

COMMUNITY RECOGNITION ACT OF 2003

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FEBRUARY 3, 2004.—Committed to the Committee of the Whole House on the State
of the Union and ordered to be printed
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Mr. SENSENBRENNER, from the Committee on the Judiciary,
submitted the following

R E P O R T

[To accompany H.R. 3095]

[Including cost estimate of the Congressional Budget Office]

The Committee on the Judiciary, to whom was referred the bill (H.R. 3095) to amend title 4, United States Code, to make sure the rules of etiquette for flying the flag of the United States do not preclude the flying of flags at half mast when ordered by city and local officials, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

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THE AMENDMENT

The amendment is as follows:
Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Community Recognition Act of 2004".

SEC. 2. FLAG CODE AMENDMENT.

Section 7(m) of title 4, United States Code, is amended by inserting after the sentence beginning "In the event of the death of a present or former official of the government of any State" the following: "In the event of the death of a present or former official of any city or other locality, the chief elected official of that locality may proclaim that the National flag shall be flown at half staff."

PURPOSE AND SUMMARY

H.R. 3095 ensures that the rules of etiquette for flying the flag of the United States do not preclude the flying of flags at half mast when ordered by city and local officials. The legislation would authorize the chief elected leader of a city or other locality, in the event of the death of a present or former official of that particular locality, to proclaim that the national flag be flown at half staff in that locality.

BACKGROUND AND NEED FOR THE LEGISLATION

Currently, 4 U.S.C. §7(m) grants authority to the President of the United States or the governor of any State, territory, or possession to order that the national flag be flown at half mast in recognition of the death of a current or former official of the government. Local officials may order the national flag flown at half mast only with the direct permission from the President or the governor of that particular State, territory, or possession. Such permission is not always timely granted, which results in the missed opportunity to honor the deceased individual in question.

H.R. 3095 would permit local government officials to legally lower the flag to honor those leaders or public safety officials who either died in the line of duty or passed away following a distinguished career in public service by ordering the flag flown at half-staff.

The Code does not expressly outlaw the common practice of lowering the flag in honor of local heroes, but neither does it expressly permit such activity. This ambiguous wording has upset local officials across the country who believe that communities should have the right to honor their fellow citizens without express permission from the President or their governor.

HEARINGS

No hearings were held in the Committee on the Judiciary on H.R. 3095.

COMMITTEE CONSIDERATION

On January 28, 2004, the Committee met in open session and ordered favorably reported the bill H.R. 3095 with an amendment by voice vote, a quorum being present.

VOTE OF THE COMMITTEE

In compliance with clause 3(b) of Rule XIII of the Rules of the House of Representatives, the Committee notes that there were no recorded votes during its consideration of H.R. 3095.

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) of Rule XIII of the Rules of the House of Representatives, the Committee reports that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of Rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

NEW BUDGET AUTHORITY AND TAX EXPENDITURES

Clause 3(c)(2) of Rule XIII of the Rules of the House of Representatives is inapplicable because this legislation does not provide new budgetary authority or increased tax expenditures.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

In compliance with clause 3(c)(3) of Rule XIII of the Rules of the House of Representatives, the Committee sets forth, with respect to the bill, H.R. 3095, the following estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, January 30, 2004.

Hon. F. JAMES SENSENBRENNER, Jr., *Chairman,*
Committee on the Judiciary,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 3095, the "Community Recognition Act of 2004."

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Matthew Pickford, who can be reached at 226-2860.

Sincerely,

DOUGLAS HOLTZ-EAKIN.

Enclosure

cc: Honorable John Conyers, Jr.
Ranking Member

H.R. 3095—Community Recognition Act of 2004.

H.R. 3095 would amend Federal law to allow local officials to order the national flag to be flown at half staff in the event of the death of a present or former official of that city or locality. Under current law, only a State's governor or the President may make such proclamations. CBO estimates that implementing H.R. 3095 would have no Federal cost and would not affect direct spending or revenues. The bill contains no intergovernmental or private-sector mandates and would not affect the budgets of State, local, or tribal governments.

The CBO staff contact for this estimate is Matthew Pickford, who can be reached at 226-2860. This estimate was approved by Robert A. Sunshine, Assistant Director for Budget Analysis.

PERFORMANCE GOALS AND OBJECTIVES

H.R. 3095 does not authorize funding. Therefore, clause 3(c)(4) of Rule XIII of the Rules of the House of Representatives is inapplicable.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of Rule XIII of the Rules of the House of Representatives, the Committee finds the authority for this legislation in article I, section 8 of the Constitution.

SECTION-BY-SECTION ANALYSIS AND DISCUSSION

Section 1. Short Title.

This Act may be cited as the “Community Recognition Act of 2003.” The Committee adopted a technical amendment changing the date to 2004.

Section 2. Flag code amendment.

Section 2 amends 4 U.S.C. § 7(m) to allow local officials to proclaim that the national flag shall be flown at half mast in that locality to honor the passing of a distinguished local official.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italics, and existing law in which no change is proposed is shown in roman):

SECTION 7 OF TITLE 4, UNITED STATES CODE**§ 7. Position and manner of display**

The flag, when carried in a procession with another flag or flags, should be either on the marching right; that is, the flag’s own right, or, if there is a line of other flags, in front of the center of that line.

