

CRS Insights

Congressional Disapproval of District of Columbia Acts Under the Home Rule Act
Christopher M. Davis, Analyst on Congress and the Legislative Process (cmdavis@crs.loc.gov, 7-0656)
March 24, 2015 (IN10249)

The District of Columbia Self-Government and Governmental Reorganization Act, as amended (also known as the "[Home Rule Act](#)"), includes provisions establishing a special parliamentary mechanism by which Congress can [disapprove laws enacted by the District of Columbia](#).

Under Section 602(c) of the Home Rule Act, as amended, with few exceptions, the chairman of the D.C. city council must transmit a copy of each act passed by the council and signed by the mayor, as well as enactments stemming from ballot initiatives or referendum, to the Speaker of the House of Representatives and the President of the Senate. (This transmission may occur when the law is enacted or at a later point.) The law in question will take effect upon the expiration of a specified "layover" period following the date the law was transmitted to Congress unless it is first overturned by a joint resolution of disapproval. The act establishes special "fast track" procedures that the House and Senate might use to consider such a disapproval resolution.

The length of the congressional layover period for D.C. laws differs based on the type of law the District has enacted. Any law codified in Title 22 (Criminal Offenses and Penalties), 23 (Criminal Procedure), or 24 (Prisoners and Their Treatment) of the District of Columbia Code must lie over for 60 days before going into force. All other District laws become effective upon the expiration of a layover period of 30 calendar days or upon the date prescribed by the act itself, whichever is later. In calculating this 30-calendar-day layover period, Saturdays, Sundays, federal holidays, and days on which neither the House nor the Senate is in session because of an adjournment *sine die* or pursuant to an adjournment resolution are excluded.

Under the Home Rule Act, any Member of the House or Senate may introduce a qualifying joint resolution disapproving a law of the District of Columbia at any time after the law has been submitted to Congress and before the expiration of the layover periods described above. There is no limit on the number of resolutions that may be introduced. All joint resolutions, when introduced, are referred to the Committee on Oversight and Government Reform in the House and the Committee on Homeland Security and Governmental Affairs in the Senate.

Once a joint disapproval resolution is referred, a committee may choose to mark it up but may not report amendments to it. For those joint resolutions aimed at D.C. laws codified in the D.C. criminal code, a discharge mechanism is potentially available. For such acts, if a committee to which a disapproval resolution has been referred has not reported it within 20 calendar days after its introduction, a privileged motion to discharge the committee from the further consideration of it or any joint resolution aimed at the same D.C. law is in order. The motion to discharge is debatable for one hour, equally divided, and can be made only by an individual favoring the legislation. The motion is no longer available after the committee has reported a disapproval resolution with respect to the same District law. For enactments not affecting the D.C. criminal code, the committees would presumably have to report a joint resolution for it to reach the calendar.

In both the House and Senate, once a committee has reported or (within the limits described above) been discharged from further consideration of a joint resolution, a non-debatable motion to proceed to consider the measure is in order and may be made by any Member. This motion to proceed may be made even if a previous motion to the same effect has been defeated. The motion to proceed may not be amended, nor may a vote on it be reconsidered. A motion to postpone the motion to proceed is in order but is not debatable. Should the House or Senate agree to consider by simple majority vote, the joint resolution would be pending before the respective chamber and debatable for up to 10 hours, equally divided. A non-debatable motion to limit debate below 10 hours is in order. The joint disapproval resolution may not be amended or recommitted, and a vote thereon may not be

reconsidered. All appeals from decisions of the chair made during consideration of the joint resolution are to be decided without debate. Passage of a joint resolution is by simple majority vote. It appears that passage and presentment of a joint resolution of disapproval to the President must occur before the expiration of the layover period in order to invalidate that District law.

Perhaps because the Home Rule Act mechanism was [originally structured](#) as a one- or two-house legislative veto, it does not include separate parliamentary procedures governing consideration of a joint resolution of approval or disapproval after its initial passage in its chamber of origin.

Should a joint resolution of approval or disapproval pass the House and Senate but be vetoed by the President, any attempt to override that veto would take place under normal House and Senate procedures. In the Senate, vetoed measures are privileged for consideration (as they are in the House) but are fully debatable and thus potentially subject to a filibuster and the cloture process.

It is worth noting that the Home Rule Act disapproval procedure has been used infrequently, and should the House or Senate choose to consider a disapproval resolution under its terms, the chambers will likely have to interpret for themselves how some of its facets operate in current parliamentary practice, a decision each will no doubt make in close consultation with that chamber's Parliamentarian.

It bears further mention that the Home Rule Act disapproval procedure is one expedited parliamentary method that Congress might use to invalidate a proposed District law. It is not, however, the only way Congress might undertake such disapproval. In fact, although Congress has successfully [used](#) the special parliamentary disapproval mechanisms of the Home Rule Act on [three occasions](#) since passage of the act in the early 1970s, it has far more frequently over this period influenced actions of the District of Columbia through the regular lawmaking process, including the appropriations process.