1580--A

2009-2010 Regular Sessions

IN ASSEMBLY

(PREFILED)

January 7, 2009

Introduced by M. of A. DINOWITZ, THIELE, GALEF, LAVINE, KAVANAGH, EDDINGTON, KELLNER, MILLMAN, FIELDS, SPANO, GOTTFRIED, COOK, JAFFEE, PERALTA, ENGLEBRIGHT, PERRY, KOON, O'DONNELL, PAULIN, WRIGHT, LIFTON, CAMARA, ALESSI -- Multi-Sponsored by -- M. of A. GLICK, P. LOPEZ, MAGEE, MAISEL, MOLINARO, SAYWARD, SCARBOROUGH, SWEENEY -- read once and referred to the Committee on Election Law -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the election law, in relation to enacting the agreement among the states to elect the president by national popular vote

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Article 12 of the election law is amended by adding a new 2 title 4 to read as follows:

TITLE IV

AGREEMENT AMONG THE STATES TO ELECT THE PRESIDENT BY NATIONAL POPULAR VOTE

SECTION 12-400. SHORT TITLE.

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12-402. ADOPTION AND TEXT OF COMPACT.

- S 12-400. SHORT TITLE. THIS TITLE SHALL BE KNOWN AND MAY BE CITED AS "AGREEMENT AMONG THE STATES TO ELECT THE PRESIDENT BY NATIONAL POPULAR VOTE".
- 11 S 12-402. ADOPTION AND TEXT OF COMPACT. THE AGREEMENT AMONG THE STATES 12 TO ELECT THE PRESIDENT BY NATIONAL POPULAR VOTE IS ADOPTED AND ENACTED 13 INTO LAW AS FOLLOWS:
- 14 ARTICLE I
- 15 MEMBERSHIP. ANY STATE OF THE UNITED STATES AND THE DISTRICT OF COLUM-16 BIA MAY BECOME A MEMBER OF THIS AGREEMENT BY ENACTING THIS AGREEMENT.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [] is old law to be omitted.

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ARTICLE II

2 RIGHT OF THE PEOPLE IN MEMBER STATES TO VOTE FOR PRESIDENT AND VICE 3 PRESIDENT. EACH MEMBER STATE SHALL CONDUCT A STATEWIDE POPULAR ELECTION 4 FOR PRESIDENT AND VICE PRESIDENT OF THE UNITED STATES.

5 ARTICLE III

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MANNER OF APPOINTING PRESIDENTIAL ELECTORS IN MEMBER STATES. 1. PRIOR TO THE TIME SET BY LAW FOR THE MEETING AND VOTING BY THE PRESIDENTIAL ELECTORS, THE CHIEF ELECTION OFFICIAL OF EACH MEMBER STATE SHALL DETERMINE THE NUMBER OF VOTES FOR EACH PRESIDENTIAL SLATE IN EACH STATE OF THE UNITED STATES AND IN THE DISTRICT OF COLUMBIA IN WHICH VOTES HAVE BEEN CAST IN A STATEWIDE POPULAR ELECTION AND SHALL ADD SUCH VOTES TOGETHER TO PRODUCE A "NATIONAL POPULAR VOTE TOTAL" FOR EACH PRESIDENTIAL SLATE.

