

# Chapter 19

## Discharging Measures From Committees

- § 1. In General; Alternative Methods
- § 2. The Discharge Rule; Motions to Discharge
- § 3. — Application and Use; What Measures May Be Discharged
- § 4. — Signatures Required
- § 5. — Privilege and Precedence of Motions
- § 6. — Calling Up and Debating the Motion
- § 7. — Consideration of Discharged Measure; Forms
- § 8. Discharge of Matters Privileged Under the Constitution
- § 9. Discharge of Resolutions of Disapproval; Statutory Motions

### 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 clause 2 of rule XV after the measure has been pending in committee for more than 30 legislative days. *Manual* § 892; see § 2, *infra*.
- The motion to discharge the Committee on Rules from a resolution proposing a special order of business for consideration of certain public bills or resolutions under clause 2 of rule XV after the special order of business has been pending before it for seven legislative days. *Manual* § 892; see § 3, *infra*.
- The motion to suspend the rules available under clause 1 of rule XV 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; see generally SUSPENSION OF RULES.
- The Speaker's referral under clause 2 of rule XII of a measure pursuant to time limits that result in the discharge of the measure from committee at the end of the designated time. *Manual* § 816.
- A unanimous-consent request agreed to by the House (the procedure does not apply 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 chair and ranking minority member of the committee considering the measure and the majority and minority floor leadership. See *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. For the discharge of vetoed bills, see § 8, *infra*; for discharge pursuant to statute, see § 9, *infra*.

## § 2. The Discharge Rule; Motions to Discharge

### Generally

Under clause 2 of rule XV, 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 (or to discharge a special order of business for the consideration of such bill or resolution from the Committee on Rules if such special order has been referred to the committee for seven legislative days). *Manual* § 892. The word “days” has been construed to mean legislative days and has been so recodified in clause 2 of rule XV. 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 clause 2 of rule XV, when the requisite number of signatures are obtained (a majority of the total membership—that is, 218 Members, regardless of the current whole number of the House), 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 immediately considered and debated for 20 minutes, one-half in favor and one-half in opposition. If the motion prevails on a public bill or joint resolution, it is in order to move to proceed to consider the discharged measure. See § 6, *infra*. If the motion to discharge prevails on a special order of business, the House proceeds to immediate consideration of the rule (mooting the possibility of a motion to reconsider) without the need for any Member to call up the discharged special order. 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 signatories a matter of public record on the last legislative day of each week, and they are available for public inspection in the Clerk's office. *Manual* § 892.

### **Reoffering of Motion**

Under clause 2 of rule XV, 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 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. *Manual* § 892; Deschler Ch 18 § 1.13.

### **Application to Special Orders of Business From the Committee on Rules**

Under the modern practice, the rule is often invoked to discharge the Committee on Rules from the consideration of a resolution specified in clause 2(b)(1)(B) of rule XV. Such a resolution would enable consideration of a public bill or public resolution that has either been reported by a committee or has been referred to a 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 order of business making in order a balanced budget constitutional amendment received the requisite number of signatures on two occasions. 102-2, May 20, 1992, p 12222; 103-2, Feb. 24, 1994, p 2999. In the 107th Congress, a special order for the consideration of a campaign finance reform bill was successfully discharged (107-2, Jan. 24, 2002, p 145) and in the 114th Congress, a special order for the consideration of an Export-Import Bank reauthorization bill was similarly discharged (114-1, Oct. 26, 2015, p \_\_\_\_). However, there have also been

instances where the object of the discharge motion was the measure itself, rather than a special order for consideration of such measure. 96-1, July 24, 1979, p 20358.

The motion applies only to special orders of business 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) or providing for consideration of a Senate bill at the Speaker's table.

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

#### **Timetable**

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

- Expiration of 30 legislative days after the measure is referred to committee and, if applicable, the concurrent expiration of seven legislative days after a special order of business is referred to the Committee on Rules. § 2, *supra*.
- Obtaining the required 218 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 218 Members, regardless of the actual majority of the House. Deschler Ch 18 § 1.2. Neither Delegates nor the Resident Commissioner may sign a discharge petition, even by unanimous consent. 108-1, Oct. 1, 2003, p 23853. This numerical 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 such individual's signature. Deschler Ch 18 § 1.5. To enable a Member

elected in a special election to sign a petition, the signature of the predecessor must be removed by the successor. *Manual* § 892; Deschler Ch 18 § 1.4.

