



2009 One Voice Year-End Advocacy Review

On behalf of NTMA and PMA member companies and the metalworking industry, The Franklin Partnership (the One Voice lobbying firm) held hundreds of meetings in 2009 on Capitol Hill, with the Administration and with outside groups. While the year began focusing on currency manipulation and the Employee Free Choice Act, health care, taxes and climate change dominated the agenda in the last few weeks of the year.

Washington Snapshot:

• **Health Care Passes House, Senate**

- o Issues: Whether to include a public option and how to pay for reform
- o House and Senate to reconcile differences in January

• **Tax Relief Passed; Increases Planned**

- o Secured Net Operating Loss expansion
- o Estate tax resolution delayed
- o Bonus depreciation; Section 179 expensing; R&D tax credit extensions pass House, pending in Senate
- o Section 199 Domestic Production Credit increases to 9 percent in 2010

• **Government Trying to Improve Access to Credit**

• **Labor Law Reform**

- o Card check successfully delayed
- o Paid sick leave/FMLA expansion bill introduced
- o Extension of COBRA benefits and subsidies

• **Climate Change Stalls**

- o Bill passes House; slows in Senate/Copenhagen Summit
- o EPA trying to preempt Congress and set Green House Gas emissions rule

• **Trade Enforcement**

- o Currency manipulation bill pending
- o Obama actions against China

Health Care Passes House, Senate

The U.S. Senate version of the health care bill remains the center of the debate as they negotiate a deal with the House. The nearly \$900 billion Senate measure does not contain a public option but calls on a federal agency to run a national plan through private insurance companies. During the weeks of prolonged negotiations within the Senate Democratic Party, One Voice members sent hundreds of letters and e-mails to their Senators urging them to oppose the bill's new taxes on small businesses. The Franklin Partnership also helped design and place a full-page advertisement that ran in a Capitol Hill newspaper, calling attention to increased taxes and reduced coverage for small businesses.

Although the Senate bill does index a \$2,500 cap on Flexible Spending Accounts (FSAs) to inflation, it increases the Medicare portion of the payroll tax from 0.5 percent to 0.9 percent on couples with

more than \$250,000 in wages (\$200,000 for individuals). In addition, it would increase the previously negotiated industry taxes on the medical device sector from \$2 billion per year to \$3 billion, starting in 2018. It does phase in one year earlier, beginning in 2010, implementation of the 6-yr. small-business tax credit available on a sliding scale to those with fewer than 25 employees and average annual wages of less than \$50,000. The full credit is available to employers with 10 or fewer employees and average annual wages of less than \$25,000. The Senate bill also applies indirect increases on small businesses, of which 87 percent purchase fully insured plans. A \$6.7 billion tax is placed on insurance providers but exempts the self-insured, which are predominantly large employers. Therefore, the insurer can either absorb the tax or pass it along to its customers who purchase fully insured plans (i.e., small businesses), a point One Voice continues to make.

Democrats to Bypass Conference

House and Senate Democratic leaders are negotiating a compromise that can still hold the 60 Senate votes required for passage in that Chamber. Two key differences between the House and Senate bills are the inclusion of a public option in the House bill and how “reform” is paid for – tax increases, cuts in care, etc. The Senate pays for some of the measure with a 40 percent excise tax on any health insurance plan that annually costs more than \$8,500 for singles and \$23,000 for family plans (HSAs, FSAs, etc. count towards the total cost). The House bill instead applies a surtax on adjusted gross income of individuals who earn more than \$500,000 and married couples who earn more than \$1 million.

Tax Relief Passed; Increases Planned

NOL Relief Expansion - One Voice remained extremely active since the beginning of the year working with lawmakers to expand the Net Operating Loss provision. The final provision negotiated with the Senate Finance Committee on Oct. 23 was signed by the President in November and enables unprofitable companies to obtain immediate cash refunds on taxes they paid over the prior five years, instead of the usual two years for the tax period 2008 or 2009 (not both), with a 50 percent haircut in the fifth year (that 50 percent will carry forward to future tax years). Current law included in the stimulus bill only allowed for losses incurred in 2008; the new language we included covers 2009. One Voice members sent more than 100 letters to Capitol Hill in less than 24 hours, calling on Congress to extend this tax provision to help small and medium-sized manufacturers.

Estate Tax Relief - Congress has yet to finalize action on the estate tax. The House passed a bill exempting estates up to \$3.5 million per individual (\$7 million per couple) and taxing others at the current rate of 45 percent. The Senate is poised to act in the first few months of 2010, with most in the business community pushing an exemption of \$5 million per individual (\$10 million per couple) at a 35 percent tax rate. Without a passed compromise, the estate tax would expire for a year in 2010, but under current law, the tax snaps back to 55 percent in 2011.

R&D Credit Extension - The House extended the Research and Development credit for one year (through 2010), making it the 14th time Congress has had to extend the provision. The Senate has yet to act but will likely make the credit retroactive as it has in the past.

Bonus Depreciation/179 Expensing – The House passed, and the Senate is considering, a provision to allow a 50 percent bonus depreciation for equipment that costs more than \$250,000. One Voice also is working on an extension of 170 Expensing to allow full deduction of property purchases.

