



Legislative BulletinAugust 1, 2013

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H.R. 2879 – Stop Government Abuse Act

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Order of Business: The bill is scheduled to be considered on August 1, 2013, under a rule, H.Res. 322. The rule provides for the consideration of H.R. 2879, as well as H.R. 367, and H.R. 2009.

With respect to H.R. 2879, the rule waives all points of order against consideration of the bill, and considers the bill as read. The rule provides for one hour of general debate and one motion to recommit. Upon passage of H.R. 2879, the following bills will be laid on the table: H.R. 1541, H.R. 2579, and H.R. 2711. The text of the rule can be [viewed here](#).

Summary: The text of H.R. 2879 is similar to the texts of H.R. 1541, H.R. 2579, and H.R. 2711. Each title is summarized below:

Title I:

This title is similar to the text of H.R. 1541. The legislation prohibits discretionary monetary payments from being made to federal employees during any sequestration period in excess of 105 percent of the total amount of basic pay payable to such individual.

Subject to approval by the Office of Personnel Management (OPM), the agency head may waive the prohibition if the prohibition would violate the terms of a collective bargaining agreement. If the prohibition is waived, the agency must notify Congress.

Title II:

The text of Title II is similar to H.R. 2579. This title allows federal agencies the ability to place employees on investigative leave, without loss of pay, for misconduct, neglect of duty, malfeasance, or misappropriation of funds. If the agency determines that the employee’s conduct is flagrant and intentional, the agency may place the employee on investigative leave without pay.

Agencies are directed to review the investigations into employees' misconduct every 45 days. This review shall be described in a report that is sent to Congress within five business days after the end of each 45-day period. Agencies are allowed to extend this period of investigative leave for an additional 90 days.

The agencies are directed to either:

- remove an employee placed on investigative leave
- suspend such employee without pay; or
- reinstate or restore such employee to duty.

Before an employee is placed in investigative leave, the legislation entitles them to 30 days advance written notice stating the specific reasons for the proposed action. Employees are not entitled to the 30 days advanced notice when there is a reasonable cause to believe that the employee has committed a crime that is punishable by imprisonment, or if the agency determines that the employee's conduct is flagrant and intentional. Employees are also allowed to be represented by an attorney and are allowed at least seven days to answer orally and in writing evidence in their support.

The legislation directs agency heads to remove employees for serious neglect of duty, misappropriation of funds, or malfeasance if the head of the agency:

- determines that the employee knowingly acted in a manner that endangers the interest of the agency mission;
- considers the removal to be necessary or advisable in the interests of the United States; and
- determines that the procedures prescribed in other provisions of law that authorize the removal of such employee cannot be invoked in a manner that the head of an agency considers consistent with the efficiency of the Government.

Employees removed from their positions shall receive notification that the employee is entitled to submit to the agency head statements or affidavits to show why the employee should be restored to duty within 30 days after the removal. Agency heads are to notify Congress when such terminations occur.

Title III:

The text of Title III is similar to H.R. 2711. This title allows individuals to record in-person or telephone interactions with employees of an Executive agency. This right is extended to any person who is allowed to represent individuals before an Executive agency.

The employee's participation in an in-person or telephone interaction shall constitute consent by the employee to have the interaction recorded.

A notice of the individual's right to record these conversations shall be included in any written material that is provided by an Executive agency to the individual concerning an

audit, investigation, inspection, or enforcement action that could result in the imposition of a fine, forfeiture of property, civil monetary penalty, or criminal penalty against, or the collection of an unpaid tax, fine, or penalty from, such individual or a business owned or operated by such individual.

Within 180 days after enactment, each Executive agency shall post prominently on their website information explaining the right to record interactions.

Committee Action: H.R. 2879 was introduced on July 31, 2013, and was referred to the House Oversight and Government Reform Committee, as well as the House Judiciary Committee. Neither committee took action on the legislation.

The text of Title I is similar to H.R. 1541. H.R. 1541 was introduced on April 12, 2013, and was referred to the House Oversight and Government Reform Committee. The full committee held a [markup on July 24, 2013](#), and favorably reported the legislation, as amended, by voice vote.

Title II is similar to the text of H.R. 2579. H.R. 2579 was introduced on June 28, 2013, and was referred to the House Oversight and Government Reform Committee. The full committee held a [markup on July 24, 2013](#), and favorably reported the legislation, as amended, by voice vote.

The text of title III is similar to H.R. 2711. H.R. 2711 was introduced on July 17, 2013, and was referred to the House Oversight and Government Reform Committee and the House Judiciary Committee. The House Oversight and Government Reform Committee held a [markup on July 24, 2013](#), and favorably reported the legislation, as amended, by voice vote.

Administration Position: No Statement of Administration Policy is available.

Cost to Taxpayers: No CBO score is available as of press time.

Does the Bill Expand the Size and Scope of the Federal Government?: No.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: No.

Does the Bill Contain Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: The legislation does not contain earmarks, limited tax benefits, or limited tariff benefits.

Constitutional Authority: According to the sponsor, “Congress has the power to enact this legislation pursuant to the following: “Article 1, Section 8, Clause 18,--“To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the government of the United States, or in any department or officer thereof.” Rep. Jenkins’ statement in the Congressional Record can be [viewed here](#).

RSC Staff Contact: Curtis Rhyne, Curtis.Rhyne@mail.house.gov, (202) 226-8576.
