

Union Calendar No. 91

104TH CONGRESS
1ST SESSION

H. R. 1170

[Report No. 104-179]

A BILL

To provide that cases challenging the constitutionality of measures passed by State referendum be heard by a 3-judge court.

JULY 11, 1995

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

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IN THE HOUSE OF REPRESENTATIVES

MARCH 8, 1995

Mr. BONO (for himself, Mr. HYDE, Mr. MOORHEAD, Mr. SENSENBRENNER, Mr. GALLEGLY, Mr. COBLE, Mr. GEKAS, Mr. CANADY of Florida, Mr. GOODLATTE, Mr. HOKE, Mr. COX of California, Mr. MCCOLLUM, Mr. DREIER, Mr. PAXON, Mr. RIGGS, Mr. LEWIS of California, Mr. ROHRABACHER, Mr. SCHIFF, Mr. CALVERT, Mr. PACKARD, Mr. SMITH of Texas, Mr. BAKER of California, Mr. HERGER, Mr. HUNTER, Mr. DORNAN, Mr. THOMAS, Mr. HEINEMAN, Mr. CUNNINGHAM, Mr. POMBO, Mr. INGLIS of South Carolina, Mr. MCKEON, Mr. DOOLITTLE, Mr. KIM, Mr. BUYER, Mr. ROYCE, Mr. FLANAGAN, Mr. BARR, Mr. HORN, Mr. BRYANT of Tennessee, Mr. BILBRAY, Mr. CHABOT, Mr. RADANOVICH, and Mrs. SEASTRAND) introduced the following bill; which was referred to the Committee on the Judiciary

JULY 11, 1995

Additional sponsors: Mr. HANCOCK, Mr. BAKER of Louisiana, Mrs. CHENOWETH, and Mr. DELAY

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[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 March 8, 1995]

A BILL

To provide that cases challenging the constitutionality of measures passed by State referendum be heard by a 3-judge court.

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. 3-JUDGE COURT FOR CERTAIN INJUNCTIONS.**

4 *Any application for an interlocutory or permanent in-*
5 *junction restraining the enforcement, operation, or execu-*
6 *tion of a State law adopted by referendum shall not be*
7 *granted by a United States district court or judge thereof*
8 *upon the ground of the unconstitutionality of such State*
9 *law unless the application for the injunction is heard and*
10 *determined by a court of 3 judges in accordance with section*
11 *2284 of title 28, United States Code. Any appeal of a deter-*
12 *mination on such application shall be to the Supreme*
13 *Court. In any case to which this section applies, the addi-*
14 *tional judges who will serve on the 3-judge court shall be*
15 *designated under section 2284(b)(1) of title 28, United*
16 *States Code, as soon as practicable, and the court shall ex-*
17 *pedite the consideration of the application for an injunc-*
18 *tion.*

19 **SEC. 2. DEFINITIONS.**

20 *As used in this Act—*

1 (1) the term “State” means each of the several
2 States and the District of Columbia;

3 (2) the term “State law” means the constitution
4 of a State, or any statute, ordinance, rule, regulation,
5 or other measure of a State that has the force of law,
6 and any amendment thereto; and

7 (3) the term “referendum” means the submission
8 to popular vote of a measure passed upon or proposed
9 by a legislative body or by popular initiative.

10 **SEC. 3. EFFECTIVE DATE.**

11 This Act applies to any application for an injunction
12 that is filed on or after the date of the enactment of this
13 Act.

Amend the title so as to read: “A bill to provide that an application for an injunction restraining the enforcement, operation, or execution of a State law adopted by referendum may not be granted on the ground of the unconstitutionality of such law unless the application is heard and determined by a 3-judge court.”.