

Discharging Measures From Committees

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Research References

7 Cannon §§ 1007–1023
5 Deschler Ch 18
Manual § 908

§ 1. In General; Alternative Methods

There are certain procedures that effectively discharge a committee or which may be invoked whenever a committee fails or refuses to report a measure. These methods include:

- The motion to discharge a public bill or resolution available under Rule XXVII clause 3 after the measure has been pending in committee for more than 30 days. *Manual* § 908. See §§ 2 *et seq.*
- A motion to discharge the Committee on Rules from a special rule relating to an unreported bill which has been pending before it for seven days (also in Rule XXVII clause 3).
- The motion to suspend the rules available under Rule XXVII clause 1 pursuant to a vote of two-thirds of the Members. *Manual* § 902.
Note: The motion to suspend the rules and pass a bill applies to bills that have not been reported from committee.
8 Cannon § 3421. Generally, see SUSPENSION OF RULES.
- The Speaker's referral (under Rule X clause 5) of a bill pursuant to time limits which result in the discharge of the bill from committee at the end of the designated time. *Manual* § 700.
- A resolution reported by the Committee on Rules providing for the consideration in the House of an unreported bill; the effect of the resolution, if adopted, is to discharge the committee before which the bill is pending. 5 Hinds § 6771.
- A unanimous-consent request agreed to by the House (the procedure does not lie in the Committee of the Whole). 4 Hinds § 4697; 102–2, June 4, 1992, p ____.

Note: Recognition for such a request is within the discretion of the Chair, and the Speaker will not entertain such a request without the consent of the chairman and ranking minority member of the committee considering the measure (97–2, May 4, 1982, p 8613) and the majority and minority floor leadership (see *Manual* § 757 for the “Speaker’s guidelines”).

As to the procedures for discharging a committee from a resolution of inquiry, see RESOLUTIONS OF INQUIRY. Discharge of vetoed bills, see § 8, *infra*. Discharge pursuant to statute, see § 9, *infra*.

§ 2. The Discharge Rule; Motions to Discharge

Generally

Under Rule XXVII clause 3, a Member may file with the Clerk a motion (sometimes called a petition) to discharge a committee from the consideration of a public bill or resolution which was referred to the committee 30 days prior thereto. *Manual* § 908. The word “days” has been construed to mean legislative days. 75–2, Dec. 10, 1937, p 1300. The period of time specified by the rule does not begin to run until the committee is appointed or elected. 7 Cannon § 1019.

The Clerk makes the petition available at the rostrum for Members to sign while the House is in session. When the requisite number of signatures are obtained—a majority of the total membership (86–2, June 3, 1960, p 11837)—the motion is entered on the Journal, printed in the Record, and referred to the Discharge Calendar. Rule XXVII clause 3. When the motion has been on the calendar for seven legislative days, it may be called up in the House under the discharge rule on the second and fourth Mondays of the month. The motion is then debated for 20 minutes and voted on. If the motion prevails, it is in order to proceed to consider the discharged measure pursuant to a motion to that effect. See § 6, *infra*. To pass a measure under the discharge rule thus involves numerous separate and distinct stages:

- The filing of the petition after the expiration of the 30-day period;
- Obtaining the necessary signatures;
- Entry in the Journal and printing (with signatures) in the Record;
- Reference to the Discharge Calendar;
- Calling up, debating, voting on the motion to discharge;
- Agreement to proceed to consider the discharged measure; and
- Debate and vote on the discharged measure itself (§ 7, *infra*).

Petitions to discharge committees are filed with the Clerk and are not presented from the floor, but Members may give notice of the filing of such

petitions, either from the floor or by letter. 7 Cannon § 1008. Once the motion has been filed, the Clerk makes the signatures a matter of public record. *Manual* § 908.

Reoffering of Motion

When a perfected motion to discharge a committee from the consideration of a measure has once been acted on by the House, it is not in order to entertain during the same session another motion for the discharge of that measure or any other bill or resolution substantially the same as such measure. Rule XXVII clause 3.