Clause 2 of rule XV requires the preparation of daily cumulative lists of the names of those signing the petition. Such lists must be made available for public inspection. In the 112th Congress, an amendment to the rule clarified that the signatories to a discharge petition are to be made public (rather than the signatures themselves). 112-1, Jan. 5, 2011, p 80. It is not a proper parliamentary inquiry to ask the Chair which Members have signed a discharge petition, as Members may inspect the petition themselves. 113-2, Apr. 8, 2014, p\_\_\_\_.

Additional signatures are not admitted after the requisite number have been affixed. Deschler Ch 18 § 1.4. Under clause 2 of rule XV, 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 has the discretion to recognize Members for one-minute speeches by unanimous consent. Deschler Ch 18 § 3.8; 114-1, Oct. 26, 2015, p\_\_\_\_.

### § 6. — Calling Up and Debating the Motion

#### Generally

Under clause 2 of rule XV, a motion to discharge that has been on the Discharge Calendar at least seven legislative 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 motion to discharge need not be offered immediately after the pledge of allegiance in order to be privileged. 114-1, Oct. 26, 2015, p\_\_\_\_. 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 have signed the discharge petition. Deschler Ch 18 § 3.6.

### **Intervening Motions**

Clause 2 of rule XV does not permit intervening motions except for one motion to adjourn, which may be made at any time while the motion to discharge is pending. 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; see also 96-1, July 24, 1979, p 20358; 103-2, Mar. 11, 1994, p 4772.

### **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 a 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 chair 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 that 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.

### **Form**

MEMBER: M\_\_\_. 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*

M\_\_\_. Speaker, pursuant to clause 2 of rule XV, 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 gentle \_\_\_\_\_ sign the petition?

MEMBER: I did, M\_\_\_. Speaker.

SPEAKER: The gentle \_\_\_\_\_ 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 gentle \_\_\_\_\_ from \_\_\_\_\_ will control ten minutes in favor of the motion, and the gentle \_\_\_\_\_ from \_\_\_\_\_ will control ten minutes in opposition. The gentle \_\_\_\_\_ from \_\_\_\_\_ [proponent of the motion] is recognized.

SPEAKER: The time of the gentle \_\_\_\_\_ 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.

## § 7. — Consideration of Discharged Measure; Forms

### Motion to Consider the Discharged Measure

Under clause 2(e)(2) of rule XV, following agreement to a motion to discharge a public bill or resolution 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, many discharge motions propose to discharge the Committee on Rules from further consideration of a resolution pending before that committee. Under clause 2(e)(1) of rule XV, if that motion is adopted, the House immediately considers the resolution. During such consideration, the Speaker may not entertain any dilatory or other intervening motion except one motion to adjourn. Deschler Ch 18 § 4. If the previous question is defeated, then the prohibition on dilatory motions no longer applies and amendments to the resolution would be in order. 114-1, Oct. 26, 2015, p \_\_\_\_; *Manual* § 892. Pursuant to clause 8 of rule XX, the Chair may postpone the vote on ordering the previous question on the discharged resolution, such that consideration of the underlying measure takes place on a non-discharge day. 114-1, Oct. 27, 2015, p \_\_\_\_\_. 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 of business discharged from the Committee on Rules under this procedure normally specifies the procedures under which the underlying bill is to be considered.

Under clause 2 of rule XV, 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 clause 4 of rule XXI—interdicting provisions containing appropriations not reported by the Committee on Appropriations—does not apply to an appropriation in a bill that has been the object of a successful motion to discharge. *Manual* § 892; 7 Cannon § 1019a.

A special order of business having been discharged pursuant to the rule, the House immediately proceeds to the consideration of the special order and the Chair will recognize the proponent of the motion under the hour rule. 114-1, Oct. 26, 2015, p\_\_\_\_.

### **§ 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; 114-2, Dec. 6, 2016, p\_\_\_\_. 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 a contested election. See discussion in 8 Cannon § 2316; see generally 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.

