

111TH CONGRESS
1ST SESSION

H. R. 665

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

IN THE HOUSE OF REPRESENTATIVES

JANUARY 23, 2009

Mr. ROHRABACHER introduced the following bill; which was referred to the Committee on House Administration, and in addition to the Committees on Oversight and 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 2009”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds the following:

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

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

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

21 (4) Congress has exercised its authority to reg-
22 ulate Federal elections under article I, section 4 of
23 the Constitution to set the legal requirements that
24 States must follow in establishing Congressional dis-
25 tricts. Congress has also exercised this authority to

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

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

20 (6) The Supreme Court of the United States
21 has found that the cession of legislative authority
22 over the territory that became the District of Colum-
23 bia by the States of Maryland and Virginia did not
24 remove that territory from the United States, and
25 that the people who live in that territory are entitled

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

9 (7) Since the people who lived in the territory
10 that now makes up the District of Columbia once
11 voted in Maryland as citizens of Maryland, and Con-
12 gress by adoption of the Organic Act of 1801 sev-
13 ered the political connection between Maryland and
14 the District of Columbia by statute, Congress has
15 the power by statute to restore Maryland state citi-
16 zenship rights, including Federal electoral rights,
17 that it took away by enacting the Organic Act of
18 1801.

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

23 (a) IN GENERAL.—Notwithstanding any other provi-
24 sion of law, for purposes of representation in the House
25 of Representatives and Senate, the right of the people of

1 the District of Columbia to be eligible to participate in
2 elections for the House of Representatives and Senate as
3 Maryland residents in accordance with the laws of the
4 State of Maryland, is hereby restored.

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

11 (c) EFFECTIVE DATE.—This section shall apply with
12 respect to elections for Federal office occurring during
13 2010 and any succeeding year.

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

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

24 (b) ELIGIBILITY TO SERVE AS ELECTORS.—Notwith-
25 standing any other provision of law, for purposes of deter-

1 mining eligibility to serve as electors of President and Vice
2 President, the right of the residents of the District of Co-
3 lumbia to be considered inhabitants of the State of Mary-
4 land is hereby restored.

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

15 (d) CONFORMING AMENDMENT.—

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

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

22 **SEC. 5. COMPOSITION OF HOUSE OF REPRESENTATIVES.**

23 (a) NUMBER AND APPORTIONMENT OF MARYLAND
24 MEMBERS.—For purposes of determining the number and
25 apportionment of the members of the House of Represent-

1 atives from the State of Maryland for the One Hundred
2 Twelfth Congress and each succeeding Congress, the pop-
3 ulation of the District of Columbia shall be added to the
4 population of Maryland under the decennial census.

5 (b) INCREASE IN MEMBERSHIP OF HOUSE OF REP-
6 RESENTATIVES.—

7 (1) PERMANENT INCREASE IN NUMBER OF
8 MEMBERS.—Effective with respect to the One Hun-
9 dred Twelfth Congress and each succeeding Con-
10 gress, the House of Representatives shall be com-
11 posed of 437 Members.

12 (2) REAPPORTIONMENT OF MEMBERS RESULT-
13 ING FROM INCREASE.—

14 (A) IN GENERAL.—Section 22(a) of the
15 Act entitled “An Act to provide for the fifteenth
16 and subsequent decennial censuses and to pro-
17 vide for apportionment of Representatives in
18 Congress”, approved June 28, 1929 (2 U.S.C.
19 2a(a)), is amended by striking “the then exist-
20 ing number of Representatives” and inserting
21 “the number of Representatives established
22 with respect to the One Hundred Twelfth Con-
23 gress”.

24 (B) EFFECTIVE DATE.—The amendment
25 made by subparagraph (A) shall apply with re-

1 spect to the regular decennial census conducted
2 for 2010 and each subsequent regular decennial
3 census.

4 (c) REVISION OF APPORTIONMENT PRIOR TO NEXT
5 CENSUS.—

6 (1) TRANSMITTAL OF REVISED APPORTION-
7 MENT INFORMATION BY PRESIDENT AND CLERK.—

8 (A) STATEMENT OF APPORTIONMENT BY
9 PRESIDENT.—Not later than 30 days after the
10 date of the enactment of this Act, the President
11 shall transmit to Congress a revised version of
12 the most recent statement of apportionment
13 submitted under section 22(a) of the Act enti-
14 tled “An Act to provide for the fifteenth and
15 subsequent decennial censuses and to provide
16 for apportionment of Representatives in Con-
17 gress”, approved June 28, 1929 (2 U.S.C.
18 2a(a)), to take into account this section and the
19 amendments made by this section.

