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Legislative Line Item Veto Act of 2006: Comparison of Three Versions

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Summary

President George W. Bush has repeatedly called for granting line item veto authority to the President, and an Administration draft was sent to Congress on March 6, 2006. That bill, the Legislative Line Item Veto Act (LLIVA) of 2006, was introduced the following day as S. 2381 and H.R. 4890. This report compares features of H.R. 4890/S. 2381 as introduced, H.R. 4890 as approved by the House Budget and Rules Committees, and Title I of S. 3521 (likewise titled LLIVA). This report will be updated as events may warrant.

President George W. Bush has repeatedly called for granting line item veto authority to the President, and an Administration proposal was sent to Congress on March 6, 2006. That bill, the Legislative Line Item Veto Act (LLIVA) of 2006, was introduced the following day as S. 2381 and H.R. 4890. This report provides a comparative overview of some major features in three versions of the LLIVA: H.R. 4890/S. 2381 as introduced, H.R. 4890 as approved by the House Budget and Rules Committees (House substitute), and Title I of S. 3521, with provisions in the Line Item Veto Act of 1996 (P.L. 104-130).¹

On June 14, 2006, the House Budget Committee held markup of H.R. 4890 and voted 24-9 to report the bill favorably, as amended. The next day the Rules Committee held markup and voted 8-4 to approve an amended version in effectively the same form as that approved by the Budget Committee.

Meanwhile, on June 14, 2006, Senator Judd Gregg, the chair of the Senate Budget Committee, and others held a press conference to unveil the Stop Over-Spending Act,

¹ The Line Item Veto Act of 1996 was held unconstitutional by the Supreme Court in 1998 (*Clinton v. City of New York*, 524 U.S. 417). For further background, see CRS Issue Brief IB89148, *Item Veto and Expanded Impoundment Proposals*, by Virginia A. McMurtry; and CRS Report RS22425, *Legislative Line Item Veto Act and Other Expedited Rescission Bills: Brief Introduction*, by Virginia A. McMurtry.

which contains a modified version of the Legislative Line Item Veto Act in Title I, as well as other budget process reforms. On June 15, 2006, the bill was introduced as S. 3521.

As indicated in the following table, there are some noteworthy differences among the versions. Some features in H.R. 4890/S. 2381 as introduced have been modified to lessen the President's flexibility. For example, the original bills had no deadline for submission of special rescission messages and no limit on the number of special messages. The House substitute would require submission of special messages within 45 calendar days of enactment of the law which contained the amounts/provisions proposed for cancellation, whereas S. 3521 would allow the submission of a special message up to one year following enactment. On the other hand, S. 3521 would limit the President to four special messages per calendar year, whereas the House substitute would set a limit of five special messages per act, or 10 for omnibus measures. With respect to these features, the House substitute would be more permissive in terms of total number of special messages, whereas the Senate bill would be more lenient in the timing of their submissions.

The period for withholding of funds after submission of a special message is another feature on which the bills differ. The LLIVA as introduced would allow the President to withhold funds for up to 180 calendar days despite any congressional action. S. 3521 would limit withholding to 45 calendar days, as would the House substitute. However, the House substitute version would allow the President a 45-day extension for a total withholding period of up to 90 days. In addition, the LLIVA as introduced included no sunset termination date, whereas the House substitute for H.R. 4890 provides that the expedited rescission authority would expire after six years (October 1, 2012), and S. 3521 stipulates termination after four years (December 31, 2010).

Some changes in the House substitute and in S. 3521 may generate new concerns. Both versions appear to narrow the range of possible targeted tax benefits that may be proposed for cancellation. H.R. 4890/S. 2381 as introduced, along with provisions in P.L. 104-130, would cover revenue-losing measures affecting 100 or fewer beneficiaries. The House substitute for H.R. 4890 would apply only to a revenue-losing provision affecting a single beneficiary, whereas S. 3521 defines targeted tax benefits as affecting a particular or limited group of taxpayers. Also, S. 3521 and the 1996 act would have the Joint Committee on Taxation identify the targeted tax benefits; the House substitute would designate the Chairmen of the Ways and Means and Finance Committees, and H.R. 4890/S. 2381 as introduced would allow the President to do so by default.

