

**Date:**

2008-07-20

**Summary:**

A federal appeals court will soon issue a decision that could potentially unseat the Sarbanes-Oxley Act (SOX). The suit alleges that the Public Company Accounting Oversight Board (PCAOB), created by Sarbanes-Oxley is unconstitutional. The challenge hinges on whether PCAOB board members can be appointed by the SEC, rather than the President. As SOX lacks a "severability" clause, the whole law technically becomes invalid if even one provision is deemed unconstitutional.

If SOX is overturned by the ruling, Congress could rewrite the law but the process would ignite lobbying for numerous changes with considerable potential for a much watered-down replacement. Rather than immediately disabling SOX, the appeals court may stay any decision until the case reaches the Supreme Court. Of course, the appeals court may also rule that the PCAOB is constitutional. However, Beckstead & Watts, the accounting firm bringing the suit, could still appeal the case to the Supreme Court.

Notes: Bloomberg ran an earlier story on

this [http://www.bloomberg.com/apps/news?pid=20601039&sid=aYZZ9vduqaMU&refer=columnist\\_wel](http://www.bloomberg.com/apps/news?pid=20601039&sid=aYZZ9vduqaMU&refer=columnist_wel) and the Wall Street Journal also raised the issue in a recent

blog <http://blogs.wsj.com/law/2008/07/21/will-a-lawsuit-unravel-sox-firm-brings-constitutional-challenge/>

**Link to Original:**

<http://www.washingtonpost.com/wp-dyn/content/article/2008/07/19/AR2008071900106.html> Founded in 1877, The Washington Post added another 6 Pulitzer Prizes to its stable during 2008.

**Original Title:**

Lawsuit Threatens Sarbanes-Oxley Act

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