Greenberg Traurig

Memorandum

TO: Miami-Dade Board of County Commissioners

FROM: Greenberg Traurig

DATE: October 11, 2011

RE: September Report to the Board of County Commissioners

Below please find a summary of Greenberg Traurig's efforts on behalf of Miami-Dade County in September.

Overview of Legislative Activity in September

Following the August recess, Members returned to Capitol Hill to address several pressing issues. Congress immediately began work on a continuing resolution because none of the annual appropriations bills were passed and October would mark the end of the fiscal year. Additionally, Congress was forced to craft and pass extensions for the SAFTEA-LU and the FAA authorization. Prior to adjourning for the August recess, Congress let the FAA authorization expire. The expiration resulted in the loss of hundreds of millions in federal revenue and political backlash for both parties in both chambers. As explained in more detail below, Congress was able to pass all three bills despite continued partisan confrontations.

For his part, President Barack Obama kicked off the month of September with an address to a joint session of Congress. Although the President and House Republican leadership quibbled over a date for the speech, the President was able to use the speech to lay out his new plan to add jobs to the US economy. Following the speech, the President provided Congress with a detailed plan for creating jobs. The plan was highly controversial and opposed by Republicans in both chambers. The President spent the remainder of the month traveling the country to promote his proposal and build popular support. A copy of the GT analysis of the President's plan is attached at the end of this memorandum.

Appropriations

While the House was able to pass half of its annual appropriations bills, by the beginning of September the Senate had only managed to pass one of its twelve annual appropriations bills. With the expiration of the 2011 fiscal year looming, Congress was forced to pass a continuing resolution to maintain federal funding until the annual appropriations bills can be passed. As with the full year continuing resolution passed in the Spring, conservative House Republicans within the Tea Part sought to extract further cuts in exchange for the extension. Although the government did not go to the brink of a shutdown as it did earlier this year, the negotiations were tense and several Republicans voted against the continuing resolution. The extension gives Congress until November 18th to either pass all twelve appropriations bills or a massive omnibus. Following the passage of the continuing resolution, the Senate began working on its bills in earnest and is currently attempting to pass a series of three bills, each containing multiple appropriations bills. November will likely be a contentious month because in addition to the expiration of the continuing resolution, the Joint Select Committee on Deficit Reduction is statutorily required to release its recommendations on November 23rd. As always, GT continues to track the annual appropriations process and the accounts that are vital to the County.

Aviation

GT has continued to monitor the progress of the FAA authorization. The authorization, which expired for about two weeks in August, was temporarily extended until Congress returned from recess to readdress the issue. The House-Senate dispute resulted in the furlough of some 3,500 FAA employees, the shutdown of airport construction projects employing tens of thousands more and the loss of some $100 million a week in tax revenue. Just prior to the expiration of the extension, Congress acted to extend the current authorization until January 2012. The hope being that the extension will buy Congress time to work out some of the bill's more contentious issues. During September Congress took similar action towards a reauthorization of surface transportation programs. The multi-year transportation funding bill has been in legislative limbo for several years, subjected to an ever growing number of temporary extension. In September, Congress provided yet another extension that will last until March 2012. In the meantime, Members continue to disagree over the size and scope of a new surface transportation authorization as well possible funding sources. Throughout the debate over extensions and during the expiration of the FAA authorization, GT worked with OIA and MIA to ensure that all stakeholders had the most up-to-date information. We will continue to monitor both bills as they are considered over the next several months.

Immigration

Immigration issues continue to be discussed in the shadow of the country's larger economic concerns. Even still, Congress has held several hearings on particular immigration issues. For instance, several members have proposed the creation of a large agricultural worker visa program, which resulted in the introduction of legislation. As we informed the County, the bill would replace the current H-2A visa program, under the Labor Department's jurisdiction, with a new H-2C program administered by the Agriculture Department, which is considered more receptive to the needs of agricultural employers. The new program would be capped at a half-million workers a year, and those workers would not be allowed to bring their families with them. Although the bill was introduced by House Judiciary Committee Chairman Lamar Smith (R-TX), the bill received little support immigration and agricultural advocacy groups. The major concern is that the bill provides no protection for the thousands of agricultural immigrants currently in the country. Another development was the introduction by Chairman Smith of legislation designed to mandate that all employers use the federal E-Verify program. That legislation was ultimately passed by the House Judiciary Committee and is expected to pass the full House, although it is unlikely to pass the Senate. Importantly, it would provide a 36-month phase-in period for agricultural employers. Although immigration issues remain in the background as Congress continues to delay the larger comprehensive immigration reform debate, GT continues to provide the County with the most recent developments related to immigration.

