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.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “District of Columbia Voting Rights Restoration Act of 2004”.

SEC. 2. FINDINGS.

The Congress finds the following:

(1) There is no reason, either historically or by virtue of law, why the people of the District of Co-
lumbia, the capital of the United States of America, should not have full voting representation in the Congress of the United States.

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

(3) The same clause of the Constitution provides that Congress “shall exercise like authority over” other Federal territories that have been purchased from the States for Federal purposes. Residents of other Federal enclaves, though also denied voting rights after becoming subject to exclusive Federal jurisdiction, have had restored their right to vote for and serve as elected Federal officials from their respective States which ceded the Federal enclaves to the United States.

(4) Congress has exercised its authority to regulate Federal elections under article I, section 4 of the Constitution to set the legal requirements that States must follow in establishing Congressional districts. Congress has also exercised this authority to require States to allow United States citizens who are former residents, and their children who are
United States citizens, who are living overseas to vote in Federal elections in the previous State of residence, notwithstanding the fact that such former residents and their children may have no intention of returning or establishing residence in that State, and notwithstanding the fact that such citizens are not subject to the laws of that State, including tax laws.

(5) The entire territory of the current District of Columbia was ceded to the United States by the State of Maryland, one of the original 13 States of the United States. The portion of the original District of Columbia ceded to the United States by the Commonwealth of Virginia was returned to the authority of that state in 1846, and the people who now reside in that area vote as citizens of the Commonwealth of Virginia.

(6) The Supreme Court of the United States has found that the cession of legislative authority over the territory that became the District of Columbia by the States of Maryland and Virginia did not remove that territory from the United States, and that the people who live in that territory are entitled to all the rights, guarantees, and immunities of the Constitution that they formerly enjoyed as citizens.
of those States. O'Donoghue v. United States, 289 U.S. 516 (1933); Downes v. Bidwell, 182 U.S. 244 (1901). Among those guarantees are the right to equal protection of the laws and the right to participate, equally with other Americans, in a Republican form of government.

(7) Since the people who lived in the territory that now makes up the District of Columbia once voted in Maryland as citizens of Maryland, and Congress by adoption of the Organic Act of 1801 severed the political connection between Maryland and the District of Columbia by statute, Congress has the power by statute to restore Maryland state citizenship rights, including Federal electoral rights, that it took away by enacting the Organic Act of 1801.

SEC. 3. RESTORATION OF RIGHT OF DISTRICT OF COLUMBIA RESIDENTS TO PARTICIPATE AS MARYLAND RESIDENTS IN CONGRESSIONAL ELECTIONS.

(a) IN GENERAL.—Notwithstanding any other provision of law, for purposes of representation in the House of Representatives and Senate, the right of the people of the District of Columbia to be eligible to participate in elections for the House of Representatives and Senate as
Maryland residents in accordance with the laws of the State of Maryland, is hereby restored.

(b) Eligibility to Hold Congressional Office.—Notwithstanding any other provision of law, for purposes of determining eligibility to serve as a Member of the House of Representatives or Senate, the right of the residents of the District of Columbia to be considered inhabitants of the State of Maryland is hereby restored.

(c) Effective Date.—This section shall apply with respect to elections for Federal office occurring during 2006 and any succeeding year.

SEC. 4. RESTORATION OF RIGHT OF DISTRICT OF COLUMBIA RESIDENTS TO PARTICIPATE AS MARYLAND RESIDENTS IN PRESIDENTIAL ELECTIONS.

(a) In General.—Notwithstanding any other provision of law, the right of the people of the District of Columbia to be eligible to participate in elections for electors of President and Vice President, and to serve as such electors as Maryland residents in accordance with the laws of the State of Maryland, is hereby restored.

(b) Eligibility to Serve as Electors.—Notwithstanding any other provision of law, for purposes of determining eligibility to serve as electors of President and Vice President, the right of the residents of the District of Co-
lumbia to be considered inhabitants of the State of Mary-
land is hereby restored.

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

(d) CONFORMING AMENDMENT.—

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

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

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

SEC. 5. COORDINATION OF ELECTION ADMINISTRATION.

(a) APPLICATION OF MARYLAND ELECTION LAWS.—
(1) IN GENERAL.—Federal elections in the District of Columbia shall be administered and carried out by the State of Maryland, in accordance with the applicable laws of the State of Maryland.

(2) TREATMENT OF DISTRICT AS UNIT OF LOCAL GOVERNMENT.—For purposes of the laws of the State of Maryland which apply to Federal elections in the District of Columbia pursuant to paragraph (1), the District of Columbia shall be considered to be a unit of local government within the State of Maryland with responsibility for the administration of Federal elections.