§ 3. — Application and Use; What Measures May Be Discharged

Public Bills and Resolutions

The discharge rule has been invoked against standing committees to bring before the House for its consideration various unreported public bills and resolutions, including:

- A joint resolution proposing an amendment to the Constitution, relative to the offering of prayer in public buildings. Deschler Ch 18 § 2.3.
- A joint resolution proposing a constitutional amendment relative to equal rights for men and women. 91–2, July 20, 1970, p 24999.
- A joint resolution proposing an amendment to the Constitution to prohibit compelling the attendance of students at certain schools. 96–1, July 24, 1979, p 20362.
- A bill repealing the tax on oleomargarine. Deschler Ch 18 § 2.1.
- A bill transferring certain price administration functions from one agency to another. Deschler Ch 18 § 2.2.
- A bill providing for the payment to veterans of the face value of their adjusted-service certificates. Deschler Ch 18 § 2.7.

A motion to discharge a committee from the consideration of a bill applies to the bill as referred to the committee and not as it may have been amended in the committee. 7 Cannon § 1015.

Application to Reported Bills

The motion to discharge a bill may not be entertained if the bill against which it is directed has been reported from committee before the motion is called up for action in the House; and the filing of the motion to discharge does not preclude the committee from reporting the measure in question at any time before the motion is called up for consideration. Deschler Ch 18 § 1.13.

Application to Special Orders From the Committee on Rules

Under the modern practice, the rule is most often invoked to discharge the Committee on Rules from the consideration of the resolutions and special rules specified by Rule XXVII clause 3, including a special rule making in order a bill (Deschler Ch 18 § 2.4) or joint resolution (Deschler Ch 18 § 2.5) under terms therein specified by the sponsor of the resolution, rather than under the general rules of the House. For example, in 1965, the House agreed to a motion to discharge the Committee on Rules from the further consideration of a resolution making in order the “home rule” bill pending before the Committee on the District of Columbia. 89–1, Sept. 27, 1965, pp 25180–85. In 1982, after the Judiciary Committee had declined to report a balanced budget amendment, and a special order providing for its consideration had been pending before the Rules Committee, a motion to discharge the special order received sufficient signatures and was placed on the Discharge Calendar. Sept. 29, 1982, Discharge Petition 18, on H. Res. 450. A similar motion received the requisite number of signatures in 1992. 102–2, May 20, 1992, p ____.

However, the motion applies only to special orders which have been pending before the Committee on Rules for at least seven legislative days. *Manual* § 908. Moreover, it is not in order to move to discharge the Committee on Rules from the consideration of a resolution not specified in the discharge rule. The Committee on Rules may not be discharged from the further consideration of a resolution providing merely for the appointment of a committee to investigate. Deschler Ch 18 § 2.6.

Timetable

The discharge of a measure pursuant to Rule XXVII clause 3 is subject to the timetable and attendant layovers that are imposed under the rule. The discharge procedure requires:

- Expiration of 30 legislative days after the measure’s reference to committee (§ 2, *supra*) and the concurrent expiration of seven legislative days if the petition is filed against a special order of business referred to the Committee on Rules.
- Expiration of the period needed to obtain the requisite signatures (§ 4, *infra*).
- Expiration of seven or more legislative days after reference of motion to discharge calendar (§ 6, *infra*).
- Calling up motion only on second or fourth Monday following expiration of seven-day period (§ 6, *infra*).

The time frame involved under the rule, lengthy as it is, has sometimes led the House to take other action to dispose of the bill. Thus, in one recent

instance, the House considered and passed, under suspension of the rules, a bill reported by the Committee on the Judiciary after a petition to discharge it had received the necessary signatures, the bill having been reported before the motion to discharge had been on the Discharge Calendar for seven legislative days. 96–2, June 24, 1980, p 16577.

§ 4. — Signatures Required

The provision of the discharge rule that a discharge motion must be signed by a majority of the Members has been interpreted to mean that the motion requires the signatures of a majority of the entire membership (not including non-voting Delegates who may not sign), or 218 Members. See Deschler Ch 18 § 1.2. This requirement is in contrast to the vote needed for actual passage of legislation under ordinary conditions, which requires only a majority of these present and voting, a quorum being present. See VOTING.

The rule requires the preparation of daily cumulative lists of the names of those signing the petition. Such lists must be made available for public inspection. Rule XXVII clause 3 (adopted in 1995).

