uncertain given his commitment to additional tax cuts. In addition, the budget crunch comes at a time when domestic priorities are being squeezed and future obligations are mounting. In his White House role, he chaired the Domestic Consequence Group, the White House

working group responsible for the $15 billion airline bailout in 2001. But as OMB Director, will he be able to provide such sweetheart deals?

Daniels leaves a legacy of strength on management initiatives, putting major emphasis on e-government initiatives, procurement reforms, and other efforts. Will Bolten do the same? Daniels also used the Office of Information and Regulatory Affairs to wage an anti-regulatory campaign heavily favoring corporate interests. The regulatory attack has been couched in non-ideological terms, such as using "good science." But Bolten has reportedly helped the Pharmaceutical Research and Manufacturing of America deal with one regulatory matter. Will the gloves come off under Bolten's tenure?

While we may disagree with the direction that the Bush administration economic team is leading the country, we believe it essential that OMB operate in the sunshine with strong, effective leadership. We are eager to see how Bolten views his new, more public role, and to see if his past penchant for secrecy, deficit-increasing tax cuts, and regulatory attacks will be reversed.

Tax Priorities

The 2003 tax cut package contained a number of goodies for higher income individuals -- a dividend tax cut, a capital gains tax cut, acceleration of previous reductions in upper income tax rates. However, several reports have shown that millions of taxpayers, primarily middle income and below, as well as millions of children, have been left behind.

Last Thursday, the *New York Times* and every major evening news program reported that a key provision that would have helped low income families was left out of the final tax law as signed by the President. At the last minute, Republican leaders and administration officials were trying to find ways to reduce the total cost of the tax bill – one of the provisions that was left out was one that would change the formula for determining who would receive the per-child tax credit.

The number of people left out due to this omission was computed in a study by the Center on Budget and Policy Priorities (CBPP), which found that those families earning between $10,500 to $26,625 would not benefit from the increase in the increased per-child tax credit. The omission means that families representing 11.9 million children were left behind by the tax bill.

More recently, another CBPP analysis based on data from the Urban Institute-Brookings Institution Tax Policy Center, found that there are over 8 million income-tax payers that will not receive a benefit from the tax cut. These taxpayers include:

- 5 million single taxpayers in the 10 percent tax bracket who have no children and receive no dividend or capital gains income
- 2.6 million taxpayers with "head-of-household" filing status with dependents over 16 years old and in the 10 or 15% tax bracket

Over 80% of these tax filers left behind earn less than $30,000 per year.

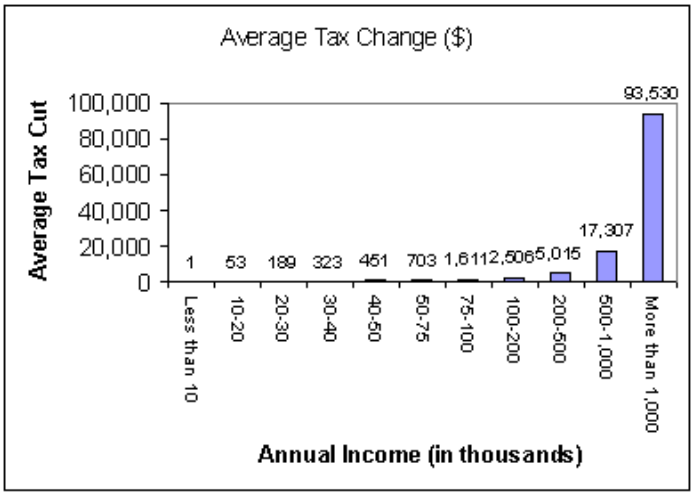
Today's *Washington Post* casts a more cynical view about this omission. The *Post* notes that the President's proposal, the House bill, and the original Senate Finance Committee proposal did not contain the child tax credit for lower income families.

In addition, there are millions more people who pay taxes (in the form of payroll taxes, sales taxes, etc.) that would receive no benefit from the President's targeted federal income tax cut.

An analysis by The Tax Policy Center also shows just how much more upper income individuals will benefit from the tax cut. People earning more that $1 million will receive a tax cut of over $90,000, while those in the middle of the income distribution will receive only $200. (See chart below.)

Finally, the tax bill will balloon the deficit. If the tax cuts are allowed to expire, the tax bill will tack on "only" $350 billion. If, however, these provisions are extended, the total cost will likely be somewhere between $800 billion and $1 trillion. This debt increase will simply be passed on to future generations who will have to face greater taxes, or fewer government benefits, down the road.

