Union Calendar No. 553

98TH CONGRESS
2D SESSION

H. R. 5645

[Report No. 98–985]

To permit courts of the United States to establish the order of hearing for certain civil matters, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 10, 1984

Mr. KASTENMEIER (for himself, Mr. BROOKS, Mr. MAZZOLI, Mr. SYNAR, Mrs. SCHROEDER, Mr. GLICKMAN, Mr. FRANK, Mr. MORRISON of Connecticut, Mr. BERMAN, Mr. MOORHEAD, Mr. HYDE, Mr. DEWINE, and Mr. SAWYER) introduced the following bill; which was referred to the Committee on the Judiciary

AUGUST 31, 1984

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on May 10, 1984]

A BILL

To permit courts of the United States to establish the order of hearing for certain civil matters, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Federal Courts Civil Priorities Act".

ESTABLISHMENT OF PRIORITY OF CIVIL ACTIONS

SEC. 2. (a) Chapter 111 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§ 1657. Priority of civil actions

"(a) Notwithstanding any other provision of law, each court of the United States shall determine the order in which civil actions are heard and determined, except that the court shall expedite the consideration of any action brought under chapter 153 or section 1826 of this title, any action for temporary or preliminary injunctive relief, or any other action if good cause therefor is shown. For purposes of this subsection, 'good cause' is shown if a right under the Constitution of the United States or a Federal statute (including rights under section 552 of title 5) would be maintained in a factual context that indicates that a request for expedited consideration has merit.

"(b) The Judicial Conference of the United States may modify the rules adopted by the courts to determine the order in which civil actions are heard and determined, in order to establish consistency among the judicial circuits.".

(b) The section analysis of chapter 111 of title 28, United States Code, is amended by adding at the end thereof the following new item:

"1657. Priority of civil actions.".

AMENDMENTS TO OTHER LAWS

SEC. 3. The following provisions of law are amended:

(1)(A) Section 309(a)(10) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)(11)) is repealed.

(B) Section 310(c) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437h(c)), is repealed.

(2) Section 552(a)(4)(D) of title 5, United States Code, is repealed.

(3) Section 6(a) of the Commodity Exchange Act (7 U.S.C. 8) is amended by striking out "The proceedings in such cases in the court of appeals shall be made a preferred cause and shall be expedited in every way.".

(4)(A) Section 6(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136d(c)(4)) is amended by striking out the second sentence.

(B) Section 10(d)(3) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136h(d)(3)) is amended by striking out "The court shall give expedited consideration to any such action.".

(C) Section 16(b) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136n(b)) is amended by striking out the last sentence.

(D) Section 25(a)(4)(E)(iii) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136w(a)(4)(E)(iii)) is repealed.

(5) Section 204(d) of the Packers and Stockyards Act, 1921 (7 U.S.C. 194(d)), is amended by striking out the second sentence.

(6) Section 366 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1366) is amended in the fourth sentence by striking out "At the earliest convenient time, the court, in term time or vacation," and inserting in lieu thereof "The court".

(7)(A) Section 410 of the Federal Seed Act (7 U.S.C. 1600) is amended by striking out "The proceedings in such cases in the court of appeals shall be made a preferred cause and shall be expedited in every way.".

(B) Section 411 of the Federal Seed Act (7 U.S.C. 1601) is amended by striking out "The proceedings in such cases shall be made a preferred cause and shall be expedited in every way.".

(8) Section 816(c)(4) of the Department of Defense Appropriation Authorization Act, 1976 (10

U.S.C. 2304 note) is amended by striking out the last sentence.

(9) Section 5(d)(6)(A) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(d)(6)(A)) is amended by striking out "Such proceedings shall be given precedence over other cases pending in such courts, and shall be in every way expedited.".

