

Discharge Petitions and the House Discharge Rule

May 24, 2018 (IN10910)

Related Author

- [Christopher M. Davis](#)
-

Christopher M. Davis, Analyst on Congress and the Legislative Process (cmdavis@crs.loc.gov, 7-0656)

Recent media reports have discussed an effort by some Representatives to use a discharge petition to schedule a floor vote on a resolution (a "special rule") providing for House consideration of immigration legislation under a "[Queen-of-the-Hill](#)" amendment structure. This Insight discusses the principal features of the House discharge rule and links to additional reading material on the subject.

The House discharge rule, [clause 2 of Rule XV](#), establishes a parliamentary mechanism whereby 218 Members of the House of Representatives—a majority of the chamber—can bring a bill or resolution to the floor for consideration even if the measure has not been reported by committee or is not supported by the majority party leadership. A precursor to the present discharge rule was adopted in the months following the [1910 House revolt](#) against [Speaker Joseph Cannon](#) and was intended to provide a check on the scheduling power of the Speaker and the Committee on Rules. The essential form of the present discharge rule was adopted in 1931, and the number of Members necessary to sign the petition was increased to a majority of the whole House (218) in 1935.

The process established by the discharge rule is time consuming and involves multiple steps. After a bill or resolution has been introduced and referred to a House committee for at least 30 [legislative days](#), any Member may file a motion—in the form of a petition—to discharge that committee from the further consideration of the bill. A Member may also file a motion to discharge the Rules Committee of further consideration of a special rule that has been referred to the Rules Committee for at least seven legislative days but not reported, establishing the terms of debate and amendment on a bill. In the latter case, a Member would draft the special rule and submit it through the [hopper](#).

A discharge petition must provide for the consideration only of a single introduced public measure, not multiple bills, and only one petition can be filed on each measure. Furthermore, the procedure cannot be used to discharge any special rule that would have the effect of permitting non-germane amendments or making in order more than one measure. A special rule could, however, as in the Queen-of-the-Hill rule described above, provide for the consideration of a single measure with multiple full substitute amendments made in order. Private bills are not subject to discharge under the rule. The Clerk of the House makes discharge petitions available for Members to sign at the rostrum on the chamber floor while the House is in session. Signatures are made [publicly available](#) on a daily basis by the Clerk, and the names of new signatories are printed in the [Congressional Record](#) on the last legislative day of each week. A Member may withdraw his or her signature in writing at any time before a discharge motion receives 218 signatures. Delegates and the Resident Commissioner may not sign a petition. The death or resignation of a Member does not invalidate his or her

signature.

As soon as the 218th Member signs a discharge petition, the petition is "frozen," and the discharge motion is entered on the *House Journal*, printed in the *Congressional Record*, and placed on the [Calendar of Motions to Discharge Committees](#). When the motion to discharge has been on the Calendar for at least seven legislative days, it becomes eligible for consideration on a "Discharge Day," which, under the rule, is the second or fourth Monday of each month. (The House could provide by unanimous consent or special rule that a motion to discharge be in order on a different day.) If the House is not in session on a Discharge Day, the motion to discharge could not be made until the next Discharge Day on which the House meets. In the event the House leadership tried to adjourn over until Tuesday in order to avoid session on an upcoming Discharge Day, supporters of the discharge petition could defeat the motion and move instead to adjourn to the Monday in question.

On a qualifying Discharge Day, the motion to discharge could be made on the floor by any Member who signed the petition. A discharge motion may not be called up during the last six days of a session of Congress. The discharge motion is debatable for 20 minutes, evenly divided between a proponent and an opponent. The chair of the committee being discharged is usually recognized to control the time in opposition. Debate time may not be extended, even by unanimous consent. The motion to discharge is not subject to the motions to table or to postpone, although one motion to adjourn is in order during its consideration.

If the motion to discharge a bill is agreed to by majority vote, it would then be in order to move by non-debatable motion that the House immediately consider the discharged bill. This motion to consider must be made by a signatory to the petition. If agreed to, the House would consider the bill under the general rules of the House. For appropriations, revenue, and authorizing bills requiring consideration in the Committee of the Whole, the terms of consideration would resemble an [open special rule](#) from the Rules Committee. Measures not dealing with money would be considered in the House under the [one-hour rule](#).

If the successful motion to discharge had instead been filed on a special rule, the House would immediately consider the special rule under the one-hour rule, and, if it were adopted, then consider the legislation in question under the terms laid out in that special rule.

If a discharge petition is filed on a bill, and the committee in possession of the bill reports it before the motion to discharge is made on the floor, the discharge petition is moot; the bill, then on the Calendar, would remain in the scheduling control of the majority party leadership. If a discharge petition is filed on a special rule, however, and the Rules Committee reports the special rule, it does not block action. If the Rules Committee reports a special rule, but then fails to call the rule up on the floor within seven legislative days, any member of the committee (including a minority party member) could be recognized to call the special rule up once he or she has given one day's notice of an intention to do so. Finally, if the petition is filed on a special rule, the reporting of the bill mentioned in the special rule also does not moot the effort; the special rule would provide for consideration of the underlying bill whether it was reported or not.

Once the House has acted on a motion to discharge, it is not in order during the same session of Congress to entertain another motion to discharge the committee of the same measure or any other bill or resolution that is substantially the same.

For questions about the House discharge rule, contact:

- Christopher M. Davis, Analyst on Congress and the Process, 7-0656, cmdavis@crs.loc.gov
- Valerie Heitshusen, Specialist on Congress and the Legislative Process, 7-8635, vheitshusen@crs.loc.gov
- Mark Oleszek, Analyst on Congress and the Legislative Process, 7-7084, moleszek@crs.loc.gov
- Elizabeth Rybicki, Specialist on Congress and the Legislative Process, 7-0644, erybicki@crs.loc.gov

For additional reading, see [House Practice: A Guide to the Rules, Precedents and Procedures of the House](#); CRS Report 97-552, [The Discharge Rule in the House: Principal Features and Uses](#), by Richard S. Beth; and CRS Report 97-856, [The Discharge Rule in the House: Recent Use in Historical Context](#), by Richard S. Beth.