

COMMUNITY RECOGNITION ACT OF 2001

NOVEMBER 29, 2001.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. SENSENBRENNER, from the Committee on the Judiciary,
submitted the following

R E P O R T

[To accompany H.R. 1022]

[Including cost estimate of the Congressional Budget Office]

The Committee on the Judiciary, to whom was referred the bill (H.R. 1022) to amend title 4, United States Code, to make sure the rules of etiquette for flying the flag of the United States do not preclude the flying of flags at half mast when ordered by city and local officials, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

CONTENTS

	Page
The Amendment	1
Purpose and Summary	2
Background and Need for the Legislation	2
Hearings	2
Committee Consideration	2
Vote of the Committee	2
Committee Oversight Findings	2
Performance Goals and Objectives	3
New Budget Authority and Tax Expenditures	3
Congressional Budget Office Cost Estimate	3
Constitutional Authority Statement	4
Section-by-Section Analysis and Discussion	4
Changes in Existing Law Made by the Bill, as Reported	4
Markup Transcript	5

The technical amendment (stated in terms of the page and line numbers of the introduced bill) is as follows:

Page 2, line 3, insert “other” before “locality”.

PURPOSE AND SUMMARY

The purpose of H.R. 1022 is to make sure the rules of etiquette for flying the flag of the United States do not preclude the flying of flags at half mast when ordered by city and local officials. The legislation would authorize the chief elected leader of a city or other locality, in the event of the death of a present or former official of that particular locality, to proclaim that the national flag be flown at half staff.

BACKGROUND AND NEED FOR THE LEGISLATION

Currently, 4 U.S.C. §7(m) grants authority to the President of the United States or the Governor of any State, territory, or possession to order that the national flag be flown at half staff in recognition of the death of a current or former official of the government under which they preside. Local officials may order the national flag flown at half mast only with the direct permission of the President or their Governor. Such permission is not always timely, which results in the missed opportunity to properly honor the decedent.

H.R. 1022 would permit the chief elected official of local government entities, such as cities, towns, counties, or other similar and like traditional political subdivisions, to honor those leaders or public servants who either died in the line of duty or passed away following a distinguished career in public service by ordering the national flag flown at half staff.

While the code does not expressly outlaw the common practice of lowering the flag in honor of local heroes it does not expressly permit such activity. This obscure wording has upset local officials across the country who believe that communities should have the right to honor their fellow citizens without having to receive the express and time consuming permission of either the President or their Governor.

HEARINGS

No hearings were held on H.R. 1022.

COMMITTEE CONSIDERATION

On November 15, 2001, the Committee met in open session and ordered favorably reported the bill H.R. 1022 without amendment by voice vote, a quorum being present.

VOTE OF THE COMMITTEE

No recorded votes were held on H.R. 1022.

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee reports that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

PERFORMANCE GOALS AND OBJECTIVES

H.R. 1022 does not authorize funding. Therefore, clause 3(c) of rule XIII of the Rules of the House of Representatives is inapplicable.

NEW BUDGET AUTHORITY AND TAX EXPENDITURES

Clause 3(c)(2) of House rule XIII is inapplicable because this legislation does not provide new budgetary authority or increased tax expenditures.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

In compliance with clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the Committee sets forth, with respect to the bill, H.R. 1022, the following estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, November 19, 2001.

Hon. F. JAMES SENSENBRENNER, Jr., *Chairman,*
Committee on the Judiciary,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 1022, the Community Recognition Act of 2001.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Lanette J. Walker, who can be reached at 226-2860.

Sincerely,

DAN L. CRIPPEN, *Director.*

Enclosure

cc: Honorable John Conyers, Jr.
Ranking Member

H.R. 1022—Community Recognition Act of 2001.

H.R. 1022 would authorize certain State and local officials to order that the national flag be flown at half staff in the event of the death of a present or former official of that State or locality. Under current law, only a State's governor or the President may make such proclamations. CBO estimates that implementing H.R. 1022 would not result in any significant cost to the Federal Government. Because enactment of H.R. 1022 would not affect direct spending or receipts, pay-as-you-go procedures would not apply to the bill. H.R. 1022 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of State, local, or tribal governments.

