

CQ TODAY ONLINE NEWS – DEFENSE

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## **Interest Groups Protest Law to Withhold Portion of Payment to Contractors**

By John M. Donnelly, CQ Staff

A law that will withhold a percentage (3%) of contract payments at every level of government threatens to hit the Pentagon and its contractors harder than most, and they have consequently been in the forefront of an effort to block the law from taking effect as scheduled on New Year's Day.

The coalition to overturn the law includes defense industry trade groups that represent thousands of voters who work for defense contractors. Those groups include the Aerospace Industries Association, the **National Defense Industrial Association** and the Professional Services Council.

The Pentagon has also been vocal in arguing against the measure, which was enacted five years ago as a way of paying for tax delinquency.

### **Nearing Victory**

The group of dozens of defense and other associations calling for repeal — called the Government Withholding Relief Coalition — may be on the cusp of success. The debate today in Congress is not over whether to repeal it, but how to make up for an estimated \$11.2 billion in lost revenues.

The House overwhelmingly voted last week to annul the law. Now the Senate is looking for a way to write a repeal in a way that can get it to the president's desk. The most likely vehicle for the measure now appears to be the joint deficit reduction panel's legislation.

The issue has been simmering out of public view for several years and has boiled to the surface only recently, as the deadline for implementation has come closer.

Because the withholding law falls under the jurisdiction of the tax committees, the defense panels have been largely silent on the matter in public, although they have nudged their colleagues privately about it. The former chairman of the House Armed Services Committee, Ike Skelton, D-Mo., was among those pushing for repeal, mostly behind the scenes.

Last year, a House Armed Services special panel on "acquisition reform" recommended repeal of the provision. Neither of the authorizing committees have included a repeal in their annual defense bills, because it is not within their jurisdiction, although the Armed Services Committees asked the Pentagon to produce a 2008 study on the law's impacts.

The Defense Department study found the cost of the implementing systems needed to withhold payments on nearly all its contracts would total \$17 billion over five years. The Joint

Committee on Taxation recently pegged the government's lost revenues from the law at the lower level of \$11.2 billion between fiscal 2012 and 2021.

### **Paying for Repeal**

The Senate earlier this month was unable to muster the votes to bring a GOP repeal bill (S 1726) to the floor. Democrats filibustered the bill and the White House threatened a veto — not because they oppose repeal, but because Republicans wrote the measure to pay for itself in a way Democrats oppose: by rescinding \$30 billion in previously appropriated funds for domestic programs. The Senate's Oct. 20 test vote was 57-43 — three votes shy of moving forward with the measure.

Exactly one week later, the House passed its own version of a repeal bill (HR 674), which would offset the lost revenue by making it harder for some Social Security recipients to qualify for Medicaid. The House vote was 405-16.

The strong House vote should provide new impetus behind Senate talks on a way to offset the bill's cost that will be palatable to enough members of both parties to become law. That would be welcome news for the Pentagon and its contractors, among others.

"The Senate should take this up next week, without any poison pills, and send it to the president for his signature," Senate Minority Leader Mitch McConnell, R-Ky., said in an a statement. "Let's vote on it and prove the skeptics wrong by acting in a bipartisan fashion."

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