
PROVIDING FOR CONSIDERATION OF THE BILL (H.R. 4138) TO PROTECT THE SEPARATION OF POWERS IN THE CONSTITUTION OF THE UNITED STATES BY ENSURING THAT THE PRESIDENT TAKES CARE THAT THE LAWS BE FAITHFULLY EXECUTED, AND FOR OTHER PURPOSES, AND PROVIDING FOR CONSIDERATION OF THE BILL (H.R. 3973) TO AMEND SECTION 530D OF TITLE 28, UNITED STATES CODE

March 11, 2014.—Referred to the House Calendar and ordered to be printed.

MR. NUGENT, from the Committee on Rules, submitted the following

R E P O R T

[To accompany H. Res.____]

The Committee on Rules, having had under consideration House Resolution____, by a nonrecord vote, report the same to the House with the recommendation that the resolution be adopted.

SUMMARY OF PROVISIONS OF THE RESOLUTION

The resolution provides for consideration of H.R. 4138, the ENFORCE the Law Act of 2014, under a structured rule. The resolution provides one hour of general debate equally divided and controlled by the chair and ranking minority member of the Committee on the Judiciary. The resolution waives all points of order against consideration of the bill. The resolution makes in order as original text for the purpose of amendment an amendment in the nature of a substitute consisting of the text of Rules Committee Print 113-43 and provides that it shall be considered as read. The resolution waives all points of order against that amendment in the nature of a substitute. The resolution makes in order only those further amendments printed in part A of this report. Each such amendment may be offered only in the order printed in this report, may be offered only by a Member designated in this report, shall be considered as read, shall be debatable for the time specified in this report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or

in the Committee of the Whole. The resolution waives all points of order against the amendments printed in part A of this report. The resolution provides one motion to recommit with or without instructions.

Section 2 of the resolution provides for consideration of H.R. 3973, the Faithful Execution of the Law Act of 2014, under a structured rule. The resolution provides one hour of debate equally divided and controlled by the chair and ranking minority member of the Committee on the Judiciary. The resolution waives all points of order against consideration of the bill. The resolution provides that the amendment in the nature of a substitute consisting of the text of Rules Committee Print 113-42 shall be considered as adopted and the bill, as amended, shall be considered as read. The resolution waives all points of order against provisions in the bill, as amended. The resolution makes in order only the further amendment printed in part B of this report, if offered by Representative Ellison of Minnesota or his designee. The amendment shall be considered as read, shall be separately debatable for 10 minutes equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question. The resolution waives all points of order against the amendment printed in part B of this report. The resolution provides one motion to recommit with or without instructions.

EXPLANATION OF WAIVERS

The waiver of all points of order against consideration of H.R. 4138 includes a waiver of clause 3(d)(1) of rule XIII, which requires the inclusion of a committee cost estimate. It is important to note that while a Congressional Budget Office (CBO) cost estimate on H.R. 4138 was not available at the time the Committee on the Judiciary filed its report, a CBO cost estimate has since been made publically available.

Although the resolution waives all points of order against the amendment in the nature of a substitute to H.R. 4138 made in order as original text, the Committee is not aware of any points of order. The waiver is prophylactic in nature.

Although the resolution waives all points of order against amendments to H.R. 4138 printed in part A of this report, the Committee is not aware of any points of order. The waiver is prophylactic in nature.

The waiver of all points of order against consideration of H.R. 3973 includes a waiver of clause 3(d)(1) of rule XIII, which requires the inclusion of a committee cost estimate. It is important to note that while a Congressional Budget Office (CBO) cost estimate on H.R. 3973 was not available at the time the Committee on the Judiciary filed its report, a CBO cost estimate has since been made publically available.

Although the resolution waives all points of order against provisions in H.R. 3973, as amended, the Committee is not aware of any points of order. The waiver is prophylactic in nature.

Although the resolution waives all points of order against the amendment to H.R. 3973 printed in part B of this report, the Committee is not aware of any points of order. The waiver is prophylactic in nature.