The CBO staff contact for this estimate is Lanette J. Walker, who can be reached at 226-2860. This estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds the authority for this legislation in Article I, section 8, clause 18 of the Constitution.

SECTION-BY-SECTION ANALYSIS AND DISCUSSION

Section 1. Short Title.

This act may be cited as the “Community Recognition Act of 2001.”

Section 2. Flag code amendment.

Section 2 provides that Section 7(m) of title 4, United States Code, is amended by inserting after the sentence beginning “In the event of the death of a present or former official of the government of any State” the following: “In the event of the death of a present or former official of any city or other locality, the chief elected official of that locality may proclaim that the National flag shall be flown at half staff.”.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italics and existing law in which no change is proposed is shown in roman):

SECTION 7 OF TITLE 4, UNITED STATES CODE

§ 7. Position and manner of display

The flag, when carried in a procession with another flag or flags, should be either on the marching right; that is, the flag’s own right, or, if there is a line of other flags, in front of the center of that line.

(a) * * *

* * * * *

(m) The flag, when flown at half-staff, should be first hoisted to the peak for an instant and then lowered to the half-staff position. The flag should be again raised to the peak before it is lowered for the day. On Memorial Day the flag should be displayed at half-staff until noon only, then raised to the top of the staff. By order of the President, the flag shall be flown at half-staff upon the death of principal figures of the United States Government and the Governor of a State, territory, or possession, as a mark of respect to their memory. In the event of the death of other officials or foreign dignitaries, the flag is to be displayed at half-staff according to Presidential instructions or orders, or in accordance with recognized customs or practices not inconsistent with law. In the event of the death of a present or former official of the government of any State, territory, or possession of the United States, the Governor of that State, territory, or possession may proclaim that the National flag shall be flown at half-staff. *In the event of the death of a*

present or former official of any city or other locality, the chief elected official of that locality may proclaim that the National flag shall be flown at half staff. The flag shall be flown at half-staff 30 days from the death of the President or a former President; 10 days from the day of death of the Vice President, the Chief Justice or a retired Chief Justice of the United States, or the Speaker of the House of Representatives; from the day of death until interment of an Associate Justice of the Supreme Court, a Secretary of an executive or military department, a former Vice President, or the Governor of a State, territory, or possession; and on the day of death and the following day for a Member of Congress. The flag shall be flown at half-staff on Peace Officers Memorial Day, unless that day is also Armed Forces Day. As used in this subsection—

(1) * * *

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MARKUP TRANSCRIPT

BUSINESS MEETING

THURSDAY, NOVEMBER 15, 2001

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The Committee met, pursuant to notice, at 10:10 a.m., in Room 2141, Rayburn House Office Building, Hon. F. James Sensenbrenner, Jr. (Chairman of the Committee) presiding.

Chairman SENSENBRENNER. The Committee will be in order.

Before we consider the business on today's calendar, I would like to dispose of one housekeeping matter, and that is filling the two Republican vacancies on the Subcommittee on Courts, the Internet, and Intellectual Property.

Without objection, the gentleman from California, Mr. Issa, and the gentlewoman from Pennsylvania, Ms. Hart, are appointed to serve on this Subcommittee.

Hearing no objection, so ordered.

The first bill on the agenda today will be H.R. 1022. And pursuant to notice, I call this bill up for purpose of mark up and move its favorable recommendation to the House. Without objection, the bill will be considered as read and open for amendment at any point.

[The bill, H.R. 1022, follows:]

107TH CONGRESS
1ST SESSION

H. R. 1022

To amend title 4, United States Code, to make sure the rules of etiquette for flying the flag of the United States do not preclude the flying of flags at half mast when ordered by city and local officials.

IN THE HOUSE OF REPRESENTATIVES

MARCH 14, 2001

Mr. DOOLITTLE introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend title 4, United States Code, to make sure the rules of etiquette for flying the flag of the United States do not preclude the flying of flags at half mast when ordered by city and local officials.