(10)(A) Section 7A(f)(2) of the Clayton Act (15 U.S.C. 18a(f)(2)) is amended to read as follows: "(2) certifies to the United States district court for the judicial district within which the respondent resides or carries on business, or in which the action is brought, that it or he believes that the public interest requires relief pendente lite pursuant to this subsection, then upon the filing of such motion and certification, the chief judge of such district court shall immediately notify the chief judge of the United States court of appeals for the circuit in which such district court is located, who shall designate a United States district judge to whom such action shall be assigned for all purposes.".

(B) Section 11(e) of the Clayton Act (15 U.S.C. 21(e)) is amended by striking out the first sentence.

(11) Section 1 of the Act of February 11, 1903, commonly known as the Expediting Act (15 U.S.C. 28) is repealed.

(12) Section 5(e) of the Federal Trade Commission Act (15 U.S.C. 45(e)) is amended by striking out the first sentence.

(13) Section 21(f)(3) of the Federal Trade Commission Improvements Act of 1980 (15 U.S.C. 57a–1(f)(3)) is repealed.

(14) Section 11A(c)(4) of the Securities Exchange Act of 1934 (15 U.S.C. 78k–1(c)(4)) is amended—

(A) by striking out "(A)" after "(4)"; and

(B) by striking out subparagraph (B).

(15)(A) Section 309(e) of the Small Business Investment Act of 1958 (15 U.S.C. 687a(e)) is amended by striking out the sixth sentence.

(B) Section 309(f) of the Small Business Investment Act of 1958 (15 U.S.C. 687a(f)) is amended by striking out the last sentence.

(C) Section 311(a) of the Small Business Investment Act of 1958 (15 U.S.C. 687c(a)) is amended by striking out the last sentence.

(16) Section 10(c)(2) of the Alaska Natural Gas Transportation Act (15 U.S.C. 719h(c)(2)) is repealed.

(17) Section 155(a) of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C.

1415(a)) is amended by striking out "(1)" and by striking out paragraph (2).

(18) Section 503(b)(3)(E) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2003(b)(3)(E)) is amended by striking out clause (ii) and redesignating clauses (iii) and (iv) as clauses (ii) and (iii), respectively.

(19) Section 23(d) of the Toxic Substances Control Act (15 U.S.C. 2622(d)) is amended by striking out the last sentence.

(20) Section 12(e)(3) of the Coastal Zone Management Improvement Act of 1980 (16 U.S.C. 1463a(e)(3)) is repealed.

(21) Section 11 of the Act of September 28, 1976 (16 U.S.C. 1910), is amended by striking out the last sentence.

(22)(A) Section 807(b) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3117(b)) is repealed.

(B) Section 1108 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3168) is amended to read as follows:

"INJUNCTIVE RELIEF

"SEC. 1108. No court shall have jurisdiction to grant any injunctive relief lasting longer than ninety days against any action pursuant to this title except in conjunction with a

final judgment entered in a case involving an action pursuant to this title.".

(23)(A) Section 10(b)(3) of the Central Idaho Wilderness Act of 1980 (Public Law 96–312; 94 Stat. 948) is repealed.

(B) Section 10(c) of the Central Idaho Wilderness Act of 1980 is amended to read as follows:

"(c) Any review of any decision of the United States District Court for the District of Idaho shall be made by the Ninth Circuit Court of Appeals of the United States.".

(24)(A) Section 1964(b) of title 18, United States Code, is amended by striking out the second sentence.

(B) Section 1966 of title 18, United States Code, is amended by striking out the last sentence.

(25)(A) Section 408(i)(5) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(i)(5)) is amended by striking out the last sentence.

(B) Section 409(g)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348(g)(2)) is amended by striking out the last sentence.

(26) Section 8(f) of the Foreign Agents Registration Act of 1938 (22 U.S.C. 618(f)) is amended by striking out the last sentence.

(27) Section 4 of the Act of December 22, 1974 (25 U.S.C. 640d–3), is amended by striking out "(a)" and by striking out subsection (b).

(28)(A) Section 3310(e) of the Internal Revenue Code of 1954 is repealed.

(B) Section 6110(f)(5) of the Internal Revenue Code of 1954 is amended by striking out "and the Court of Appeals shall expedite any review of such decision in every way possible".