If you have any questions, or we can be of any further assistance, please let us know.

President Sends Jobs Plan to Congress
American Jobs Act of 2011

Last week, President Barack Obama addressed a joint session of Congress to announce his latest plan to stabilize the U.S. economy and return Americans to work. The broad plan outlined during this speech served as the basis for a legislative proposal entitled the *American Jobs Act*, which was sent to Congress on September 12th. The proposal focuses on job creation as opposed to debt reduction, and proposes to inject $447 billion into the economy in the form of spending on projects such as schools and infrastructure refurbishment and extending payroll tax holidays. To partially offset its costs, the Jobs Act also includes revenue provisions, such as tax increases and user fees, totaling an estimated $467 billion. The President has called upon the newly created Joint Select Committee on Deficit Reduction (“Super Committee”) to identify additional spending cuts beyond their minimum mandate of $1.2 trillion in deficit reductions by November 23rd. As expected, the legislation sent to Congress by the President has met with support and criticism, largely along party lines.

Major Components of The Act

While the legislative proposal is more than 150 pages in length, it contains three major components. First, it seeks to ease the tax burden on businesses and workers. Second, it focuses on specific sectors of the American workforce for targeted retention and expansion. Lastly, it calls for unemployment insurance reform and spending to increase and expand the services provided to out-of-work Americans to expedite their return to the workforce.

The first component of the *American Jobs Act* would lower taxes on businesses and workers and establish new, targeted tax credits to promote the hiring of the long-term unemployed. Under the President’s plan, payroll taxes would be lowered in 2012 from 6.2 percent to 3.1 percent on the first $5 million in payroll. This would serve as an extension of the cuts instituted in 2010 that the White House believes will lower the tax burden for businesses and result in a payroll tax cut worth $179 billion to American workers. Businesses would also receive a refund on payroll taxes paid on added workers or wage increases for current workers above the level paid in the previous year. The refund would be capped at $50 million in new wages which the White House believes will focus the benefits on small businesses. In 2012 businesses will also be allowed to continue making 100 percent deductions for new investments, which is expected to save American businesses $85 billion in 2012. Lastly, the legislative proposal would provide $8 billion in tax credits for businesses that hire the long-term unemployed. The credit would provide a one-time special bonus credit of up to $4,000 for hiring Americans out of work for more than six months.

In addition to the above tax breaks, the *American Jobs Act* would provide incentives and mechanisms for increasing employment for veterans, teachers, first responders, construction workers and low-income individuals. The proposal establishes the Returning Heroes Tax Credit which would provide up to $5,600 for businesses that hire military veterans that have been out of work for six months or more. Under the Wounded Warrior Tax Credit, the above amount can be increased up to $9,600 for businesses that hire disabled veterans that have been out of work for six months or more. Obama has also proposed the use of $35 billion to prevent the layoff of more than 280,000 teachers and another $5 billion to maintain and increase the number of police officers and firefighters throughout the nation. Construction workers would benefit from the proposal's $30 billion to modernize school infrastructure and $50 billion to improve transportation infrastructure. The *American Jobs Act* would also provide $10 billion for the creation of the National Infrastructure Bank to fund long-term transportation projects. Finally, $5 billion would be used create the Pathways Back to Work Fund, targeting low-income individuals and young people. The fund would be used to provide wage subsidies for low-income individuals, to increase training opportunities and to support state-level summer job programs for low-income youth.

