



**Legislative Bulletin.....March 12, 2014**

- Contents:**  
    **H.R. 3973** — Faithful Execution of the Law Act of 2014  
    **H.R. 4138** — ENFORCE the Law Act
- 

**H.R. 3973 – Faithful Execution of the Law Act of 2014 (DeSantis, R-FL)**

**Order of Business:** The bill is scheduled to be considered on March 12, 2014, subject to a rule.

**Summary:** [H.R. 3973](#) requires the Attorney General (AG) of the United States to report to Congress when the AG or any other Federal officers implements or establishes a formal or informal policy to refrain from enforcing or administering any federal statute, rule, regulation, or program required of them. In addition, the basis of the refusal to enforce the law must be stated.

**Additional Information:** Current law only requires the Attorney General to submit a report to Congress that states when the Attorney General or other officers of the Department of Justice refrain from enforcing or administering federal laws or regulations when they determine the law to be unconstitutional. This bill expands the requirement of the AG to report on all Federal officers and requires them to report the basis for all instances when they refrain from enforcing the laws, not just when the basis is that the provision is unconstitutional.

Article II, Section 3, of the Constitution requires the President to “take Care that the Laws be faithfully executed.” This is known as the “Take Care” clause. The President has routinely waived enforcement of laws without the legal basis to do so. For example, the President has unilaterally changed the employer mandate the Patient Protection and Affordable Care Act (“Obamacare”). Additional information can be found in Committee Report 113-376 available [here](#).

**Committee Action:** The legislation was introduced on January 29, 2014, and referred to the House Committee on the Judiciary. The bill was favorably reported by the Committee on March 5, 2014, by a [vote](#) of 17-11.

**Administration Position:** No Statement of Administration Policy is available.

**Cost to Taxpayers:** According to the Congressional Budget Office [cost estimate](#) “implementing H.R. 3973 would have no significant cost to the federal government.”

**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?:** No.

**Constitutional Authority:** According to the sponsor, “Congress has the power to enact this legislation pursuant to the following: Article 1, Section 8 of the United States Constitution.” Congressman DeSantis’ statement in the Congressional Record can be viewed [here](#).

**RSC Staff Contact:** Scott Herndon, [Scott.Herndon@mail.house.gov](mailto:Scott.Herndon@mail.house.gov), (202) 226-2076.

**NOTE:** *RSC Legislative Bulletins are for informational purposes only and should not be taken as statements of support or opposition from the Republican Study Committee.*

---

---

## **Amendments to H.R. 3973**

***Ellison, (D-MN):*** This [amendment](#) waives the reporting requirement established under this bill until the Attorney General determines that sufficient funds have been appropriated to cover the costs imposed by the heightened reporting requirement.

---

---

## **H.R. 4138 – ENFORCE the Law Act of 2014 (Gowdy, R-SC)**

**Order of Business:** The bill is scheduled to be considered on March 12, 2014, subject to a rule.

**Summary:** [H.R. 4138](#) allows the Senate or the House, jointly or separately, upon the adoption of a resolution, to bring a civil action against the President if the President, the head of any department or agency, or any other officers or employees of the United States has established or implemented a formal or informal policy to refrain from enforcing or administering any law, regulation, or statute in violation of Article II, Section 3 of the Constitution of the United States. An action filed under the provisions of this legislation will be filed in a Federal district court and considered by a three-judge panel. The panel’s decision will be on an expedited track and is appealable directly to the Supreme Court.

**Additional Information:** Article II, section 3, clause 5, of the Constitution requires the President to “take care that the laws be faithfully executed.” More information is available in the Committee Report that can be viewed [here](#).

**Committee Action:** The Committee favorably reported the bill on March 5, 2014, by a [vote](#) of 18-14.

**Administration Position:** No Statement of Administration Policy is available.

**Cost to Taxpayers:** According to the Congressional Budget Office [cost estimate](#) “implementing the legislation would have no significant impact on the federal budget because any amounts expended for court costs or litigation could also be spent under current law on similar activities.”

**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?:** No.

**Constitutional Authority:** According to the sponsor, “Congress has the power to enact this legislation pursuant to the following: The constitutional authority on which this legislation is based is found in Article I, Section 8, Clause 9; Article III, Section 1; and Article III, Section 2, Clause 2 of the Constitution, which grant Congress authority over federal courts. In addition, each House of Congress may determine the rules of its proceedings under Article I, Section 5, Clause 2.” Congressman Gowdy’s statement in the Congressional Record can be viewed [here](#).

**RSC Staff Contact:** Scott Herndon, [Scott.Herndon@mail.house.gov](mailto:Scott.Herndon@mail.house.gov), (202) 226-2076.

**NOTE:** *RSC Legislative Bulletins are for informational purposes only and should not be taken as statements of support or opposition from the Republican Study Committee.*

---

---

## **Amendments to H.R. 4138**

***Nadler (D-NY):*** This [amendment](#) states that the bill does not limit or affect the prosecutorial discretion of the executive branch.

***Cicilline (D-RI):*** This [amendment](#) requires the Comptroller General of the United States to submit a report the first year after enactment of the Act and quarterly thereafter that details the costs of any civil action brought under the provisions of the act. The cost of attorney fees must also be included in the reports.

***Conyers (D-MI):*** This [amendment](#) states that the provisions of the Act do not limit or otherwise affect action taken by the President or other officers or officials to combat discrimination or protect the civil rights of the people of the United States.

***Jackson Lee (D-TX):*** This [amendment](#) states that the Act does not limit or otherwise affect the ability of the executive branch to comply with decisions interpreting the Constitution or other Federal laws.

###