

# BASIC TRAINING

## PARLIAMENTARY PROCESS, FACTS, AND STRATEGIES

### Resolutions of Inquiry and Discharge Petitions

In the House, the ability of the minority party to move legislation is greatly restricted. With the increasingly structured nature of floor consideration, it is even harder for the Members of the minority party to gain the opportunity to vote on their alternatives. However, there are two parliamentary tools available to Members under the House Rules which can be used to highlight issues and bring them to the floor.

A **resolution of inquiry** is a resolution directed at obtaining information from an executive branch agency. A **discharge petition** is a petition maintained by the Clerk which, when signed by a majority of House Members, can discharge a committee from the further consideration of the object of the petition. These two tools — whether used individually or in conjunction — can provide a way for minority members to highlight issues when committees are reluctant to entertain them.

#### RESOLUTIONS OF INQUIRY

A resolution of inquiry is a method used by the House to **obtain information from an executive branch official**. Clause 7 of rule XIII gives Members the ability to bring this kind of resolution directly to the floor in the absence of committee action.

**Content of the resolution.** In order to qualify as a privileged resolution of inquiry, the resolution must meet certain tests:

- The resolution must be directed to the **President or the head of an executive department**. The resolution would not be privileged if directed to the head of an independent agency, such as the Federal Reserve or the Securities and Exchange Commission, or even if directed to the head of an executive branch agency other than a department, even if the head of that agency is given cabinet-

level status, such as the Administrator of the Environmental Protection Agency.

- The resolution **may not contain a preamble**.
- The resolution must seek only **facts, usually in the form of documents**; it may not request opinions or require the head of the executive department to conduct an investigation.
- It may not request information which is not in the purview of the executive branch official.

#### Consideration of the Resolution of Inquiry.

A resolution of inquiry is introduced through the hopper and referred to the appropriate committee. **If the Committee fails to report the resolution within 14-legislative days, a privileged motion to discharge the committee is available to any member.** That motion is not debatable, although it is subject to a further motion to table. If the motion to discharge is agreed to, the resolution of inquiry is considered under the hour rule.

If the committee of jurisdiction reports the measure within the 14-legislative day period, the motion to discharge is extinguished and only an authorized member of the committee may call up the resolution.

**A committee may report a resolution of inquiry with either a favorable or unfavorable recommendation**, or no recommendation at all; however, all that is required is that the committee report the resolution to eliminate the privileged motion to discharge. It is important to note that the 14-legislative day period includes the 2 calendar days for the filing of minority or additional views.

#### DISCHARGE PETITIONS

Clause 2 of rule XV is commonly referred to as the **“discharge rule”** and provides the framework for the way discharge petitions operate. The rule

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#### SPOTLIGHT INFO

##### DISCHARGE PETITIONS ... BY THE NUMBERS

30

legislative days for committee to act on a bill or resolution

7

legislative days for the Rules Committee to report a rule for a bill or resolution in committee

218

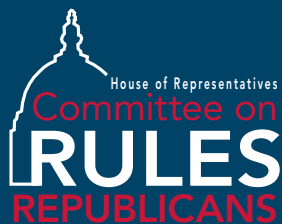
signatures needed to discharge a committee

7

days after obtaining signatures for a motion to discharge to ripen

2nd and 4th

Mondays of each month when a motion to discharge may be offered



provides that a Member may file a motion with the Clerk to discharge a committee from the consideration of a bill or resolution. A Member may also make a special order of business (commonly referred to as a “rule”) the object of a discharge petition, subject to certain other rules.

**Discharging a bill.** A member may file a discharge petition on a bill so long as the measure has been referred to the primary committee of jurisdiction for at least **30 legislative days**. Days are counted beginning on the day *after* introduction, and each day the House is in session thereafter counts for toward the total. When the bill is “ripe,” a Member may file the discharge petition with the Clerk and at that point the petition is open to other Members for their signatures. Delegates and the Resident Commissioner are not eligible to sign discharge petitions.

**Discharging a rule.** While it is possible to discharge a bill or resolution in its own right, the more common practice is to **designate a resolution providing a special order of business or a “rule” as the object of the petition**, so that there is a mechanism for consideration of the underlying bill or resolution. The discharge rule provides a special timetable for discharge petitions for rules, requiring that they only be referred to the Committee on Rules for **7 legislative days** before they are eligible for a discharge petition. However, the underlying bill which is the object of the rule must have been referred for the full 30 days. The rule does allow the clock for the underlying bill and the rule to run concurrently.

While a rule may provide for any kind of debate process for the underlying bill — including an open rule, closed rule, or “self-executed” amendments — it is important to note that since the 105th Congress, a rule providing for the self-execution of a non-germane amendment is not eligible for consideration via discharge petition. Member offices are strongly encouraged to **consult with the staff of the Committee on Rules** to ensure that any rule drafted meets the requirements of the rules and would function as desired if brought to the floor.

**Calling up the petition.** The rule requires enough Member signatures to constitute a **true majority of the House**. This is because the signatures of Members who have resigned or died are not removed from discharge petitions. When a discharge petition receives 218 signatures, the petition is closed to further signatures and placed on the discharge calendar.

The motion becomes privileged on the **second and fourth Mondays** of each month after it has been on the discharge calendar for an additional 7 legislative days. The motion may only be called up by any Member who signed the discharge petition. Debate on the motion is limited 10 minutes each to be controlled by the proponent and an opponent, and may not be interrupted by anything other than a single motion to adjourn.

If the motion to discharge is agreed to, it is immediately in order to move to consider the bill or rule which was the object of the discharge petition. If that motion is agreed to, then the rule or bill is considered under the hour rule.

## RESOLUTIONS OF INQUIRY AND DISCHARGE PETITIONS IN TANDEM

Recognizing the slim likelihood of having a resolution of inquiry considered by the House when the Speaker and the President are of the same political party, and the even more slim chance of getting the requisite signatures to trigger a discharge petition, one strategy for highlighting the object of the inquiry is to **use the two devices together**.

For instance, if a member introduces a resolution of inquiry seeking documents from the head of an executive branch department, the committee of jurisdiction would likely mark up the resolution and report it in order to eliminate the availability of the motion to discharge. The committee might report the resolution unfavorably or with no recommendation, and expect the matter to die at that point.

However, the discharge rule also allows members to file a discharge petition on special orders of business referred to the Rules Committee. By starting a **discharge petition on a rule providing for consideration of the resolution of inquiry**, the member can continue his or her efforts to draw attention to the object of the inquiry as that member attempts to gather signatures for the discharge petition. A recent example of this strategy is Mr. LaTuourette’s discharge petition on H.Res. 359, which provides for consideration of H.Res. 251, a resolution of inquiry which seeks information from the Secretary of the Treasury related to bonuses paid to AIG.