Lawsuit Questions Validity of Budget Reconciliation Validity of Budget Reconciliation Law

On February 13, an attorney filed a lawsuit in the U.S. District Court in Mobile, Ala., seeking to void the Deficit Reduction Act (DRA, P.L. 109-171), which was signed into law on February 8.

The suit was filed by Jim Zeigler, who specializes in Medicaid cases regarding nursing home eligibility for the elderly.

Zeigler said the budget measure is not valid because of a clerical error that resulted in slightly different versions of the bill being passed in the House and the Senate. The error occurred when a Senate clerk mistakenly transcribed language limiting rental of certain durable medical equipment (e.g. wheelchairs, hospital beds, walkers) as 36 months instead of 13 months. The Congressional Budget Office has estimated that the difference between the two timetables could be $2 billion over five years.

House and Senate Republican leaders argued that the law is valid because House Speaker Dennis Hastert (R-Ill.) and Senate President Pro-Tem Ted Stevens (R-Alaska) certified that the version signed by President Bush was correct. They have rejected a request by House Minority Leader Nancy Pelosi (D-Calif.) that the bill should be brought back to the House floor for another vote. If a judge invalidated the DRA, it is unclear whether the measure would go back to the House for another vote or entirely new legislation would have to be introduced in both chambers.

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