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218: Secret 'Doc Fix' Deal Angers Rank and File

By Matt Fuller and Daniel Newhauser

The House on Thursday passed a bill that likely did not have the votes to pass.

It was clear that a bill to avert a pay hike for doctors was short on support, so Republican leaders struck a closed-door agreement with Democrats to pass the bill by voice vote while members were not yet in the chamber, according to members and aides from both parties.

The bipartisan power move to hold a voice vote allowed members to avoid a tough roll call, which would have forced them either to vote for a bill they do not support or allow doctors who treat Medicare patients to take a pay cut, incensing powerful outside interests.

The tactic flies in the face of Speaker John A. Boehner's pledge to be a transparent and rule-abiding Congress, members and aides said.

"I've seen a lot of dumb things, but I've never seen anything quite as comical as this," Rep. John D. Dingell, D-Mich., the longest serving member in the history of Congress, told CQ Roll Call.

Rep. Lynn Westmoreland, R-Ga., said House leaders essentially passed the bill while members' backs were turned. "No one objected. No one was there to object," he said.

The bill was supposed to come to the floor early Thursday morning, but the vote was postponed into the afternoon as Majority Leader Eric Cantor, R-Va., Majority Whip Kevin McCarthy, R-Calif., and other leaders huddled with members of their party in a room beside the House floor to try to round up support.

Republican aides said at the time that the bill would most likely be pulled from consideration because it did not have the votes. Yet emerging from the room, Cantor told reporters, "We're still working on it."

Cantor left the room briefly to meet with Minority Whip Steny Hoyer, D-Md. That's when the two leaders, with the backing of their respective leadership and committee chairmen, struck an agreement to call for a voice vote on the House floor without objection, members and aides said. Earlier in the day Hoyer said he would have voted against the bill. House Minority Leader Nancy Pelosi, D-Calif., asked if she went along with the voice vote plan, simply said, "Yes."

Several members of the Republican Doctor's Caucus, a group of physician Congressmen, said they would have voted against the bill. But in the meeting with their leadership, they signed off on the tactic to allow the bill to pass.

"You don't want to vote for it, but you don't want something seriously bad to happen either," said Rep. John Fleming, R-La., who was in the meeting. "Just to avoid the possibility that it could have failed and because there are a lot of people who on the one hand didn't want to vote for it but also don't want to see a 24 percent cut across the board [to doctors], that leaves a lot of members . . . basically in a conundrum."

When the House was called to order, Arkansas Republican Rep. Steve Womack took the gavel and immediately called for a voice vote to pass the bill. Stating that there were no objections, he deemed it passed.

Womack said later he did not hear anyone object, but he admitted that he went "pretty fast, yeah."

"I know the drill, I don't have to read it, and I did what the presiding officer is supposed to do: I asked for a voice vote, and then two-thirds being in the affirmative, no call for a recorded vote, or the yeas and nays, bill is passed, motion to reconsider is laid upon the table, bang we go," he told reporters.

Womack acknowledged that it was "unusual" to conduct business in that fashion, but he said that's "because very few things go by voice in that chamber, particularly of that type of magnitude."

Womack said he "wouldn't go so far as to say" that he had a plan to speed through the pending business before anyone had a chance to ask for a recorded vote.

"I just know what I'm doing, that's why I was asked," he said.

Pressed on who it was that asked him, Womack wouldn't answer.

"But, as I expressed to another member who came up to me after and said, 'Hey, tell me what happened,' I just said, 'Well, you know, everyone in this chamber, and there were several members in there, it wasn't like it was an empty chamber, there were several members in there, that had the same opportunity to ask for a recorded vote of the yeas and nays as anybody else,' " he said.

The bill would have needed a two-thirds majority of the House to pass because leaders brought it up under suspension of the rules. Yet many members objected to the legislation because they did not agree with the way it was paid for. Others wanted a permanent "doc fix," rather than a the yearlong patch.

The move incensed members of both parties, who said that democracy was in effect subverted to avoid putting members in a politically tough situation.

“It erodes our confidence in our own system, and there will be discussion about this, I’m quite sure about that,” said Rep. Steve King, R-Iowa.

“I don’t like it, I don’t like the idea that they’re going to do surprise votes for voice vote which turns out to be the equivalent of unanimous consent, because if anybody had called a vote on this thing, I think they knew it wasn’t going to pass,” King continued. “A lot of members, for a long time, are going to have to post somebody here to sit on edge waiting to call for a recorded vote because of this maneuver, this tactic here today.”