COMMITTEE VOTES

The results of each record vote on an amendment or motion to report, together with the names of those voting for and against, are printed below:

Rules Committee Record Vote No. 116

Motion by Mr. McGovern to make in order and provide the appropriate waivers for amendment #8, offered by Rep. Gibson (NY), which clarifies that the civil authority provided to Congress in the underlying bill extends to the Executive Branch's compliance with the War Powers Resolution (50 U.S.C. et seq.). Defeated: 3-9

Majority Members	Vote	Minority Members	Vote
Ms. Foxx.....	Nay	Ms. Slaughter.....	Yea
Mr. Bishop of Utah.....	Nay	Mr. McGovern.....	Yea
Mr. Cole.....	Nay	Mr. Hastings of Florida.....	
Mr. Woodall.....	Nay	Mr. Polis.....	Yea
Mr. Nugent.....	Nay		
Mr. Webster.....	Nay		
Ms. Ros-Lehtinen.....	Nay		
Mr. Burgess.....	Nay		
Mr. Sessions, Chairman.....	Nay		

SUMMARY OF THE AMENDMENTS TO H.R. 4138 IN PART A MADE IN
ORDER

1. Conyers (MI): Excludes from the bill's scope any executive actions taken to combat discrimination or to protect civil rights. (10 minutes)
2. Nadler (NY): Clarifies that nothing in the act limits or otherwise affects the constitutional authority of the executive branch to exercise prosecutorial discretion. (10 minutes)
3. Jackson Lee (TX): Protects the ability of the Executive Branch to comply with judicial decisions interpreting the Constitution or Federal laws. (10 minutes)
4. Cicilline (RI): Provides for transparent accounting of the costs of litigation, by requiring the Comptroller General of the United States to issue quarterly reports to the House and Senate Judiciary Committees on the costs of civil actions, including any attorney fees, brought pursuant to this Act. (10 minutes)

SUMMARY OF THE AMENDMENT TO H.R. 3973 IN PART B MADE IN
ORDER

1. Ellison (MN): Waives reporting requirements provided in the bill if sufficient funds are not available to generate the increased volume of reports. (10 minutes)

PART A—TEXT OF AMENDMENTS TO H.R. 4138 MADE IN ORDER

1. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE
CONYERS JR. OF MICHIGAN OR HIS DESIGNEE, DEBATABLE
FOR 10 MINUTES

AMENDMENT TO RULES COMMITTEE PRINT 113-

43

OFFERED BY MR. CONYERS OF MICHIGAN

Add, at the end of the bill, the following:

1 (d) LIMITATION.—Nothing in this Act limits or oth-
2 erwise affects any action taken by the President, the head
3 of a department or agency of the United States, or any
4 other officer or employee of the United States in order
5 to—

6 (1) combat discrimination; or

7 (2) protect the civil rights of the people of the
8 United States.



2. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE NADLER OF NEW YORK OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

AMENDMENT TO RULES COMMITTEE PRINT 113-

43

OFFERED BY MR. NADLER OF NEW YORK

Add, at the end of the bill, the following:

- 1 (d) LIMITATION.—Nothing in this Act limits or oth-
- 2 erwise affects the constitutional authority of the executive
- 3 branch to exercise prosecutorial discretion.



3. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE JACKSON LEE OF TEXAS OR HER DESIGNEE, DEBATABLE FOR 10 MINUTES

6

AMENDMENT TO RULES COMMITTEE PRINT 113

43

OFFERED BY MS. JACKSON LEE OF TEXAS

Add, at the end of the bill, the following:

- 1 (d) LIMITATION.—Nothing in this Act limits or oth-
- 2 erwise affects the ability of the executive branch to comply
- 3 with judicial decisions interpreting the Constitution or
- 4 Federal laws.



4. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE
CICILLINE OF RHODE ISLAND OR HIS DESIGNEE, DEBATABLE
FOR 10 MINUTES

AMENDMENT TO RULES COMMITTEE PRINT 113

43

OFFERED BY MR. CICILLINE OF RHODE ISLAND

Add, at the end of the bill, the following:

1 **SEC. 3. REPORT.**

2 Not later than the last day of the first fiscal year
3 quarter that begins after the date of the enactment of this
4 Act, and quarterly thereafter, the Comptroller General of
5 the United States shall submit to the Committees on the
6 Judiciary of the House of Representatives and the Senate,
7 a report on the costs of any civil action brought pursuant
8 to this Act, including any attorney fees of any attorney
9 that has been hired to provide legal services in connection
10 with a civil action brought pursuant to this Act.



PART B—TEXT OF AMENDMENT TO H.R. 3973 MADE IN ORDER

1. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE ELLISON OF MINNESOTA OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

2 revised

AMENDMENT TO RULES COMMITTEE PRINT 113-

42

OFFERED BY MR. ELLISON OF MINNESOTA

Add, at the end of the bill, the following:

1 SEC. 3. EFFECTIVE DATE.

2 Section 2, and the amendments made by section 2,
3 shall take effect only beginning on the date that the Attor-
4 ney General finds that sufficient amounts have been ap-
5 propriated to cover the costs of additional reports that the
6 Attorney General is required to submit by reason of such
7 amendments, including costs to Federal agencies and to
8 Congress.



