



Legislative Bulletin..... October 29, 2013

Contents:

- H.R. 2374** – Retail Investor Protection Act
- H.R. 2640** - Central Oregon Jobs and Water Security Act
- H.R. 623** - Alaska Native Tribal Health Consortium Land Transfer Act
- H.R. 330** - Distinguished Flying Cross National Memorial Act
- H.R. 2337** - Lake Hill Administrative Site Affordable Housing Act

H.R. 2374 — Retail Investor Protection Act (Wagner, R-MO)

Order of Business: The House Committee on Rules will consider H.R. 2374 on Monday, October 28, 2013, at 5 P.M. The amendment deadline for this bill was Monday, September 30, 2013. Three amendments were filed. Information about the amendments can be found on the Committee’s website [here](#). This bill will be considered on [Tuesday, October 29, 2013](#), possibly subject to a structured rule.

Summary: [H.R. 2374](#) prevents the Secretary of Labor from issuing new regulations under the Employee Retirement Income Security Act of 1974 (ERISA) that define when an individual can be considered a “fiduciary” until 60 days after the Securities and Exchange Commission (SEC) issues any rules regarding fiduciary standards using permissive authority granted to it under Dodd-Frank. The legislation would also require the SEC to identify whether the adoption of a fiduciary standard for brokers would curtail investor access to financial products and advice. The SEC would also be required to identify whether investors are actually being harmed due to brokers operating under a different regulatory regime than investment advisers.

Additional Background: The SEC currently has rules that define the fiduciary responsibilities of investment advisers. Dodd-Frank allows but does not require the SEC to issue a “uniform fiduciary standard” for brokers and investment advisers as well. In 2010, the Department of Labor (DOL) proposed a regulation regarding who would be considered a fiduciary under ERISA. The original proposal was withdrawn after widespread opposition; however the DOL is likely to re-propose a rule as soon as early 2014. This legislation would help ensure that the DOL and SEC do not issue conflicting rules that will be costly and confusing to comply with.

Committee Action: H.R. 2374 was introduced on June 14, 2013, and referred to the House Committee on Financial Services. On June 19, 2013, the bill was favorably reported by the Committee on Financial Services by a [vote of 44-13](#). On September 25, 2013, the Committee on Education and the Workforce discharged the bill.

Outside Groups: The U.S. Chamber of Commerce is “Key Voting” a vote in favor of this bill.

The following other groups have expressed support for the bill:

- National Association of Plan Advisors
- Independent Insurance Agents & Brokers of America, Inc.
- Association for Advanced Life Underwriting

Administration Position: The Office of Management and Budget issued Statement of Administration Policy with a veto recommendation against the bill.

Cost to Taxpayers: According to the Congressional Budget Office [cost estimate](#) “implementing H.R. 2374 would not have a significant effect on federal spending” and “would not significantly change the SEC’s [Securities and Exchange Commission’s] workload.”

Does the Bill Expand the Size and Scope of the Federal Government?: No.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: No.

Does the Bill Contain Any Federal Encroachment into State or Local Authority in Potential Violation of the 10th Amendment?: No.

Does the Bill Delegate Any Legislative Authority to the Executive Branch?: No.

Does the Bill Contain Any Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: No.

Constitutional Authority: According to the sponsor, “Congress has the power to enact this legislation pursuant to the following: This bill is enacted pursuant to the power granted to Congress under Article I, Section 8, Clause 1 of the United States Constitution: “The Congress shall have Power to lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defense and general Welfare of the United States; but all Duties, Imposts and Excises shall be uniform throughout the United States. Additional authority derives from Article I, Section 8, Clause 3 of the United States Constitution: To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes. Additional authority derives from Article I, Section 8, Clause 18 of the United States Constitution: “To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof.” Congresswoman Wagner’s statement in the Congressional Record can be viewed [here](#).

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H.R. 2640 - Central Oregon Jobs and Water Security Act (Walden, R-OR)

Order of Business: The bill is scheduled to be considered on October 29, 2013, under a motion to suspend the rules and pass the bill, which requires a two-thirds vote for passage.

Summary: H.R. 2640 amends the Wild and Scenic Rivers Act to address a 15-mile segment in Crooked, Oregon. The legislation reduces the Wild and Scenic Rivers Act designation to a 14.75 segment, and in the process it directs any hydropower developer within this segment to analyze development impacts.

The legislation increases the minimum amount of water that is to be released from the Crooked River project from ten cubic feet to 17 cubic feet per second. The legislation guarantees up to seven of these 17 cubic feet per second may serve as mitigation for the city of Prineville, Oregon, for groundwater pumping.

