



## **H.R. 2740 – MEJA Expansion and Enforcement Act**

### **EXECUTIVE SUMMARY**

Representative David Price (D-NC) introduced the MEJA Expansion and Enforcement Act on June 15, 2007. The bill was reported from Committee on the Judiciary, by a voice vote, on September 27, 2007. It will be considered on the floor under a structured rule on October 3, 2007.

Under the Military Extraterritorial Jurisdiction Act (MEJA), civilian Department of Defense (DOD) employees and DOD contractors can be prosecuted for crimes committed overseas that would be punishable by more than one year of imprisonment if it had been committed within the maritime and territorial jurisdiction of the United States.

H.R. 2740 clarifies MEJA to include persons under a federal contract awarded by any department or agency of the United States working in an area or in close proximity to an area where the Armed Forces are carrying out operations. In addition, it requires the Federal Bureau of Investigation to create the Theater Investigative Unit to investigate allegations of criminal violation by contract personnel.

The Congressional Budget Office estimates that implementing H.R. 2740 would cost \$23 million over the 2008-2012 period.

### **FLOOR SITUATION**

H.R. 2740 is being considered on the floor pursuant to a structured rule. The rule:

- Provides one hour of general debate equally divided and controlled by the Chairman and Ranking Member of the Committee on the Judiciary.
- Waives all points of order against consideration of the bill except for clauses 9 (earmarks) and 10 (PAYGO) of Rule XXI.
- Provides that the amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the bill shall be considered as an original bill for the purpose of further amendment and shall be considered as read.
- All points of order against the committee amendment in the nature of a substitute are waived except for clause 10 of Rule XXI.

- No further amendments shall be in order except those amendments printed in the Rules Committee report accompanying the resolution.
- Provides that amendments made in order in the report may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole.
- Waives all points of order against amendments printed in the report except for clauses 9 (earmarks) and 10 (PAYGO) of Rule XXI.
- Provides one motion to recommit with or without instructions.
- Provides that, notwithstanding the operation of the previous question, the Chair may postpone further consideration of the bill to a time designated by the Speaker.

H.R. 2740 was introduced by Representative David Price (D-NC) on June 15, 2007. The bill was ordered to be reported from the Committee on the Judiciary, by a voice vote, on September 27, 2007.

H.R. 2740 is expected to be considered on the floor on October 3, 2007.

#### **AMENDMENTS**

- 1) Reps. John Conyers (D-MI)/David Price (D-NC)/Robert Scott (D-VA): (MANAGER'S AMENDMENT) The amendment clarifies that the FBI investigate those fatalities resulting from the "potentially unlawful" use of force. The amendment also allows the Attorney General to request assistance from other federal agencies when assigning personnel and resources to the FBI Theater Investigative Unit. The amendment mandates that the FBI request security assistance from the Secretary of Defense in any case in which the FBI Units need adequate security.
- 2) Representative Janice Schakowsky (D-IL): The amendment would require the Department of Justice to report a list of charges that have been brought against contractors and contract employees in Iraq and Afghanistan as a result of a criminal charge or criminal investigation.
- 3) Representative Baron Hill (D-IN): Would require the Director of the FBI to submit an annual written report to Congress of the progress of the Theater Investigative Units, including the number of reports received of criminal misconduct by contractors, the number of reports received of fatalities caused by contract personnel, the number of cases referred to the Attorney General, and

statutory changes necessary for the Director to carry out the duties entailed by this bill.

## **BACKGROUND**

On November 22, 2000, the Military Extraterritorial Jurisdiction Act (MEJA) was signed into law. Under this legislation, civilian employees of the Department of Defense (DOD) and DOD contractors working in support of the DOD mission overseas may be prosecuted for any offense that would be punishable by more than one year of imprisonment if it had been committed within the maritime and territorial jurisdiction of the United States.

On June 27, 2004, Ambassador L. Paul Bremer, Administrator for the Coalition Provisional Authority, signed an order that stated contractors are immune from the Iraqi legal process with respect to acts they perform pursuant to the terms and conditions of a contract.

The National Defense Authorization Act for FY2005 (P.L. 108-375) expanded the definition of MEJA to include civilian contractors and employees from other federal agencies that are supporting American military missions overseas.

The John Warner National Defense Authorization Act for FY2007 (P.L. 109-364) contains a provision that would make military contractors supporting the Armed Forces in Iraq subject to court-martial, however the Department of Defense has not published implementing regulations to enforce this provision.

There are currently more than 180,000 contractors from the United States, Iraq, and other countries operating in Iraq.

## **SUMMARY**

H.R. 2740 clarifies the Military Extraterritorial Jurisdiction Act (MEJA) to include persons under a federal contract awarded by any department or agency of the United States working in an area or in close proximity to an area where the Armed Forces are carrying out operations.

The legislation requires the Department of Justice Inspector General to submit a report to Congress that includes a description of alleged violations of U.S. law that have been committed by contract personnel.

H.R. 2740 requires the Director of the Federal Bureau of Investigation (FBI) to create the Theater Investigative Unit to investigate allegations of criminal violation by contract personnel. The FBI has 90 days after enactment to comply with this provision.

*\*\*Note: This legislation does not provide additional funding to the FBI to create these new units.*

## **COST**

“CBO estimates that implementing H.R. 2740 would cost \$23 million over the 2008-2012 period, assuming appropriation of the necessary amounts. Enacting the bill could affect direct spending and revenues, but we estimate that any such effects would not be significant. H.R. 2740 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would not affect the budgets of state, local, or tribal governments.” [H.R. 2740, MEJA Expansion and Enforcement Act of 2007](#)

## **ADDITIONAL INFORMATION**

While the Administration supports greater contractor accountability abroad, the Statement of Administration Policy strongly opposes H.R. 2740, arguing that the bill 1) would promote “extensive litigation on jurisdictional issues”; 2) would have significant, inadvertent consequences on our national security efforts; 3) infringe on the Executive Branch’s Constitutional jurisdiction; and 4) impose “inappropriate and unwarranted burdens on the Department of Defense.”

## **STAFF CONTACT**

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