

**H.R. 3446, Sunshine for Regulatory Decrees and Settlements Act of 2023**

As ordered reported by the House Committee on the Judiciary on June 14, 2023

By Fiscal Year, Millions of Dollars		2024	2024-2028	2024-2033
Direct Spending (Outlays)		*	*	*
Revenues		<b>0</b>	<b>0</b>	<b>0</b>
Increase or Decrease (-) in the Deficit		*	*	*
Spending Subject to Appropriation (Outlays)		<b>1</b>	<b>6</b>	not estimated
Increases <i>net direct spending</i> in any of the four consecutive 10-year periods beginning in 2034?	< \$2.5 billion	Statutory pay-as-you-go procedures apply?		Yes
		<b>Mandate Effects</b>		
Increases <i>on-budget deficits</i> in any of the four consecutive 10-year periods beginning in 2034?	< \$5 billion	Contains intergovernmental mandate?		No
		Contains private-sector mandate?		No
* = between zero and \$500,000.				

H.R. 3446 would modify the process used to develop consent decrees and settlement agreements that compel federal agencies to take specified regulatory actions. Under the bill, a summary of all such complaints against federal agencies, the terms of covered agreements, and awards of attorneys' fees would need to be published in an electronic format and would be subject to public comment prior to filing with federal courts. The bill also would require that negotiations over covered actions be conducted through mediation or alternative dispute resolution programs and would require federal agencies to submit reports to the Congress describing the statutory basis and details of the agreements into which they enter. Finally, agencies would need to certify to courts their approval of those agreements, and if agencies seek modifications of an agreement courts would be required to perform a complete review as if the modified agreement were a new one.

Using information from the Department of Justice (DOJ) about the number of covered agreements litigated in recent years and the average workload for those cases, CBO expects that the bill would affect roughly 10 to 20 actions annually. On average, CBO estimates that the cost to perform the additional work under the bill would average about \$80,000 per case. Most of those additional costs would arise because litigation would probably take longer under the bill and agencies would face additional administrative requirements, including the requirements for undergoing mediation, taking public comment, and reporting to the

See also

[CBO's Cost Estimates Explained](#), [CBO Describes Its Cost-Estimating Process](#), [Glossary](#)



Congress. CBO expects that most of the additional workload incurred under the bill would be performed by attorneys and other staff at DOJ. In total, CBO estimates that implementing H.R. 3446 would cost \$6 million over the 2024-2028 period; that spending would be subject to the availability of appropriated funds.

Enacting H.R. 3446 could affect direct spending. Under several statutes, successful plaintiffs are entitled to repayment of attorneys' fees through the Treasury's Judgment Fund. Because the bill would lengthen the process of developing agreements for some cases, the amount of reimbursable attorneys' fees could increase. However, the increased length of the process to finalize those actions might deter some future lawsuits and decrease the number of future cases. On net, CBO expects that the number of affected cases would be small and that enacting the bill would increase direct spending by less than \$500,000 in every year and over the 2024-2033 period.

Finally, the bill could change the number of negotiated settlements that occur. CBO does not have a basis for projecting costs or savings for the federal government arising from any change in the number of such settlements under the bill.

The CBO staff contact for this estimate is Jon Sperl. The estimate was reviewed by H. Samuel Papenfuss, Deputy Director of Budget Analysis.

A handwritten signature in black ink, appearing to read 'Phillip Swagel', with a long, sweeping flourish extending to the right.

Phillip L. Swagel  
Director, Congressional Budget Office