In a time of budgetary and economic weakness it is more important than ever to use sound and fair judgment on matters of tax policy and issues of basic fairness. The current actions of the White House and the Republican leadership show that the priorities of many in Washington do not include a significant portion of the US population, and are out of step with what most people would think is fair.



Budget ZigZag

The "Jobs and Growth Tax Relief Reconciliation of 2003" bill (HR 2) that President Bush signed into law with much fanfare on May 28 is chock full of tax cuts that "sunset" – that is, they revert back to pre-2003 law. When combined with the previous Bush tax cut, "The Economic Growth and Tax Relief Reconciliation Act of 2001," which is also full of tax cuts that slowly phase in and then end altogether, the result is like something out of Kafka. However, the difficulty for the IRS of creating forms and instructions to reflect yearly changes and taxpayer confusion are not the worst consequences of these bills.

This variety of gimmicks is supposed to keep the "official" price tag lower than the true cost of the plan. Congress works with a 10-year budget, so by passing a law that restores taxes after 9 years (as in the 2001 law), or after 2 years (as for some provisions in the 2003 law) they get to pass bigger cuts this year and claim that the overall price is lower.

Any reasonable estimate by outsiders of the true cost of tax legislation should include what is most likely to happen over the next ten years if the tax reduction were to be passed -- and since no one believes that the tax is intended to actually expire after 9 years, the true cost is not likely to be the same as the official number used by Congress and the President.

Now, everyone really knows what is going on, and if a Representative or a Senator chooses to vote for a bill with these kinds of gimmicks, that is their right. But to do so, and to claim that the "official" cost is anything other than a convenient fiction, is to engage in fundamentally dishonest rhetoric.

Some details on the zigzags…

- The new tax bill includes an increase in the child tax credit, scheduled for 2003 and 2004 (from $600 to $1,000). They then decrease to $700 in 2005 before slowly rising to $1,000 again in 2010. (The current $1,000 is actually an acceleration of the 2001 tax cut bill that more slowly phases in higher child tax credits until they expire in 2011.)
- The top dividend tax rate was lowered to 15% through 2009, but then reverts to 39.6% in 2009 and after.
- The top capital gains tax rate was also lowered to 15% through 2009, but then reverts to 20% in 2009.
- Individual income tax rates revert to pre-2001 levels in 2011.

Given the intention to make the tax cuts permanent, the bills are outrageously expensive. The phase-in and sunset provisions were used to underestimate the cost of the tax cuts. If the tax cuts are made permanent, the actual cost, according to a Center on Budget and Policy Priorities (CBPP) analysis, the newest $350 billion tax cut will cost between $807 billion and $1.06 trillion through 2013. If the tax cuts contained in the 2001 tax cut bill are extended, the cost will be $2.3 trillion through 2011, and the costs in the following decade would be even greater—an estimated $4.1 trillion from 2012 to 2021. See the CBPP analysis.

So, the next decade will bring many opportunities to argue against tax cuts-- both efforts to extend the "temporary" cuts as well as the efforts to pass more tax cuts from the remaining $1 trillion set aside in the budget resolution for tax cuts.

If we don't succeed, domestic discretionary spending-- almost all that government does outside of entitlement programs and military spending will be decimated. This will happen in spite of the state government cut-backs, the slow economy, the rise in the national debt, and increasing costs of Medicare and Social Security as the Baby Boomers retire. Since there is no firewall to protect domestic spending within the discretionary spending pool, military and defense spending increases will make further inroads. Cuts in discretionary spending will hit low-income families the hardest, but the state cuts in services are evidence that middle-income families will also be affected. Since the benefit of the tax cuts flows to wealthier families and corporations, not low- and middle-income families, the bad effects will be a double-whammy.

In the Name of Homeland Security, Let the Stonewalling Begin

The Department of Homeland Security (DHS) has been severely criticized over recent allegations that department resources were used during a partisan political battle in Texas. On Monday May 12th, more than 50 Democratic Texas state legislators fled to Oklahoma to avoid hearings and prevent the Legislature from having quorum on a bill that would redraw congressional districts in the Republicans' favor. The same day, a DHS agency was contacted in order to track a plane carrying several of the Democrats in hopes of returning them to the state capitol.

