

108TH CONGRESS
2D SESSION

H. R. 3709

To restore the Federal electoral rights of the residents of the District of Columbia, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 20, 2004

Mr. ROHRABACHER introduced the following bill; which was referred to the Committee on House Administration, and in addition to the Committees on Government Reform, and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To restore the Federal electoral rights of the residents of the District of Columbia, 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 “District of Columbia
5 Voting Rights Restoration Act of 2004”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds the following:

8 (1) There is no reason, either historically or by
9 virtue of law, why the people of the District of Co-

1 lumbia, the capital of the United States of America,
2 should not have full voting representation in the
3 Congress of the United States.

4 (2) Article I, section 8, clause 17 of the Con-
5 stitution of the United States, which authorized the
6 creation of the District of Columbia, provides only
7 that the Congress shall have “exclusive legislation in
8 all cases whatsoever” over that District.

9 (3) The same clause of the Constitution pro-
10 vides that Congress “shall exercise like authority
11 over” other Federal territories that have been pur-
12 chased from the States for Federal purposes. Resi-
13 dents of other Federal enclaves, though also denied
14 voting rights after becoming subject to exclusive
15 Federal jurisdiction, have had restored their right to
16 vote for and serve as elected Federal officials from
17 their respective States which ceded the Federal en-
18 claves to the United States.

19 (4) Congress has exercised its authority to reg-
20 ulate Federal elections under article I, section 4 of
21 the Constitution to set the legal requirements that
22 States must follow in establishing Congressional dis-
23 tricts. Congress has also exercised this authority to
24 require States to allow United States citizens who
25 are former residents, and their children who are

1 United States citizens, who are living overseas to
2 vote in Federal elections in the previous State of res-
3 idence, notwithstanding the fact that such former
4 residents and their children may have no intention
5 of returning or establishing residence in that State,
6 and notwithstanding the fact that such citizens are
7 not subject to the laws of that State, including tax
8 laws.

9 (5) The entire territory of the current District
10 of Columbia was ceded to the United States by the
11 State of Maryland, one of the original 13 States of
12 the United States. The portion of the original Dis-
13 trict of Columbia ceded to the United States by the
14 Commonwealth of Virginia was returned to the au-
15 thority of that state in 1846, and the people who
16 now reside in that area vote as citizens of the Com-
17 monwealth of Virginia.

18 (6) The Supreme Court of the United States
19 has found that the cession of legislative authority
20 over the territory that became the District of Colum-
21 bia by the States of Maryland and Virginia did not
22 remove that territory from the United States, and
23 that the people who live in that territory are entitled
24 to all the rights, guarantees, and immunities of the
25 Constitution that they formerly enjoyed as citizens

1 of those States. *O'Donoghue v. United States*, 289
 2 U.S. 516 (1933); *Downes v. Bidwell*, 182 U.S. 244
 3 (1901). Among those guarantees are the right to
 4 equal protection of the laws and the right to partici-
 5 pate, equally with other Americans, in a Republican
 6 form of government.

7 (7) Since the people who lived in the territory
 8 that now makes up the District of Columbia once
 9 voted in Maryland as citizens of Maryland, and Con-
 10 gress by adoption of the Organic Act of 1801 sev-
 11 ered the political connection between Maryland and
 12 the District of Columbia by statute, Congress has
 13 the power by statute to restore Maryland state citi-
 14 zenship rights, including Federal electoral rights,
 15 that it took away by enacting the Organic Act of
 16 1801.

17 **SEC. 3. RESTORATION OF RIGHT OF DISTRICT OF COLUM-**
 18 **BIA RESIDENTS TO PARTICIPATE AS MARY-**
 19 **LAND RESIDENTS IN CONGRESSIONAL ELEC-**
 20 **TIONS.**

21 (a) IN GENERAL.—Notwithstanding any other provi-
 22 sion of law, for purposes of representation in the House
 23 of Representatives and Senate, the right of the people of
 24 the District of Columbia to be eligible to participate in
 25 elections for the House of Representatives and Senate as

1 Maryland residents in accordance with the laws of the
2 State of Maryland, is hereby restored.

3 (b) ELIGIBILITY TO HOLD CONGRESSIONAL OF-
4 FICE.—Notwithstanding any other provision of law, for
5 purposes of determining eligibility to serve as a Member
6 of the House of Representatives or Senate, the right of
7 the residents of the District of Columbia to be considered
8 inhabitants of the State of Maryland is hereby restored.

