

111TH CONGRESS
1ST SESSION

H. R. 263

To amend title 28, United States Code, to grant to the House of Representatives the authority to bring a civil action to enforce, secure a declaratory judgment concerning the validity of, or prevent a threatened refusal or failure to comply with any subpoena or order issued by the House or any committee or subcommittee of the House to secure the production of documents, the answering of any deposition or interrogatory, or the securing of testimony, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 7, 2009

Ms. JACKSON-LEE of Texas introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend title 28, United States Code, to grant to the House of Representatives the authority to bring a civil action to enforce, secure a declaratory judgment concerning the validity of, or prevent a threatened refusal or failure to comply with any subpoena or order issued by the House or any committee or subcommittee of the House to secure the production of documents, the answering of any deposition or interrogatory, or the securing of testimony, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Contempt of the House
5 of Representatives Subpoena Authority Act of 2009”.

6 **SEC. 2. AUTHORITY TO BRING ACTIONS TO ENFORCE SUB-**
7 **POENAS OF THE HOUSE OF REPRESENTA-**
8 **TIVES.**

9 (a) IN GENERAL.—Title 28, United States Code, is
10 amended by inserting after section 1365 the following new
11 section:

12 **“§ 1365A. House of Representatives Actions**

13 “(a) ENFORCEMENT OF SUBPOENAS AND ORDERS.—
14 The United States District Court for the District of Co-
15 lumbia shall have original jurisdiction, without regard to
16 the amount in controversy, over any civil action brought
17 by the House of Representatives or any authorized com-
18 mittee or subcommittee of the House to enforce, to secure
19 a declaratory judgment concerning the validity of, or to
20 prevent a threatened refusal or failure to comply with, any
21 subpoena or order issued by the House or committee or
22 subcommittee of the House to any entity acting or pur-
23 porting to act under color or authority of State law or
24 to any natural person to secure the production of docu-
25 ments or other materials of any kind or the answering of

1 any deposition or interrogatory or to secure testimony or
2 any combination thereof. This section shall not apply to
3 an action to enforce, to secure a declaratory judgment con-
4 cerning the validity of, or to prevent a threatened refusal
5 to comply with, any subpoena or order issued to an officer
6 or employee of the executive branch of the Federal Gov-
7 ernment acting within his or her official capacity, except
8 that this section shall apply if the refusal to comply is
9 based on the assertion of a personal privilege or objection
10 and is not based on a governmental privilege or objection
11 the assertion of which has been authorized by the execu-
12 tive branch of the Federal Government.

13 “(b) CONTEMPT PROCEEDINGS.—Upon application
14 by the House of Representatives or any authorized com-
15 mittee or subcommittee of the House, the district court
16 shall issue an order to an entity or person refusing, or
17 failing to comply with, or threatening to refuse or not to
18 comply with, a subpoena or order of the House or com-
19 mittee or subcommittee of the House requiring such entity
20 or person to comply forthwith. Any refusal or failure to
21 obey a lawful order of the district court issued pursuant
22 to this section may be held by such court to be a contempt
23 thereof. A contempt proceeding shall be commenced by an
24 order to show cause before the court why the entity or
25 person refusing or failing to obey the court order should

1 not be held in contempt of court. Such contempt pro-
2 ceeding shall be tried by the court and shall be summary
3 in manner. The purpose of sanctions imposed as a result
4 of such contempt proceeding shall be to compel obedience
5 to the order of the court. Process in any such action or
6 contempt proceeding may be served in any judicial district
7 wherein the entity or party refusing, or failing to comply,
8 or threatening to refuse or not to comply, resides, trans-
9 acts business, or may be found, and subpoenas for wit-
10 nesses who are required to attend such proceeding may
11 run into any other district. Nothing in this section shall
12 confer upon such court jurisdiction to affect by injunction
13 or otherwise the issuance or effect of any subpoena or
14 order of the House or any committee or subcommittee of
15 the House or to review, modify, suspend, terminate, or set
16 aside any such subpoena or order. An action, contempt
17 proceeding, or sanction brought or imposed pursuant to
18 this section shall not abate upon adjournment sine die by
19 the House at the end of a Congress if the House or the
20 committee or subcommittee of the House which issued the
21 subpoena or order certifies to the court that it maintains
22 its interest in securing the documents, answers, or testi-
23 mony during such adjournment.

