

112TH CONGRESS  
1ST SESSION

# H. R. 597

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

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 9, 2011

Mr. ROHRBACHER 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

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## 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 2011”.

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 2012 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 436 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 2020 and each subsequent regular decennial  
3           census.

4           (c) PROHIBITING DIVISION OF DISTRICT OF COLUM-  
5 BIA INTO SEPARATE CONGRESSIONAL DISTRICTS.—

6           (1) IN GENERAL.—Notwithstanding subsection  
7           (a), in establishing Congressional districts after the  
8           effective date of this section, the State of Maryland  
9           shall ensure that the entire area of the District of  
10          Columbia is included in the same Congressional dis-  
11          trict (except as provided in paragraph (2)).

12          (2) SPECIAL RULE IF POPULATION OF DISTRICT  
13          EQUALS OR EXCEEDS AVERAGE POPULATION OF  
14          MARYLAND CONGRESSIONAL DISTRICTS.—If the pop-  
15          ulation of the District of Columbia equals or exceeds  
16          the average population of a Congressional district in  
17          the State of Maryland under the decennial census  
18          used for the apportionment of the Members of the  
19          House of Representatives from the State of Mary-  
20          land, the State of Maryland shall ensure that at  
21          least one Congressional district in the State consists  
22          exclusively of territory within the District of Colum-  
23          bia.

24          (3) SPECIAL RULE FOR INITIAL DISTRICT.—  
25          Until the State of Maryland establishes Congres-

1 sional districts to take into account the enactment of  
2 this section, the Congressional district of the addi-  
3 tional Representative to which the State is entitled  
4 under this section shall consist exclusively of the  
5 area of the District of Columbia.

6 **SEC. 6. COORDINATION OF ELECTION ADMINISTRATION.**

7 (a) APPLICATION OF MARYLAND ELECTION LAWS.—

8 (1) IN GENERAL.—Federal elections in the Dis-  
9 trict of Columbia shall be administered and carried  
10 out by the State of Maryland, in accordance with the  
11 applicable laws of the State of Maryland.

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

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

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

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

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

3 “(a) IN GENERAL.—In this Act”; and

4 (C) by adding at the end the following new  
5 subsection:

6 “(b) SPECIAL RULE FOR STATE OF MARYLAND AND  
7 DISTRICT OF COLUMBIA.—For purposes of this Act, the  
8 following shall apply:

9 “(1) The voting age population of the State of  
10 Maryland shall be considered to include the voting  
11 age population of the District of Columbia for pur-  
12 poses of sections 101(d)(4) and 252(b).

13 “(2) The District of Columbia shall be consid-  
14 ered a unit of local government or jurisdiction lo-  
15 cated within the State of Maryland.

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

19 (c) CONFORMING AMENDMENTS TO OTHER FEDERAL  
20 ELECTION LAWS.—

21 (1) UNIFORMED AND OVERSEAS CITIZENS AB-  
22 SENTEES VOTING ACT.—

23 (A) IN GENERAL.—Title I of the Uni-  
24 formed and Overseas Citizens Absentee Voting

1 Act (42 U.S.C. 1973ff et seq.) is amended by  
2 adding at the end the following new section:

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

5 “For purposes of this title, the following shall apply:

6 “(1) An absent uniformed services voter or  
7 overseas voter who is a resident of the District of  
8 Columbia shall be considered to be a resident of the  
9 State of Maryland.

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

13 “(3) The State of Maryland, and the election  
14 officials of the State of Maryland, shall be respon-  
15 sible for carrying out the provisions of this title with  
16 respect to voters who are residents of the District of  
17 Columbia.”.

18 (B) CONFORMING AMENDMENT.—Section  
19 107(6) of the Uniformed and Overseas Citizens  
20 Absentee Voting Act (42 U.S.C. 1973ff–6) is  
21 amended by striking “the District of Colum-  
22 bia,”.

23 (2) NATIONAL VOTER REGISTRATION ACT OF  
24 1973.—

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

4 (i) by redesignating section 13 as sec-  
5 tion 14; and

6 (ii) by adding at the end the following  
7 new section:

8 **“SEC. 12. SPECIAL RULE FOR STATE OF MARYLAND AND**  
9 **DISTRICT OF COLUMBIA.**

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

11 “(1) The District of Columbia shall be consid-  
12 ered a registrar’s jurisdiction within the State of  
13 Maryland.

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

17 “(3) The State of Maryland, and the election  
18 officials of the State of Maryland, shall be respon-  
19 sible for carrying out this Act with respect to the  
20 District of Columbia, except that—

21 “(A) section 5 shall apply to motor vehicle  
22 driver’s license applications and the motor vehi-  
23 cle authority of the District of Columbia in the  
24 same manner as that section applies to a State,  
25 and the State of Maryland shall provide the

1 District of Columbia with such forms and other  
 2 materials as the District of Columbia may re-  
 3 quire to carry out that section; and

4 “(B) the District of Columbia shall des-  
 5 ignate voter registration agencies under section  
 6 7 in the same manner as a State, and the State  
 7 of Maryland shall provide the District of Co-  
 8 lumbia with such forms and other materials as  
 9 the District of Columbia may require to carry  
 10 out that section.”.

