Telecom Immunity Issue Derails Spy Law Overhaul
Reid Pulls Legislation, Citing Insufficient Time Before Recess

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Amid deep and growing divisions among Senate Democrats, Senate Majority Leader Harry M. Reid (D-Nev.) last night abruptly withdrew legislation that would have changed surveillance law and granted the nation's telecommunications companies retroactive immunity from lawsuits charging they had violated privacy rights.

Democratic leaders had hoped to complete an overhaul of the 1978 Foreign Intelligence Surveillance Act before recessing for the year, since the current law governing the Bush administration's warrantless surveillance program is set to expire in early February. But in the face of more than a dozen amendments to the bill and guerrilla tactics from its opponents, Reid surprised his colleagues when he announced there would not be enough time to finish the job.

"Everyone feels it would be in the best interest of the Senate if we take a look at this when we come back," Reid said, acknowledging the time crunch he faces in the "last hours" of this congressional session and the hefty number of agenda items remaining.

The disputed measure would have placed the warrantless surveillance program under secret court supervision, but the most heated controversy surrounded the White House's efforts to legally shield phone companies that had been helping the National Security Agency listen in on telephone and Internet conversations.

"He blinked," Caroline Fredrickson, director of the Washington office of the American Civil Liberties Union, said of Reid. "It's clear that this was not going to be easy. On the one hand he wanted to rush this process and think he could strong-arm everybody to giving up their rights as senators. They threw sand in the gears."

Sen. Christopher J. Dodd (D-Conn.) -- a presidential candidate who returned from Iowa Sunday night to fight the measure -- quickly claimed victory after the bill's withdrawal, and he again vowed to "utilize all the tools available" to block passage once Reid calls it up in January.

Reid spokesman Jim Manley said the decision had nothing to do with the efforts of Dodd and his allies. Indeed, for most of yesterday, Dodd appeared to be fighting a losing battle. His initial filibuster effort was steamrolled

when the Senate voted 76 to 10 to take up the measure at noon.

Dodd vowed he will continue to try to scuttle the bill, which passed with bipartisan support out of the Senate intelligence committee, but he acknowledged "significant divisions" among his fellow Democrats.

"This is one of those critical moments," Dodd said. "If this was the very first instance, you might say this administration has tried to follow the rule of law. But this is after a series, one after another, of this administration stepping all over the Constitution, assaulting it in many ways."

The White House yesterday strongly defended its push for immunity and raised the prospect of a veto if Congress sends the president a surveillance bill without indemnity.

The showdown has taken on a strong tinge of politics. Dodd said his return from the campaign trail would damage his already-foundering campaign for president, but his high-profile effort is raising his profile just two weeks before the Iowa caucuses. On the other side, Republicans have been attacking any Democrat who votes against White House-favored surveillance legislation.

After the House passed surveillance legislation that did not include retroactive immunity, the National Republican Senatorial Committee accused House Democrats running for the Senate of "putting the rights of known terrorists ahead of the safety and security of Americans."

Such attacks are taking their toll, Democrats conceded yesterday, as is the full-throated lobbying campaign of telecommunications companies and the Bush administration to protect them from legal challenges. Sen. Arlen Specter (R-Pa.) and some Democrats are struggling to find a compromise, perhaps by substituting the federal government for the phone companies as the defendant in ongoing legal action.

But even opponents of retroactive immunity conceded that the search for compromise could be going nowhere, as the Senate tries to complete its legislative session in the coming days.

"Those like myself, who are against immunity, really don't want to punish the phone companies as much as we want to hold the government accountable," said Sen. Charles E. Schumer (D-N.Y.). "But it's very difficult to do that."

If the Senate reconvenes in mid-January, Congress will have just two weeks before the current, six-month law governing warrantless wiretapping expires. In that time, the Senate would have to pass its measure, then reconcile differences with a House-passed version that is far more restrictive on the administration's surveillance efforts.

Staff writer Ellen Nakashima contributed to this report.
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