Another change in the House substitute version of interest is its relationship to the Impoundment Control Act of 1974 (known as ICA, Title X of P.L. 93-344). The version approved by the House committees would repeal the ICA, except for Section 1013 (deferral authority for the President) and Section 1016 (suits by the Comptroller General). H.R. 4890/S. 2381, as introduced, and S. 3521 would amend Title X by striking Part C (Line Item Veto Act of 1996) and inserting the text of LLIVA of 2006. At issue is whether the framework for expedited rescissions in the LLIVA would augment, or replace, rescission authority accorded the President under the ICA, to propose rescissions at any time, but with the release of funds after 45 legislative days absent congressional approval.

Table 1. Comparison of selected provisions in three versions of the Legislative Line Item Veto Act of 2006 and the Line Item Veto Act of 1996

Nature of provision	P.L. 104-130 Line Item Veto Act of 1996	H.R. 4890/S. 2381, as introduced	H.R. 4890, as approved by House Budget and Rules Committees	S. 3521, Title I, as introduced
<i>Purpose of bill</i>	To give the President line item veto authority with respect to appropriations, new direct spending, and limited tax benefits.	To provide for the expedited consideration of certain proposed rescissions of budget authority.	To provide for the expedited consideration of certain proposed rescissions of budget authority.	To enable the President and Congress to rescind wasteful spending in an expedited manner.
<i>Relationship to Impoundment Control Act (known as ICA, Title X of P.L. 93-344)</i>	Added a new Part C to contain the Line Item Veto Act of 1996.	Title X amended by striking Part C and inserting text of this act.	Title X amended by striking all of Part B (except for Sections 1013 and 1016, redesignated as Sections 1019 and 1020) and all of Part C, and inserting text of this act.	Title X amended by striking Part C, and inserting text of this act.
<i>Deadline for submission of special rescission or cancellation messages</i>	Within five days (Sundays excluded) after enactment of the law providing such amount, item, or tax benefit.	None.	Within 45 days of enactment of a law containing (1) the amount of discretionary budget authority, (2) the item of direct spending, or (3) the targeted tax benefit.	Within one year of the date of enactment of (1) any amount of discretionary budget authority, (2) item of direct spending, or (3) targeted tax benefit.
<i>Scope of special message and draft bill</i>	For each law from which a cancellation is made, President may transmit a single message.	Not addressed.	Limit of five special messages for each regular act and 10 messages for an omnibus budget reconciliation or appropriation measure. No restriction on combining the three types of cancellations in the same message.	Limit of four special messages per calendar year. One may be submitted with President's budget and up to three at other times. No restriction on combining the three types of cancellations in the same message.

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<i>President may propose rescission of discretionary spending</i>	Yes, amounts in appropriations acts or represented separately in managers' statement, committee reports, et al.	Yes, amounts in appropriations acts or represented separately in managers' statement, committee reports, et al.	Yes, amounts in appropriations acts or represented separately in managers' statement, committee reports, et al.	Yes, amounts in appropriations acts or represented separately in managers' statement, committee reports, et al.
<i>President may propose to modify/rescind direct (mandatory) spending</i>	Yes, may propose to rescind items of new direct spending, including entitlement authority and the food stamp program.	Yes, may modify or rescind any items of direct spending, including entitlement authority and the food stamp program.	Yes, may propose to rescind new direct spending provisions that would result in spending increases. Does not cover extension or reauthorization of existing direct spending.	Yes, may propose to rescind new items of direct spending, meaning budget authority provided by law other than appropriations acts, mandatory spending provided in appropriations acts, and entitlement authority.
<i>President may propose to cancel tax benefits</i>	Yes, any revenue-losing provision affecting 100 or fewer beneficiaries. Joint Committee on Taxation to compile listing of applicable provisions.	Yes, any revenue-losing provision affecting 100 or fewer beneficiaries, as identified by the President.	Yes, any revenue-losing provision affecting a single beneficiary. Chairmen of Ways and Means and Finance Committees to identify such provisions.	Yes, any revenue-losing provision affecting a particular or limited group of taxpayers. Joint Committee on Taxation to identify such provisions.
<i>Seriatim rescissions possible</i>	No, because of three-day deadline for submitting message.	Yes, resubmission of same rescission not addressed.	No, submission of duplicative proposals in messages is prohibited.	President may resubmit a proposed cancellation one more time under either Part B (ICA) or Part C (LLIVA).
<i>Introduction of bill approving or disapproving requests</i>	Cancellations remain in effect unless disapproved by Congress. For disapproval bill to have fast-track procedures, must be introduced within five calendar days of session after receipt of the special message.	Chamber leadership to introduce approval bill within two days of receiving message, or thereafter any Member may introduce approval bill.	Chamber leadership to introduce approval bill within two days of receiving message, or thereafter any Member may introduce approval bill.	Chamber leadership to introduce approval bill within two days of receiving message, or thereafter any Member may introduce approval bill.