(C) Section 6363(d)(4) of the Internal Revenue Code of 1954 is repealed.

(D) Section 7609(h)(3) of the Internal Revenue Code of 1954 is repealed.

(E) Section 9010(c) of the Internal Revenue Code of 1954 is amended by striking out the last sentence.

(F) Section 9011(b)(2) of the Internal Revenue Code of 1954 is amended by striking out the last sentence.

(29)(A) Section 596(a)(3) of title 28, United States Code, is amended by striking out the last sentence.

(B) Section 636(c)(4) of title 28, United States Code, is amended in the second sentence by striking out "expeditious and".

(C) Section 1296 of title 28, United States Code, and the item relating to that section in the section analysis of chapter 83 of that title, are repealed.

*(D) Subsection (c) of section 1364 of title 28, United States Code, the section heading of which reads "**Senate actions**", is repealed.*

(E) Section 2284(b)(2) of title 28, United States Code, is amended by striking out the last sentence.

(F) Section 2349(b) of title 28, United States Code, is amended by striking out the last two sentences.

(G) Section 2647 of title 28, United States Code, and the item relating to that section in the section analysis of chapter 169 of that title, are repealed.

(30) Section 10 of the Act of March 23, 1932, commonly known as the Norris-LaGuardia Act (29 U.S.C. 110) is amended by striking out "with the greatest possible expedition" and all that follows through the end of the sentence and inserting in lieu thereof "expeditiously".

(31) Section 10(i) of the National Labor Relations Act (29 U.S.C. 160(i)) is repealed.

(32) Section 11(a) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 660(a)) is amended by striking out the last sentence.

(33) Section 4003(e)(4) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1303(e)(4)) is repealed.

(34) Section 106(a)(1) of the Federal Coal Mine Health and Safety Act of 1969 (30 U.S.C. 816(a)(1)) is amended by striking out the last sentence.

(35) Section 1016 of the Impoundment Control Act of 1974 is amended by striking out the second sentence.

(36) Section 2022 of title 38, United States Code, is amended by striking out "The court shall order speedy hearing in any such case and shall advance it on the calendar.".

(37) Section 3628 of title 39, United States Code, is amended by striking out the fourth sentence.

(38) Section 1450(i)(4) of the Public Health Service Act (42 U.S.C. 300j–9(i)(4)) is amended by striking out the last sentence.

(39) Section 304(e) of the Social Security Act (42 U.S.C. 504(e)) is repealed.

(40)(A) Section 2004(e) of the Revised Statutes of the United States (42 U.S.C. 1971(e)) is amended—

(i) in the third paragraph, by striking out "An application for an order pursuant to this sub-

section shall be heard within ten days, and the execution of any order disposing of such application" and inserting in lieu thereof "The execution of an order disposing of an application pursuant to this subsection"; and

(ii) in the eighth paragraph, by striking out the first sentence.

(B) Section 2004(g) of the Revised Statutes of the United States (42 U.S.C. 1971(g)) is amended—

(i) in the first paragraph, by striking out "to assign the case for hearing at the earliest practicable date," and by striking out ", and to cause the case to be in every way expedited"; and

(ii) by striking out the third paragraph.

(41)(A) Section 10(c) of the Voting Rights Act of 1965 (42 U.S.C. 1973h(c)) is amended by striking out "to assign the case for hearing at the earliest practicable date," and by striking out ", and to cause the case to be in every way expedited".

(B) Section 301(a)(2) of the Voting Rights Act of 1965 (42 U.S.C. 1973bb(a)(2)) is amended by striking out ", and to cause the case to be in every way expedited".

(42)(A) Section 206(b) of the Civil Rights Act of 1964 (42 U.S.C. 2000a–5(b)) is amended—

(i) in the first paragraph, by striking out "to assign the case for hearing at the earliest practicable date," and by striking out ", and to cause the case to be in every way expedited"; and

(ii) by striking out the last paragraph.

