
§ 274 SEC. 274.¹⁷¹ JUDICIAL REVIEW.**§ 274(a) (a) EXPEDITED REVIEW. —**

§ 274(a)(1) **(1) Any Member of Congress may bring an action, in the United States District Court for the District of Columbia, for declaratory judgment and injunctive relief on the ground that any order that might be issued pursuant to section 252¹⁷² violates the Constitution.**

§ 274(a)(2) **(2) Any Member of Congress, or any other person adversely affected by any action taken under this title, may bring an action, in the United States District Court for the District of Columbia, for declaratory judgment and injunctive relief concerning the constitutionality of this title.¹⁷³**

§ 274(a)(3) **(3) Any Member of Congress may bring an action, in the United States District Court for the District of Columbia, for declaratory and injunctive relief on the ground that the terms of an order issued under section 252¹⁷⁴ do not comply with the requirements of this title.**

§ 274(a)(4) (4) A copy of any complaint in an action brought

¹⁷¹ Section 274 is codified as amended at 2 U.S.C. § 922 (Supp. IV 1992).

¹⁷² This reference should read "section 251, 252, or 253." This reference remains from the old version of Gramm-Rudman-Hollings prior to its amendment by the Budget Enforcement Act. In the earlier versions of Gramm-Rudman-Hollings, orders resulted only from section 252. The drafters of the Budget Enforcement Act neglected to change this reference when they changed sections 251, 252, and 253 of Gramm-Rudman-Hollings so that each of these three sections may result in Presidential sequester orders.

¹⁷³ Congressman Mike Synar and others brought such an action and secured a judgment that the original Gramm-Rudman-Hollings was unconstitutional in *Synar v. Bowsher*, 478 U.S. 714 (1986).

¹⁷⁴ This reference should read "section 251, 252, or 253." See *supra* note 1772.

under paragraph (1), (2), or (3) shall be promptly delivered to the Secretary of the Senate and the Clerk of the House of Representatives, and each House of Congress shall have the right to intervene in such action.

§ 274(a)(5)

(5) Any action brought under paragraph (1), (2), or (3) shall be heard and determined by a three-judge court in accordance with section 2284 of title 28, United States Code.

Nothing in this section or in any other law shall infringe upon the right of the House of Representatives to intervene in an action brought under paragraph (1), (2), or (3) without the necessity of adopting a resolution to authorize such intervention.

§ 274(b)

(b) APPEAL TO SUPREME COURT. — Notwithstanding any other provision of law, any order of the United States District Court for the District of Columbia which is issued pursuant to an action brought under paragraph (1), (2), or (3) of subsection (a) shall be reviewable by appeal directly to the Supreme Court of the United States. Any such appeal shall be taken by a notice of appeal filed within 10 days after such order is entered; and the jurisdictional statement shall be filed within 30 days after such order is entered. No stay of an order issued pursuant to an action brought under paragraph (1), (2), or (3) of subsection (a) shall be issued by a single Justice of the Supreme Court.

§ 274(c)

(c) EXPEDITED CONSIDERATION. — It shall be the duty of the District Court for the District of Columbia and the Supreme Court of the United States to advance on the docket and to expedite to the greatest possible extent the disposition of any matter brought under subsection (a).

§ 274(d)

(d) NONCOMPLIANCE WITH SEQUESTRATION PROCEDURES. —

§ 274(d)(1)

(1) If it is finally determined by a court of competent jurisdiction that an order issued by the President under section 252(b)¹⁷⁷⁵ for any fiscal year —

§ 274(d)(1)(A)

(A) does not reduce automatic spending increases under any program specified in section 257(l)¹⁷⁷⁶ to the extent that such increases are required to be reduced by part C¹⁷⁷⁷ of this title (or reduces such increases by a greater extent than is so required),

§ 274(d)(1)(B)

(B) does not sequester the amount of new budget authority,¹⁷⁷⁸ new loan guarantee commitments, new direct loan obligations, or spending authority¹⁷⁷⁹ which is required to be sequestered by such part (or sequesters more than that amount) with respect to any program, project, activity, or account, or

§ 274(d)(1)(C)

(C) does not reduce obligation limitations by the amount by which such limitations are required to be reduced under such part (or reduces such limitations by more than that amount) with respect to any program, project, activity, or account, the President shall, within 20 days after such determination is

¹⁷⁷⁵ This reference should read "section 251, 252, or 253." *See supra* note 1772.