Additional signatures are not admitted after the requisite number have been affixed. A signature may be withdrawn by a Member in writing at any time before the petition is signed by the requisite number and entered on the Journal. Rule XXVII clause 3. The signing of discharge motions by proxy is not permitted. 7 Cannon § 1014.

The death or resignation of a signatory of the motion does not invalidate his signature (Deschler Ch 18 § 1.5); but to enable a Member elected in a special election to fill a vacancy to sign a petition, the signature of his predecessor must be removed (Deschler Ch 18 § 1.4).

§ 5. — Privilege and Precedence of Motions

Under the modern practice, a motion to discharge a committee, when called up pursuant to the provisions of the discharge rule, is privileged, and the Speaker may decline to recognize for a matter not related to the proceedings. 7 Cannon § 1010. Such motions take precedence over business merely privileged under the general rules of the House. 7 Cannon § 1011. The motion takes precedence over motions to resolve into Committee of the Whole (7 Cannon §§ 1016, 1017), over unfinished business coming over from the preceding day (Deschler Ch 18 § 3.4), and over motions to suspend the rules (7 Cannon § 1018). However, prior to the consideration of a motion to discharge, the Speaker may in his discretion recognize for one-minute speeches (96–1, July 24, 1979, p 20358), or permit a Member to

proceed for one minute on an unrelated matter by unanimous consent (91–2, Aug. 10, 1970, pp 27994–99).

§ 6. — Calling Up and Debating the Motion

Generally

Under the discharge rule, a motion to discharge which has been on the Discharge Calendar at least seven days may be called up for consideration on the second and fourth Mondays of each month except during the last six days of a session. Rule XXVII clause 3. The consideration of such a motion may be made in order on a day other than the specified Mondays by unanimous consent. Deschler Ch 18 § 3.5. In one instance by unanimous consent the House dispensed with the motion to discharge and agreed to consider the underlying matter (a special order) on a date certain under the same terms as if discharged by motion. 102–2, June 4, 1992, p ____.

To call up the motion, a Member must qualify as having signed the discharge petition (89–1, Sept. 27, 1965, pp 25180–85; 92–1, Nov. 8, 1971, pp 39885–89; Deschler Ch 18 § 3.6).

Intervening Motions

The rule of the House providing for the consideration of discharge motions does not permit intervening motions except for one motion to adjourn. Rule XXVII clause 3. Accordingly, it has been held that when a motion to discharge a committee is called up, it is not in order to move to table the motion (Deschler Ch 18 § 3.15) or to move to postpone consideration thereof to a day certain (Deschler Ch 18 § 3.14). And the Speaker has declined to recognize for extensions of remarks where a discharge motion is pending. Deschler Ch 18 § 3.16.

Debate on Motion

Debate on the motion to discharge is limited to 20 minutes—10 minutes in favor of the proposition and 10 minutes under the control of the Member recognized in opposition. *Manual* § 908. The Speaker has denied recognition for requests to extend the time. 7 Cannon § 1010.

The division of the 20-minute period for debate is in accordance with the position of the Member as being either for or against the pending matter, and not according to membership in a particular political party. 7 Cannon § 1010. The proponents of a motion to discharge are entitled to open and close debate on the motion. 7 Cannon § 1010a; Deschler Ch 18 § 3.13. The chairman of the committee being discharged, if opposed, is ordinarily recognized to control the 10 minutes in opposition. 91–2, Aug. 10, 1970, p 27999; 96–1, July 24, 1979, p 20358.

A Member recognized to control half of the 20 minutes' debate on the motion may yield part of his time to another Member (Deschler Ch 18 § 3.11) but that Member may not yield part of that time to still another Member (Deschler Ch 18 § 3.12).

§ 7. — Consideration of Discharged Measure; Forms

Motion to Consider the Discharged Measure

Following agreement to a motion to discharge a standing committee from a measure pending before the committee, it is then in order for any Member who signed the motion to move to proceed to the immediate consideration of that measure. Rule XXVII clause 3. Deschler Ch 18 § 4.3. The motion to consider the measure is privileged and is decided without debate. 91–2, Aug. 10, 1970, pp 27999, 28004; 92–1, Nov. 8, 1971, pp 39885–89. If the motion for immediate consideration is adopted, the legislation is taken up under the general rules of the House. Deschler Ch 18 §§ 4.4, 4.6. Otherwise, the discharged measure is referred to its proper calendar. Deschler Ch 18 § 4.7.

