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Chapter 19

Discharging Measures From Committees

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Research References

7 Cannon §§ 1007–1023
Deschler Ch 18
Manual §§ 892, 1130

§ 1. In General; Alternative Methods

There are certain procedures that effectively discharge a committee or that 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 XV clause 2 after the measure has been pending in committee for more than 30 days. *Manual* § 892; see § 2.
- A motion to discharge the Committee on Rules from a special rule proposing a special order of business for consideration of certain public bills or resolutions under rule XV clause 2 after the special rule has been pending before it for seven days.
- The motion to suspend the rules available under rule XV clause 1 pursuant to a vote of two-thirds of the Members. *Manual* § 885.

Note: The motion to suspend the rules may be applied to unreported measures. 8 Cannon § 3421; generally, see SUSPENSION OF RULES.

- The Speaker's referral under rule XII clause 2 of a bill pursuant to time limits that result in the discharge of the bill from committee at the end of the designated time. *Manual* § 816.
- A resolution reported by the Committee on Rules providing for the consideration 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.

  Note: Although a unanimous-consent request is within the discretion of the Chair, the Speaker will not entertain such a request without the consent of the chairman and ranking minority member of the committee considering the measure and the majority and minority floor leadership. See ''Speaker's guidelines,'' *Manual* § 956.
- A statutory procedure for discharging certain measures of Congressional disapproval or approval. *Manual* § 1130; 4 Hinds § 4697.

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 XV clause 2, a Member may file with the Clerk a motion (normally called a discharge petition) to discharge a committee from the consideration of a public bill or resolution that was referred to the committee 30 days prior thereto. *Manual* § 892. The word ''days'' has been construed to mean legislative days and has been so recodified in rule XV clause 2. Deschler Ch 18 § 3.1 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. Under rule XV clause 2, when the requisite number of signatures are obtained (a majority of the total membership), the motion is entered on the Journal, printed in the *Congressional Record*, and referred to the Discharge Calendar. Deschler Ch 18 § 1.3. 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 or fourth Monday of a month. The motion is then debated for 20 minutes and voted on. If the motion prevails on a public bill or joint resolution, it is in order

to proceed to consider the discharged measure pursuant to a motion to that effect. See § 6, infra. If the motion prevails on a special rule, the House proceeds to immediate consideration of the rule. See § 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 on the last day of each week, and signatures are available for public inspection in the Clerk's office on any day of the business week. *Manual* § 892.

Reoffering of Motion

Under rule XV clause 2, 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.

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

Public Bills and Resolutions

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 proposed to be amended in the committee. 7 Cannon § 1015.

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. 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. *Manual* § 892; 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 a resolution specified in rule XV clause 2(b)(1)(B). Such a resolution would enable consideration of a reported public bill or public resolution that has been reported by a standing committee or has been referred to a standing committee for 30 legislative days under terms therein specified by the sponsor of the resolution rather than under the general rules of the House. A petition to discharge the Committee on Rules from consideration of a special rule making in order a balanced budget constitutional amendment received the requisite number of signatures on two occasions. *Manual* § 892.

The motion applies only to special orders that have been pending before the Committee on Rules for at least seven legislative days. *Manual* § 892. 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. For example, 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.

Since the 105th Congress, rule XV clause 2(b)(2) has required that a special rule subject to a discharge motion address the consideration of only one measure and must not propose to admit or effect a nongermane amendment.

Timetable

The discharge of a measure pursuant to rule XV clause 2 is subject to the following timetable:

- Expiration of 30 legislative days after the measure is referred to committee and the concurrent expiration of seven legislative days after a petition is filed against a special order of business referred to the Committee on Rules. § 2, supra.
- Requisite number of signatures. § 4, infra.
- Expiration of seven legislative days, which begins the day the motion is referred to the discharge calendar. § 6, infra.
- Privilege of motion only on second or fourth Monday of month following expiration of seven-day period. § 6, infra.

§ 4. — Signatures Required

The requirement that a discharge motion 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. 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 those present and voting, a quorum being present. See VOTING. However, a hard majority is necessary for a discharge motion because the death or resignation of a signatory of the motion does not invalidate his signature. Deschler Ch 18 § 1.5. To enable a Member elected in a special election to sign a petition, the signature of his predecessor must be removed by the successor. *Manual* § 892; Deschler Ch 18 § 1.4.