House Calendar No. _____

113TH CONGRESS
2D SESSION

H. RES. _____

Report No. 113-_____

Providing for consideration of the bill (H.R. 4138) to protect the separation of powers in the Constitution of the United States by ensuring that the President takes care that the laws be faithfully executed, and for other purposes, and providing for consideration of the bill (H.R. 3973) to amend section 530D of title 28, United States Code.

IN THE HOUSE OF REPRESENTATIVES

MARCH 11, 2014

Mr. NUGENT, from the Committee on Rules, reported the following resolution; which was referred to the House Calendar and ordered to be printed

RESOLUTION

Providing for consideration of the bill (H.R. 4138) to protect the separation of powers in the Constitution of the United States by ensuring that the President takes care that the laws be faithfully executed, and for other purposes, and providing for consideration of the bill (H.R. 3973) to amend section 530D of title 28, United States Code.

- 1 *Resolved*, That at any time after adoption of this reso-
- 2 lution the Speaker may, pursuant to clause 2(b) of rule
- 3 XVIII, declare the House resolved into the Committee of

1 the Whole House on the state of the Union for consider-
2 ation of the bill (H.R. 4138) to protect the separation of
3 powers in the Constitution of the United States by ensur-
4 ing that the President takes care that the laws be faith-
5 fully executed, and for other purposes. The first reading
6 of the bill shall be dispensed with. All points of order
7 against consideration of the bill are waived. General de-
8 bate shall be confined to the bill and shall not exceed one
9 hour equally divided and controlled by the chair and rank-
10 ing minority member of the Committee on the Judiciary.
11 After general debate the bill shall be considered for
12 amendment under the five-minute rule. It shall be in order
13 to consider as an original bill for the purpose of amend-
14 ment under the five-minute rule an amendment in the na-
15 ture of a substitute consisting of the text of Rules Com-
16 mittee Print 113-43. That amendment in the nature of
17 a substitute shall be considered as read. All points of order
18 against that amendment in the nature of a substitute are
19 waived. No amendment to that amendment in the nature
20 of a substitute shall be in order except those printed in
21 part A of the report of the Committee on Rules accom-
22 panying this resolution. Each such amendment may be of-
23 fered only in the order printed in the report, may be of-
24 fered only by a Member designated in the report, shall
25 be considered as read, shall be debatable for the time spec-

1 ified in the report equally divided and controlled by the
2 proponent and an opponent, shall not be subject to amend-
3 ment, and shall not be subject to a demand for division
4 of the question in the House or in the Committee of the
5 Whole. All points of order against such amendments are
6 waived. At the conclusion of consideration of the bill for
7 amendment the Committee shall rise and report the bill
8 to the House with such amendments as may have been
9 adopted. Any Member may demand a separate vote in the
10 House on any amendment adopted in the Committee of
11 the Whole to the bill or to the amendment in the nature
12 of a substitute made in order as original text. The previous
13 question shall be considered as ordered on the bill and
14 amendments thereto to final passage without intervening
15 motion except one motion to recommit with or without in-
16 structions.

17 SEC. 2. Upon adoption of this resolution it shall be
18 in order to consider in the House the bill (H.R. 3973)
19 to amend section 530D of title 28, United States Code.
20 All points of order against consideration of the bill are
21 waived. An amendment in the nature of a substitute con-
22 sisting of the text of Rules Committee Print 113-42 shall
23 be considered as adopted. The bill, as amended, shall be
24 considered as read. All points of order against provisions
25 in the bill, as amended, are waived. The previous question

1 shall be considered as ordered on the bill, as amended,
2 and on any further amendment thereto, to final passage
3 without intervening motion except: (1) one hour of debate
4 equally divided and controlled by the chair and ranking
5 minority member of the Committee on the Judiciary; (2)
6 the further amendment printed in part B of the report
7 of the Committee on Rules accompanying this resolution,
8 if offered by Representative Ellison of Minnesota or his
9 designee, which shall be in order without intervention of
10 any point of order, shall be considered as read, shall be
11 separately debatable for 10 minutes equally divided and
12 controlled by the proponent and an opponent, and shall
13 not be subject to a demand for division of the question;
14 and (3) one motion to recommit with or without instruc-
15 tions.