

§ 312(b)

**(b) EFFECT OF A POINT OF ORDER ON A BILL IN THE SENATE.** — In the Senate, if the Chair sustains a point of order under this Act against a bill, the Chair shall then send the bill to the committee of appropriate jurisdiction for further consideration.<sup>555</sup>

<sup>554</sup>(...continued)

CONGRESSIONAL RECORD : (99-2) pp. S 2642-56.

**PARLIAMENTARIAN'S NOTE(S)**

Since the point of order under section 311 of the Budget Act precluded consideration of the House amendment, it was not construed to "kill" the amendment (the Senate not having the authority to negate the action of the House in adopting it), but simply to prevent Senate consideration.

Consequently, the message was not interpreted as having been "considered" and therefore could not be sent back to the House. The only status it could have was that it be back at the desk where it was before the Senate attempted to consider it.

Senate Precedent PRL19860313-003 (Mar. 13, 1986) (LEGIS, Rules database).

Under this precedent, at least in cases where there was only one amendment in disagreement, the amendment would remain at the desk and it would not be in order for the Senate to consider it. The Senate would then be powerless to complete action on the vehicle received from the House because it could not act on the piece remaining at the desk. This led to the perverse result that a point of order raised against an amendment (and an amendment only) resulted in effectively killing the entire measure. This result is contrary to the intent of the drafters of the Congressional Budget Act, who wanted to make points of order available in an effective manner to address violations. The result dictated by this precedent, however, renders the point of order of limited value: A Senator would only raise it when the Senator opposed the entire bill, and a Senator would feel constrained not to raise the point of order against an offending provision — even if the Senator opposed the provision — if the Senator valued the passage of the bill as a whole.

Section 312(a) remedies this anomaly by setting forth a new rule: If a point of order against an amendment between the Houses is raised and sustained, then the effect will be the same as if the Senate had disagreed with the amendment. The Senate will then be able to work its will on the balance of the bill and send the measure back to the House.

<sup>555</sup> Section 13207(b)(1) of the Budget Enforcement Act added section 312(b). *See infra* p. 724. The statement of managers accompanying the conference report on the Budget Enforcement Act explains subsection (b) briefly: "The conference agreement . . . makes clear that if a point of order under the Act is sustained against a bill, the bill should be  
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