A similar procedure is followed after agreement to a motion to discharge the Committee on Rules from the further consideration of a resolution pending before that committee. The House immediately considers the resolution, the Speaker not entertaining any dilatory or other intervening motion except one motion to adjourn. Rule XXVII clause 3. Deschler Ch 18 § 4. Amendments to the resolution are not in order (unless the previous question is voted down). 78–2, Jan. 24, 1944, p 631. See also *Manual* § 908.

Motions to Expedite Consideration; Debate

A bill having been discharged pursuant to the rule, its proponents are entitled to recognition for allowable motions to expedite consideration of the discharged measure. 7 Cannon § 1012. Measures requiring consideration in Committee of the Whole are taken up therein. 7 Cannon § 1021; Deschler Ch 18 § 4.4. Where the discharged measure does not require consideration in Committee of the Whole, the Member who made the motion for its immediate consideration is recognized in the House under the hour rule. 91–2, Aug. 10, 1970, p 27999; *Manual* § 908. And when a joint resolution proposing an amendment to the Constitution is considered in the House pursuant to a motion to discharge, the proponent of the resolution is recognized to control one hour of debate. 96–1, July 24, 1979, p 20362. Under the modern practice, however, a special order discharged from the Committee on Rules under this procedure specifies all the procedures under which the discharged bill is to be considered.

The bill to which the discharge motion applies is read by title only (Rule XXVII clause 3) and may not be read in its entirety (7 Cannon § 1019a).

The point of order provided by Rule XXI clause 5—interdicting consideration of appropriations not reported by the Committee on Appropriations—does not apply to an appropriation in a bill which has been taken away from the committee by the motion to discharge. 7 Cannon § 1019a; *Manual* § 908.

Forms

MEMBER: Mr. Speaker, pursuant to section 3 of Rule XXVII, I call up the petition to discharge the Committee on _____ from the further consideration of the bill, H.R. _____.

Or

Mr. Speaker, under the rule, I call up the petition to discharge the Committee on Rules from the further consideration of the resolution, H. Res. _____, providing for consideration of the bill, H.R. _____.

SPEAKER: Did the gentleman sign the petition?

MEMBER: I did, Mr. Speaker.

SPEAKER: The gentleman from _____ calls up a motion to discharge the Committee on _____ from the further consideration of the bill [resolution] which the Clerk will report by title.

SPEAKER: The gentleman from _____ is entitled to ten minutes in favor of the motion, and the gentleman from _____ is entitled to ten minutes in opposition. The gentleman from _____ [proponent of the motion] is recognized.

SPEAKER: The time of the gentleman has expired. All time has expired. The question is on the motion to discharge the Committee on _____ from further consideration of the bill (or resolution). As many as favor the motion will say “Aye.” As many as are opposed say “No.”

SPEAKER: The ayes have it and the motion is agreed to. The committee is discharged.

§ 8. Discharge of Matters Privileged Under the Constitution

Certain matters arising under the Constitution are privileged for consideration at any time, and may therefore be discharged at any time irrespective of the requirements for petitions under the discharge rule. Examples include propositions to discipline a Member and impeachment resolutions. See Deschler Ch 18 § 5. Similarly, a motion to discharge a committee from the further consideration of a vetoed bill that has been returned to the House and referred back to committee by the House presents a question of privilege and is in order at any time. Deschler Ch 18 § 5.1. It is likewise in order to move to discharge a proposition involving the right of a Member to his

seat. See discussion in 8 Cannon § 2316. Generally, see QUESTIONS OF PRIVILEGE.

Although a motion to discharge a committee from the consideration of a vetoed bill is privileged (4 Hinds § 3532) and debatable (101–2, Mar. 7, 1990, p ____), that motion is subject to the motion to lay on the table (Deschler Ch 18 § 5.1) but remains renewable on a subsequent day.

§ 9. Discharge of Resolutions of Disapproval; Statutory Motions

Congressional disapproval actions, as expressed in joint, concurrent or simple resolutions, are sometimes made subject, by statute, to a motion to discharge after the lapse of a certain period of time. For various examples, see *Manual* § 1013.