- 2. THE CHIEF ELECTION OFFICIAL OF EACH MEMBER STATE SHALL DESIGNATE THE PRESIDENTIAL SLATE WITH THE LARGEST NATIONAL POPULAR VOTE TOTAL AS THE "NATIONAL POPULAR VOTE WINNER".
- 3. THE PRESIDENTIAL ELECTOR CERTIFYING OFFICIAL OF EACH MEMBER STATE SHALL CERTIFY THE APPOINTMENT IN THAT OFFICIAL'S OWN STATE OF THE ELECTOR SLATE NOMINATED IN THAT STATE IN ASSOCIATION WITH THE NATIONAL POPULAR VOTE WINNER.
 - 4. AT LEAST SIX DAYS BEFORE THE DAY FIXED BY LAW FOR THE MEETING AND VOTING BY THE PRESIDENTIAL ELECTORS, EACH MEMBER STATE SHALL MAKE A FINAL DETERMINATION OF THE NUMBER OF POPULAR VOTES CAST IN THE STATE FOR EACH PRESIDENTIAL SLATE AND SHALL COMMUNICATE AN OFFICIAL STATEMENT OF SUCH DETERMINATION WITHIN TWENTY-FOUR HOURS TO THE CHIEF ELECTION OFFICIAL OF EACH OTHER MEMBER STATE.
 - 5. THE CHIEF ELECTION OFFICIAL OF EACH MEMBER STATE SHALL TREAT AS CONCLUSIVE AN OFFICIAL STATEMENT CONTAINING THE NUMBER OF POPULAR VOTES IN A STATE FOR EACH PRESIDENTIAL SLATE MADE BY THE DAY ESTABLISHED BY FEDERAL LAW FOR MAKING A STATE'S FINAL DETERMINATION CONCLUSIVE AS TO THE COUNTING OF ELECTORAL VOTES BY CONGRESS.
 - 6. IN EVENT OF A TIE FOR THE NATIONAL POPULAR VOTE WINNER, THE PRESI-DENTIAL ELECTOR CERTIFYING OFFICIAL OF EACH MEMBER STATE SHALL CERTIFY THE APPOINTMENT OF THE ELECTOR SLATE NOMINATED IN ASSOCIATION WITH THE PRESIDENTIAL SLATE RECEIVING THE LARGEST NUMBER OF POPULAR VOTES WITHIN THAT OFFICIAL'S OWN STATE.
 - 7. IF, FOR ANY REASON, THE NUMBER OF PRESIDENTIAL ELECTORS NOMINATED IN A MEMBER STATE IN ASSOCIATION WITH THE NATIONAL POPULAR VOTE WINNER IS LESS THAN OR GREATER THAN THAT STATE'S NUMBER OF ELECTORAL VOTES, THE PRESIDENTIAL CANDIDATE ON THE PRESIDENTIAL SLATE THAT HAS BEEN DESIGNATED AS THE NATIONAL POPULAR VOTE WINNER SHALL HAVE THE POWER TO NOMINATE THE PRESIDENTIAL ELECTORS FOR THAT STATE AND THAT STATE'S PRESIDENTIAL ELECTOR CERTIFYING OFFICIAL SHALL CERTIFY THE APPOINTMENT OF SUCH NOMINEES.
- 45 8. THE CHIEF ELECTION OFFICIAL OF EACH MEMBER STATE SHALL IMMEDIATELY 46 RELEASE TO THE PUBLIC ALL VOTE COUNTS OR STATEMENTS OF VOTES AS THEY ARE 47 DETERMINED OR OBTAINED.
- 9. THIS ARTICLE SHALL GOVERN THE APPOINTMENT OF PRESIDENTIAL ELECTORS IN EACH MEMBER STATE IN ANY YEAR IN WHICH THIS AGREEMENT IS, ON JULY TWENTIETH, IN EFFECT IN STATES CUMULATIVELY POSSESSING A MAJORITY OF THE ELECTORAL VOTES.

52 ARTICLE IV

53 OTHER PROVISIONS. THIS AGREEMENT SHALL TAKE EFFECT WHEN STATES CUMULA-54 TIVELY POSSESSING A MAJORITY OF THE ELECTORAL VOTES HAVE ENACTED THIS A. 1580--A 3

