



U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Washington, D.C. 20507

MEMORANDUM

TO: Steve Warnath
FROM: Claire Gonzales *CG*
DATE: September 15, 1994
RE: Federal Employee Fairness Act

This is to update you on a matter about which we spoke last week. The Federal Employee Fairness Act (FEFA) is currently scheduled to move next week in the House. Since we last talked about this, I have spoken with Susan Carr (Daryl Hennessy's successor) about the immediate problems that enactment of this legislation would cause for the EEOC. She in turn spoke with Chris Edley, who seems to have some concerns about the bill as well. Edley asked for more specific information about the projected effect of the legislation on the EEOC. I sent the attached fact sheet to Susan today, along with some other summary material on EEOC budget projections and current caseload.

I want to keep you informed about my discussions with OMB on the legislation, but I don't want to burden you with more paper unless you want or need it. I trust you will let me know. Thanks.

Fact Sheet

The Federal Employee Fairness Act (FEFA) moves the federal sector EEO complaint process from other agencies to the EEOC. Based upon an earlier version of FEFA, EEOC estimated an annual total cost impact at \$69,927,878 above current expenditures with a three-year implementation period. This estimate was based on the principal operational requirements of hearings and appeals functions after implementation. There will be transitional costs relating to the current complaint workload. There are additional features in the House Post Office & Civil Service Committee version for which a specific estimate was not projected, such as staffing for processing requests for stays of personnel actions.

- o While the effective date is January 1, 1997, the following FEFA requirements mandate immediate administrative actions upon enactment and represent additional costs and staffing needs which the Commission will incur in fiscal years 1995 and 1996:
 - * Training of EEOC administrative judges, staff attorneys, and enforcement personnel on requirements of FEFA (including relevant rules and regulations, civil service law, discovery procedures, legal standards and procedures for issuance of subpoenas and stays)
 - * Publication in Federal Register of proposed guidelines describing ADR process and Commission standards for obtaining EEOC approval of ADR process and precomplaint conciliation process (within 180 days of enactment)
 - * Development of notification form to complainant of rights and responsibilities under FEFA (within 12 months of enactment) and informational videos, brochures and posters to advise federal employees of the provisions of FEFA
 - * Drafting and issuance of regulations for FEFA (within 12 months of enactment)
 - * Drafting and issuance of requirements applicable to collecting and preserving documents and information which agencies must collect (within 12 months of enactment)
 - * Development and issuance of detailed ADR guidelines for federal agencies (within 12 months of enactment)
 - * Development and issuance of rules establishing criteria and process for obtaining EEOC approval of precomplaint conciliation process and ADR process (within 12 months of enactment)
 - * Publication in Federal Register of the names of entities that provide Commission approved ADR processes (within 21 months of enactment)
 - * Development and issuance of rules to ensure protection of classified information, in consultation with security agencies (prior to statutory implementation date)
 - * Design and implementation of EEOC system for submission and review of ADR programs submitted by agencies (prior to statutory implementation date)
 - * Drafting and issuance of rules establishing a program and procedures to foster voluntary settlement of complaints (prior to statutory implementation date)
 - * Training of other agency personnel in statutory requirements and procedures
- o CBO scored FEFA with minimum net savings to the federal government of \$25 million annually beginning in FY 1998, and estimated that EEOC would incur additional costs of about \$70 million annually. CBO also referenced a GAO survey of 29 federal civilian agencies showing total expenditures of \$139 million by those agencies in FY 1991 for processing federal sector EEO complaints.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Private Sector EEOC Enforcement Compliance Activity
FY 1990 - FY 1994

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WORKLOAD/WORKFLOW	FY 1990	FY 1991	FY 1992	FY 1993	FY 1994 (Projected)
TOTAL RECEIPTS	(59,426)	(62,806)	(70,399)	(87,942)	(89,250)
NET FEPA TRANSFERS/DEFERRALS ¹	(3,659)	(4,703)	(4,798)	(4,194)	(4,194)
TOTAL INCOMING WORK	63,085	67,509	75,197	92,136	93,444
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CHARGES/COMPLAINTS RESOLVED	67,415	64,342	68,366	71,716	71,800
INVESTIGATORS AVAILABLE	762.2	727.1	736.3	738.3	732.0
CASELOAD PER INVESTIGATOR	51.3	58.7	67.6	92.8	129.5
TOTAL PENDING CHARGE/COMPLAINTS	41,987	45,717	52,856	73,124	94,768
CHARGE/COMPLAINT INVENTORY ² (IN MONTHS)	7.9	9.0	10.4	12.2	15.8

This document was prepared in August, 1994 by the Office of Communications and Legislative Affairs from EEOC's Charge Data System's (CDS) National Data Base. Projected 1994 totals are based on 3rd Quarter CDS Data. Because of regular CDS updates, these numbers may not always correspond with EEOC budget submissions.

1. Fair Employment Practice Agencies (FEPAs) are state and local agencies which have entered into worksharing agreements with the EEOC. Each year, FEPAs will transfer or defer some of their charges to EEOC for processing.
2. "Months of pending inventory" refers to the length of time it would take the Commission to resolve its caseload if EEOC accepted no new charges and productivity levels remained constant.

SENT BY:

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