9 (c) EFFECTIVE DATE.—This section shall apply with
10 respect to elections for Federal office occurring during
11 2006 and any succeeding year.

12 **SEC. 4. RESTORATION OF RIGHT OF DISTRICT OF COLUM-**
13 **BIA RESIDENTS TO PARTICIPATE AS MARY-**
14 **LAND RESIDENTS IN PRESIDENTIAL ELEC-**
15 **TIONS.**

16 (a) IN GENERAL.—Notwithstanding any other provi-
17 sion of law, the right of the people of the District of Co-
18 lumbia to be eligible to participate in elections for electors
19 of President and Vice President, and to serve as such elec-
20 tors as Maryland residents in accordance with the laws
21 of the State of Maryland, is hereby restored.

22 (b) ELIGIBILITY TO SERVE AS ELECTORS.—Notwith-
23 standing any other provision of law, for purposes of deter-
24 mining eligibility to serve as electors of President and Vice
25 President, the right of the residents of the District of Co-

1 lumbia to be considered inhabitants of the State of Mary-
 2 land is hereby restored.

3 (c) TERMINATION OF APPOINTMENT OF SEPARATE
 4 ELECTORS BY DISTRICT OF COLUMBIA.—In accordance
 5 with the authority under sections 1 and 2 of the 23rd
 6 amendment to the Constitution and the authority under
 7 article I, Section 8, to legislate for the District of Colum-
 8 bia, and notwithstanding any other provision of law, Con-
 9 gress directs that no electors of President and Vice Presi-
 10 dent shall be appointed by the District of Columbia and
 11 that no votes from such electors shall be cast or counted
 12 in the electoral vote for President and Vice President.

13 (d) CONFORMING AMENDMENT.—

14 (1) IN GENERAL.—Chapter 1 of title 3, United
 15 States Code, is amended by striking section 21.

16 (2) CLERICAL AMENDMENT.—The table of sec-
 17 tions for chapter 1 of title 3, United States Code,
 18 is amended by striking the item relating to section
 19 21.

20 (e) EFFECTIVE DATE.—This section and the amend-
 21 ments made by this section shall apply with respect to
 22 Presidential elections beginning with the 2008 Presi-
 23 dential election.

24 **SEC. 5. COORDINATION OF ELECTION ADMINISTRATION.**

25 (a) APPLICATION OF MARYLAND ELECTION LAWS.—

1 (1) IN GENERAL.—Federal elections in the Dis-
2 trict of Columbia shall be administered and carried
3 out by the State of Maryland, in accordance with the
4 applicable laws of the State of Maryland.

5 (2) TREATMENT OF DISTRICT AS UNIT OF
6 LOCAL GOVERNMENT.—For purposes of the laws of
7 the State of Maryland which apply to Federal elec-
8 tions in the District of Columbia pursuant to para-
9 graph (1), the District of Columbia shall be consid-
10 ered to be a unit of local government within the
11 State of Maryland with responsibility for the admin-
12 istration of Federal elections.

13 (b) CONFORMING AMENDMENTS TO HELP AMERICA
14 VOTE ACT OF 2002.—

15 (1) TREATMENT OF DISTRICT OF COLUMBIA AS
16 PART OF MARYLAND.—Section 901 of the Help
17 America Vote Act of 2002 (42 U.S.C. 15541) is
18 amended—

19 (A) by striking “the District of Columbia”;

20 (B) by striking “In this Act” and inserting

21 “(a) IN GENERAL.—In this Act”; and

22 (C) by adding at the end the following new
23 subsection:

1 “(b) SPECIAL RULE FOR STATE OF MARYLAND AND
2 DISTRICT OF COLUMBIA.—For purposes of this Act, the
3 following shall apply:

4 “(1) The voting age population of the State of
5 Maryland shall be considered to include the voting
6 age population of the District of Columbia for pur-
7 poses of sections 101(d)(4) and 252(b).

