



Written by [Joe Wolverton, II, J.D.](#) on August 3, 2012

Labor Department Waives 60-Day Layoff Notice to Help Obama Win in November

On Thursday, Democrats in the Senate blocked an attempt by Republicans to enforce a provision of a 1980s law requiring all contractors doing business with the federal government to send out notices of potential layoffs four days before the presidential election in November.

[By a vote of 17-13 the Senate Appropriations Committee voted against](#) an amendment offered by Senator Lindsey Graham (R-S.C.) that would have overridden a policy directive issued earlier this week by the Labor Department informing federal contractors that they may ignore the law and not send out preemptive pink slips to their employees.



The law in question is called the [WARN \(Worker Adjustment and Retraining Notice\) Act and per the applicable provision of that statute](#), employers must “provide notice 60 days in advance of covered plant closings and covered mass layoffs. This notice must be provided to either affected workers or their representatives (e.g., a labor union); to the State dislocated worker unit; and to the appropriate unit of local government.”

Regardless of the worker protections provided by the WARN Act, the Department of Labor has issued guidelines instructing Pentagon contractors not to give the required notice to its employees that they might need to look for a new job. The Labor Department’s guidelines are intended to stop Pentagon contractors from warning employees about possible layoffs that may come about because of “sequestering.”

The Republicans and Democrats had agreed to a deal wherein automatic cuts would take place if the two sides could not agree how to reduce deficits.

[The Department of Labor memo admits](#) that although it is “currently known that sequestration may occur, it is also known that efforts are being made to avoid sequestration.” Specifically, the directive says that the “WARN Act notice to employees of Federal contractors, including in the defense industry, is not required 60 days in advance of January 2, 2013, and would be inappropriate, given the lack of certainty about how the budget cuts will be implemented and the possibility that the sequester will be avoided before January.”

Ironically, the Labor Department does not consider turning defense workers into pawns in presidential politics “inappropriate.”

Of course, Republicans are pretty good at tossing around the political football, as well. [As reported by the Associated Press:](#)



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Graham and two other Republican senators — McCain and Kelly Ayotte of New Hampshire — spent two days this week in the battleground states of Florida, North Carolina, Virginia and New Hampshire, warning voters of job losses from the automatic cuts.

Regardless of the pandering and the politics, the bottom line is that the sticky situation threatening Obama's chances to hold on to the White House was caused primarily because Democrats on Capitol Hill have failed to pass a budget for over three years and thus they face sequestration at the end of the year. As soon as this mandate is triggered, President Obama and his colleagues in Congress will be forced to cut spending in several areas, including the Defense Department.

[An article published in the *Washington Times*](#) spotlighted the partisan nature of the problem:

Republicans on Tuesday accused the White House of trying to “intimidate” defense companies into keeping silent about major job losses if automatic military spending cuts take effect early next year, after the administration said Monday that it would be “inappropriate” for employers to warn workers of layoffs.

Defense industry officials were caught in the middle, trying to weigh the requirements of a federal law that says they must give employees 60 days' notice before major layoffs versus the Labor Department, which said Monday that it doesn't believe the law applies in this case.

“The stakes are very high and there are still questions on everyone's minds. Is this [Labor Department guidance] definitive? Is this something we can now take without fear of judicial contradiction? I don't think the answer to that is yes.

Washington-based blog *The Hill* summed up the impact of sequestration on the job market:

Lockheed Martin CEO Bob Stevens pressed the issue last month when he threatened to issue layoff notices to all 123,000 of his employees on the Friday before the election due to a provision in U.S. labor law requiring large employers to notify employees 60 days in advance of layoffs caused by a foreseeable event.

Trade groups have claimed 1 million defense jobs could be at risk from the pending cuts, which are known as sequestration and were triggered by the failure of a supercommittee of lawmakers to reach a debt deal last year.

The Associated Press reports that Senator Graham doesn't see the contractors as the problem. He puts the blame on Democrats for failing to present a budget that can pass the House and the Senate.

“Contractors are not the problem. We're the problem. We created this mess,” Graham said, arguing that the notices would force Congress to come up with an alternative to avert the automatic cuts.

President Obama and congressional Republicans agreed last summer to a deficit-cutting bill that includes a mechanism that would trigger across-the-board cuts to defense and domestic programs totaling \$1.2 trillion over 10 years.

Ratcheting up the political pressure, presidential candidate Mitt Romney and fellow Republicans have accused Obama of shirking his duty as commander in chief by failing to negotiate with Congress on a way to avoid the cuts. Democrats counter that Republicans, who voted for the cuts, must consider higher taxes on the wealthy as part of an alternative to the reductions.

Fortunately, there is one man in the Senate who understands that none of this would be necessary if we would remove the “sacred cow” status from the Pentagon budget.



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Earlier this month, [Senator Rand Paul \(R-Ky.\) pushed for just such a radical move](#) during debate on an increase in the debt limit. Said Paul:

Look at [the idea of] auditing the Pentagon. They've been talking about having an audit for 30 years probably. They've now said it's coming in 2017. And my guess is that in 2016 it's going to be 2024, in 2023 they'll tell us it's going to be 2030. But I bet you if we said next year you've got to meet this sequester, maybe then all of a sudden they'll say. "Well why don't we jettison some of the crap here we're doing we don't need?" They'll never do it unless their top line number is ever reduced.

For now it is clear that President Obama's respect for the law (a law he pushed for as a senator in 2007) is to be sacrificed in favor of his overwhelming desire to be reelected.

In truth, moreover, were the Constitution to be specifically followed (as every member of Congress and the president has sworn to do), there would be no need for "sequestration" or for the manipulation of thousands of layoff notices as the military-industrial complex would not be the money-sucking behemoth it is today. In light of the machinations and confrontations surrounding the impending sequestration cuts, one can only imagine the hue and cry that would accompany a wholesale restoration of Constitution principles of limited government.

As it stands, however, the relationship between the billion-dollar defense industry and its lackeys on Capitol Hill and in the White House is as strong as ever and will not be weakened regardless of which party's man occupies the Oval Office.



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