11 (B) CONFORMING AMENDMENT.—Section  
 12 3(4) of such Act (42 U.S.C. gg-1(4)) is amend-  
 13 ed by striking “and the District of Columbia”.

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

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

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

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

23 “SPECIAL RULE FOR STATE OF MARYLAND AND DISTRICT  
 24 OF COLUMBIA

25 “SEC. 8. For purposes of this Act, the following shall  
 26 apply:

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

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

6           “(3) The State of Maryland shall be responsible  
7           for carrying out this Act with respect to the District  
8           of Columbia.”.

9           (B) CONFORMING AMENDMENT.—Section  
10           8(5) of such Act (42 U.S.C. 1973ee–6(5)) is  
11           amended by striking “the District of Colum-  
12           bia,”.

13           (d) CONFORMING AMENDMENT TO HOME RULE  
14           ACT.—Section 752 of the District of Columbia Home Rule  
15           Act (sec. 1–207.52, D.C. Official Code) is amended by  
16           striking the period at the end and inserting the following:  
17           “, except to the extent required under section 5 of the  
18           District of Columbia Voting Rights Restoration Act of  
19           2011.”.

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

1 **“SEC. 18. APPLICABILITY OF MARYLAND ELECTION LAW**  
2 **FOR ADMINISTRATION OF FEDERAL ELEC-**  
3 **TIONS.**

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

6 “(1) any election for Federal office in the Dis-  
7 trict of Columbia shall be administered and carried  
8 out by the State of Maryland, in accordance with the  
9 applicable law of the State of Maryland; and

10 “(2) no provision of this Code shall apply with  
11 respect to any election for Federal office to the ex-  
12 tent that the provision is inconsistent with the appli-  
13 cable law of the State of Maryland.”.

14 (f) **EFFECTIVE DATE.**—This section and the amend-  
15 ments made by this section shall apply with respect to  
16 elections for Federal office occurring during 2012 and any  
17 succeeding year.

18 **SEC. 7. REPEAL OF OFFICE OF DISTRICT OF COLUMBIA**  
19 **DELEGATE.**

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

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

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

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

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

10 (B) in paragraph (13), by striking “the  
11 Delegate to Congress for the District of Colum-  
12 bia”;

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

15 (A) by striking “Delegate” in the heading,  
16 and

17 (B) by striking “Delegate,” each place it  
18 appears in subsections (h)(1)(A), (i)(1), and  
19 (j)(1);

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

22 (A) by striking subparagraph (A) of sub-  
23 section (a)(3), and

24 (B) in subsection (d)—

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

3 (ii) by striking paragraph (2) and re-  
4 designating paragraph (3) as paragraph  
5 (2);

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

8 (6) in section 17(a) (sec. 1–1001.17(a), D.C.  
9 Official Code), by striking “except the Delegate to  
10 the Congress from the District of Columbia”.

11 (c) EFFECTIVE DATE.—The amendments made by  
12 this section shall apply with respect to elections occurring  
13 during 2012 and any succeeding year.

14 **SEC. 8. REPEAL OF OFFICES OF STATEHOOD REPRESENTA-**  
15 **TIVE AND SENATOR.**

16 (a) IN GENERAL.—Section 4 of the District of Co-  
17 lumbia Statehood Constitutional Convention Initiative of  
18 1979 (sec. 1–123, D.C. Official Code) is amended by strik-  
19 ing subsections (d) through (h).

20 (b) CONFORMING AMENDMENTS.—

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

24 (A) in subsection (a)—

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

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

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

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

10 (2) AUTHORIZATION OF APPROPRIATIONS.—  
11 Section 8 of such Initiative (sec. 1–127, D.C. Offi-  
12 cial Code) is hereby repealed.

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

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

20 (5) LIST OF ELECTED OFFICIALS.—Section  
21 2(13) of the District of Columbia Elections Code of  
22 1955 (sec. 1–1001.02(13), D.C. Official Code) is  
23 amended by striking “United States Senator and  
24 Representative,”.

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

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

7 **SEC. 10. RULES OF CONSTRUCTION.**

8 Nothing in this Act may be construed—

9 (1) to permit residents of the District of Colum-  
10 bia to vote in elections for State or local office in the  
11 State of Maryland or to permit nonresidents of the  
12 District of Columbia to vote in elections for local of-  
13 fice in the District of Columbia;

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

18 (3) to affect the powers of the Government of  
19 the District of Columbia under the District of Co-  
20 lumbia Home Rule Act (except as specifically pro-  
21 vided in this Act).

○