FPLG
FOR PURPOSE
LAW GROUP

NONPROFITS: LEGISLATION

Critical Days of Action for Nonprofit Sector

09.21.21 | Linda J. Rosenthal, JD

It's crunch time for Congressional action. "Some of the most consequential decisions that every Congress must make are coming due in the next ten days."

These include deadlines to "suspend the debt limit" on federal borrowing to avoid a government shutdown and to pass a "continuing resolution" which is a "stopgap measure to keep the government funded past the September 30 fiscal year end." These ordinarily routine moves have turned into high-stakes games of "chicken" in recent years. This year is no exception.

And now there are also the two substantive financial measures dominating the news cycle and set for imminent showdown: (a) the $1.2 trillion Infrastructure Investment and Jobs Act, H.R. 3684, that passed the Senate in August and is expected to be taken up by the House of Representatives by September 27th; and (b) the proposed $3.5 trillion budget reconciliation bill.

The National Council of Nonprofits announced September 20, 2021, as a national "Day of Action" for the #Relief4Charities agenda, a "specific set of policy asks to address the immediate needs of charitable nonprofits as they provide pandemic relief and recovery." It is an "action alert" on behalf of a "broad national coalition of nonprofit organizations spanning all segments of the charitable community ...."

By the time you read this post, members of the Senate and House of Representatives will hopefully be deluged by communications including tweets like this: "*We urge Congress to pass #Relief4Charities provisions, including supporting nonprofit jobs, extending the Employee Retention Tax Credit, and encouraging charitable giving! These resources will enable nonprofits to meet community needs as we recover from the pandemic. https://bit.ly/relief4charities*."

We can and should, of course, continue these urgent communication efforts throughout this week and for as long as it takes to ensure that the government stays open and has budget authorization extending beyond September 30th, and that the American people are granted the historic financial relief and investment needed in these critical times and for the future.

#Relief4Charities

The "#Relief4Charities" hashtag has been a months'-long effort by the organized nonprofit sector to focus the attention of Congress on the needs of our community generally and on three specific pieces of legislation. The issues are set out in the *Charitable Nonprofits Policy Priorities Letter* dated July 21, 2021, addressed to the President and the Congressional leaders of both parties, and signed by more than 1,200 organizations from all 50 states.

Employee Retention Tax Credit

"The Employee Retention Tax Credit has been a lifeline for nonprofits…." Our sector urges Congress "to extend the ERTC to the 4th quarter of 2021 and beyond to help nonprofits bring employees back to serve our communities."

On September 1, 2021, a 2-page letter titled *Employee Retention Tax Credit and Charitable Nonprofits* was sent to the House and Senate top leadership as well as to the chairs and ranking members of the Senate Finance and the House Ways and Means committees. It was signed by the National Council of Nonprofits, Independent Sector, and some additional 33 prominent charitable organizations around the nation including Catholic Charities USA, Council on Foundations, Jewish Federations of North America, and United Way Worldwide.

This letter referenced the background and success of this existing legislation that has been so critical during the COVID-19 crisis. "Nonprofits are doing everything we can to serve communities across America during the pandemic. As the nation recovers, our sector will play a critical role in rebuilding the economy, restoring livelihoods, and strengthening communities."

Specifically, the request is that Congress "prioritize continued and robust support for the ERTC in the committee markups for budget reconciliation by:

- Allowing charitable nonprofits to access the ERTC during the Fourth Quarter of 2021;
- Extending nonprofit eligibility for the ERTC through 2022 to help ensure a strong economic recovery from the pandemic; and
- Amending the definition of nonprofit 'gross receipts' for the ERTC program to better reflect revenue available to support the work of nonprofits amid the pandemic."

Work Now Act

"Nonprofit employment is down by hundreds of thousands of jobs." The nonprofit community urges Congress to pass the WORK NOW ("Work Opportunities and Resources to Keep Nonprofit Organizations Well") Act, S.740 and H.R. 1987. It will "help nonprofits restore staff, provide jobs, and to help … communities recover from the pandemic."

See NCN's *fact sheet* on the background and details of this proposed legislation. "The broad charitable nonprofit community is united in support of the WORK NOW Act, a targeted pandemic

recovery bill to help organizations retain their employees, scale their service delivery, and put newly unemployed people back to work serving their communities." Signed by over 55 prominent charitable organizations, it urges Congress to include this "targeted pandemic recovery bill" within "any infrastructure legislation adopted in 2021."

Universal Charitable Deduction

A Fact Sheet titled *Universal Charitable Deduction* issued by the Charitable Giving Coalition explains that, in March 2020, Congress passed a welcome $300 charitable deduction for cash gifts from nonitemizers for 2020. The data since then demonstrates that the level of charitable giving, particularly of gifts under the $300 cap, has increased.

This emergency legislation was extended again in December 2020 through 2021 with a jump in the cap to $600 for joint filers.

"Nonprofits stepped up to provide essential services during the pandemic." Our sector now urges Congress to enact the Universal Giving Pandemic Response and Recovery Act (S. 618, H.R. 1704).

This bipartisan legislation will "democratize giving by further incentivizing all American taxpayers—regardless of their income—to give to charity, thereby ensuring that our country retains a strong and independent civil society. It will also provide needed resources for charitable and faith-based organizations to continue providing vital services to families, workers, and communities, especially those critically impacted by the ongoing pandemic."

Social Media Action Tips

In *Making a Day of Action a Day of Reckoning*, the National Council of Nonprofits explains the nature of this "Day of Action."

Because we are continuing to deal with COVID-19 precautions about travel and meeting in person, NCN offers specific tips on how "you, your colleagues, and nonprofits across the country" can "help make some noise."

Conclusion

In a separate action item we explained last month, the United States Department of Education is asking for public comments to straighten out the troubled Public Service Student Loan Forgiveness Act. See *Nonprofits & Student-Loan Forgiveness: Action Needed* (August 24, 2021).

Congress enacted this legislation almost fifteen years ago, intending to help college graduates with burdensome debt loads as well as the nonprofit organizations that would hire these promising young professionals.

There are still a few days before the September 24, 2021, deadline for online submission of comments from the nonprofit sector on how best to proceed to resuscitate and reform this program. The National Council of Nonprofits urges our community to submit as many separate responses as possible.

— Linda J. Rosenthal, J.D., FPLG Information & Research Director