The Monday on which the Democrats left Texas, a Texas Department of Public Safety (DPS) officer placed a call to one of DHS's agencies, the Air and Marine Interdiction Coordination Center (AMICC) asking for help in locating a plane owned by State Representative James E. "Pete" Laney (D-Hale Center). Officials have said the agency was led to believe the plane had crashed or was in trouble. House Majority Leader Tom DeLay has also been accused of being involved in contacting AMICC as well as placing calls to the FAA asking for the location of Laney's plane. State police were also sent on a manhunt in order to locate the missing Democrats and bring them back to the capitol.

In an extremely troubling effort to assure secrecy and avoid accountability, all documents and communications held by the Texas DPS were ordered destroyed shortly before the Texas Democrats returned to the state. A grand jury in Travis County is examining the destruction of state documents addressing the state police manhunt that took place to locate the absent members. The FAA is also reviewing whether it was acting inappropriately by assisting DeLay in searching for the plane.

The calls placed to the AMICC, however, are recorded on tape and are in the possession of DHS. Democrats, led by Rep. Jim Turner (D-TX), are requesting tapes of the conversations in order to ascertain what exactly was said during the phone calls, and if, in fact, the AMICC was misled into using federal resources to aid Texas Republicans. DHS has refused to release the tapes and has said an internal inquiry is being conducted on the matter.

Those within the agency as well as White House spokespersons have dodged questions about the abuse of DHS resources for unrelated issues. The reluctance of DHS to release the tapes, some of which have already been released to the media, is quite troubling. DHS, which was created only last November, is already reflecting the Administration's affinity for secrecy. The department's recent actions not only deprive useful information with which to objectively evaluate the agency's actions, but also set a poor precedent for how forthcoming the agency will likely be in the future. DHS was created to protect the nation from further terrorist attacks and help ensure a safe country. An atmosphere of secrecy, however, is counterproductive to those ends since it has been proven that information sharing and openness are vital in the efforts to create a more secure country and stop terrorism.

Supreme Court Refuses to Resolve Deportation Secrecy

On May 27, 2003 the Supreme Court refused to hear a case challenging the blanket secrecy of deportation hearings held for hundreds of foreigners detained after the September 11th attacks.

The government ordered all immigration hearings closed for foreigners that were deemed "special interest" because of possible terrorist connections. This policy was challenged in two different circuit courts with two different rulings.

In the 3rd Circuit Court, the challenge was denied and the government's policy of secrecy was upheld. The 6th Circuit Court, however, ruled that the government could only close deportation hearings if they established the need for each individual case.

The New Jersey newspapers, which brought the 3rd Circuit case, were appealing to the Supreme Court. Considering the split in circuit court decisions, the case seemed likely to be taken up by the Supreme Court. While the court did not hear the case or decide in the government's favor, the court's refusal to act is victory for the administration's policy of broad secrecy.

NRC Secrecy Unlikely to Lead to Security for Neighbors

While the Nuclear Regulatory Commission (NRC) has issued new security standards for nuclear power plants defending against terrorist attacks, residents near these plants are unlikely to even be aware of them. The standards have been developed without the consultation of key groups, and most of the new rules are not being made public.

One of the most important pieces of the government's antiterrorism effort is the "design basis threat," rules outlining the most likely terrorist attacks that can occur against reactors. Even the non-classified portions of the design basis threat are being kept secret. This level of secrecy removes accountability and scrutiny from an industry that has a poor track for effectively addressing security and safety concerns, which in turn renders their new security standards extremely suspect.

The energy industry and government agencies have long been wary of imposing security standards on nuclear plants, deeming them costly and burdensome. Groups such as the Nuclear Control Institute and the Committee to Bridge the Gap have argued for decades that the nuclear industry's rules addressing attacks were very narrow in scope. In 1985, rules required utilities to prepare only against terrorists using handheld weapons; nothing addressed trucks or planes. After the 1994 World Trade Center bombing, NRC did realize truck bombs posed a threat to security, but any changes in security policies were kept secret.

Post September 11th, the glaring need for changes to the design basis threat could not be ignored. However, groups that had long-argued for higher safety measures and consistently pointed out flaws in policy were excluded from the table. This left the decisions up to an industry who consistently fails half of the mock attacks which they set up for themselves, most of the time with notice of the test months in advance. The industry reportedly continues to rely on a false hope that advance warning will be received before an attack. At the same time, they consistently fail to defend against even pre-warned test attacks. Apparently, even today, the industry continues to believe attacks would not likely come from the air.

The secrecy of the new security standards allows the nuclear industry to continue to believe they are invulnerable, as the public cannot scrutinize the plans and say otherwise. It prevents outside groups, and communities who are near nuclear

facilities from leaning about the vulnerabilities that exist in facilities and what security measures are in place. Without access to this information the industry will remain unaccountable to the public and there can be no push to make the facilities safer and less prone to attack.