The legislation directs the Secretary to store and release certain amounts from the Prineville Reservoir for the purpose of fulfilling existing contracts.

The legislation also allows for landowners within the Ochoco Irrigation District, in Oregon, the ability to repay at any time for the construction costs of the project facilities allocated to that landowner's lands within the district.

Additional Information: Similar legislation, H.R. 2060, passed the 112th Congress on June 5, 2012, by voice vote. The RSC Legislative Bulletin for H.R. 2060 can be [viewed here](#).

Committee Action: H.R. 2640 was introduced on July 10, 2013, and was referred to the Natural Resources Subcommittee on Public Lands and Environmental Regulation, and the Subcommittee on Water and Power. The subcommittees discharged the legislation by unanimous consent. The full committee met on July 24, 2013, and favorably reported the legislation, without amendment, by voice vote.

Administration Position: No Statement of Administration Policy is available.

Cost to Taxpayers: According to House Report 113-224, CBO estimates that enacting H.R. 2640 would have an insignificant impact on direct spending. Under the bill, the City of Prineville would pay for additional water to be released from the Prineville Reservoir, amounting to approximately \$35,000 annually. In addition, the Ochoco Irrigation District may prepay certain construction costs, increasing net receipts to the federal government by less than \$20,000 over 2014-2023.

Does the Bill Expand the Size and Scope of the Federal Government?: No.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: According to House Report 113-224, H.R. 2640 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

Does the Bill Contain Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: The legislation does not contain earmarks, limited tax benefits, or limited tariff benefits.

Constitutional Authority: Rep. Walden states “Congress has the power to enact this legislation pursuant to the following: Article I, Section 8, Clause 14 of the United States Constitution (relating to the power of Congress to make rules for the government and regulation of the land and naval forces), and Article IV, Section 3, Clause 2 (relating to the power of Congress to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States).” The statement can be [found here](#).

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H.R. 623 - Alaska Native Tribal Health Consortium Land Transfer Act (Young, R-AK)

Order of Business: The bill is scheduled to be considered on October 29, 2013, under a motion to suspend the rules and pass the bill, which requires a two-thirds vote for passage.

Summary: H.R. 623 transfers a 2.79 acre parcel of land in Anchorage, Alaska, to the Alaska Native Tribal Health Consortium (ANTHC). This land is currently held by the Secretary of Health and Human Services, and is to be transferred to ANTHC within 90 days of enactment.

The legislation releases ANTHC from all liability for any soil, surface water, groundwater, or other contamination. The legislation allows the Secretary to maintain an easement necessary to satisfy any retained obligation or liability of the Secretary.

Additional Information: The Alaska Native Tribal Health Consortium is a non-profit tribal health organization. More information can be [found here](#). According to House Report 113-248, the land being transferred is currently used for parking for ANTHC and Indian Health Services facilities. The ANTHC plans to use the land to build a patient housing facility.

Congress passed similar legislation, H.R. 443, which transferred land to the Maniilaq Association for health programs during the 112th Congress. The roll call vote for H.R. 443 can be [viewed here](#).

Committee Action: H.R. 623 was introduced on February 12, 2013, and was referred to the Natural Resources Subcommittee on Indian and Alaska Native Affairs, as well as the Energy and Commerce Subcommittee on Health. The Subcommittee on Indian and Alaska Native Affairs discharged the legislation. On July 31, 2013, the full Natural Resources Committee held a markup and favorably reported the legislation, as amended, by unanimous consent.

Administration Position: No Statement of Administration Policy is available.

Cost to Taxpayers: According to House Report 113-248, CBO estimates that enacting H.R. 623 would have no significant impact on the federal budget and would not affect direct spending or revenues.

Does the Bill Expand the Size and Scope of the Federal Government?: No.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: According to House Report 113-248, H.R. 623 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would benefit the ANTHC by changing the method of transferring the property to the consortium. Any costs to the consortium would be incurred voluntarily.

Does the Bill Contain Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: The legislation does not contain earmarks, limited tax benefits, or limited tariff benefits.

Constitutional Authority: Rep. Young states “Congress has the power to enact this legislation pursuant to the following: Article IV, Section 3, Clause 2 and Article 1, Section 8, Clause 3.” The statement can be [found here](#).

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H.R. 330 – Distinguished Flying Cross National Memorial Act (Calvert, R-CA)

Order of Business: [H.R. 330](#) is scheduled to be considered on the floor on October 29, 2013, under a motion to suspend the rules and pass the bill, which requires a two-thirds majority for passage.

