

# WHY THE SUDDEN VETO OF MILITARY PAY RAISES?

Digby and Steve Benen are right. Bush's impending veto of the military spending bill is just weird. Here's how Pelosi and Reid describe the veto:

Despite the Administration's earlier support for the Department of Defense authorization bill, it appears that President Bush plans to veto this legislation, which is crucial to our armed forces and their families.

The Defense bill passed both houses of Congress by overwhelming bipartisan margins and addresses urgent national security priorities, including a 3.5 percent pay raise for our troops and Wounded Warriors legislation to remedy our veterans' health care system. It is unfortunate that the President will not sign this critical legislation.

Instead, we understand that the President is bowing to the demands of the Iraqi government, which is threatening to withdraw billions of dollars invested in U.S. banks if this bill is signed.

The Administration should have raised its objections earlier, when this issue could have been addressed without a veto. The American people will have every right to be disappointed if the President vetoes this legislation, needlessly delaying implementation of the troops' pay raise, the Wounded Warriors Act and other critical measures.

It's weird in that Bush has had months to push a

very compliant Congress to write the bill precisely as he wants. And it's weird because the stated reason for the impending veto doesn't make any sense. Steve points to this Yahoo article explaining why. Bush says he's going to veto the bill because the Iraqis are worried about getting sued, but the Iraqis are already protected by law.

Sovereign nations are normally immune from lawsuits in U.S. courts. An exception is made for state sponsors of terrorism and Iraq was designated such a nation in 1990. After the 2003 invasion of Iraq, however, Congress passed a law and Bush issued a decree stating that Iraq was exempt from such lawsuits.

After that exemption was passed, the administration challenged and successfully overturned a \$959 million court ruling for members of the U.S. military who said they were tortured as prisoners of war during the first Persian Gulf War.

The Justice Department also sought to defeat a lawsuit brought by U.S. citizens held hostage during Iraq's 1990 invasion of Kuwait. That case has been taken over by lawyers for the new Iraqi government and is ongoing in a Washington federal court.

The provision that is causing problems would have allowed the victims of the executed Iraqi dictator Saddam to seek compensation in court, Democrats said. The Iraqi government has warned that former U.S. prisoners of war from the first Gulf War might cite this legislation in an attempt to get money from the Iraqi government's reported \$25 billion in assets now held in U.S. banks, they say.

Unless Bush vetoes the legislation, the Iraqis have threatened to withdraw all

of their money from the U.S. financial system to protect it from the lawsuits, Democrats said. The White House contends the legislation subject to the Bush veto would imperil Iraqi assets held in the United States, including reconstruction and central bank funds.

And here's the provision in question.

`Sec. 1605A. Terrorism exception to the jurisdictional immunity of a foreign state

`(a) In General-

`(1) NO IMMUNITY- A foreign state shall not be immune from the jurisdiction of courts of the United States or of the States in any case not otherwise covered by this chapter in which money damages are sought against a foreign state for personal injury or death that was caused by an act of torture, extrajudicial killing, aircraft sabotage, hostage taking, or the provision of material support or resources for such an act if such act or provision of material support or resources is engaged in by an official, employee, or agent of such foreign state while acting within the scope of his or her office, employment, or agency.

`(2) CLAIM HEARD- The court shall hear a claim under this section if-

`(A)(i)(I) the foreign state was designated as a state sponsor of terrorism at the time the act described in paragraph (1) occurred, or was so designated as a result of such act, and, subject to subclause (II), either remains so designated when the claim is filed under this section or was so designated within the 6-month

period before the claim is filed under this section; or

`(II) in the case of an action that is refiled under this section by reason of section 1083(c)(2)(A) of the National Defense Authorization Act for Fiscal Year 2008 or is filed under this section by reason of section 1083(c)(3) of that Act, the foreign state was designated as a state sponsor of terrorism when the original action or the related action under section 1605(a)(7) (as in effect before the enactment of this section) or section 589 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997 (as contained in section 101(c) of division A of Public Law 104-208) was filed;

`(ii) the claimant or the victim was, at the time the act described in paragraph (1) occurred—

`(I) a national of the United States;

`(II) a member of the armed forces; or

`(III) otherwise an employee of the Government of the United States, or of an individual performing a contract awarded by the United States Government, acting within the scope of the employee's employment; and

`(iii) in a case in which the act occurred in the foreign state against which the claim has been brought, the claimant has afforded the foreign state a reasonable opportunity to arbitrate the claim in accordance with the accepted international rules of arbitration; or

`(B) the act described in paragraph (1) is related to Case Number 1:00CV03110 (EGS) in the United States District Court for the District of Columbia.

Now, obviously, the law does not name Iraq specially. So there's got to be something funky going on here—if the Iraqis are exempt, then presumably they're exempt. Though maybe that's just for things that happened under Saddam. While Iraq is not now a sponsor of terrorism, they could easily become one, if we got cranky with them. Or perhaps their objection is more indirect. For example, I can see why the Saudis wouldn't want us to pass this bill (though they haven't been named a sponsor of terrorism either), but that doesn't mean the Iraqis would object.

One interesting, probably unrelated (but then who knows) detail is category "B," which allows suits from 1:00CV03110 to go forward. That's **Roeder v. Iran**, a suit taken by Iranian hostages (not Iraqi hostages), which the Administration got thrown out in 2003 because (among other things) Iran was not a legal sponsor of terrorists when it took the Americans hostage. Under this provision, it appears, the Americans taken hostage by Iran might get to try again. Just as the Saudis and the Iranians are getting in bed

together. Given the close ties between the Shiites running Iraq and the Iranian government, is that why the Iraqis objected?

I have no idea, but something doesn't make sense...

As an added bonus from dakine, here's a nice little twist, courtesy of Senator Webb, who shows up to work every other day to keep the Senate in session for approximately 9 seconds.

President Bush on Friday headed toward a constitutional confrontation with Congress over his effort to reject a sweeping defense bill.

Bush announced he would scuttle the bill with a "pocket veto" – essentially, letting the bill die without his signature 10 days after he received it, or the end of Dec. 31.

But that can happen only when Congress is not in session; otherwise, the bill becomes law without a formal veto in 10 days. And the Senate maintains it is in session because it has held brief – sometimes only seconds long – meetings every two or three days with only one senator present. The White House's view is that Congress has adjourned.

Bush obviously doesn't want to veto pay raises for our men and women (or, presumably, Bush's party members don't want him to). But this fight is one the courts might agree with Congress on. Is his desire to prevent whatever the stated threat is stronger than his desire to look like a friend of the

military?

Update: The NYT finds someone who knows more about this than I—and who also doubts Bush's reasoning.

Meanwhile, a Washington lawyer who has represented Americans who were abducted by Iraqi forces after the 1990 invasion of Kuwait said that he doubted the official explanation for President Bush's rejection of the bill.

The lawyer, Dan Wolf, said he believed some people in the State Department resented him and his clients for suing Iraq in United States District Court and, in the view of diplomats, "stepping on their turf."

As for the assertion that the suits could threaten the stability of the new Iraqi government, Mr. Wolf said the money that could go to his clients is "a very, very small fraction" of Iraqi assets in the United States.

Also note, but the NYT and the WaPo seem to take the White House at its word that Congress is not in session. Somebody better tell Jim Webb.