Rule XV clause 2 requires the preparation of daily cumulative lists of the names of those signing the petition. Such lists must be made available for public inspection.

Additional signatures are not admitted after the requisite number have been affixed. Deschler Ch 18 § 1.4. Under rule XV clause 2, 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. The signing of discharge motions by proxy is not permitted. 7 Cannon § 1014.

§ 5. — Privilege and Precedence of Motions

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 (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 by unanimous consent. Deschler Ch 18 § 3.8.

§ 6. — Calling Up and Debating the Motion

Generally

Under rule XV clause 2, a motion to discharge that 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. 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. The House may dispense with a motion to discharge by unanimous consent and agree to consider the underlying matter on a date certain under the same terms as if discharged by motion. *Manual* § 892.

To call up the motion, a Member must qualify as having signed the discharge petition. Deschler Ch 18 § 3.6.

Intervening Motions

Rule XV clause 2 does not permit intervening motions except for one motion to adjourn. 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 or to move to postpone consideration thereof to a day certain. Deschler Ch 18 §§ 3.14, 3.15.

Debate on Motion

Debate on the motion to discharge is limited to 20 minutes—10 minutes under the control of the proponent and 10 minutes under the control of the Member recognized in opposition. *Manual* § 892. The Speaker has denied recognition for requests to extend the time. 7 Cannon § 1010.

The 20-minute period for debate is divided according to position on 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. Deschler Ch 18 § 3.10.

A Member recognized to control half of the debate on the motion may yield part of his time to another Member, but that Member may not yield part of that time to a third Member. Deschler Ch 18 §§ 3.11, 3.12.

§ 7. — Consideration of Discharged Measure; Forms

Motion to Consider the Discharged Measure

Under rule XV clause 2, following agreement to a motion to discharge a measure pending before a committee, it is in order for any Member who signed the motion to move to proceed to the immediate consideration of that measure. Deschler Ch 18 § 4.3. The motion to consider the measure is privileged and is decided without debate. Deschler Ch 18 § 4.3. 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.

Under the modern practice of the House, most discharge motions propose to discharge the Committee on Rules from further consideration of a resolution pending before that committee. Under rule XV clause 2, if that motion is adopted, the House immediately considers the resolution. The Speaker may not entertain any dilatory or other intervening motion except one motion to adjourn. Deschler Ch 18 § 4. Amendments to the resolution are not in order, unless the previous question is not ordered. *Manual* § 892. If the discharged resolution is adopted, the House then considers the discharged measure under the terms of the resolution.

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 offered the motion for its immediate consideration is recognized in the House under the hour rule. *Manual* § 892. For example, when a joint resolution proposing an amendment to the Constitution was considered in the House pursuant to a motion to discharge, the proponent of the joint resolution was recognized to control one hour of debate. Deschler Ch 18 § 4.6. However, a special order discharged from the Committee on Rules under this procedure normally specifies all the procedures under which the underlying bill is to be considered.

Under rule XV clause 2, the bill to which the discharge motion applies is read by title only and may not be read in its entirety. 7 Cannon § 1019a.

The point of order provided by rule XXI clause 4—interdicting provisions containing appropriations not reported by the Committee on Appropriations—does not apply to an appropriation in a bill that has been taken away from the committee by the motion to discharge. *Manual* § 892; 7 Cannon § 1019a.

Form

MEMBER: Mr. Speaker, pursuant to clause 2 of rule XV, 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, subject to a two-day notice and scheduling requirement under rule IX. Examples include propositions to discipline a Member and impeachment resolutions. 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 privileged question 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 and debatable, that motion is subject to the motion to lay on the table but remains renewable on a subsequent day. *Manual* § 108; 4 Hinds § 3532; Deschler Ch 18 § 5.1.

§ 9. Discharge of Resolutions of Disapproval; Statutory Motions

Congressional actions approving or disapproving certain executive branch decisions are sometimes made subject, by statute, to automatic discharge or to a motion to discharge after the lapse of a certain period of time. For various examples, see *Manual* § 1130.