

Obama signs the JCOPA executive order: Time for the Republican AGs to consider a Federal Suit



Sunday, October 18, 2015, President Obama signed an executive order initiating the start of the Iran nuclear pact under the JCPOA. In the bureaucratic argot it was the Adoption Day, the 90th day following Finalization Day, the unanimous endorsement of the JCPOA by the UN Security Council on July 20th. Sixty days hence on Compliance Day, December 15, 2015, if the UN watchdog agency the IAEA files a report on Iran's prior military developments with findings, then upwards of \$100 billion in funds sequestered under international and US sanctions might be released. That's a big if. Congress, as we have written has been thwarted in its attempt to reject the pact by a Democrat Senate minority vote in September. Further, even if the Republican majority brought a resolution to bring a suit against the President's violations of several Iran sanctions law and the lack of complete information on negotiations and side agreements under Corker Cardin, it would fail to pass as it lacks a super majority. That is why it is up to the more than 27 members of the [Republican Attorneys General Association](#) (RAGA) led by Florida's AG Pam Bondi to consider bringing a cause of action in a favorable Federal District Court. To that end today we sent each one of the RAGA Members the following tweet:



Can States Prevent the Release of Iran Sanctions through Federal Litigation? <https://t.co/PaTop60Jospic.twitter.com/RIqstJpmLv>

– Jerry Gordon (@jerryg38) [October 20, 2015](#)

We know that some of the RAGA members expressed concern in late August 2015 urging their colleagues to push for sanctions.

Oklahoma US Senator James Inhofe and State AG Scott Pruitt co-authored an op-ed in the *Wall Street Journal*, [“Let States Do the Job Obama Won’t: Sanction Iran”](#):

President Obama’s executive agreement with Iran is enormously controversial for good reason. Negotiated in coordination with Russia, China, France, Germany and the United Kingdom, the deal welcomes Iran as a participant in the world community conditioned only on marginal changes to its nuclear program. It effectively allows Iran to maintain technology that would lead to a nuclear weapon, as well as continue its human-rights abuses, sponsoring of terrorism, imprisoning of American hostages, and threats to American allies, including Israel.

Fortunately, the U.S. states have the power to limit these threats, if they all choose to use it.

To date, 25 states have enacted such sanctions against Iran. This is pursuant to the explicit authorization for such sanctions contained in the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010.

Congress found “that the United States should support the decision of any State or local government that for moral,

prudential, or reputational reasons divests from, or prohibits the investment of assets of the State or local government in" Iran.

Secretary of State John Kerry confirmed during July 28th congressional testimony that President Obama's deal does not affect the states' ability to impose sanctions on Iran. However, he said that the administration "will take steps to urge [the states] not to interfere," because President Obama had, as part of the deal, agreed to "actively encourage" the states to drop their sanctions.

We urge states to do exactly the opposite. Rather than drop their sanctions against Iran, states should strengthen and expand those sanctions.

On August 31st, Oklahoma AG Pruitt and Michigan AG Bill Schuette sent a letter to all 50 states urging them to impose state-based sanctions against Iran.

On September 8th, 2015 14 Republican Governors signed a [letter](#) drawing attention to the States' authority under the 2010 Comprehensive Iran Sanctions Federal law to enact sanctions as we noted in our October 2015 article, "Can States Prevent the Release of Iran Sanctions Through Federal Litigation?"

As of yesterday, with the President's signing an executive order adopting the JCPOA, there may be a race by some members of RAGA to also consider bringing a suit to block release of sequestered funds that may likely be devoted to the continued support of global terrorism and development of ballistic missile technology . The latter for the express purpose of deploying a nuclear weapon against US interest and allies in the Middle East, especially Israel. Just a few days before the President's action on Adoption Day, Iran announced a successful test of the Emad guided missile with sufficient range , 1,700 kilometers, in violation of both the 2010 UN

Security Council Resolution 1929 and Resolution 2231 endorsing the JCPOA.

Noted Constitutional Lawyer [David B. Rivkin, Jr.](#) of the Washington, DC office of the law firm of Baker Hostetler, has successfully brought actions on behalf of the US House of Representatives in Federal court on separation of powers grounds. He has presented arguments that the states have standing to bring a suit to block release of sanctions. In a discussion of this and other options in our October NER [article](#) he argued:

The states that are interested in pursuing this can certainly go forward in part, because of the viability of state-level sanctions and a number of states have put forward sanctions of their own.

A number of Attorney Generals and Governors can. They should and will be interested in this and you don't need many states. You can have a couple of states doing that. However, they have to have a very carefully thought out sanctions package in place and they have to put it forward under state law. Then they can take the position that the legality of a sanctions package depends upon what is the federal government's policy toward Iran.

By the way you don't even need state legislatures. A number of states have Constitutions that allow governors to pass sanctions by executive order. They don't even need to pass it as legislation. It is a question of individual state Constitutions. It could be done in a matter of weeks if you had governors who were interested in it.

The Dallas team of the National Security Task Force of America (NSTFA) undertook a grass roots action. They tweeted Texas Governor Abbott and Attorney General Paxton and 125 Texas legislators urging them to join with other states in bringing a suit that might prevent release of sequestered funds under

various federal Iran sanctions laws. We believe that exemplary model developed by the Dallas NSTFA team might be followed in many of the states whose Governors signed the September 8th letter to President Obama. That is why we took the initiative today of tweeting the members of the Republican Attorney Generals Association led by Florida AG Pam Bondi.