24 “(c) REPRESENTATION.—The House of Representa-
25 tives or any committee or subcommittee of the House com-

1 mencing and prosecuting a civil action or contempt pro-
 2 ceeding under this section may be represented in such ac-
 3 tion by such attorneys as the House may designate.

4 “(d) TREATMENT OF SELECT AND SPECIAL COMMIT-
 5 TEES.—For the purposes of this section the term ‘com-
 6 mittee’ includes standing, select, or special committees of
 7 the House of Representatives established by law or resolu-
 8 tion.”.

9 (b) CLERICAL AMENDMENT.—The table of sections
 10 of chapter 85 of title 28, United States Code, is amended
 11 by inserting after the item relating to section 1365 the
 12 following new item:

“1365A. House of Representatives actions.”.

13 **SEC. 3. ACTION BY GENERAL COUNSEL OF HOUSE OF REP-**
 14 **RESENTATIVES.**

15 (a) AUTHORIZATION TO BRING CIVIL ACTION TO EN-
 16 FORCE SUBPOENA.—When directed to do so by the adop-
 17 tion of a resolution by the House of Representatives pur-
 18 suant to section 3, the General Counsel of the House of
 19 Representatives shall bring a civil action under any statute
 20 conferring jurisdiction on any court of the United States
 21 (including section 1365A of title 28, United States Code),
 22 to enforce, to secure a declaratory judgment concerning
 23 the validity of, or to prevent a threatened failure or refusal
 24 to comply with, any subpoena or order issued by the

1 House or a committee or a subcommittee of the House
2 authorized to issue a subpoena or order.

3 (b) ACTIONS IN NAME OF COMMITTEES AND SUB-
4 COMMITTEES.—Any directive to the General Counsel to
5 bring a civil action pursuant to subsection (a) in the name
6 of a committee or subcommittee of the House shall, for
7 such committee or subcommittee, constitute authorization
8 to bring such action within the meaning of any statute
9 conferring jurisdiction on any court of the United States.

10 **SEC. 4. CONSIDERATION OF RESOLUTIONS AUTHORIZING**
11 **ACTIONS.**

12 (a) IN GENERAL.—It shall not be in order in the
13 House of Representatives to consider a resolution to direct
14 the General Counsel of the House of Representatives to
15 bring a civil action pursuant to this Act in the name of
16 a committee or subcommittee unless—

17 (1) such resolution is reported by a majority of
18 the members voting, a majority being present, of
19 such committee or committee of which such sub-
20 committee is a subcommittee; and

21 (2) the report filed by such committee or com-
22 mittee of which such subcommittee is a sub-
23 committee contains a statement of—

24 (A) the procedure followed in issuing such
25 subpoena;

1 (B) the extent to which the party subpoenaed
2 has complied with such subpoena;

3 (C) any objections or privileges raised by
4 the subpoenaed party; and

5 (D) the comparative effectiveness of bringing
6 a civil action pursuant to this Act, certification
7 of a criminal action for contempt of Congress,
8 and initiating a contempt proceeding before
9 the House.

10 (b) COMMITTEE REPORT NOT RECEIVABLE IN
11 COURT.—A report filed pursuant to subsection (a)(2)
12 shall not be receivable in any court of law to the extent
13 such report is in compliance with such subsection.

14 (c) EXERCISE OF RULEMAKING AUTHORITY.—The
15 provisions of subsection (a) are enacted—

16 (1) as an exercise of the rulemaking power of
17 the House of Representatives, and, as such, they
18 shall be considered as part of the rules of the House,
19 and such rules shall supersede any other rule of the
20 House only to the extent that rule is inconsistent
21 therewith; and

22 (2) with full recognition of the constitutional
23 right of the House to change such rules (so far as
24 relating to the procedure in the House) at any time,

1 in the same manner, and to the same extent as in
2 the case of any other rule of the House.

3 **SEC. 5. GENERAL COUNSEL DEFINED.**

4 In this Act, the term “General Counsel of the House
5 of Representatives” has the meaning given such term in
6 section 101(c) of the Legislative Branch Appropriations
7 Act, 2000 (2 U.S.C. 130f(c)).

8 **SEC. 6. RULE OF CONSTRUCTION.**

9 Nothing in this Act shall limit the discretion of—

10 (1) the Speaker of the House of Representa-
11 tives in certifying to the United States Attorney for
12 the District of Columbia any matter pursuant to sec-
13 tion 104 of the Revised Statutes of the United
14 States (2 U.S.C. 194); or

15 (2) the House of Representatives to hold any
16 individual or entity in contempt of the House.

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