

PROVIDING FOR THE ADOPTION OF THE RESOLUTION (H. RES. 895) ESTABLISHING WITHIN THE HOUSE OF REPRESENTATIVES AN OFFICE OF CONGRESSIONAL ETHICS, AND FOR OTHER PURPOSES

MARCH 10, 2008.—Referred to the House Calendar and ordered to be printed

Ms. SUTTON, from the Committee on Rules,
submitted the following

R E P O R T

[To accompany H. Res. 1031]

The Committee on Rules, having had under consideration House Resolution 1031, by a nonrecord vote, report the same to the House with the recommendation that the resolution be adopted.

SUMMARY OF PROVISIONS OF THE RESOLUTION

The resolution provides for the adoption of H. Res. 895, which establishes an Office of Congressional Ethics within the House of Representatives, with the amendment printed in this report upon adoption of the resolution.

COMMITTEE VOTES

The results of each record vote on an amendment or motion to report, together with the names of those voting for and against, are printed below:

Rules Committee record vote No. 448

Date: March 10, 2008.

Measure: H. Res. 895.

Motion by: Mr. Dreier.

Summary of motion: To grant an open rule.

Results: Defeated 4-7.

Vote by Members: Hastings (FL)—Nay; Matsui—Nay; Welch—Nay; Castor—Nay; Arcuri—Nay; Sutton—Nay; Dreier—Yea; Diaz-Balart—Yea; Hastings (WA)—Yea; Sessions—Yea; Slaughter—Nay.

Rules Committee record vote No. 449

Date: March 10, 2008.

Measure: H. Res. 895.

Motion by: Mr. Dreier.

Summary of motion: To provide for consideration of H. Res. 895, as amended, under a structured rule, making in order the amendment in the nature of a substitute No. 10 offered by Rep. Lamar Smith (TX), to be separately debatable for one hour equally divided and controlled by the proponent and an opponent. The amendment would reconstitute the Committee on Standards of Official Conduct as a 10-member committee, 3 currently Members of each party (6 total) and 4 former Members of the House who are not currently registered lobbyists. It would require that the Chairmanship of the committee rotate every Congress between the parties, regardless of who holds the majority. It would require the Inspector General to transmit any alleged violations by outside organizations to the Committee. It would require monthly reports from the Standards Committee. It would require that any issues not able to be resolved by the Committee for partisan reasons would be referred to the Justice Department. Requires that, upon the request of a Member, the Committee publicly disclose whether or not the requesting Member is or is not under investigation. The amendment would preserve the Standards Committee subpoena authority. The Smith substitute would not establish an independent outside commission.

Results: Defeated 4–8.

Vote by Members: Hastings (FL)—Nay; Matsui—Nay; Cardoza—Nay; Welch—Nay; Castor—Nay; Arcuri—Nay; Sutton—Nay; Dreier—Yea; Diaz-Balart—Yea; Hastings (WA)—Yea; Sessions—Yea; Slaughter—Nay.

Rules Committee record vote No. 450

Date: March 10, 2008.

Measure: H. Res. 895.

Motion by: Mr. Sessions.

Summary of motion: To report a rule that would allow for a separate debate and vote on H. Res. 895.

Results: Defeated 4–8.

Vote by Members: Hastings (FL)—Nay; Matsui—Nay; Cardoza—Nay; Welch—Nay; Castor—Nay; Arcuri—Nay; Sutton—Nay; Dreier—Yea; Diaz-Balart—Yea; Hastings (WA)—Yea; Sessions—Yea; Slaughter—Nay.

Rules Committee record vote No. 451

Date: March 10, 2008.

Measure: H. Res. 895.

Motion by: Mr. Hastings (WA).

Summary of motion: To make in order an amendment structure that would allow three separate votes on the Capuano proposal, the Smith proposal, and the Hill/Wamp proposal, and that the proposal with the most votes shall be considered as adopted.

Results: Defeated 4–8.

Vote by Members: Hastings (FL)—Nay; Matsui—Nay; Cardoza—Nay; Welch—Nay; Castor—Nay; Arcuri—Nay; Sutton—Nay; Dreier—Yea; Diaz-Balart—Yea; Hastings (WA)—Yea; Sessions—Yea; Slaughter—Nay.