- AGREEMENT IN SUBSTANTIALLY THE SAME FORM AND THE ENACTMENTS BY SUCH TAKEN EFFECT IN EACH STATE. ANY MEMBER STATE MAY WITHDRAW
- STATES HAVE FROM THIS AGREEMENT, EXCEPT THAT A WITHDRAWAL OCCURRING SIX MONTHS OR
- THE END OF A PRESIDENT'S TERM SHALL NOT BECOME EFFECTIVE
- UNTIL A PRESIDENT OR VICE PRESIDENT SHALL HAVE BEEN QUALIFIED TO SERVE
- TERM. THE CHIEF EXECUTIVE OF EACH MEMBER STATE SHALL PROMPTLY NEXT7
 - NOTIFY THE CHIEF EXECUTIVE OF ALL OTHER STATES OF WHEN THIS AGREEMENT
- HAS BEEN ENACTED AND HAS TAKEN EFFECT IN THAT OFFICIAL'S STATE, WHEN THE STATE HAS WITHDRAWN FROM THIS AGREEMENT, AND WHEN THIS AGREEMENT TAKES 9
- 10 EFFECT GENERALLY.

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- THIS AGREEMENT SHALL TERMINATE IF THE ELECTORAL COLLEGE IS ABOLISHED. 11
- 12 IF ANY PROVISION OF THIS AGREEMENT IS HELD INVALID, THE REMAINING PROVISIONS SHALL NOT BE AFFECTED. 13

14 ARTICLE V

DEFINITIONS. FOR PURPOSES OF THIS AGREEMENT:

- 1. "CHIEF EXECUTIVE" SHALL MEAN THE GOVERNOR OF A STATE OF THE UNITED STATES OR THE MAYOR OF THE DISTRICT OF COLUMBIA.
- 18 2. "ELECTOR SLATE" SHALL MEAN A SLATE OF CANDIDATES WHO HAVE NOMINATED IN A STATE FOR THE POSITION OF PRESIDENTIAL ELECTOR IN ASSOCI-19 20 ATION WITH A PRESIDENTIAL SLATE.
 - "CHIEF ELECTION OFFICIAL" SHALL MEAN THE STATE OFFICIAL OR BODY THAT IS AUTHORIZED TO CERTIFY THE TOTAL NUMBER OF POPULAR VOTES FOR EACH PRESIDENTIAL SLATE.
 - 4. "PRESIDENTIAL ELECTOR" SHALL MEAN AN ELECTOR FOR PRESIDENT AND VICE PRESIDENT OF THE UNITED STATES.
 - 5. "PRESIDENTIAL ELECTOR CERTIFYING OFFICIAL" SHALL MEAN THE OFFICIAL OR BODY THAT IS AUTHORIZED TO CERTIFY THE APPOINTMENT OF THE STATE'S PRESIDENTIAL ELECTORS.
 - 6. "PRESIDENTIAL SLATE" SHALL MEAN A SLATE OF TWO PERSONS, THE FIRST OF WHOM HAS BEEN NOMINATED AS A CANDIDATE FOR PRESIDENT OF THE UNITED STATES AND THE SECOND OF WHOM HAS BEEN NOMINATED AS A CANDIDATE FOR VICE PRESIDENT OF THE UNITED STATES, OR ANY LEGAL SUCCESSORS TO SUCH PERSONS, REGARDLESS OF WHETHER BOTH NAMES APPEAR ON THE BALLOT PRESENTED TO THE VOTER IN A PARTICULAR STATE.
 - 7. "STATE" SHALL MEAN A STATE OF THE UNITED STATES AND THE DISTRICT OF COLUMBIA.
 - 8. "STATEWIDE POPULAR ELECTION" SHALL MEAN A GENERAL ELECTION IN WHICH VOTES ARE CAST FOR PRESIDENTIAL SLATES BY INDIVIDUAL VOTERS AND COUNTED ON A STATEWIDE BASIS.
- S 2. The commissioner of the board of elections shall notify the 40 legislative bill drafting commission upon the occurrence of the adoption 41 42 of the agreement among the states to elect the president by national popular vote by two or more states in order that the commission may maintain an accurate and timely effective data base of the official text of the laws of the state of New York in furtherance of effecting the 45 provisions of section 44 of the legislative law and section 70-b of the 46 47 public officers law.
- 48 S 3. This act shall take effect immediately.