Summary: This legislation designates the March Field Air Museum in Riverside, California, as a Distinguished Flying Cross National Memorial. This memorial would not become part of the National Park System. Section 2, Subsection (c) of the bill specifically delineates that the designation as a national memorial “shall not be construed to require or permit federal funds to be expended for any purpose related to the national memorial.”

Additional Background: The March Field Air Museum dedicated a memorial in Riverside, California, on October 27, 2010. This museum was established to honor recipients of the U.S. Air Force's Distinguished Flying Cross, which is awarded to members of the U.S. armed services who have demonstrated “heroism or extraordinary achievement while participating in an aerial flight.” According to the [bill sponsor](#), the March Air Reserve Base “has acted as the first stop for thousands of soldiers, sailors, airmen, and Marines deploying to the Middle East in support of Operation Iraqi Freedom and Operation Enduring Freedom.” This base has also “seen constant service, training pilots and flight crews for service in both World Wars, supporting combat operations in Korea and Vietnam, and serving as a Strategic Air Command base throughout the Cold War.”

Committee Action: H.R. 330 was introduced on January 22, 2013, by Representative Ken Calvert (R-CA). The bill was referred to the Committee on Natural Resources, and within the Committee to the Subcommittee on Public Lands and Environmental Regulation. On April 24, 2013, the Full Natural Resources Committee met to mark-up and consider the bill. The Subcommittee on Public Lands and Environmental Regulation was discharged by unanimous consent. No amendments were offered, and the bill was reported to the House of Representatives by unanimous consent.

Administration Position: No Statement of Administration Policy was available at time of press.

Cost to Taxpayers: The [Congressional Budget Office](#) estimates that implementing H.R. 330 would have no effect on discretionary spending because the proposed memorial would not be constructed or operated with federal funds.

Does the Bill Expand the Size and Scope of the Federal Government? No.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates? The bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

Does the Bill Contain Earmarks/Limited Tax Benefits/Limited Tariff Benefits? No.

Constitutional Authority: The Constitutional Authority Statement accompanying the bill upon introduction states, “Congress has the power to enact this legislation pursuant to the following: The constitutional authority of Congress to enact this legislation is provided by Article I, section 8 of the United States Constitution, specifically clause 18 (relating to the power to make all laws necessary and proper for carrying out the powers vested in Congress).” The Constitutional Authority Statement for this bill can be found [here](#).

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H.R. 2337 - Lake Hill Administrative Site Affordable Housing Act (*Polis, D-CO*)

Order of Business: The bill is scheduled to be considered on October 29, 2013, under a motion to suspend the rules and pass the bill, which requires a two-thirds vote for passage.

Summary: H.R. 2337 directs the Secretary of Agriculture to sell 40 acres of National Forest System land within Summit County, Colorado to the County. The land will be sold at a fair market value, and the County shall be responsible for all processing and transaction costs.

Proceeds from the sale shall be used, without appropriation, for capital improvement and maintenance of specified Forest Service facilities.

Additional Information: The legislation does not specifically include language to require the land to be sold a fair market value. However, the legislation direct the Secretary to use their authority provided within the Forest Service Facility Realignment and Enhancement Act of 2005 (P.L. 109-54) to sell the land, which lays out the procedure for land sells, including the establishment of a fair market value.

Committee Action: H.R. 2337 was introduced on June 12, 2013, and was referred to the Natural Resources Subcommittee on Public Lands and Environmental Regulation. The full committee held a markup on July 24, 2013, and the bill was adopted favorably, without amendment, by unanimous consent.

Administration Position: No Statement of Administration Policy is available.

Cost to Taxpayers: According to House Report 113-196, CBO estimates that implementing the legislation would have a negligible impact on the federal budget. Based on information provided by the Forest Service, CBO estimates that proceeds from the sale of those lands would increase offsetting receipts by about \$5 million.

Does the Bill Expand the Size and Scope of the Federal Government?: No.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: According to House Report 113-196, H.R. 2337 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act.

Does the Bill Contain Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: The legislation does not contain earmarks, limited tax benefits, or limited tariff benefits.

Constitutional Authority: Rep. Polis states “Congress has the power to enact this legislation pursuant to the following: Article I, Section 8, Clause 1 (relating to the power of Congress to provide for the general welfare of the United States) and Clause 18 (relating to the power to make all laws necessary and proper for carrying out the powers vested in Congress) Article IV, Section 3, Clause 2, (relating to the power of Congress to dispose of and make all needful rules and regulations respecting territory or other property belonging to the United States).” The statement can be [found here](#).

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