8 “(2) The District of Columbia shall be consid-
9 ered a unit of local government or jurisdiction lo-
10 cated within the State of Maryland.

11 “(3) An election for Federal office taking place
12 in the District of Columbia shall be considered to
13 take place in the State of Maryland.”.

14 (c) CONFORMING AMENDMENTS TO OTHER FEDERAL
15 ELECTION LAWS.—

16 (1) UNIFORMED AND OVERSEAS CITIZENS AB-
17 SENTEE VOTING ACT.—

18 (A) IN GENERAL.—Title I of the Uni-
19 formed and Overseas Citizens Absentee Voting
20 Act (42 U.S.C. 1973ff et seq.) is amended by
21 adding at the end the following new section:

22 **“SEC. 108. SPECIAL RULE FOR STATE OF MARYLAND AND**
23 **DISTRICT OF COLUMBIA.**

24 “For purposes of this title, the following shall apply:

1 “(1) An absent uniformed services voter or
2 overseas voter who is a resident of the District of
3 Columbia shall be considered to be a resident of the
4 State of Maryland.

5 “(2) An election for Federal office taking place
6 in the District of Columbia shall be considered to
7 take place in the State of Maryland.

8 “(3) The State of Maryland, and the election
9 officials of the State of Maryland, shall be respon-
10 sible for carrying out the provisions of this title with
11 respect to voters who are residents of the District of
12 Columbia.”.

13 (B) CONFORMING AMENDMENT.—Section
14 107(6) of the Uniformed and Overseas Citizens
15 Absentee Voting Act (42 U.S.C. 1973ff–6) is
16 amended by striking “the District of Colum-
17 bia,”.

18 (2) NATIONAL VOTER REGISTRATION ACT OF
19 1973.—

20 (A) IN GENERAL.—The National Voter
21 Registration Act of 1973 (42 U.S.C. 1973gg et
22 seq.) is amended—

23 (i) by redesignating section 13 as sec-
24 tion 14; and

1 (ii) by adding at the end the following
2 new section:

3 **“SEC. 12. SPECIAL RULE FOR STATE OF MARYLAND AND**
4 **DISTRICT OF COLUMBIA.**

5 “For purposes of this Act, the following shall apply:

6 “(1) The District of Columbia shall be consid-
7 ered a registrar’s jurisdiction within the State of
8 Maryland.

9 “(2) An election for Federal office taking place
10 in the District of Columbia shall be considered to
11 take place in the State of Maryland.

12 “(3) The State of Maryland, and the election
13 officials of the State of Maryland, shall be respon-
14 sible for carrying out this Act with respect to the
15 District of Columbia, except that—

16 “(A) section 5 shall apply to motor vehicle
17 driver’s license applications and the motor vehi-
18 cle authority of the District of Columbia in the
19 same manner as that section applies to a State,
20 and the State of Maryland shall provide the
21 District of Columbia with such forms and other
22 materials as the District of Columbia may re-
23 quire to carry out that section; and

24 “(B) the District of Columbia shall des-
25 ignate voter registration agencies under section

1 7 in the same manner as a State, and the State
 2 of Maryland shall provide the District of Co-
 3 lumbia with such forms and other materials as
 4 the District of Columbia may require to carry
 5 out that section.”.

6 (B) CONFORMING AMENDMENT.—Section
 7 3(4) of such Act (42 U.S.C. gg–1(4)) is amend-
 8 ed by striking “and the District of Columbia”.