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

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

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

(B) by striking “In this Act” and inserting “(a) IN GENERAL.—In this Act”; and

(C) by adding at the end the following new subsection:
“(b) Special Rule for State of Maryland and District of Columbia.—For purposes of this Act, the following shall apply:

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

“(2) The District of Columbia shall be considered a unit of local government or jurisdiction located within the State of Maryland.

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

(e) Conforming Amendments to Other Federal Election Laws.—

(1) Uniformed and Overseas Citizens Absentee Voting Act.—

(A) In General.—Title I of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff et seq.) is amended by adding at the end the following new section:

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

“For purposes of this title, the following shall apply:
“(1) An absent uniformed services voter or overseas voter who is a resident of the District of Columbia shall be considered to be a resident of the State of Maryland.

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

“(3) The State of Maryland, and the election officials of the State of Maryland, shall be responsible for carrying out the provisions of this title with respect to voters who are residents of the District of Columbia.”.

(B) CONFORMING AMENDMENT.—Section 107(6) of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff–6) is amended by striking “the District of Columbia,”.

(2) NATIONAL VOTER REGISTRATION ACT OF 1973.—

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

(i) by redesignating section 13 as section 14; and
(ii) by adding at the end the following new section:

SEC. 12. SPECIAL RULE FOR STATE OF MARYLAND AND DISTRICT OF COLUMBIA.

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

“(1) The District of Columbia shall be considered a registrar’s jurisdiction within the State of Maryland.

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

“(3) The State of Maryland, and the election officials of the State of Maryland, shall be responsible for carrying out this Act with respect to the District of Columbia, except that—

“(A) section 5 shall apply to motor vehicle driver’s license applications and the motor vehicle authority of the District of Columbia in the same manner as that section applies to a State, and the State of Maryland shall provide the District of Columbia with such forms and other materials as the District of Columbia may require to carry out that section; and

“(B) the District of Columbia shall designate voter registration agencies under section...
7 in the same manner as a State, and the State
of Maryland shall provide the District of Co-
lumbia with such forms and other materials as
the District of Columbia may require to carry
out that section.”.

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

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

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

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

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

“SPECIAL RULE FOR STATE OF MARYLAND AND DISTRICT
OF COLUMBIA

“Sec. 8. For purposes of this Act, the following shall
apply:

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

“(2) An election for Federal office taking place
in the District of Columbia shall be considered to
take place in the State of Maryland.
“(3) The State of Maryland shall be responsible for carrying out this Act with respect to the District of Columbia.”.

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

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

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

“SEC. 18. APPLICABILITY OF MARYLAND ELECTION LAW FOR ADMINISTRATION OF FEDERAL ELECTIONS.

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

“(1) any election for Federal office in the District of Columbia shall be administered and carried
out by the State of Maryland, in accordance with the applicable law of the State of Maryland; and

“(2) no provision of this Code shall apply with respect to any election for Federal office to the extent that the provision is inconsistent with the applicable law of the State of Maryland.”.

(f) EFFECTIVE DATE.—This section and the amendments made by this section shall apply with respect to elections for Federal office occurring during 2006 and any succeeding year.

SEC. 6. TRANSITION PROVISIONS FOR HOUSE OF REPRESENTATIVES.

(a) NUMBER AND APPORTIONMENT OF MARYLAND MEMBERS.—For purposes of determining the number and apportionment of the members of the House of Representatives from the State of Maryland for the One Hundred Tenth Congress and each succeeding Congress, the population of the District of Columbia shall be added to the population of Maryland under the decennial census.

(b) TEMPORARY INCREASE IN APPORTIONMENT.—

(1) IN GENERAL.—Effective January 3, 2007, and until the taking effect of the first reapportionment occurring after the regular decennial census conducted for 2010—
(A) the membership of the House of Representatives shall be increased by 2;

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

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

(2) TRANSMITTAL OF REVISED APPORTIONMENT INFORMATION BY PRESIDENT AND CLERK.—

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

(B) REPORT BY CLERK.—Not later than 15 calendar days after receiving the revised
version of the statement of apportionment under subparagraph (A), the Clerk of the House of Representatives, in accordance with section 22(b) of such Act (2 U.S.C. 2a(b)), shall send to the executive of the State (other than the State of Maryland) entitled to one additional Representative pursuant to this section a certificate of the number of Representatives to which such State is entitled under section 22 of such Act, and shall submit a report identifying that State to the Speaker of the House of Representatives.

(3) INCREASE NOT COUNTED AGAINST TOTAL NUMBER OF MEMBERS.—The temporary increase in the membership of the House of Representatives provided under paragraph (1) shall not operate to either increase or decrease the permanent membership of the House of Representatives as prescribed in the Act of August 8, 1911 (2 U.S.C. 2), nor shall such temporary increase affect the basis of reapportionment established by the Act of June 28, 1929, as amended (2 U.S.C. 2a), for the Eighty Second Congress and each Congress thereafter.