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<i>Fast-track in committee</i>	Committee reports disapproval bill by seventh day of session after introduction, or bill is subject to discharge motion (House) or automatic discharge (Senate).	Committee reports approval bill without substantive change by fifth day of session after introduction or bill is automatically discharged.	Committee reports approval bill without amendment by seventh legislative day after introduction, or motion to discharge is in order.	Committee reports approval bill without revision by fifth day of session after introduction of bill or bill is automatically discharged. Includes provisions for dealing with multiple referrals.
<i>Fast-track provisions for floor action</i>	Yes, including one hour general debate and one hour for amendments in House, and 10 hours total debate in Senate.	Yes, debate on bill not to exceed four hours in House and 10 hours in Senate. Floor vote must occur within 10 days after introduction of bill.	Yes, debate on bill not to exceed five hours in House and 10 hours in Senate.	Yes, debate on bill not to exceed four hours in House and 10 hours in Senate. Floor vote must occur within 10 days after introduction of bill.
<i>Amendments/motion to strike allowed</i>	Amendments to strike a cancellation number or insert a number allowed in Senate, or with support of 50 Members in House.	Amendments are prohibited in both chambers, and divisions are prohibited in the House.	Amendments are prohibited in both chambers, and divisions are prohibited in the House.	Amendments are prohibited in both chambers, and divisions are prohibited in the House.
<i>Savings must be used for deficit reduction</i>	Yes, if disapproval bill is not enacted within 30 days of session, 10 days later a lockbox mechanism goes into effect to ensure that deficit reduction occurs.	Yes, amounts rescinded shall be dedicated only to deficit reduction and not be used as an offset for other spending increases. Provisions for adjustment of committee allocations and budgetary caps.	Yes, amounts rescinded shall be dedicated only to deficit reduction and not be used as an offset for other spending increases. Provisions for adjustment of committee allocations and budgetary caps.	Yes, amounts rescinded shall be dedicated only to deficit reduction and not be used as an offset for other spending increases. Provisions for adjustment of committee allocations and budgetary caps.
<i>Abuse of Proposed Cancellation Authority</i>	Not addressed.	Not addressed.	Sense of the Congress provision that no President or other executive branch official should threaten to condition the inclusion or exclusion of any proposed cancellation under this act to any Member's vote in Congress.	Not addressed.

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<p><i>President may withhold spending</i></p>	<p>Not an issue. Cancellations are permanent absent enactment of a disapproval bill.</p>	<p>Yes, for a period not to exceed 180 calendar days from the transmittal of the special message, President may withhold discretionary budget authority or execution of direct spending proposed for cancellation.</p>	<p>Yes, for a period not to exceed 45 calendar days from the transmittal of the special message, President may withhold discretionary budget authority, or suspend execution of items of direct spending or targeted tax benefits proposed for cancellation. The President may extend the period for another 45 days; such supplemental message to be submitted between days 40 and 45 in the original period.</p>	<p>Yes, for a period not to exceed 45 calendar days from receipt of the special message, President may withhold discretionary budget authority, and suspend execution of any item of direct spending or targeted tax benefit proposed for cancellation.</p>
<p><i>Release of funds</i></p>	<p>If disapproval bill is enacted, the provision(s) that had been cancelled take effect as of the date of the original law.</p>	<p>President may make spending available for obligation or allow execution of the new direct spending earlier than specified if he determines that continuation of the deferral or of the suspension would not further the purposes of this act.</p>	<p>President may make spending available for obligation or allow execution of the new direct spending or targeted tax benefit earlier than specified if he determines that continuation of the deferral or of the suspension would not further the purposes of this act.</p>	<p>President may make spending available for obligation or allow execution of the new direct spending earlier than specified if he determines that continuation of the deferral or of the suspension would not further the purposes of this act.</p>
<p><i>Sunset provision</i></p>	<p>Yes, act provided for termination after eight years. [Overturned by Supreme Court after two years.]</p>	<p>None specified.</p>	<p>Yes, expires after six years (October 1, 2012).</p>	<p>Yes, expires after four years (December 31, 2010).</p>