(B) Section 706(f)(2) of the Civil Rights Act of 1964 (42 U.S.C. 2000e–5(f)(2)) is amended by striking out the last sentence.

(C) Section 706(f)(5) of the Civil Rights Act of 1964 (42 U.S.C. 2000e–5(f)(5)) is amended to read as follows:

"(5) The judge designated to hear the case may appoint a master pursuant to rule 53 of the Federal Rules of Civil Procedure.".

(D) Section 707(b) of the Civil Rights Act of 1964 (42 U.S.C. 2000e–6(b)) is amended—

(i) in the first paragraph, by striking out "to assign the case for hearing at the earliest practicable date," and by striking out ", and to cause the case to be in every way expedited"; and

(ii) by striking out the last paragraph.

(43) Section 814 of the Act of April 11, 1968 (42 U.S.C. 3614), is repealed.

(44) The matter under the subheading "EXPLORATION OF NATIONAL PETROLEUM RESERVE IN

ALASKA" under the headings "ENERGY AND MINERALS" and "GEOLOGICAL SURVEY" in title I of the Act of December 12, 1980 (94 Stat. 2964; 42 U.S.C. 6508), is amended in the third paragraph by striking out the last sentence.

(45) Section 214(b) of The Emergency Energy Conservation Act of 1979 (42 U.S.C. 8514(b)) is repealed.

(46) Section 2 of the Act of February 25, 1885 (43 U.S.C. 1062), is amended by striking out "; and any suit brought under the provisions of this section shall have precedence for hearing and trial over other cases on the civil docket of the court, and shall be tried and determined at the earliest practicable day".

(47) Section 23(d) of the Outer Continental Shelf Lands Act (43 U.S.C. 1349(d)) is repealed.

(48) Section 511(c) of the Public Utilities Regulatory Policies Act of 1978 (43 U.S.C. 2011(c)) is amended by striking out "Any such proceeding shall be assigned for hearing at the earliest possible date and shall be expedited by such court.".

(49) Section 203(d) of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1652(d)) is amended by striking out the fourth sentence.

(50) Section 5(f) of the Railroad Unemployment Insurance Act (45 U.S.C. 355(f)) is amended by striking out ", and shall be given precedence in the adjudication thereof over all other civil cases not otherwise entitled by a law to precedence".

(51) Section 305(d)(2) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 745(d)(2)) is amended—

(A) in the first sentence by striking out "Within 180 days after" and inserting in lieu thereof "After"; and

(B) in the last sentence by striking out "Within 90 days after" and inserting in lieu thereof "After".

(52) Section 124(b) of the Rock Island Transition and Employee Assistance Act (45 U.S.C. 1018(b)) is amended by striking out ", and shall render a final decision no later than sixty days after the date the last such appeal is filed".

(53) Section 402(g) of the Communications Act of 1934 (47 U.S.C. 402(g)) is amended—

(A) by striking out "At the earliest convenient time the" and inserting in lieu thereof "The"; and

(B) by striking out "10(e) of the Administrative Procedure Act" and inserting in lieu thereof "706 of title 5, United States Code".

(54) Section 405(e) of the Surface Transportation Assistance Act of 1982 (Public Law 97–424; 49 U.S.C. 2305(e)) is amended by striking out the last sentence.

(55) Section 606(c)(1) of the Rail Safety and Service Improvement Act of 1982 (Public Law 97–468; 49 U.S.C. 1205(c)(1)) is amended by striking out the second sentence.

(56) Section 13A(a) of the Subversive Activities Control Act of 1950 (50 U.S.C. 792a note) is amended in the third sentence by striking out "or any court".

(57) Section 12(a) of the Military Selective Service Act of 1967 (50 U.S.C. App. 462(a)) is amended by striking out the last sentence.

(58) Section 4(b) of the Act of July 2, 1948 (50 U.S.C. App. 1984(b)), is amended by striking out the last sentence.

EFFECTIVE DATE

SEC. 4. The amendments made by this Act shall not apply to cases pending on the date of the enactment of this Act.

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