Several States Rushing to Close Openness Laws

Open-government laws continue to face threats from limits on access to information for the second year in a row. Last year, 21 states passed measures to limit public access to information that was deemed sensitive. This year, 15 states have considered similar legislation, with 5 states passing laws that restrict public access to documents or meetings.

Civil libertarians, news media, and public interest groups are concerned that this type of legislation would restrict access to much more than security information. Wanda Cash, president of the Freedom of Information Foundation of Texas believes “there’s just too much of an assault on our freedoms, and on our access to government, and on the accountability of government.”

State proposals under consideration include:

- A bill in Ohio that would allow the state health director to hide records from state disease and illness investigations.
- A Nevada proposal that would permit the governor to keep documents relating to terrorist prevention and response plans secret.
- Vermont has a proposal that would restrict public access to architects’ plans for buildings.

Even though many of these proposals will not increase citizen’s safety they remain difficult to counter and defeat. Last year in Arkansas, Republican Governor Mike Huckabee opposed legislation that would make a list of materials, including threat assessments and training plans secret. This year, the state’s police chiefs got the law passed. Right-to-know advocates are attempting to work out compromises with state legislators, but will continue to face tough challenges as these measures surface.

DOJ Whistleblower on Terrorist Case Still Paying

Jesselyn Radack, a lawyer who worked in the Justice Department’s Professional Responsibility Advisory Office, is without a job and at the center of a debate over legal ethics in a high profile terrorist case. Radack provided legal advice to the FBI on the possible interrogation of John Walker Lindh, the American who was captured in Afghanistan after joining with the Taliban.

In her analysis of the law, she advised the FBI not to question Lindh without his defense lawyer present. This advice was ignored and the FBI interviews produced incriminating statements that allowed prosecutors to secure a guilty plea. Lindh was sentenced to 20 years in prison for aiding the Taliban.

Radack has maintained that Justice Department Officials have attempted to conceal her e-mail messages to the FBI from the court and that she was pressured to resign for having written them. When excerpts of her internal emails eventually appeared in the media, the Justice Department opened an investigation to determine if she had leaked them. Radack also claims that the firm that hired her after she resigned from the Justice Department placed her on leave once she invoked her status as a whistleblower under the Whistleblower Protection Act.

The case may well be a tough test of whistleblower protections. Radack violated attorney-client privilege in a high profile terrorism case in order to reveal what she believed was an attempt to suppress legitimate legal debate and subvert due process. Radack’s claims have forced the Justice Department to initiate an investigation of the possible concealment of documents and retaliation on Radack. The investigation will be handled by Radack’s old office, the Office of Professional Responsibility.

Senate Democrats, especially Sen. Edward Kennedy (D-MA), repeatedly brought up the whistleblower matter during Michael Chertoff’s confirmation hearings for the U.S. Court of Appeals. Chertoff, a leading Justice Department official, has defended the department of Justice’s right to interrogate Lindh without a lawyer.

Study on Effectiveness of Faith-Based Services Shows Little Difference

Ever since President Bush announced his faith-based initiative in January 2001, the administration has claimed faith-based programs are more effective than secular programs, but most of the evidence has been anecdotal. That has now changed, with publication of a study by Indiana University and Purdue University comparing results of faith-based and secular job training programs.

The study found no difference in the job placement rate or starting pay for people in the two types of programs. However, participants in the faith-based programs worked fewer hours and were less likely to have health insurance.

The study examined a sample of 2,830 people in 27 job training programs in two Indiana cities -- Indianapolis and Gary. It was based on statistics reported to the state for two years from the 11 religious and 16 secular programs studied.

The study also surveyed congregational leaders interested in seeking government grants, and found that 67% did not know that government funds cannot be used to support prayer and bible study in programs. The authors said "constitutional instruction" are needed to ensure programs are conducted in a constitutionally appropriate manner.

Similar studies are now underway for substance abuse programs in Washington state, housing for homeless families in Michigan and parenting programs in Mississippi. The research is being coordinated by the Roundtable on Religion and Social Policy.

Sen. Kennedy Condemns Restrictions on Legal Services

Every year the federal appropriations for legal services carries a rider imposing a host of restrictions on legal services grantees, including an extension of these restrictions to funds from other sources. On May 19, Sen. Edward Kennedy (D-MA) made a statement in the Congressional Record condemning the restrictions, noting that the "results have been devastating." (See 149 Cong. Rec. S6598-03).

