

**Calendar No. 479**

108<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

**H. R. 2844**

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IN THE SENATE OF THE UNITED STATES

APRIL 22, 2004

Received; read the first time

APRIL 26, 2004

Read the second time and placed on the calendar

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**AN ACT**

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 Rep-  
 5       resentation Act of 2004”.

6       **SEC. 2. REQUIRING SPECIAL ELECTIONS TO BE HELD TO**  
 7               **FILL VACANCIES IN 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 45 days after the

1 Speaker of the House of Representatives announces  
2 that the vacancy exists, unless a regularly scheduled  
3 general election for the office involved is to be held  
4 at any time during the 75-day period which begins  
5 on the date of the announcement of the vacancy.

6 “(3) NOMINATIONS BY PARTIES.—If a special  
7 election is to be held under this subsection, not later  
8 than 10 days after the Speaker announces that the  
9 vacancy exists, the political parties of the State that  
10 are authorized to nominate candidates by State law  
11 may each nominate one candidate to run in the elec-  
12 tion.

13 “(4) EXTRAORDINARY CIRCUMSTANCES.—

14 “(A) IN GENERAL.—In this subsection,  
15 ‘extraordinary circumstances’ occur when the  
16 Speaker of the House of Representatives an-  
17 nounces that vacancies in the representation  
18 from the States in the House exceed 100.

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

23 “(i) Not later than 2 days after the  
24 announcement, the action shall be filed in  
25 the United States District Court having ju-

1 jurisdiction in the district of the Member of  
2 the House of Representatives whose seat  
3 has been announced to be vacant and shall  
4 be heard by a 3-judge court convened pur-  
5 suant to section 2284 of title 28, United  
6 States Code.

7 “(ii) A copy of the complaint shall be  
8 delivered promptly to the Clerk of the  
9 House of Representatives.

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

13 “(iv) The executive authority of the  
14 State that contains the district of the  
15 Member of the House of Representatives  
16 whose seat has been announced to be va-  
17 cant shall have the right to intervene either  
18 in support of or opposition to the position  
19 of a party to the case regarding the an-  
20 nouncement of such vacancy.

21 “(5) PROTECTING ABILITY OF ABSENT MILI-  
22 TARY AND OVERSEAS VOTERS TO PARTICIPATE IN  
23 SPECIAL ELECTIONS.—

24 “(A) DEADLINE FOR TRANSMITTAL OF AB-  
25 SENTEE BALLOTS.—In conducting a special

1 election held under this subsection to fill a va-  
2 cancy in its representation, the State shall en-  
3 sure to the greatest extent practicable (includ-  
4 ing through the use of electronic means) that  
5 absentee ballots for the election are transmitted  
6 to absent uniformed services voters and over-  
7 seas voters (as such terms are defined in the  
8 Uniformed and Overseas Citizens Absentee Vot-  
9 ing Act) not later than 15 days after the  
10 Speaker of the House of Representatives an-  
11 nounces that the vacancy exists.

12 “(B) PERIOD FOR BALLOT TRANSIT  
13 TIME.—Notwithstanding the deadlines referred  
14 to in paragraphs (2) and (3), in the case of an  
15 individual who is an absent uniformed services  
16 voter or an overseas voter (as such terms are  
17 defined in the Uniformed and Overseas Citizens  
18 Absentee Voting Act), a State shall accept and  
19 process any otherwise valid ballot or other elec-  
20 tion material from the voter so long as the bal-  
21 lot or other material is received by the appro-  
22 priate State election official not later than 45  
23 days after the State transmits the ballot or  
24 other material to the voter.

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

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

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

14          “(C) The Uniformed and Overseas Citizens  
15       Absentee Voting Act (42 U.S.C. 1973ff et seq.),  
16       as amended.

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

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

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

1 “(G) The Help America Vote Act of 2002  
2 (42 U.S.C. 15301 et seq.), as amended.”.

Passed the House of Representatives April 22, 2004.

Attest: **JEFF TRANDAHL,**  
*Clerk.*

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