Drilling Firm Seeks Favor as Expatriate

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WASHINGTON, June 22 - The language in the House measure seems innocuous enough. Tucked into the Coast Guard budget bill, it says merely that Section 608 (c)(1) "is amended by striking the second sentence."

But what that language would do is allow one company, Nabors Industries, to gain permanent access to business open only to American companies.

The language is needed because Nabors, a big oil drilling company, moved its tax headquarters to Bermuda and its legal headquarters to Barbados in 2001 to avoid American taxes.

Competitors argue that they will be slowly strangled if Nabors is allowed to vie for contracts while paying little in taxes. Nabors is a well-run company, said Ken Wells, president of the Offshore Marine Service Association, and its tax advantages allow it to underbid other offshore supply companies. The association, therefore, opposes the provision as a favor to one of its 101 members at the expense of the others, Mr. Wells said.

Two years ago, after extensive negotiations with its competitors, Nabors won from Congress what amounted to a temporary exemption that ends in August 2007. So now the company's chief executive, Eugene M. Isenberg, is asking Congress to make the exemption permanent. Kenneth J. Kies, the most influential tax lobbyist in town, has been making the case for Nabors, and he confirmed that only Nabors would benefit from deleting the sentence.

The House Transportation Committee is scheduled to vote on the Coast Guard budget next Wednesday. The Senate has not scheduled a vote.
Nabors owns 33 ships, most of them 166 to 220 feet long, all with wide berths, that ferry drilling mud, drilling pipe and drill bits, along with people and food, from shore to the hundreds of oil rigs and platforms in the rich waters between Texas and Florida.

With the damage to oil rigs, platforms and sea floor pipelines from Hurricanes Katrina and Rita and growing world demand pushing up prices for oil and natural gas, the demand for these ships has soared. Their fees have risen in tandem.

Deleting that one sentence from the Coast Guard budget law amounts to giving Nabors Industries a permanent waiver from the Jones Act, a law enacted in 1920 that was intended to protect national security. The Jones Act requires that all ships moving people and cargo between domestic ports be American-owned, American-built and sailed by American crews.

Since Nabors gave up its status as an American company in December 2001, it has been fighting to keep operating its ships in the domestic supply trade.

Nabors moved its tax headquarters to Bermuda in 2001, although its working headquarters remained in Houston. The move allowed it to convert what would otherwise be taxable profits in the United States into tax-deductible business expenses.

When Nabors and some other companies, including Ingersoll Rand and TransOcean, did this starting in 2001, it set off a fierce debate in Congress with both parties promising voters to crack down on what were called "Benedict Arnold companies."

Congress ended up passing a law before the fall elections in 2002 that bars companies that moved their tax headquarters to tax havens from getting government contracts. But the law opened a loophole, allowing American subsidiaries of these companies to get government contracts.

Nabors reported earning $428.4 million in profits in the United States last year. At the average tax rate actually paid by large American companies, Nabors would have owed
about $86 million in taxes. Nabors told its shareholders that it paid less than $6 million. It paid $60.8 million in taxes to the federal government in 2001, the last year it was an American company.

This year, Nabors expects a much bigger American tax bill, more than $100 million, according to Mr. Kies, because Nabors's profits are so big this year.

"Even if they weren't paying any tax," Mr. Kies said, "they operated in, and structured themselves, in reliance on the law, followed the rules exactly as they were written" to become a Bermuda company and still comply with the Jones Act.

"As a matter of policy it just doesn't make any sense to change the rules after the fact," he added. "It is wrong to make a change after people have invested substantial amounts of money in reliance of current law."

Mr. Wells of the Offshore Marine Service Association and others said that Nabors knew full well when it chose to leave the United States for tax purposes that it would not be in compliance with the Jones Act.

"What has our other members up in arms," Mr. Wells said, "is the erosion of the Jones Act, which determines the value of their companies."

Mr. Wells pulled out his leather-bound appointments book and drew a series of waves, saying they marked the economic cycles in which supply ship owners struggled through low years to make profits in high ones like 2006.

Then he drew another set off waves, with longer troughs and lower crests. Offshore oil rigs operate worldwide, he said, and if the Jones Act protections are thrown out, "the peak years won't produce enough profit to get our members through the low years."
In time, he said, the oil rig and platform supply ships will, like those in global trade, all be built and owned by foreigners and have foreign crews.

The Marine Cabotage Task Force, which represents 400 shipyards, labor unions and military contractors, called the Nabors legislation a "very dangerous loophole." Representative Gene Taylor, a Mississippi Democrat who for years has complained about official favors for Nabors, said at the House subcommittee hearing on Tuesday that Nabors deserved no favors from Congress because it chose to become a Bermuda company. He offered a prediction of what would happen if Nabors succeeded.

"Every time you grant a Jones Act waiver," Mr. Taylor said, "10 more guys want one."