

Calendar No. 61

109TH CONGRESS
1ST SESSION

H. R. 841

IN THE SENATE OF THE UNITED STATES

MARCH 8, 2005

Received

MARCH 17, 2005

Read the first time

MARCH 19, 2005

Read the second time and placed on the calendar

AN ACT

To require States to hold special elections to fill vacancies in the House of Representatives not later than 49 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 Rep-
5 resentation 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
10 States (2 U.S.C. 8) is amended—

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

23 “(2) TIMING OF SPECIAL ELECTION.—A special
24 election held under this subsection to fill a vacancy
25 shall take place not later than 49 days after the

1 Speaker of the House of Representatives announces
2 that the vacancy exists, unless, during the 75-day
3 period which begins on the date of the announce-
4 ment of the vacancy—

5 “(A) a regularly scheduled general election
6 for the office involved is to be held; or

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

12 “(3) NOMINATIONS BY PARTIES.—If a special
13 election is to be held under this subsection, the de-
14 termination of the candidates who will run in such
15 election shall be made—

16 “(A) by nominations made not later than
17 10 days after the Speaker announces that the
18 vacancy exists by the political parties of the
19 State that are authorized by State law to nomi-
20 nate candidates for the election; or

21 “(B) by any other method the State con-
22 siders appropriate, including holding primary
23 elections, that will ensure that the State will
24 hold the special election within the deadline re-
25 quired under paragraph (2).

1 “(4) EXTRAORDINARY CIRCUMSTANCES.—

2 “(A) IN GENERAL.—In this subsection,
3 ‘extraordinary circumstances’ occur when the
4 Speaker of the House of Representatives an-
5 nounces that vacancies in the representation
6 from the States in the House exceed 100.

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

11 “(i) Not later than 2 days after the
12 announcement, the action shall be filed in
13 the United States District Court having ju-
14 risdiction in the district of the Member of
15 the House of Representatives whose seat
16 has been announced to be vacant and shall
17 be heard by a 3-judge court convened pur-
18 suant to section 2284 of title 28, United
19 States Code.

20 “(ii) A copy of the complaint shall be
21 delivered promptly to the Clerk of the
22 House of Representatives.

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

1 “(iv) The executive authority of the
2 State that contains the district of the
3 Member of the House of Representatives
4 whose seat has been announced to be va-
5 cant shall have the right to intervene either
6 in support of or opposition to the position
7 of a party to the case regarding the an-
8 nouncement of such vacancy.

9 “(5) PROTECTING ABILITY OF ABSENT MILI-
10 TARY AND OVERSEAS VOTERS TO PARTICIPATE IN
11 SPECIAL ELECTIONS.—

12 “(A) DEADLINE FOR TRANSMITTAL OF AB-
13 SENTEE BALLOTS.—In conducting a special
14 election held under this subsection to fill a va-
15 cancy in its representation, the State shall en-
16 sure to the greatest extent practicable (includ-
17 ing through the use of electronic means) that
18 absentee ballots for the election are transmitted
19 to absent uniformed services voters and over-
20 seas voters (as such terms are defined in the
21 Uniformed and Overseas Citizens Absentee Vot-
22 ing Act) not later than 15 days after the
23 Speaker of the House of Representatives an-
24 nounces that the vacancy exists.

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

14 “(6) APPLICATION TO DISTRICT OF COLUMBIA
15 AND TERRITORIES.—This subsection shall apply—

16 “(A) to a Delegate or Resident Commis-
17 sioner to the Congress in the same manner as
18 it applies to a Member of the House of Rep-
19 resentatives; and

20 “(B) to the District of Columbia, the Com-
21 monwealth of Puerto Rico, American Samoa,
22 Guam, and the United States Virgin Islands in
23 the same manner as it applies to a State, ex-
24 cept that a vacancy in the representation from
25 any such jurisdiction in the House shall not be

1 taken into account by the Speaker in deter-
2 mining whether vacancies in the representation
3 from the States in the House exceed 100 for
4 purposes of paragraph (4)(A).

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

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

15 “(B) The Voting Accessibility for the El-
16 derly and Handicapped Act (42 U.S.C. 1973ee
17 et seq.), as amended.

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

21 “(D) The National Voter Registration Act
22 of 1993 (42 U.S.C. 1973gg et seq.), as amend-
23 ed.

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

Calendar No. 61

109TH CONGRESS
1ST Session

H. R. 841

AN ACT

To require States to hold special elections to fill vacancies in the House of Representatives not later than 49 days after the vacancy is announced by the Speaker of the House of Representatives in extraordinary circumstances, and for other purposes.

MARCH 19, 2005

Read the second time and placed on calendar