



SMALL BUSINESS  
LEGISLATIVE  
COUNCIL

# SBLC REPORT

September 23, 2013

Volume XIV Issue 23

## **DEFUNDING HEALTH CARE REFORM**

In the land of real and manufactured crises known as Washington D.C., funding the government for the fiscal year by October 1st or facing a government shutdown falls into the category of real. In recent years, Congress has not been able to fund the government through the “regular order,” which is the passage of several appropriations bills by that date. It has had to resort to what are known as “continuing resolutions” (CRs) which ostensibly (more on that in that below) fund the government at the same level as the previous fiscal year.

One can set any time limit up to the next fiscal year for a continuing resolution. It could be days or months. We have seen our share of both. But one fact remains absolute. If you do not pass the appropriations bills or a CR by September 30th, the government shuts down. (Well, not exactly, there are certain things that continue like the military and social security checks, but the absolute is as close as we can come to absolute in Washington.)

The House of Representatives has passed a CR that would fund the government through December

15th. The Senate will consider it this week. Almost everyone expects that we will have more to the story this week. The reason is that the House included a provision to “defund” health care reform and the Senate is expected to strip out the provision and pass a “clean CR.”

The language in the CR “defunding” health care reform prohibits agencies from using funds to do things related to the health care reform. No small trick since there are employees who have responsibilities that include health care reform but not exclusively. But the prohibition gets the point across.

Ever wonder how something like that reads? Well, here you go:

*“ Sec. 137. (a) In General- Notwithstanding any other provision of law, no Federal funds shall be made available to carry out any provisions of the Patient Protection and Affordable Care Act (Public Law 111-148) or title I and subtitle B of title II of the Health Care and Education Reconciliation Act of 2010 (Public Law 111-152), or of the amendments made by either such Act.*

*“(b) Limitation- No entitlement to benefits under any provision of the Patient Protection and Affordable Care Act (Public Law 111-148) or title*

*I and subtitle B of title II of the Health Care and Education Reconciliation Act of 2010 (Public Law 111-152), or the amendments made by either such Act, shall remain in effect on and after the date of the enactment of this joint resolution, nor shall any payment be awarded, owed, or made to any State, District, or territory under any such provision.*

*“(c) Unobligated Balances- Notwithstanding any other provision of law, all unobligated balances available under the provisions of law referred to in subsection (a) are hereby rescinded.”*

When you read the general press stories, you will hear the term “a clean CR” meaning one that does not have any extraneous matters attached to it. Rare are those that are truly clean (just like a government shutdown is not exactly a complete shutdown) and putting aside the health care reform language, the House-passed CR is another example of a not so clean CR. The legislation includes a handful or two of provisions that allow for additional funding over and above what was being spent last year. This is not to suggest this is a bad thing. To the contrary, there are compelling reasons for most. For example:

*“Sec. 126. In addition to the amount otherwise provided by section 101 for `Department of the Interior--*

*Department-wide Programs-- Wildland Fire Management', there is appropriated \$36,000,000 for an additional amount for fiscal year 2014, to remain available until expended, for urgent wildland fire suppression activities: Provided, That of the funds provided, \$15,000,000 is for burned area rehabilitation: Provided further, That such funds shall only become available if funds previously provided for wildland fire suppression will be exhausted imminently and the Secretary of the Interior notifies the Committees on Appropriations of the House of Representatives and the Senate in writing of the need for these additional funds: Provided further, That such funds are also available for transfer to other appropriations accounts to repay amounts previously transferred for wildfire suppression."*

The Senate will probably have its own ideas as to what constitutes a "clean CR." We will see where this ends up.

### ***DEBT CEILING***

The discussion on the CR is, for the most part, unrelated to the next crisis, which has a softer but nevertheless important deadline: increasing the government's borrowing limit. (For a technical explanation of that concept, see the SBLC Report dated 08-26-13)

We anticipate another effort to "defund" health care reform or delay the individual mandate, some motivational triggers for tax reform and entitlements reform and a few other items in the debt ceiling increase legislation. The exact timing of the push for this legislation remains soft but at the outside, we are looking at about six to eight weeks.