

KUTAK ROCK LLP
SUITE 1000
1101 CONNECTICUT AVENUE, N.W.
WASHINGTON, D.C. 20036-4374
202-828-2400
FACSIMILE 202-828-2488
www.kutakrock.com

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MEMORANDUM

TO: ADC BOARD OF DIRECTORS
TIM FORD
TODD HERBERGHS
TRISH JONES

FROM: MR. SCHLOSSBERG
MR. PERSKY, LEGISLATIVE ASSISTANT

DATE: MAY 19, 2011

RE: PROVISION IN NATIONAL DEFENSE AUTHORIZATION ACT WOULD
FURTHER RESTRAIN BASE REALIGNMENTS AND CLOSURES
OUTSIDE OF BRAC

Introduction

The Department of Defense would be further restricted in closing or realigning facilities outside of the BRAC process under a provision in the House version of the FY12 National Defense Authorization Act.

Present Law

The Department retains the inherent authority to undertake base closures and realignments outside of the BRAC process. For those actions exceeding certain numerical thresholds, the Department must give prior notice so Congress may review the proposed action¹. This review requirement presents a significant political challenge to any proposed realignment or closure.

Section 2687 currently exempts the Department from the review requirement for realignment where a reduction in force is the result of “workload adjustments, reduced personnel or funding levels, skill imbalances, or other similar causes.” Another exception under current law enables the Department to avoid review requirements by using certain workforce reduction techniques to avoid thresholds.

¹ Section 2687 of title 10, United States Code (“Section 2687”).

PROVISION IN NATIONAL DEFENSE AUTHORIZATION ACT WOULD FURTHER
RESTRAIN BASE REALIGNMENTS AND CLOSURES OUTSIDE OF BRAC

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House Provision

The House Armed Services Readiness Subcommittee's mark of the 2012 National Defense Authorization Act includes, at Section 2705, a provision that would expand the congressional review process by eliminating the "workload adjustment" exemptions.

Section 2705, *Increased Emphasis on Evaluation of Costs and Benefits in Consideration and Selection of Military Installations for Closure or Realignment*, a copy of which is attached, would also restrict the Secretary's ability to bypass overall thresholds of this section by reducing the workforce to a lower threshold and then realigning the remaining function.

Finally, the section would require the Secretary to include a cost-benefit analysis of all proposed closures and realignments that exceed the thresholds.

The full House Armed Services Committee reported the National Defense Authorization Act last week. The bill will appear on the House floor next week.

If you have any questions concerning this information, please call George Schlossberg directly at (202) 828-2418 or email him at george.schlossberg@kutakrock.com, or call Eli Persky directly at (202) 828-2465 or e-mail him at eli.persky@kutakrock.com.

A handwritten signature in black ink, appearing to read "Eli Persky". The signature is written in a cursive style with a long, sweeping underline that extends to the right.

Enclosure: Section 2705 of the National Defense Authorization Act 2012, House Readiness Subcommittee Mark