

## **Congressional Closeup** by Carl Osgood

### **Bill to federalize class action passes House**

On Sept. 23, the House passed, by a vote of 222-207, a bill that, under certain circumstances, will require that multi-state class action lawsuits be moved from state court to Federal court. Bob Goodlatte (R-Va.), the lead sponsor of the bill, argued that while class actions are a necessary legal device, they "have been used in increasing frequency and in ways that do not promote the interests they were intended to serve."

Goodlatte said that different class certification standards among the states leads to a situation where a class may be certifiable in one state, but not in another. "This creates potential for abuse of the class-action device," he said. The bill also makes it easier to move a case from state court to Federal court even if the current monetary threshold of \$75,000 in damages per plaintiff is not reached.

John Conyers (D-Mich.) denounced the bill as not the "procedural fix" that its sponsors claim it to be, but rather a bill that rewrites class action rules in a way "that would bar most forms of state class actions." He said that the bill also undercuts the principle of class action, which is a mechanism for bringing to court claims that, on an individual basis, would not be worth the cost of litigating. The bill, Conyers said, "will undercut that important principle by making it far more burdensome, expensive, and time consuming for injured persons to obtain access to justice in the state courts." Only corporate wrongdoers would benefit, he said, especially the tobacco, gun, and managed-care industries.

However, it was not only the provisions of the bill that came under fire from Democrats. "As a result of Congress's increasing propensity to federalize state crimes, and the Senate's unwillingness to confirm judges,"

Conyers said, "the Federal courts are already facing a workload crisis," which would only be aggravated by the bill.

An amendment sponsored by Maxine Waters (D-Calif.) to prevent the bill from taking effect as long as judicial vacancies remain above 3%, was defeated by a vote of 241-185.

### **Fiscal 2000 to begin with stopgap funding**

On Sept. 28, the House and the Senate both passed a continuing resolution which will keep the government operating until Oct. 21. The resolution was needed because only two of 13 appropriations bills (Military Construction and Legislative Branch) have been signed into law.

During the debate, Democrats took potshots at the GOP for its failure to get the job done. In the House, David Obey (D-Wisc.), the ranking member on the House Appropriations Committee, blamed the appropriations logjam on a faction of the Republican caucus that "has decided that they will resist all attachment to reality and they will continue to pursue the idea that somehow, even though they control only one branch of government, they can force their will on all of the branches of government including the President." He called on the GOP leadership to, instead, sit down with President Clinton and work out a deal, which, so far, they have not had the inclination to do.

The Senate sent two more bills to conference prior to the passage of the continuing resolution, the Interior Department bill on Sept. 23, and the Veterans Administration-Housing and Urban Development bill on Sept. 24. Also completed was the Energy and Water Development bill, which passed the Senate on Sept. 28 by a vote

of 96-3, a day after it passed the House by a vote of 327-87. However, President Clinton vetoed the District of Columbia bill on issues unrelated to the funding levels in the bill.

### **Is a deal near on gun control?**

The principals involved in negotiations on gun control provisions in the Juvenile Justice bill, House Judiciary Committee Chairman Henry Hyde (R-Ill.) and ranking member John Conyers (D-Mich.), both expressed optimism that an agreement can be reached on the bill in the near future. The colloquy came on Sept. 22, when Zoe Lofgren (D-Calif.) offered a motion to instruct House conference committee members on the bill.

Lofgren's motion, which was approved by a vote of 307-117 on the following day, instructs conferees to support a bill that includes provisions that tighten background checks at gunshows, does not include provisions that weaken gun safety laws, and includes provisions that aid in the enforcement of current laws respecting the use of guns in the commission of violent crimes. Lofgren urged the members of the House to agree that "we shall not pretend we are making children safer" while at the same time "building in weasel-worded modifiers and exceptions that make the promised protections meaningless."

Hyde complained that the bipartisan bill passed by the House earlier this year was loaded with controversial items, but praised Conyers for having the courage to "seek a meaningful resolution to issues that others would rather exploit." For his part, Conyers added that "the possibility of reaching a bipartisan agreement on reasonable and common sense gun safety legislation is good."