

108TH CONGRESS
2^D SESSION

H. R. 2844

AN ACT

To require States to hold special elections to fill vacancies in the House of Representatives not later than 45 days after the vacancy is announced by the Speaker of the House of Representatives in extraordinary circumstances, and for other purposes.

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 “Continuity in Rep-
5 resentation Act of 2004”.

6 **SEC. 2. REQUIRING SPECIAL ELECTIONS TO BE HELD TO**
7 **FILL VACANCIES IN HOUSE IN EXTRAOR-**
8 **DINARY CIRCUMSTANCES.**

9 Section 26 of the Revised Statutes of the United
10 States (2 U.S.C. 8) is amended—

11 (1) by striking “The time” and inserting “(a)
12 IN GENERAL.—Except as provided in subsection (b),
13 the time”; and

14 (2) by adding at the end the following new sub-
15 section:

16 “(b) SPECIAL RULES IN EXTRAORDINARY CIR-
17 CUMSTANCES.—

18 “(1) IN GENERAL.—In extraordinary cir-
19 cumstances, the executive authority of any State in
20 which a vacancy exists in its representation in the
21 House of Representatives shall issue a writ of elec-
22 tion to fill such vacancy by special election.

23 “(2) TIMING OF SPECIAL ELECTION.—A special
24 election held under this subsection to fill a vacancy
25 shall take place not later than 45 days after the

1 Speaker of the House of Representatives announces
2 that the vacancy exists, unless a regularly scheduled
3 general election for the office involved is to be held
4 at any time during the 75-day period which begins
5 on the date of the announcement of the vacancy.

6 “(3) NOMINATIONS BY PARTIES.—If a special
7 election is to be held under this subsection, not later
8 than 10 days after the Speaker announces that the
9 vacancy exists, the political parties of the State that
10 are authorized to nominate candidates by State law
11 may each nominate one candidate to run in the elec-
12 tion.

13 “(4) EXTRAORDINARY CIRCUMSTANCES.—

14 “(A) IN GENERAL.—In this subsection,
15 ‘extraordinary circumstances’ occur when the
16 Speaker of the House of Representatives an-
17 nounces that vacancies in the representation
18 from the States in the House exceed 100.

19 “(B) JUDICIAL REVIEW.—If any action is
20 brought for declaratory or injunctive relief to
21 challenge an announcement made under sub-
22 paragraph (A), the following rules shall apply:

23 “(i) Not later than 2 days after the
24 announcement, the action shall be filed in
25 the United States District Court having ju-

1 jurisdiction in the district of the Member of
2 the House of Representatives whose seat
3 has been announced to be vacant and shall
4 be heard by a 3-judge court convened pur-
5 suant to section 2284 of title 28, United
6 States Code.

7 “(ii) A copy of the complaint shall be
8 delivered promptly to the Clerk of the
9 House of Representatives.

10 “(iii) A final decision in the action
11 shall be made within 3 days of the filing
12 of such action and shall not be reviewable.

13 “(iv) The executive authority of the
14 State that contains the district of the
15 Member of the House of Representatives
16 whose seat has been announced to be va-
17 cant shall have the right to intervene either
18 in support of or opposition to the position
19 of a party to the case regarding the an-
20 nouncement of such vacancy.

21 “(5) PROTECTING ABILITY OF ABSENT MILI-
22 TARY AND OVERSEAS VOTERS TO PARTICIPATE IN
23 SPECIAL ELECTIONS.—

24 “(A) DEADLINE FOR TRANSMITTAL OF AB-
25 SENTEE BALLOTS.—In conducting a special

1 election held under this subsection to fill a va-
2 cancy in its representation, the State shall en-
3 sure to the greatest extent practicable (includ-
4 ing through the use of electronic means) that
5 absentee ballots for the election are transmitted
6 to absent uniformed services voters and over-
7 seas voters (as such terms are defined in the
8 Uniformed and Overseas Citizens Absentee Vot-
9 ing Act) not later than 15 days after the
10 Speaker of the House of Representatives an-
11 nounces that the vacancy exists.

12 “(B) PERIOD FOR BALLOT TRANSIT
13 TIME.—Notwithstanding the deadlines referred
14 to in paragraphs (2) and (3), in the case of an
15 individual who is an absent uniformed services
16 voter or an overseas voter (as such terms are
17 defined in the Uniformed and Overseas Citizens
18 Absentee Voting Act), a State shall accept and
19 process any otherwise valid ballot or other elec-
20 tion material from the voter so long as the
21 ballot or other material is received by the ap-
22 propriate State election official not later than
23 45 days after the State transmits the ballot or
24 other material to the voter.

1 “(6) RULE OF CONSTRUCTION REGARDING FED-
2 ERAL ELECTION LAWS.—Nothing in this subsection
3 may be construed to affect the application to special
4 elections under this subsection of any Federal law
5 governing the administration of elections for Federal
6 office (including any law providing for the enforce-
7 ment of any such law), including, but not limited to,
8 the following:

9 “(A) The Voting Rights Act of 1965 (42
10 U.S.C. 1973 et seq.), as amended.

11 “(B) The Voting Accessibility for the El-
12 derly and Handicapped Act (42 U.S.C. 1973ee
13 et seq.), as amended.

14 “(C) The Uniformed and Overseas Citizens
15 Absentee Voting Act (42 U.S.C. 1973ff et seq.),
16 as amended.

17 “(D) The National Voter Registration Act
18 of 1993 (42 U.S.C. 1973gg et seq.), as amend-
19 ed.

20 “(E) The Americans With Disabilities Act
21 of 1990 (42 U.S.C. 12101 et seq.), as amended.

22 “(F) The Rehabilitation Act of 1973 (29
23 U.S.C. 701 et seq.), as amended.

1 “(G) The Help America Vote Act of 2002
2 (42 U.S.C. 15301 et seq.), as amended.”.

Passed the House of Representatives April 22, 2004.

Attest:

Clerk.

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