UNITED STATES HOUSE OF REPRESENTATIVES

JUDICIARY COMMITTEE

CHAIRMAN BOB GOODLATTE

SUMMARY: The ENFORCE the Law Act

Introduced by Representatives Gowdy (R-S.C.), Issa (R-Calif.), and Goodlatte (R-Va.)

Article II, Section 3, of the U.S. Constitution declares that the President "shall take care that the laws be faithfully executed." However, President Obama has failed on several occasions to enforce Acts of Congress that he disagrees with for policy reasons and has also stretched his regulatory authority to put in place policies that Congress has refused to enact. While President Obama is not the first to stretch his presidential powers beyond their constitutional limits, executive overreach has accelerated at an alarming rate under his Administration.

To prevent executive overreach, *the Executive Needs to Faithfully Observe and Respect Congressional Enactments of the Law (ENFORCE the Law) Act* puts a procedure in place to permit the House, or the Senate, to authorize a lawsuit against the Executive Branch for failure to faithfully execute the laws. The legislation also provides for expedited consideration of any such lawsuit, first through a three-judge panel at the federal district court level and then by providing for direct appeal to the United States Supreme Court.

Specifically, the bill provides that if the President, or any other officer or employee of the United States, establishes or implements a formal or informal policy to refrain from enforcing any provision of federal law in violation of the requirement that the President "take care that the laws be faithfully executed," the House or the Senate may, by adoption of a resolution, authorize a civil action to seek declaratory or injunctive relief. Any such lawsuit may be brought by the House of Representatives, the Senate, or both Houses of Congress jointly.

The bill also provides for expedited consideration of any case brought by Congress pursuant to the bill's provisions. First, the bill provides that any such action shall be filed in a federal district court of competent jurisdiction and that the court shall convene a three-judge panel to hear the case. Second, the bill provides that the three-judge panel's decision is appealable directly to the United States Supreme Court. Finally, the district courts and the Supreme Court are required to expedite any case filed pursuant to this legislation.

The bill is intended to address procedural hurdles the courts have put in front of previous attempts by individual Members of Congress, and ad hoc groups of Members, to seek judicial review of alleged failures by the President to faithfully execute the law. The courts have held that when Congress or one House of Congress suffers an institutional injury, the Congress or a House of Congress must authorize any lawsuit aimed at redressing the injury. This bill puts a procedure in place to allow for such authorization and expedites judicial review of such decisions to ensure decisions are made in a timely manner by the courts.

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