Legal aid programs that wish to spend private dollars on class action lawsuits, lobby, comment on proposed regulations or represent certain types of clients, such as prisoners or certain immigrants, must set up physically separate offices with separate staff. Senator Kennedy called this practice inconsistent with the President's faith-based initiative, since regulations and Executive Orders issued by the administration allow religious organizations to carry on federally funded programs in the same facility and staff used for their private religious activities.

The Bush administration is defending the legal services restrictions in a lawsuit (*Dobbins v. Legal Services Corporation*) brought by the Brennan Center for Justice, which is representing legal services programs in New York City that claim the extra expense of physically separate facilities is resulting in wasted resources and services for fewer clients. The rationale given by the administration for the restrictions is that allowing private dollar activities to take place in the same facility as government funded activity would amount to an indirect subsidy of the private effort. However, in the faith-based initiative the administration has argued the exact opposite, claiming that grants to religious organizations do not constitute a subsidy for religion if government funded services are offered at a separate time and place from religious services, even within the same facility.

For more information on the Dobbins case see OMB Watch's Court Hears Arguments in Challenge to Legal Aid Restrictions.

New Forest Rules to Increase Logging, Limit Public Participation

The Bush administration recently finalized standards that will allow more forest-thinning projects to evade the established environmental review process, including public appeals -- likely accelerating logging in forests.

These changes, part of the administration's misleadingly labeled "Healthy Forest Initiative," allow timber projects to eschew environmental assessments and impact statements -- normally required under the National Environmental Policy Act. The new standards also exempt Forest Service decisions from administrative appeals and limit judicial appeals, prohibiting temporary restraining orders and preliminary injunctions.

The administration has claimed that public appeals have delayed fire prevention efforts, yet a recent report by the Government Accounting Office found that 75 percent of forest projects in the past two years moved forward unchallenged.

"This clears the way for the timber industry and its friends in government to loot public forests and pocket the proceeds, free from public input or environmental review," said Amy Mall, a forest and land specialist at the Natural Resources Defense Council. "Make no mistake -- this is not about healthy forests. It's about healthy profits for campaign contributors and healthy budgets for bureaucrats."

House, Senate Approve Military Exemptions from Environmental Laws

The House recently approved two of five exemptions from environmental laws sought by the Pentagon while the Senate approved just one.

As OMB Watch previously reported, the Pentagon -- claiming that military readiness has been adversely impacted -- pushed for military exemptions from the Endangered Species Act (ESA); the Marine Mammal Protection Act (MMPA); the Clean Air Act (CAA); the Comprehensive Environmental Restoration, Compensation, and Liability Act (CERCLA); and the Resource Conservation and Recovery Act (RCRA).

Both the House and Senate approved the ESA exemption, which would prevent "critical habitat" designations -- used to protect and recover endangered species -- from being applied to Defense Department lands, so long as they have a Resource Management Plan for handling fish and wildlife habitats. "These management plans have failed to provide adequate protection for endangered species and therefore are not a substitute for critical habitat designations," according to the Natural Resources Defense Council. The Senate included an amendment -- put forth by Sen. Frank Lautenberg (D-NJ) -- restricting the application of this exemption by requiring written approval from the Secretary of the Interior on a case-by-case basis.

The House also approved the MMPA exemption -- narrowing the definition of harassment to legalize activities that could potentially harm marine mammals. (For more detail on these exemptions, see NRDC's backgrounder.)

House and Senate conferees now must meet to reconcile the differences between the two bills.

Graham Urges Revision of Food Pyramid

John Graham, administrator of OMB's Office of Information and Regulatory Affairs, is urging the departments of Agriculture and Health and Human Services to revise dietary guidelines and the food pyramid to reflect the dangers of trans fatty acids (found in margarine, salad dressings and baked goods) and the benefits of omega-3 fatty acids (found in fish, flaxseed and canola oil).

In a "prompt letter" sent on May 27, Graham wrote, "Given the wide reach of the federal nutrition guidelines, we believe that good nutrition habits fostered by improved information on the links between diet and health will have a significant health impact, especially in reducing heart disease. Coronary heart disease (CHD) is our nation's largest cause of premature death for both men and women, killing over 500,000 Americans each year. Even a modest improvement in dietary habits may lead to significant reductions in the number of premature deaths from CHD."

The letter is specifically directed at the Dietary Guidelines for Americans, which are used by the school lunch program, and the Food Guide Pyramid, which recommends daily food choices. Agriculture and HHS are currently in the process of revising the guidelines, which is scheduled for completion in 2005. The food pyramid, which is based on the guidelines, has not been updated since 1992.

