

108TH CONGRESS
2D SESSION

H. R. 5191

To amend title 3, United States Code, to extend the date provided for the meeting of electors of the President and Vice President in the States, and the date provided for the joint session of Congress held for the counting of electoral votes, in the event of an unresolved controversy or contest relating to the counting of votes in any State, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 30, 2004

Mr. PRICE of North Carolina introduced the following bill; which was referred to the Committee on House Administration

A BILL

To amend title 3, United States Code, to extend the date provided for the meeting of electors of the President and Vice President in the States, and the date provided for the joint session of Congress held for the counting of electoral votes, in the event of an unresolved controversy or contest relating to the counting of votes in any State, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Count Every Vote Act
3 of 2004”.

4 **SEC. 2. EXTENSION OF DATES PROVIDED FOR MEETING OF**
5 **ELECTORS AND JOINT SESSION OF CON-**
6 **GRESS FOR COUNTING ELECTORAL VOTES IN**
7 **EVENT OF UNRESOLVED CONTROVERSY OR**
8 **CONTEST IN ANY STATE.**

9 (a) MEETING OF ELECTORS IN STATES.—Section 7
10 of title 3, United States Code, is amended—

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

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

16 “(b) SPECIAL RULE IN EVENT OF UNRESOLVED
17 CONTROVERSY OR CONTEST IN ANY STATE.—Notwith-
18 standing the date provided under subsection (a), the elec-
19 tors of President and Vice President of each State shall
20 meet and give their votes on the first day (or, if such day
21 is a Sunday, the second day) occurring after the January
22 1 that next follows their appointment if—

23 “(1) a controversy or contest concerning the ap-
24 pointment of all or any of the electors of any State
25 has been filed; and

1 “(2) a final determination of the controversy or
 2 contest has not been made at least 3 days prior to
 3 the date described in subsection (a).”.

4 (b) DEADLINES FOR DELIVERY OF CERTIFICATES
 5 AND VOTES BY STATES.—

6 (1) CERTIFICATE OF APPOINTED ELECTORS.—

7 Section 6 of such title is amended by inserting after
 8 “communicate by registered mail under the seal of
 9 the State” the following: “(or, if the special rule de-
 10 scribed in section 7(b) is in effect with respect to the
 11 election, communicate by such method as may be ap-
 12 propriate, including overnight delivery or a secure
 13 form of electronic transmission, to ensure receipt not
 14 later than the second day that follows the date de-
 15 scribed in section 7(b))”.

16 (2) DISPOSITION OF CERTIFICATES BY ELEC-
 17 TORS.—Section 11 of such title is amended—

18 (A) by striking “The electors shall dis-
 19 pose” and inserting “(a) IN GENERAL.—Except
 20 as provided in subsection (b), the electors shall
 21 dispose”; and

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

24 “(b) SPECIAL RULE IN EVENT OF UNRESOLVED
 25 CONTROVERSY OR CONTEST.—If the special rule de-

1 scribed in section 7(b) is in effect with respect to the elec-
 2 tion, the electors shall carry out the delivery and trans-
 3 mission requirements of this section by such method as
 4 may be appropriate, including overnight delivery or a se-
 5 cure form of electronic transmission, to ensure receipt of
 6 the certificates and lists by the President of the Senate
 7 and the Archivist of the United States not later than the
 8 second day that follows the date described in section
 9 7(b).”.

10 (3) FINAL DEADLINE FOR DELIVERY.—Section
 11 12 of such title is amended—

12 (A) by striking “When no certificate” and
 13 inserting “(a) IN GENERAL.—Except as pro-
 14 vided in subsection (b), when no certificate”;
 15 and

16 (B) by adding at the end the following new
 17 subsection:

18 “(b) SPECIAL RULE IN EVENT OF UNRESOLVED
 19 CONTROVERSY OR CONTEST.—If the special rule de-
 20 scribed in section 7(b) is in effect with respect to the elec-
 21 tion, the Secretary of State of each State shall take such
 22 action as may be necessary (including overnight delivery
 23 or a secure form of electronic transmission) to ensure that
 24 the certificate of vote and list mentioned in sections 9 and
 25 11 is received by the President of the Senate or the Archi-

1 vist of the United States not later than the second day
 2 that follows the date described in section 7(b).”.

3 (4) DEMAND ON DISTRICT COURT JUDGE.—

4 Section 13 of such title is amended—

5 (A) by striking “When no certificates” and
 6 inserting “(a) IN GENERAL.—Except as pro-
 7 vided in subsection (b), when no certificates”;
 8 and

9 (B) by adding at the end the following new
 10 subsection:

11 “(b) SPECIAL RULE IN EVENT OF UNRESOLVED
 12 CONTROVERSY OR CONTEST.—If the special rule de-
 13 scribed in section 7(b) is in effect with respect to the elec-
 14 tion, the district judge referred to in subsection (a) shall
 15 take such action as may be necessary (including overnight
 16 delivery or a secure form of electronic transmission) to en-
 17 sure that the list described in such subsection is received
 18 by the President of the Senate or the Archivist of the
 19 United States not later than the second day that follows
 20 the date described in section 7(b).”.

21 (c) JOINT SESSION FOR COUNTING ELECTORAL
 22 VOTES.—The first sentence of section 15 of such title is
 23 amended by striking the period at the end and inserting
 24 the following: “, or if the special rule described in section
 25 7(b) is in effect, on the second day (or, if such day is

1 a Sunday, the third day) that follows the deadline for the
2 receipt of certificates and votes by the President of the
3 Senate or the Archivist of the United States under section
4 12(b).”.

5 **SEC. 3. EXTENSION OF SAFE HARBOR PERIOD FOR RESO-**
6 **LUTION OF CONTROVERSY OR CONTEST RE-**
7 **GARDING APPOINTMENT OF ELECTORS.**

8 Section 5 of title 3, United States Code, is amended
9 by striking “six days” each place it appears and inserting
10 “3 days”.

11 **SEC. 4. EFFECTIVE DATE.**

12 The amendments made by this Act shall apply with
13 respect to the Presidential election held in November 2004
14 and each succeeding Presidential election.

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