20 (B) REPORT BY CLERK.— Not later than
21 15 calendar days after receiving the revised
22 version of the statement of apportionment
23 under subparagraph (A), the Clerk of the
24 House of Representatives, in accordance with
25 section 22(b) of such Act (2 U.S.C. 2a(b)),

1 shall send to the executive of the State (other
2 than the State of Maryland) entitled to one ad-
3 ditional Representative pursuant to this section
4 a certificate of the number of Representatives
5 to which such State is entitled under section 22
6 of such Act, and shall submit a report identi-
7 fying that State to the Speaker of the House of
8 Representatives.

9 (2) COMPOSITION OF CONGRESSIONAL DIS-
10 TRICTS FOR AFFECTED STATE.—Until the taking ef-
11 fect of the first reapportionment occurring after the
12 regular decennial census conducted for 2010, the
13 Congressional districts of the State identified by the
14 Clerk of the House of Representatives in the report
15 submitted under paragraph (1) shall be those dis-
16 tricts established under a law enacted by the State
17 during 2006 (without regard to any amendments
18 made to such law after 2006) which established Con-
19 gressional districts for the State but which did not
20 take effect because the number of districts provided
21 under the law was greater than the number of dis-
22 tricts to which the State was finally entitled after
23 the regular decennial census for 2000.

24 (d) 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. 6. COORDINATION OF ELECTION ADMINISTRATION.**

2 (a) APPLICATION OF MARYLAND ELECTION LAWS.—

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

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

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

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

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

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

23 “(a) IN GENERAL.—In this Act”; and

24 (C) by adding at the end the following new
25 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 “(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 2009.”.

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 2010 and any
10 succeeding year.

11 **SEC. 7. REPEAL OF OFFICE OF DISTRICT OF COLUMBIA**
12 **DELEGATE.**

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

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

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

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

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

4 (B) in paragraph (13), by striking “the
5 Delegate to Congress for the District of Colum-
6 bia”;

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

9 (A) by striking “Delegate” in the heading,
10 and

11 (B) by striking “Delegate,” each place it
12 appears in subsections (h)(1)(A), (i)(1), and
13 (j)(1);

14 (4) in section 10 (sec. 1–1001.10, D.C. Official
15 Code)—

16 (A) by striking subparagraph (A) of sub-
17 section (a)(3), and

18 (B) in subsection (d)—

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

21 (ii) by striking paragraph (2) and re-
22 designating paragraph (3) as paragraph
23 (2);

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

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

3 (2) AUTHORIZATION OF APPROPRIATIONS.—
4 Section 8 of such Initiative (sec. 1-127, D.C. Offi-
5 cial Code) is hereby repealed.

6 (3) APPLICATION OF HONORARIA LIMITA-
7 TIONS.—Section 4 of D.C. Law 8-135 (sec. 1-131,
8 D.C. Official Code) is hereby repealed.

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

13 (5) LIST OF ELECTED OFFICIALS.—Section
14 2(13) of the District of Columbia Elections Code of
15 1955 (sec. 1-1001.02(13), D.C. Official Code) is
16 amended by striking “United States Senator and
17 Representative,”.

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

19 If any provision of sections 3, 5(a), or 5(b) of this
20 Act, or the application thereof to any person or cir-
21 cumstance, is held invalid, the remaining provisions of this
22 Act or any amendment made by this Act shall be treated
23 as invalid.

24 **SEC. 10. RULES OF CONSTRUCTION.**

25 Nothing in this Act may be construed—

1 (1) to permit residents of the District of Colum-
2 bia to vote in elections for State or local office in the
3 State of Maryland or to permit nonresidents of the
4 District of Columbia to vote in elections for local of-
5 fice in the District of Columbia;

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

10 (3) to affect the powers of the Government of
11 the District of Columbia under the District of Co-
12 lumbia Home Rule Act (except as specifically pro-
13 vided in this Act).

○