SUMMARY OF AMENDMENT TO BE CONSIDERED AS ADOPTED

The amendment would (1) require that all appointments to the board be made by the Speaker and Minority Leader; (2) expand the

board to include at least one alternate member from each side; (3) provide that Office of Congressional Ethics (“OCE”) reviews be initiated at the request of at least one member appointed by the Speaker and one member appointed by the Minority Leader; (4) clarify that the board can initiate preliminary reviews; (5) require the affirmative vote of at least three members to move to a second-phase review; (6) provide that if three members do not vote to commence a second-phase review, then the matter is terminated; (7) clarify that subjects of OCE review may make presentations to the board before the board transmits a recommendation or statement to the Committee on Standards of Official Conduct; (8) provide that any time before the end of the preliminary review, four members of the board can vote to terminate it; (9) clarify that Members, officers, and staff may not communicate with the OCE regarding OCE cases; (10) impose new confidentiality rules and ex parte communication bars on OCE members and staff; (11) clarify that the elective office agreement pertains also to alternate members and OCE staff but refers only to seeking a seat in the U.S. House or Senate; (12) subject OCE staff to restrictions on political activities; and (13) clarify that the Committee on Standards of Official Conduct may not receive referrals from the Office of Congressional Ethics within 60 days prior to Federal, state, or local elections.

TEXT OF AMENDMENT TO BE CONSIDERED AS ADOPTED

Page 2, strike lines 3 through 13 and insert the following:

(b) BOARD.—(1) The Office shall be governed by a board consisting of six individuals of whom three shall be nominated by the Speaker subject to the concurrence of the minority leader and three shall be nominated by the minority leader subject to the concurrence of the Speaker. The Speaker shall nominate at least one alternate board member subject to the concurrence of the minority leader and the minority leader shall nominate at least one alternate board member subject to the concurrence of the Speaker. If any vacancy occurs in the board, then the most senior alternate board member nominated by the same individual who nominated the member who left the board shall serve on the board until a permanent replacement is selected. If a permanent appointment is not made within 90 days, the alternate member shall be deemed to have been appointed for the remainder of the term of the member who left the board and the Speaker or the minority leader, as applicable, shall nominate a new alternate subject to the concurrence of the other leader.

Page 5, line 1, strike “any”.

Page 5, line 2, after “the board” insert “(one of whom was nominated by the Speaker and one by the minority leader)”.

Page 5, line 9, after “specific matter,” insert “initiate a preliminary review and”.

Page 5, strike line 20 and all that follows thereafter through the period on page 6, line 2, and insert the following:

(C) Before the end of the applicable time period, vote on whether to commence a second-phase review of the matter under consideration. An affirmative vote of at least 3 members of the board is required to commence a second-phase review. If no such vote to commence a second-phase review has succeeded by the end of the applicable time period, the matter is

terminated. At any point before the end of the applicable time period, the board may vote to terminate a preliminary review by the affirmative vote of not less than 4 members.

Page 9, strike lines 3 through 14 and redesignate the succeeding clauses accordingly.

Page 10, line 11, insert “or staff of the Office” after “the board”.

Page 10, line 13, before the period insert “, and that no Member, officer, or employee of the House may communicate with any member of the board or staff of the Office regarding any matter under review by the board except as authorized by the board”.

Page 11, strike lines 18 through 22 and insert the following new subsection:

(f) PROHIBITION ON PUBLIC DISCLOSURE.—(1)(A) When an individual becomes a member of the board or staff of the Office, that individual shall execute the following oath or affirmation in writing: “I do solemnly swear (or affirm) that I will not disclose to any person or entity outside of the Office any information received in the course of my service with the Office, except as authorized by the board as necessary to conduct official business or pursuant to its rules.”. Copies of the executed oath shall be provided to the Clerk of the House as part of the records of the House.

(B) No testimony received or any other information obtained as a member of the board or staff of the Office shall be publicly disclosed by any such individual to any person or entity outside the Office. Any communication to any person or entity outside the Office may occur only as authorized by the board as necessary to conduct official business or pursuant to its rules.

(C) The Office shall establish procedures necessary to prevent the unauthorized disclosure of any information received by the Office. Any breaches of confidentiality shall be investigated by the board and appropriate action shall be taken.

Page 12, line 3, strike “transmits any report” and insert “votes on a recommendation or statement to be transmitted”.

Page 13, line 6, insert “(including an individual who is an alternate) or before any individual is hired to be a staff member of the Office” before “may do so”.

Page 13, line 8, strike “seek any Federal public office” and insert “be a candidate for the office of Senator or Representative in, or Delegate or Resident Commissioner to, the Congress for purposes of the Federal Election Campaign Act of 1971”.

Page 13, line 10, insert “or staff” after “board”.

Page 13, after line 18, insert the following new paragraph:

(3) The following rules shall be applicable to the staff of the Office:

(A) The staff is to be assembled and retained as a professional, nonpartisan staff.

(B) Each member of the staff shall be professional and demonstrably qualified for the position for which he is hired.

(C) The staff as a whole and each member of the staff shall perform all official duties in a nonpartisan manner.

(D) No member of the staff shall engage in any partisan political activity directly affecting any congressional or presidential election.

(E) No member of the staff may accept public speaking engagements or write for publication on any subject that is in

any way related to his or her employment or duties with the Office without specific prior approval from the chairman and cochairman.

Page 19, line 6, strike “an election” and insert “a Federal, State, or local election”.