¹⁷⁷⁶ This reference should be to section 256(a). The Budget Enforcement Act moved the discussion of automatic spending increase programs from section 257(1) to 256(a) (*see supra* p. 578), but neglected to change this reference.

¹⁷⁷⁷ *See supra* pp. 437-666.

¹⁷⁷⁸ Section 250(c)(1) (*see supra* p. 440) defines "budget authority" and "new budget authority" at least in part by reference to the definitions of section 3(2) of the Congressional Budget Act. *See supra* pp. 11-13.

¹⁷⁷⁹ Section 401(c)(2) of the Congressional Budget Act defines "spending authority." *See supra* pp. 251-254.

made, revise the order in accordance with such determination.

§ 274(d)(2) (2) If the order issued by the President under section 252(b)¹⁷⁸⁰ for any fiscal year —

§ 274(d)(2)(A) (A) does not reduce any automatic spending increase to the extent that such increase is required to be reduced by part C¹⁷⁸¹ of this title,

§ 274(d)(2)(B) (B) does not sequester any amount of new budget authority,¹⁷⁸² new loan guarantee commitments, new direct loan obligations, or spending authority¹⁷⁸³ which is required to be sequestered by such part, or

§ 274(d)(2)(C) (C) does not reduce any obligation limitation by the amount by which such limitation is required to be reduced under such part, on the claim or defense that the constitutional powers of the President prevent such sequestration or reduction or permit the avoidance of such sequestration or reduction, and such claim or defense is finally determined by the Supreme Court of the United States to be valid, then the entire order issued pursuant to section 252(b)¹⁷⁸⁴ for such fiscal year shall be null and void.

¹⁷⁸⁰ This reference should read "section 251, 252, or 253." *See supra* note 1772.

¹⁷⁸¹ *See supra* pp. 437-666.

¹⁷⁸² Section 250(c)(1) (*see supra* p. 440) defines "budget authority" and "new budget authority" at least in part by reference to the definitions of section 3(2) of the Congressional Budget Act. *See supra* pp. 11-13.

¹⁷⁸³ Section 401(c)(2) of the Congressional Budget Act defines "spending authority." *See supra* pp. 251-254.

¹⁷⁸⁴ This reference should read "section 251, 252, or 253." *See supra* note 1772.

§ 274(e)

(e) TIMING OF RELIEF. — No order of any court granting declaratory or injunctive relief from the order of the President issued under section 252,¹⁷⁸⁵ including but not limited to relief permitting or requiring the expenditure of funds sequestered by such order, shall take effect during the pendency of the action before such court, during the time appeal may be taken, or, if appeal is taken, during the period before the court to which such appeal is taken has entered its final order disposing of such action.

§ 274(f)

(f) ALTERNATIVE PROCEDURES FOR THE JOINT REPORTS OF THE DIRECTORS. —

§ 274(f)(1)

(1) In the event that any of the reporting procedures described in section 251¹⁷⁸⁶ are invalidated, then any report of the Directors referred to in section 251(a)¹⁷⁸⁷ or (c)(1)¹⁷⁸⁸ shall be transmitted to the joint committee established under this subsection.

§ 274(f)(2)

(2) Upon the invalidation of any such procedure there is established a Temporary Joint Committee on Deficit Reduction, composed of the entire membership of the Budget Committees of the House of Representatives and the Senate. The Chairman of these two committees shall act as Co-Chairmen of the Joint Committee. Actions

¹⁷⁸⁵ This reference should read "section 251, 252, or 253." *See supra* note 1772.

¹⁷⁸⁶ This reference should be to section 254. The Budget Enforcement Act moved most of the reporting requirements from section 251 to section 254 (*see supra* pp. 541-555), but neglected to change this reference.