9 (3) VOTING ACCESSIBILITY FOR THE ELDERLY
 10 AND HANDICAPPED ACT.—

11 (A) IN GENERAL.—The Voting Accessi-
 12 bility for the Elderly and Handicapped Act (42
 13 U.S.C. 1973ee et seq.) is amended—

14 (i) by redesignating section 8 as sec-
 15 tion 9; and

16 (ii) by inserting after section 7 the
 17 following new section:

18 “SPECIAL RULE FOR STATE OF MARYLAND AND DISTRICT
 19 OF COLUMBIA

20 “SEC. 8. For purposes of this Act, the following shall
 21 apply:

22 “(1) The District of Columbia shall be consid-
 23 ered a political subdivision of the State of Maryland.

24 “(2) An election for Federal office taking place
 25 in the District of Columbia shall be considered to
 26 take place in the State of Maryland.

1 “(3) The State of Maryland shall be responsible
 2 for carrying out this Act with respect to the District
 3 of Columbia.”.

4 (B) CONFORMING AMENDMENT.—Section
 5 8(5) of such Act (42 U.S.C. 1973ee–6(5)) is
 6 amended by striking “the District of Colum-
 7 bia,”.

8 (d) CONFORMING AMENDMENT TO HOME RULE
 9 ACT.—Section 752 of the District of Columbia Home Rule
 10 Act (sec. 1–207.52, D.C. Official Code) is amended by
 11 striking the period at the end and inserting the following:
 12 “, except to the extent required under section 5 of the
 13 District of Columbia Voting Rights Restoration Act of
 14 2004.”.

15 (e) OTHER CONFORMING AMENDMENT TO DISTRICT
 16 OF COLUMBIA ELECTION LAW.—The District of Columbia
 17 Elections Code of 1955 is amended by adding at the end
 18 the following new section:

19 **“SEC. 18. APPLICABILITY OF MARYLAND ELECTION LAW**
 20 **FOR ADMINISTRATION OF FEDERAL ELEC-**
 21 **TIONS.**

22 “Notwithstanding any other provision of this Code or
 23 other law or regulation of the District of Columbia—

24 “(1) any election for Federal office in the Dis-
 25 trict of Columbia shall be administered and carried

1 out by the State of Maryland, in accordance with the
 2 applicable law of the State of Maryland; and

3 “(2) no provision of this Code shall apply with
 4 respect to any election for Federal office to the ex-
 5 tent that the provision is inconsistent with the appli-
 6 cable law of the State of Maryland.”.

7 (f) EFFECTIVE DATE.—This section and the amend-
 8 ments made by this section shall apply with respect to
 9 elections for Federal office occurring during 2006 and any
 10 succeeding year.

11 **SEC. 6. TRANSITION PROVISIONS FOR HOUSE OF REP-**
 12 **RESENTATIVES.**

13 (a) NUMBER AND APPORTIONMENT OF MARYLAND
 14 MEMBERS.—For purposes of determining the number and
 15 apportionment of the members of the House of Represent-
 16 atives from the State of Maryland for the One Hundred
 17 Tenth Congress and each succeeding Congress, the popu-
 18 lation of the District of Columbia shall be added to the
 19 population of Maryland under the decennial census.

20 (b) TEMPORARY INCREASE IN APPORTIONMENT.—

21 (1) IN GENERAL.—Effective January 3, 2007,
 22 and until the taking effect of the first reapportion-
 23 ment occurring after the regular decennial census
 24 conducted for 2010—

1 (A) the membership of the House of Rep-
 2 resentatives shall be increased by 2;

3 (B) the State of Maryland, together with
 4 the State identified by the Clerk of the House
 5 of Representatives in the report submitted
 6 under paragraph (2), shall each be entitled to
 7 one additional Representative; and

8 (C) each such Representative shall be in
 9 addition to the membership of the House of
 10 Representatives as now prescribed by law.

11 (2) TRANSMITTAL OF REVISED APPORTION-
 12 MENT INFORMATION BY PRESIDENT AND CLERK.—

13 (A) STATEMENT OF APPORTIONMENT BY
 14 PRESIDENT.—Not later than December 1,
 15 2004, the President shall transmit to Congress
 16 a revised version of the most recent statement
 17 of apportionment submitted under section 22(a)
 18 of the Act entitled “An Act to provide for the
 19 fifteenth and subsequent decennial censuses and
 20 to provide for apportionment of Representatives
 21 in Congress”, approved June 28, 1929 (2
 22 U.S.C. 2a(a)), to take into account the provi-
 23 sions of this section.