(c) PROHIBITING DIVISION OF DISTRICT OF COLUMBIA INTO SEPARATE CONGRESSIONAL DISTRICTS.—
(1) In General.—Notwithstanding subsection (a), in establishing Congressional districts after the effective date of this section, the State of Maryland shall ensure that the entire area of the District of Columbia is included in the same Congressional district (except as provided in paragraph (2)).

(2) Special Rule if Population of District Equals or Exceeds Average Population of Maryland Congressional Districts.—If the population of the District of Columbia equals or exceeds the average population of a Congressional district in the State of Maryland under the decennial census used for the apportionment of the Members of the House of Representatives from the State of Maryland, the State of Maryland shall ensure that at least one Congressional district in the State consists exclusively of territory within the District of Columbia.

(3) Special Rule for Initial District.—Until the State of Maryland establishes Congressional districts to take into account the enactment of this section, the Congressional district of the additional Representative to which the State is entitled under this section shall consist exclusively of the area of the District of Columbia.
SEC. 7. REPEAL OF OFFICE OF DISTRICT OF COLUMBIA DELEGATE.

(a) In General.—Sections 202 and 204 of the District of Columbia Delegate Act (Public Law 91–405; sections 1–401 and 1–402, D.C. Official Code) are repealed, and the provisions of law amended or repealed by such sections are restored or revived as if such sections had not been enacted.

(b) Conforming Amendments to District of Columbia Elections Code of 1955.—The District of Columbia Elections Code of 1955 is amended—

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

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

(A) by striking paragraph (6), and

(B) in paragraph (13), by striking “the Delegate to Congress for the District of Columbia”;

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

(A) by striking “Delegate” in the heading, and
(B) by striking “Delegate,” each place it appears in subsections (h)(1)(A), (i)(1), and (j)(1);
(4) in section 10 (sec. 1–1001.10, D.C. Official Code)—
(A) by striking subparagraph (A) of subsection (a)(3), and
(B) in subsection (d)—
(i) by striking “Delegate,” each place it appears in paragraph (1), and
(ii) by striking paragraph (2) and redesignating paragraph (3) as paragraph (2);
(5) in section 15(b) (sec. 1–1001.15(b), D.C. Official Code), by striking “Delegate,”; and
(6) in section 17(a) (sec. 1–1001.17(a), D.C. Official Code), by striking “except the Delegate to the Congress from the District of Columbia”.
(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to elections occurring during 2006 and any succeeding year.

SEC. 8. REPEAL OF OFFICES OF STATEHOOD REPRESENTATIVE AND SENATOR.

(a) IN GENERAL.—Section 4 of the District of Columbia Statehood Constitutional Convention Initiative of
1979 (sec. 1–123, D.C. Official Code) is amended by striking subsections (d) through (h).

(b) CONFORMING AMENDMENTS.—

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

(A) in subsection (a)—

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

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

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

(B) in subsection (a–1)(1), by striking subparagraphs (F), (G), and (H).

(2) AUTHORIZATION OF APPROPRIATIONS.—
Section 8 of such Initiative (sec. 1–127, D.C. Official Code) is hereby repealed.

(3) APPLICATION OF HONORARIA LIMITATIONS.—Section 4 of D.C. Law 8–135 (sec. 1–131, D.C. Official Code) is hereby repealed.

(4) APPLICATION OF CAMPAIGN FINANCE LAWS.—Section 3 of the Statehood Convention Pro-
cedural Amendments Act of 1982 (sec. 1–135, D.C. Official Code) is hereby repealed.

(5) List of elected officials.—Section 2(13) of the District of Columbia Elections Code of 1955 (sec. 1–1001.02(13), D.C. Official Code) is amended by striking “United States Senator and Representative,”.

SEC. 9. NONSEVERABILITY OF CERTAIN PROVISIONS.

If any provision of sections 3, 6(a), or 6(b) of this Act, or the application thereof to any person or circumstance, is held invalid, the remaining provisions of this Act or any amendment made by this Act shall be treated as invalid.

SEC. 10. RULES OF CONSTRUCTION.

Nothing in this Act may be construed—

(1) to permit residents of the District of Columbia to vote in elections for State or local office in the State of Maryland or to permit nonresidents of the District of Columbia to vote in elections for local office in the District of Columbia;

(2) to affect the power of Congress under article I, section 8, clause 17 of the Constitution to exercise exclusive legislative authority over the District of Columbia; or
(3) to affect the powers of the Government of the District of Columbia under the District of Columbia Home Rule Act (except as specifically provided in this Act).