The last major component of the President's job proposal calls for unemployment insurance reform and the expansion of services to the country's unemployed. In total, the *American Jobs Act* would provide an additional $49 billion in funding for these efforts. Unemployment compensation claimants would be required to undergo Reemployment and Eligibility Assessments to ensure that claimants are effectively searching for jobs. Another reform seeks to promote a work-sharing program that provides pro-rated benefits for an employee given reduced hours at a business that would otherwise be forced to layoff workers. The new services to the unemployed would include increased career guidance, job search assistance and skills workshops. Additionally, states would be provided with supplemental funding to create innovative and flexible programs to ensure reemployment success.

Additional Provisions

Two additional provisions related to housing are worth mentioning. First, the *American Jobs Act* would create a program called "Project Rebuild." Under this program, $15 billion would be provided to rehabilitate foreclosed and abandoned properties (both residential and commercial). The funds would be focused on distressed communities in order to put residents back to work and repurpose the properties. Eligible applicants would include local governments, not-for-profits and in some cases for-profit businesses. Second, President Obama has ordered government lenders and regulators to work with the private mortgage industry to eliminate barriers and allow homeowners to refinance at today's four percent interest rate. The proposal has already taken criticism for its failure to seriously address the housing market as a cause of the economic collapse, despite these two provisions.

Offsetting Revenue Provisions

Although the White House and Congress are now focusing on jobs, deficit reduction remains an ongoing concern. On September 13th, the Super Committee heard testimony from Douglas Elmendorf, Director of the Congressional Budget Office. Mr. Elmendorf told members of the Committee that the current level of government spending cannot be maintained and the federal government must either raise taxes or severely cut government services. He suggested that a balanced approach encompassing both strategies would be best for the nation. The Committee is statutorily required to identify at least $1.2 trillion in deficit reductions by Thanksgiving. Obama's job proposal further complicates their task and even calls on them to find an additional $300 billion in savings. Even though President Obama intends to release additional proposals for the spending offsets in the coming days, the bill does contain several offsets including:

- 28 percent limit on certain deductions and exclusions. Limit the value of all itemized deductions and certain other tax expenditures to 28% for taxpayers with adjusted gross income over $250,000 for married couples filing jointly (or $200,000 for single taxpayers),
- Carried interest. Tax carried interest earned by investment fund managers as ordinary income rather than capital gains rates,
- Oil and gas Subsidies. Eliminate several tax deductions for oil and gas production,
- Corporate jets. Require corporate jets to be depreciated over the same number of years as other aircraft.

One offset in particular has already drawn sharp criticism from the municipal bond industry. The legislative proposal would reduce the value of tax deductions on municipal bond interest for individuals earning more than $200,000 and families earning more than $250,000 per year. Households targeted by the proposal currently receive tax breaks on municipal bond interest based on a 35 percent tax bracket. Under the proposed legislation, the tax bracket would be reduced to 28 percent beginning in 2013. It is being argued that such a change could erode the value of existing municipal bonds and cause investors to demand higher interest rates to compensate for lost income, straining government issuers and making municipal bonds a less-attractive investment option.

Next Steps

Upon receipt of the President's proposal, the House Republican leadership sent the legislative language to the Congressional Budget Office for a true cost estimate. House leadership also called on committee chairmen to review the proposal and provide insight on provisions within their jurisdiction. The committees of jurisdiction in the House include, but may not be limited to:

- House Committee on Ways and Means,
- House Committee on Energy and Commerce,
- House Committee on Transportation and Infrastructure,
- House Committee on Education and the Workforce.

While all seemingly agree that the “jobs issue” is urgent and must be addressed immediately, Republicans and some Democrats in both chambers have taken issue with several provisions. This likely foreshadows a long and contentious legislative process that comes at a time when Congress is concurrently saddled with completing appropriations for the next fiscal year that begins October 1, as well as the fast-approaching deadlines to find at least $1.2 trillion in additional deficit reductions that were statutorily established by the *Budget Control Act*. In sum, the chances for the proposal’s passage as a whole are minute and even less in the near future. However, because of the high unemployment rate and the upcoming elections, it is possible that pieces of the proposal such as the payroll tax cuts and rebuilding of the nation’s infrastructure, which can attract broad support, will be enacted on an ad hoc basis.