Graham previously sent another prompt letter on Sept. 18, 2001, asking that the Food and Drug Administration (FDA) give priority to a new rule that would require labeling for trans fats in food products. FDA expects to issue a final rule by September.

In year's past, OIRA has performed mainly a review function, acting as a clearinghouse for agency regulatory proposals and collections of information (such as tax forms or industrial emissions reports). Graham began sending "prompt" letters as part of his overall effort to exercise more upfront influence.

By themselves, none of these letters is truly harmful, and in fact, some may be helpful. However, it raises the question of the proper role for OIRA. OIRA has -- for good reason -- never before attempted to prioritize for agencies, which unlike OIRA, are statutorily charged with protecting health, safety, and the environment. OIRA has little scientific expertise on staff (and as explained here, had none until recently) and lacks the resources and procedural mechanisms to guarantee public involvement in such important decisions.

OSHA Drops Plans to Issue Tuberculosis Standard

The Occupational Safety and Health Administration (OSHA) recently announced its intent to abandon a rulemaking that would protect workers from tuberculosis (TB) -- a contagious and potentially lethal airborne disease.

OSHA first proposed tuberculosis standards in October of 1997 and has sought public comment on the issue a number of times in recent years -- but has failed to issue a final rule. Meanwhile, the number of TB cases increased in 20 states between 2000 and 2001, according to the American Federation of State, County and Municipal Employees (AFSCME).

In its most recent regulatory agenda, which describes anticipated actions, OSHA indicates that it does not plan to move forward with the TB measures despite the fact that the disease continues to pose a threat to workers.

The proposed standards would have required employers to protect workers from TB in hospitals, homeless shelters, nursing homes and other high-risk facilities, through the use of specially ventilated isolation rooms and other airborne disease control measures. Such requirements would also provide protection against Severe Acute Respiratory Syndrome (SARS).

"As health care workers prepare for potentially fatal diseases such as SARS and the government's bio-terrorism warnings, now is not the time to roll back on TB regulatory actions that could reduce the risk of exposure to workers and patients," according to AFL-CIO President John Sweeney.

National Security Agency's FOIA Exemption Moves Through Congress

Two dozen public interest and journalism groups objected to provisions in defense and intelligence authorization bills that would expand the zone of secrecy around the federal government's intelligence-gathering operations.

The National Security Agency is seeking an blanket exemption for "operational files" from search, review and disclosure provisions of the Freedom of Information Act (FOIA).

In an example of "exemption envy," in one observer's words, the NSA is using an exemption specifically crafted for the Central Intelligence Agency as a model to further veil its operations out of the public eye. In the letter to members of Congress, the two dozen groups representing newspaper editors, reporters, historians, good government groups, and privacy and environmental advocates noted that NSA had not substantiated their claim that further exemptions from FOIA were needed.

FOIA already allows information to be withheld from the public out of concern for national security, foreign relations, and sources and methods of intelligence-gathering.

The language is contained in the defense authorization bills in both the House (S. 1050, Sec. 1035).

Ohio Attack on E-Gov: Update

Public reaction and government employees' concern appear to have halted a proposed prohibition on Ohio government actions that could be perceived as competitive with the private sector.

The provision would have prohibited that state's government agencies from providing information or services electronically to the public if the actions could be perceived as competitive with two or more commercial services providing similar services.

As we reported previously in the Watcher (see "ALEC-backed Attack on E-Gov't Move in States," May 5, 2003, Vol. 3, No. 4), the provision was moving through the Ohio legislature and was attached to a state budget bill (House Bill 95). Similar anti-competition bills were moving through the state legislatures of Massachusetts, South Carolina, and Rhode Island. Having passed in the Ohio House of Representatives and under consideration as part of the must-pass operating budget bill in the state's Senate, the Ohio proposal had come the closest to becoming law.

The anti-competition provision came under attack from a broad array of groups, including the American Association of Law Libraries, American Library Association, American Society of Newspaper Editors, Association of Research Libraries, Environmental Defense, Ohio Public Interest Research Group, OMB Watch, People For the American Way, Project On Government Oversight, and the Reporters Committee for Freedom of the Press.

The provision was originally introduced in the Ohio House as House Bill 145.

1742 Connecticut Avenue, N.W., Washington, D.C. 20009
202-234-8494 (phone)
202-234-8584 (fax)
ombwatch@ombwatch.org