24 (B) REPORT BY CLERK.—Not later than
 25 15 calendar days after receiving the revised

1 version of the statement of apportionment
2 under subparagraph (A), the Clerk of the
3 House of Representatives, in accordance with
4 section 22(b) of such Act (2 U.S.C. 2a(b)),
5 shall send to the executive of the State (other
6 than the State of Maryland) entitled to one ad-
7 ditional Representative pursuant to this section
8 a certificate of the number of Representatives
9 to which such State is entitled under section 22
10 of such Act, and shall submit a report identi-
11 fying that State to the Speaker of the House of
12 Representatives.

13 (3) INCREASE NOT COUNTED AGAINST TOTAL
14 NUMBER OF MEMBERS.—The temporary increase in
15 the membership of the House of Representatives
16 provided under paragraph (1) shall not operate to ei-
17 ther increase or decrease the permanent membership
18 of the House of Representatives as prescribed in the
19 Act of August 8, 1911 (2 U.S.C. 2), nor shall such
20 temporary increase affect the basis of reapportion-
21 ment established by the Act of June 28, 1929, as
22 amended (2 U.S.C. 2a), for the Eighty Second Con-
23 gress and each Congress thereafter.

24 (c) PROHIBITING DIVISION OF DISTRICT OF COLUM-
25 BIA INTO SEPARATE CONGRESSIONAL DISTRICTS.—

1 (1) IN GENERAL.—Notwithstanding subsection
2 (a), in establishing Congressional districts after the
3 effective date of this section, the State of Maryland
4 shall ensure that the entire area of the District of
5 Columbia is included in the same Congressional dis-
6 trict (except as provided in paragraph (2)).

7 (2) SPECIAL RULE IF POPULATION OF DISTRICT
8 EQUALS OR EXCEEDS AVERAGE POPULATION OF
9 MARYLAND CONGRESSIONAL DISTRICTS.—If the pop-
10 ulation of the District of Columbia equals or exceeds
11 the average population of a Congressional district in
12 the State of Maryland under the decennial census
13 used for the apportionment of the Members of the
14 House of Representatives from the State of Mary-
15 land, the State of Maryland shall ensure that at
16 least one Congressional district in the State consists
17 exclusively of territory within the District of Colum-
18 bia.

19 (3) SPECIAL RULE FOR INITIAL DISTRICT.—
20 Until the State of Maryland establishes Congres-
21 sional districts to take into account the enactment of
22 this section, the Congressional district of the addi-
23 tional Representative to which the State is entitled
24 under this section shall consist exclusively of the
25 area of the District of Columbia.

1 **SEC. 7. REPEAL OF OFFICE OF DISTRICT OF COLUMBIA**
2 **DELEGATE.**

3 (a) IN GENERAL.—Sections 202 and 204 of the Dis-
4 trict of Columbia Delegate Act (Public Law 91–405; sec-
5 tions 1–401 and 1–402, D.C. Official Code) are repealed,
6 and the provisions of law amended or repealed by such
7 sections are restored or revived as if such sections had
8 not been enacted.

9 (b) CONFORMING AMENDMENTS TO DISTRICT OF CO-
10 LUMBIA ELECTIONS CODE OF 1955.—The District of Co-
11 lumbia Elections Code of 1955 is amended—

12 (1) in section 1 (sec. 1–1001.01, D.C. Official
13 Code), by striking “the Delegate to the House of
14 Representatives”;

15 (2) in section 2 (sec. 1–1001.02, D.C. Official
16 Code)—

17 (A) by striking paragraph (6), and

18 (B) in paragraph (13), by striking “the
19 Delegate to Congress for the District of Colum-
20 bia”;

