

## Union Calendar No. 3

109<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 841

[Report No. 109–8, Part 1]

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.

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### IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 16, 2005

Mr. SENSENBRENNER (for himself, Mr. DREIER, Mrs. MILLER of Michigan, Mr. CHABOT, Mr. BARTLETT of Maryland, Mr. PAUL, and Mr. COLE of Oklahoma) introduced the following bill; which was referred to the Committee on House Administration

FEBRUARY 24, 2005

Reported with an amendment and referred to the Committee on the Judiciary for a period ending not later than February 24, 2005 for consideration of such provisions of the bill and amendment as fall within the jurisdiction of that committee pursuant to clause 1(l), rule X

[Strike out all after the enacting clause and insert the part printed in *italic*]

FEBRUARY 24, 2005

The Committee on the Judiciary discharged; committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[For text of the introduced bill, see bill as introduced on February 16, 2005]

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## A BILL

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 Represen-*  
 5 *tation Act of 2005”.*

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

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

11            *(1) by striking “The time” and inserting “(a) IN*  
 12 *GENERAL.—Except as provided in subsection (b), the*  
 13 *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 election*  
 22 *to fill such vacancy by special election.*

1           “(2) *TIMING OF SPECIAL ELECTION.*—A special  
2           *election held under this subsection to fill a vacancy*  
3           *shall take place not later than 45 days after the*  
4           *Speaker of the House of Representatives announces*  
5           *that the vacancy exists, unless, during the 75-day pe-*  
6           *riod which begins on the date of the announcement of*  
7           *the vacancy—*

8                     “(A) *a regularly scheduled general election*  
9                     *for the office involved is to be held; or*

10                    “(B) *another special election for the office*  
11                    *involved is to be held, pursuant to a writ for a*  
12                    *special election issued by the chief executive of*  
13                    *the State prior to the date of the announcement*  
14                    *of the vacancy.*

15           “(3) *NOMINATIONS BY PARTIES.*—*If a special*  
16           *election is to be held under this subsection, the deter-*  
17           *mination of the candidates who will run in such elec-*  
18           *tion shall be made—*

19                    “(A) *by nominations made not later than*  
20                    *10 days after the Speaker announces that the va-*  
21                    *cancy exists by the political parties of the State*  
22                    *that are authorized by State law to nominate*  
23                    *candidates for the election; or*

24                    “(B) *by any other method the State con-*  
25                    *siders appropriate, including holding primary*

1           *elections, that will ensure that the State will hold*  
2           *the special election within the deadline required*  
3           *under paragraph (2).*

4           “(4) *EXTRAORDINARY CIRCUMSTANCES.*—

5                   “(A) *IN GENERAL.*—*In this subsection, ‘ex-*  
6                   *traordinary circumstances’ occur when the*  
7                   *Speaker of the House of Representatives an-*  
8                   *ounces that vacancies in the representation*  
9                   *from the States in the House exceed 100.*

10                   “(B) *JUDICIAL REVIEW.*—*If any action is*  
11                   *brought for declaratory or injunctive relief to*  
12                   *challenge an announcement made under sub-*  
13                   *paragraph (A), the following rules shall apply:*

14                           “(i) *Not later than 2 days after the an-*  
15                           *ouncement, the action shall be filed in the*  
16                           *United States District Court having juris-*  
17                           *isdiction in the district of the Member of the*  
18                           *House of Representatives whose seat has*  
19                           *been announced to be vacant and shall be*  
20                           *heard by a 3-judge court convened pursuant*  
21                           *to section 2284 of title 28, United States*  
22                           *Code.*

23                           “(ii) *A copy of the complaint shall be*  
24                           *delivered promptly to the Clerk of the House*  
25                           *of Representatives.*

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

4           “(iv) The executive authority of the  
5           State that contains the district of the Mem-  
6           ber of the House of Representatives whose  
7           seat has been announced to be vacant shall  
8           have the right to intervene either in support  
9           of or opposition to the position of a party  
10          to the case regarding the announcement of  
11          such vacancy.

12          “(5) *PROTECTING ABILITY OF ABSENT MILITARY*  
13          *AND OVERSEAS VOTERS TO PARTICIPATE IN SPECIAL*  
14          *ELECTIONS.—*

15          “(A) *DEADLINE FOR TRANSMITTAL OF AB-*  
16          *SENTEE BALLOTS.—*In conducting a special elec-  
17          tion held under this subsection to fill a vacancy  
18          in its representation, the State shall ensure to  
19          the greatest extent practicable (including through  
20          the use of electronic means) that absentee ballots  
21          for the election are transmitted to absent uni-  
22          formed services voters and overseas voters (as  
23          such terms are defined in the Uniformed and  
24          Overseas Citizens Absentee Voting Act) not later  
25          than 15 days after the Speaker of the House of

1           *Representatives announces that the vacancy ex-*  
2           *ists.*

3                   “(B) *PERIOD FOR BALLOT TRANSIT TIME.*—  
4           *Notwithstanding the deadlines referred to in*  
5           *paragraphs (2) and (3), in the case of an indi-*  
6           *vidual who is an absent uniformed services voter*  
7           *or an overseas voter (as such terms are defined*  
8           *in the Uniformed and Overseas Citizens Absentee*  
9           *Voting Act), a State shall accept and process any*  
10           *otherwise valid ballot or other election material*  
11           *from the voter so long as the ballot or other ma-*  
12           *terial is received by the appropriate State elec-*  
13           *tion official not later than 45 days after the*  
14           *State transmits the ballot or other material to*  
15           *the voter.*

16                   “(6) *APPLICATION TO DISTRICT OF COLUMBIA*  
17           *AND TERRITORIES.*—*This subsection shall apply—*

18                   “(A) *to a Delegate or Resident Commis-*  
19           *sioner to the Congress in the same manner as it*  
20           *applies to a Member of the House of Representa-*  
21           *tives; and*

22                   “(B) *to the District of Columbia, the Com-*  
23           *monwealth of Puerto Rico, American Samoa,*  
24           *Guam, and the United States Virgin Islands in*  
25           *the same manner as it applies to a State, except*

1           that a vacancy in the representation from any  
2           such jurisdiction in the House shall not be taken  
3           into account by the Speaker in determining  
4           whether vacancies in the representation from the  
5           States in the House exceed 100 for purposes of  
6           paragraph (4)(A).

7           “(7) *RULE OF CONSTRUCTION REGARDING FED-*  
8           *ERAL ELECTION LAWS.*—Nothing in this subsection  
9           may be construed to affect the application to special  
10          elections under this subsection of any Federal law  
11          governing the administration of elections for Federal  
12          office (including any law providing for the enforce-  
13          ment of any such law), including, but not limited to,  
14          the following:

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

17                 “(B) *The Voting Accessibility for the Elder-*  
18                 *ly and Handicapped Act (42 U.S.C. 1973ee et*  
19                 *seq.), as amended.*

20                 “(C) *The Uniformed and Overseas Citizens*  
21                 *Absentee Voting Act (42 U.S.C. 1973ff et seq.), as*  
22                 *amended.*

23                 “(D) *The National Voter Registration Act of*  
24                 *1993 (42 U.S.C. 1973gg et seq.), as amended.*

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

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

5                   “(G) *The Help America Vote Act of 2002*  
6                   *(42 U.S.C. 15301 et seq.), as amended.”.*



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