¹⁷⁸⁷ This reference should be to section 254(d). The Budget Enforcement Act moved the discussion of these reports from section 251(a) ("Initial Estimates, Determinations, and Reports by OMB and CBO") to section 254(d) ("Sequestration Preview Reports") (*see supra* p. 543), but neglected to change this reference.

¹⁷⁸⁸ This reference should be to section 254(g). The Budget Enforcement Act moved the discussion of these reports from section 251(c) ("Revised Estimates, Determinations, and Reports") to section 254(g) ("Final Sequestration Reports") (*see supra* p. 548), but neglected to change this reference.

taken by the Joint Committee shall be determined by the majority vote of the members representing each House. The purposes of the Joint Committee are to receive the reports of the Directors as described in paragraph (1), and to report (with respect to each such report of the Directors) a joint resolution as described in paragraph (3).

§ 274(f)(3) (3) No later than 5 days after the receipt of a report of the Directors in accordance with paragraph (1), the Joint Committee shall report to the House of Representatives and the Senate a joint resolution setting forth the contents of the report of the Directors.

§ 274(f)(4) (4) The provisions relating to the consideration of a joint resolution under section 254(a)(4)¹⁷⁸⁹ shall apply to the consideration of a joint resolution reported pursuant to this subsection in the House of Representatives and the Senate, except that debate in each House shall be limited to two hours.



§ 274(f)(5) (5) Upon its enactment, the joint resolution shall be deemed to be the report received by the President under section 251(b)¹⁷⁹⁰ or (c)(2)¹⁷⁹¹ (whichever is applicable).

¹⁷⁸⁹ This reference should be to section 258(a)(4). The Budget Enforcement Act moved the discussion of these procedures from section 254(a)(4) (under "Special Procedures in the Event of a Recession") to section 258(a)(4) (under "Procedures in the Event of a Low Growth Report") (see *supra* p. 623), but neglected to change this reference.

¹⁷⁹⁰ This reference should be to section 254(d). The Budget Enforcement Act moved the discussion of these reports from section 251(b) to section 254(d) (see *supra* p. 543), but neglected to change this reference.

¹⁷⁹¹ This reference should be to section 254(g). The Budget Enforcement Act moved the discussion of these reports from section 251(c) ("Revised Estimates, Determinations, and Reports") to section 254(g) ("Final Sequestration Reports") (see *supra* p. 548), but neglected to change this reference.

§ 274(g)

(g) PRESERVATION OF OTHER RIGHTS. — The rights created by this section are in addition to the rights of any person under law, subject to subsection (e).

§ 274(h)

(h) ECONOMIC DATA, ASSUMPTIONS, AND METHODOLOGIES. — The economic data, assumptions, and methodologies used by the Comptroller General¹⁷⁹² in computing the base levels of total revenues and total budget outlays,¹⁷⁹³ as specified in any report issued by the Comptroller General¹⁷⁹⁴ under section 251(b)¹⁷⁹⁵ or (c)(2),¹⁷⁹⁶ shall not be subject to review in any judicial or administrative proceeding.

¹⁷⁹² This reference should be to the Director of the Office of Management and Budget. As Congress initially drafted Gramm-Rudman-Hollings, the Comptroller General played the decisive role in determining the baseline levels of revenues and outlays. The Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, Pub. L. No. 100-119, tit. I, 101 Stat. 754 (1987), shifted these responsibilities from the General Accounting Office to the Office of Management and Budget, but neglected to change this reference.

¹⁷⁹³ Section 250(c)(1) (*see supra* p. 440) defines "outlays" at least in part by reference to the definition of section 3(1) of the Congressional Budget Act. *See supra* p. 11.

¹⁷⁹⁴ This reference should be to the Director of the Office of Management and Budget. *See supra* note 1792.

¹⁷⁹⁵ This reference should be to section 254(d). The Budget Enforcement Act moved the discussion of these reports from section 251(b) to section 254(d) (*see supra* p. 543), but neglected to change this reference.

¹⁷⁹⁶ This reference should be to section 254(g). The Budget Enforcement Act moved the discussion of these reports from section 251(c) ("Revised Estimates, Determinations, and Reports") to section 254(g) ("Final Sequestration Reports") (*see supra* p. 548), but neglected to change this reference.