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 “Community Recogni-
5 tion Act of 2001”.

6 **SEC. 2. FLAG CODE AMENDMENT.**

7 Section 7(m) of title 4, United States Code, is amend-
8 ed by inserting after the sentence beginning “In the event

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1 of the death of a present or former official of the govern-
2 ment of any State” the following: “In the event of the
3 death of a present or former official of any city or locality,
4 the chief elected official of that locality may proclaim that
5 the National flag shall be flown at half staff.”.

○

Chairman SENSENBRENNER. And I yield myself 5 minutes.

On June 28th, 2001, the Corrections Day Advisory Group met and recommended that H.R. 1022 be placed upon the corrections calendar. Unfortunately, as of late, we have had increased occasion to visit the rules and etiquette in place of honoring of public servants.

Although at the time which Mr. Doolittle of California introduced H.R. 1022 the calamity of September 11th was far off, the content of this legislation rings more loudly after the events of that day and affords Congress the opportunity to visit the laws involving the recognition of those who provide public service.

Currently under the Flag Code, the authority is only granted to the President or the Governor of any State, territory, or possession to order that the national flag be flown at half-staff in recognition of the death of a current or former official of the government, including public safety officers.

Under existing law, in the event of a death of a local official who has chosen to be honored by having the National flag lowered, direct permission must be sought by local officials from either the President or their Governor. The result of the current practice is a chain of communication which is not always timely and can result in the missed opportunity to honor some of these deceased public servants.

By passing H.R. 1022 out of Committee today, we can solve this problem by granting authority directly to the locally elected leaders to call for and approve such recognition. Immediate authorization would be granted at the local level, ensuring that no local hero passes without community support and the recognition which he or she deserves.

I urge the Committee to support this bill. I yield back the balance of my time and recognize the gentleman from Michigan.

Mr. CONYERS. Thank you, Mr. Chairman.

We on this side have no objection to and, indeed, support this measure.

Chairman SENSENBRENNER. Are there any amendments?

Hearing no amendments, the Chair notes the absence of a reporting quorum. Without objection, the previous question is ordered on the motion to report the bill favorably. And this vote will be taken when we have—see a reporting quorum present.

[Intervening business.]

A reporting quorum being present, the unfinished business is the motion to report favorably the bill H.R. 1022.

Those in favor will say aye.

Opposed, no.

The ayes appear to have it. The ayes have it. The motion to report favorably is adopted.

Without objection, the Chairman is authorized to move to go to conference pursuant to House rules. Without objection, the staff is directed to make any technical and conforming changes. And all Members will be given 2 days as provided by the rules in which to submit additional dissenting, supplemental, or minority views.

[The statement of Ms. Jackson Lee follows:]

PREPARED STATEMENT OF THE HONORABLE SHEILA JACKSON LEE, A REPRESENTATIVE
IN CONGRESS FROM THE STATE OF TEXAS

Thank you Mr. Chairman.

I support HR 1022, which simply authorizes the chief elected official of a locality, in the event of the death of a present or former official of that locality, to proclaim that the national flag shall be flown at half staff. This bill amends Title 4, United States Code, ensuring that the important rules of etiquette for flying the flag of the United States do not preclude the flying of flags at half mast when ordered by city and local officials.

The section currently gives such explicit authority only to the President or, for certain purposes, the Governor of the state. This language is unnecessary and technically confusing because the subsection also reads in part that the flag may be flown at half staff "in accordance with recognized customs or practices not inconsistent with law."

The U.S. Supreme Court has, on two occasions, held that display of the flag, or the burning of the flag, are forms of expression protected by the First Amendment to the Constitution. As such, laws that mandate appropriate flag etiquette are unenforceable. This bill simply clarifies that there should be no such interference in such instances.

I urge my colleagues to support it.

[Intervening business.]

The Chair thanks the Members for their indulgence and support. This concludes the business on the notice, and the Committee is adjourned.

[Whereupon, at 11:06 a.m., the Committee was adjourned.]