(a) * * *

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(m) The flag, when flown at half-staff, should be first hoisted to the peak for an instant and then lowered to the half-staff position. The flag should be again raised to the peak before it is lowered for the day. On Memorial Day the flag should be displayed at half-staff until noon only, then raised to the top of the staff. By order of the President, the flag shall be flown at half-staff upon the death of principal figures of the United States Government and the Governor of a State, territory, or possession, as a mark of respect to their memory. In the event of the death of other officials or foreign dignitaries, the flag is to be displayed at half-staff according to Presidential instructions or orders, or in accordance with recognized customs or practices not inconsistent with law. In the event of the death of a present or former official of the government of any State, territory, or possession of the United States, the Governor of

that State, territory, or possession may proclaim that the National flag shall be flown at half-staff. *In the event of the death of a present or former official of any city or other locality, the chief elected official of that locality may proclaim that the National flag shall be flown at half staff.* The flag shall be flown at half-staff 30 days from the death of the President or a former President; 10 days from the day of death of the Vice President, the Chief Justice or a retired Chief Justice of the United States, or the Speaker of the House of Representatives; from the day of death until interment of an Associate Justice of the Supreme Court, a Secretary of an executive or military department, a former Vice President, or the Governor of a State, territory, or possession; and on the day of death and the following day for a Member of Congress. The flag shall be flown at half-staff on Peace Officers Memorial Day, unless that day is also Armed Forces Day. As used in this subsection—

(1) * * *

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MARKUP TRANSCRIPT

BUSINESS MEETING

WEDNESDAY, JANUARY 28, 2004

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The Committee met, pursuant to notice, at 10:04 a.m., in Room 2141, Rayburn House Office Building, Hon. F. James Sensenbrenner, Jr. [Chairman of the Committee] presiding.

[Intervening business.]

Chairman SENSENBRENNER. Pursuant to notice, I now call up the bill H.R. 3095, the “Community Recognition Act of 2003” for purposes of markup, and move its favorable recommendation to the House. Without objection, the bill will be considered as read and open for amendment at any point.

[The bill H.R. 3095, follows:]

108TH CONGRESS
1ST SESSION

H. R. 3095

To amend title 4, United States Code, to make sure the rules of etiquette for flying the flag of the United States do not preclude the flying of flags at half mast when ordered by city and local officials.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 16, 2003

Mr. DOOLITTLE introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend title 4, United States Code, to make sure the rules of etiquette for flying the flag of the United States do not preclude the flying of flags at half mast when ordered by city and local officials.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Community Recogni-
5 tion Act of 2003”.

6 **SEC. 2. FLAG CODE AMENDMENT.**

7 Section 7(m) of title 4, United States Code, is amend-
8 ed by inserting after the sentence beginning “In the event

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1 of the death of a present or former official of the govern-
2 ment of any State” the following: “In the event of the
3 death of a present or former official of any city or other
4 locality, the chief elected official of that locality may pro-
5 claim that the National flag shall be flown at half staff.”.

○

Chairman SENSENBRENNER. And the Chair now recognizes the gentleman from Ohio, Mr. Chabot, the chairman of the Subcommittee on the Constitution, for 5 minutes to summarize his opening statement in support of the bill.

Mr. CHABOT. Thank you, Mr. Chairman. And I won't use the 5 minutes; I will be able to do it much more briefly than that.

Under the current flag code, only the President of the United States or the governor of a State or territory has the authority to order the national flag to be flown at half staff in recognition of the death of a current or former State official, including public safety officers. In the event of the death of a local official who has been chosen to be honored by having the national flag lowered, direct permission must be sought by local officials from either the President or the governor. The effect of this current practice is a chain of communication that is not always timely, and can result in missing an opportunity to honor some deserving public servants.

Having recognized this problem with existing law, Congressman Doolittle of California introduced H.R. 3095, the bill that we are discussing here. By approving this bill, we can address this problem by granting authority directly to the locally elected leaders to call for and approve such recognition. Immediate authorization at the local level will ensure that no local hero passes without the community support and recognition he or she deserves.

I would note that similar legislation was approved by this Committee during 107th Congress and subsequently passed by the House 420 to zero. Unfortunately, no action was taken by the other body. I urge my colleagues to once again support this legislation. And I yield back the balance of my time.

Chairman SENSENBRENNER. In the absence of the gentleman from New York, who wishes to give the Democratic opening statement? The gentleman from Michigan.

Mr. CONYERS. Thank you, Mr. Chairman. I would like to announce that on this side we are in complete support of the Chairman's description and reasoning behind the bill, and support it. And I yield back.

Chairman SENSENBRENNER. Without objection, all Members' opening statements will be included in the record at this point. Are there amendments? If there are no amendments, without objection, the short title will be amended by striking 2003 and inserting 2004.

The question occurs on the motion to report the bill H.R. 3095 favorably. All in favor say aye. Opposed no. The ayes appear to have it. The ayes have it. The motion to report favorably is agreed to. Without objection, the Chairman is authorized to move to go to conference pursuant to House rules. Without objection, the staff is directed to make any technical and conforming changes, and all Members will be given 2 days as provided by the rules in which to submit additional dissenting, supplemental, or minority views. And because the short title was amended, without objection, the bill will be reported favorably to the House in the form of a single amendment in the nature of a substitute incorporating the amendment adopted here today.