21 (3) in section 8 (sec. 1–1001.08, D.C. Official
22 Code)—

23 (A) by striking “Delegate” in the heading,
24 and

1 (B) by striking “Delegate,” each place it
 2 appears in subsections (h)(1)(A), (i)(1), and
 3 (j)(1);
 4 (4) in section 10 (sec. 1–1001.10, D.C. Official
 5 Code)—

6 (A) by striking subparagraph (A) of sub-
 7 section (a)(3), and

8 (B) in subsection (d)—

9 (i) by striking “Delegate,” each place
 10 it appears in paragraph (1), and

11 (ii) by striking paragraph (2) and re-
 12 designating paragraph (3) as paragraph
 13 (2);

14 (5) in section 15(b) (sec. 1–1001.15(b), D.C.
 15 Official Code), by striking “Delegate,”; and

16 (6) in section 17(a) (sec. 1–1001.17(a), D.C.
 17 Official Code), by striking “except the Delegate to
 18 the Congress from the District of Columbia”.

19 (c) EFFECTIVE DATE.—The amendments made by
 20 this section shall apply with respect to elections occurring
 21 during 2006 and any succeeding year.

22 **SEC. 8. REPEAL OF OFFICES OF STATEHOOD REPRESENTA-**
 23 **TIVE AND SENATOR.**

24 (a) IN GENERAL.—Section 4 of the District of Co-
 25 lumbia Statehood Constitutional Convention Initiative of

1 1979 (sec. 1–123, D.C. Official Code) is amended by strik-
2 ing subsections (d) through (h).

3 (b) CONFORMING AMENDMENTS.—

4 (1) STATEHOOD COMMISSION.—Section 6 of
5 such Initiative (sec. 1–125, D.C. Official Code) is
6 amended—

7 (A) in subsection (a)—

8 (i) by striking “27 voting members”
9 and inserting “24 voting members”,

10 (ii) by adding “and” at the end of
11 paragraph (4); and

12 (iii) by striking paragraphs (5) and
13 (6) and redesignating paragraph (7) as
14 paragraph (5); and

15 (B) in subsection (a–1)(1), by striking sub-
16 paragraphs (F), (G), and (H).

17 (2) AUTHORIZATION OF APPROPRIATIONS.—

18 Section 8 of such Initiative (sec. 1–127, D.C. Offi-
19 cial Code) is hereby repealed.

20 (3) APPLICATION OF HONORARIA LIMITA-

21 TIONS.—Section 4 of D.C. Law 8–135 (sec. 1–131,
22 D.C. Official Code) is hereby repealed.

23 (4) APPLICATION OF CAMPAIGN FINANCE

24 LAWS.—Section 3 of the Statehood Convention Pro-

1 cedural Amendments Act of 1982 (sec. 1–135, D.C.
2 Official Code) is hereby repealed.

3 (5) LIST OF ELECTED OFFICIALS.—Section
4 2(13) of the District of Columbia Elections Code of
5 1955 (sec. 1–1001.02(13), D.C. Official Code) is
6 amended by striking “United States Senator and
7 Representative,”.

8 **SEC. 9. NONSEVERABILITY OF CERTAIN PROVISIONS.**

9 If any provision of sections 3, 6(a), or 6(b) of this
10 Act, or the application thereof to any person or cir-
11 cumstance, is held invalid, the remaining provisions of this
12 Act or any amendment made by this Act shall be treated
13 as invalid.

14 **SEC. 10. RULES OF CONSTRUCTION.**

15 Nothing in this Act may be construed—

16 (1) to permit residents of the District of Colum-
17 bia to vote in elections for State or local office in the
18 State of Maryland or to permit nonresidents of the
19 District of Columbia to vote in elections for local of-
20 fice in the District of Columbia;

21 (2) to affect the power of Congress under arti-
22 cle I, section 8, clause 17 of the Constitution to ex-
23 ercise exclusive legislative authority over the District
24 of Columbia; or

1 (3) to affect the powers of the Government of
2 the District of Columbia under the District of Co-
3 lumbia Home Rule Act (except as specifically pro-
4 vided in this Act).

○