Tax Increases – One Voice continues to fight against tax increases, particularly those on small businesses. Washington will likely try to increase the individual income tax rate, which is a tax hike on Subchapter S and other partnerships.

199 Domestic Production Credit – In 2010, One Voice will continue to protect the Section 199 Domestic Production Credit, which is set to increase to nine percent in 2010. Some in Congress

want to eliminate this manufacturing credit to help pay for priorities such as health care.

Government Trying to Improve Access to Credit

One Voice members continue to report challenges accessing credit as lenders clearly are discriminating against manufacturers, particularly automotive suppliers. The Franklin Partnership (TFP) arranged for NTMA Chairman Ron Overton to have a seat at the table when he testified before a House of Representatives Committee investigating access to credit for manufacturers. Following extensive research with One Voice members and other metalworking companies, TFP drafted several proposals to improve traditional lending opportunities and to open up access to capital for SMMs. Secretary of Commerce Gary Locke has received this document via the Commerce Department's Manufacturing Council and has directly discussed our proposals with the Senior Counselor for Manufacturing Policy, Ron Bloom, and the White House. President Obama recently announced additional steps to increase lending to small businesses through, in part, no interest or processing fees. The President also has held numerous public summits and meetings to improve access to sufficient and timely credit.

Labor Law Reform

Card Check Bill - Tremendous pressure on several moderate Democratic Senators by groups such as One Voice stopped Big Labor's efforts to pass the Employee Free Choice Act (card check) this calendar year. Although Sens. Arlen Specter (D-PA) and Tom Harkin (D-IA) are publicly stating there is a compromise that can attract the required 60 votes, Senate sources recently told The Franklin Partnership that they remain a couple votes shy. Despite Labor's newfound willingness to negotiate, groups such as One Voice remain committed to defeating what many call the "Employee Forced Choice Act" and other measures that strengthen unions but not workers. For at least one more year, we succeeded in defeating the card check bill, but we will have a tougher time in the coming election year.

Paid Sick Leave/FMLA Expansion Bills – Although the Department of Labor's agenda includes more than 90 regulations and labor reforms, Congress continues to press forward with expansion of labor laws including mandating seven days of paid sick leave. One Voice also is fighting against the RESPECT Act, which modifies the definition of a supervisor to make 8 million more workers eligible to unionize.

COBRA Extension II – The President signed a new law that extends the eligibility to sign up for COBRA benefits through the end of February. It also adds six months of subsidies, extending coverage assistance for a total of 15 months as a follow up from the extension of benefits under the stimulus bill.

Climate Change Stalls

House Passes Bill; Senate Stalls - Throughout the Fall, One Voice continued to meet with U.S. Senators from manufacturing states, 10 of which remain the major holdouts on moving a climate change bill forward. Concerns of industry and these Senators delayed Senate action beyond the self-imposed U.N. Climate Change Conference that concluded in mid-December. Supporters of a bill will regroup early in 2010, but it remains unclear how much momentum is available to pass a bill in the election year in the face of opposition from Midwestern Senators.

EPA GHG Rule – Faced with a court-imposed deadline and continued delays on Capitol Hill, the Environmental Protection Agency took steps to implement a rule regulating greenhouse-gas (GHG) emissions. Under this rule, facilities such as manufacturing plants, power plants and refineries would be required to obtain construction and operating permits that demonstrate that they are using the best practices and technologies to minimize GHG emissions. It also establishes a process whereby EPA immediately begins to consider regulation of smaller sources.

Trade Enforcement

Currency Manipulation Bill Pending – One Voice continues to work with Reps. Tim Ryan (D-OH) and Tim Murphy (R-PA) to force China and other countries to stop manipulating their currency. Vice President Joe Biden and White House economic advisor Larry Summers specifically refer to China's continued currency manipulation as an unfair advantage that needs correcting.

China Tire Case - The President, in his first major trade policy decision, announced that the United States would levy tariffs of up to 35 percent on tires from China due to a surge in imports. In retaliation, China announced its own antidumping investigations into American automotive exports and chicken products. One Voice is urging the Administration to address other trade issues important to members like currency manipulation and intellectual property enforcement.

Congressman Drafting Metalworking Manufacturing Bill

Following several months of working with representatives and members of One Voice, Rep. Chris Murphy (D-CT) is close to introducing legislation to support metalworking industries. Specifically, his bill will:

- Assist metalworking companies with large purchases, such as equipment, that are essential to day-to-day operations by offering no-interest loans up to \$3 million;
- Encourage banks to lend to metalworking manufacturers by expanding and improving the Small Business Administration's America's Recovery Capital Loan program, which provides loans to help companies meet payments on existing debt;
- Incentivize businesses by providing tax credits for manufacturers and companies that subcontract with American metalworking manufacturers;
- Help free up the books of metalworking companies by encouraging third-party purchase of outstanding customer invoices, giving manufacturers the choice of earning interest on owed payments or having access to immediate cash flow for daily expenses; and
- Encourage innovation and long-term stability by authorizing grants to nonprofit foundations to support metalworking manufacturing companies in their identification of and diversification to new markets and technologies; exploration of export opportunities; and skills training and research activities.