

1580

2009-2010 Regular Sessions

I N A S S E M B L Y

(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 -- 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

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:

3 TITLE IV

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

6 SECTION 12-400. SHORT TITLE.

7 12-402. ADOPTION AND TEXT OF COMPACT.

8 S 12-400. SHORT TITLE. THIS TITLE SHALL BE KNOWN AND MAY BE CITED AS
9 "AGREEMENT AMONG THE STATES TO ELECT THE PRESIDENT BY NATIONAL POPULAR
10 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.

17 ARTICLE II

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

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

4 ARTICLE III

5 MANNER OF APPOINTING PRESIDENTIAL ELECTORS IN MEMBER STATES. 1. PRIOR
6 TO THE TIME SET BY LAW FOR THE MEETING AND VOTING BY THE PRESIDENTIAL
7 ELECTORS, THE CHIEF ELECTION OFFICIAL OF EACH MEMBER STATE SHALL DETER-
8 MINE THE NUMBER OF VOTES FOR EACH PRESIDENTIAL SLATE IN EACH STATE OF
9 THE UNITED STATES AND IN THE DISTRICT OF COLUMBIA IN WHICH VOTES HAVE
10 BEEN CAST IN A STATEWIDE POPULAR ELECTION AND SHALL ADD SUCH VOTES
11 TOGETHER TO PRODUCE A "NATIONAL POPULAR VOTE TOTAL" FOR EACH PRESIDEN-
12 TIAL STATE.

13 2. THE CHIEF ELECTION OFFICIAL OF EACH MEMBER STATE SHALL DESIGNATE
14 THE PRESIDENTIAL SLATE WITH THE LARGEST NATIONAL POPULAR VOTE TOTAL AS
15 THE "NATIONAL POPULAR VOTE WINNER".

16 3. THE PRESIDENTIAL ELECTOR CERTIFYING OFFICIAL OF EACH MEMBER STATE
17 SHALL CERTIFY THE APPOINTMENT IN THAT OFFICIAL'S OWN STATE OF THE ELEC-
18 TOR SLATE NOMINATED IN THAT STATE IN ASSOCIATION WITH THE NATIONAL POPU-
19 LAR VOTE WINNER.

20 4. AT LEAST SIX DAYS BEFORE THE DAY FIXED BY LAW FOR THE MEETING AND
21 VOTING BY THE PRESIDENTIAL ELECTORS, EACH MEMBER STATE SHALL MAKE A
22 FINAL DETERMINATION OF THE NUMBER OF POPULAR VOTES CAST IN THE STATE OF
23 EACH PRESIDENTIAL SLATE AND SHALL COMMUNICATE AN OFFICIAL STATEMENT OF
24 SUCH DETERMINATION WITHIN TWENTY-FOUR HOURS TO THE CHIEF ELECTION OFFI-
25 CIAL OF EACH OTHER MEMBER STATE.

26 5. THE CHIEF ELECTION OFFICIAL OF EACH MEMBER STATE SHALL TREAT AS
27 CONCLUSIVE AN OFFICIAL STATEMENT CONTAINING THE NUMBER OF POPULAR VOTES
28 IN A STATE FOR EACH PRESIDENTIAL SLATE MADE BY THE DAY ESTABLISHED BY
29 FEDERAL LAW FOR MAKING A STATE'S FINAL DETERMINATION CONCLUSIVE AS TO
30 THE COUNTING OF ELECTORAL VOTES BY CONGRESS.

31 6. IN THE EVENT OF A TIE FOR THE NATIONAL POPULAR VOTE WINNER, THE
32 PRESIDENTIAL ELECTOR CERTIFYING OFFICIAL OF EACH MEMBER STATE SHALL
33 CERTIFY THE APPOINTMENT OF THE ELECTOR SLATE NOMINATED IN ASSOCIATION
34 WITH THE PRESIDENTIAL SLATE RECEIVING THE LARGEST NUMBER OF POPULAR
35 VOTES WITHIN THAT OFFICIAL'S OWN STATE. IF, FOR ANY REASON, THE NUMBER
36 OF PRESIDENTIAL ELECTORS NOMINATED IN A MEMBER STATE IN ASSOCIATION WITH
37 THE NATIONAL POPULAR VOTE WINNER IS LESS THAN OR GREATER THAN THAT
38 STATE'S NUMBER OF ELECTORAL VOTES, THE PRESIDENTIAL CANDIDATE ON THE
39 PRESIDENTIAL SLATE THAT HAS BEEN DESIGNATED AS THE NATIONAL POPULAR VOTE
40 WINNER SHALL HAVE THE POWER TO NOMINATE THE PRESIDENTIAL ELECTORS FOR
41 THAT STATE AND THAT STATE'S PRESIDENTIAL ELECTOR CERTIFYING OFFICIAL
42 SHALL CERTIFY THE APPOINTMENT OF SUCH NOMINEES. THE CHIEF ELECTION OFFI-
43 CIAL OF EACH MEMBER STATE SHALL IMMEDIATELY RELEASE TO THE PUBLIC ALL
44 VOTE COUNTS OR STATEMENTS OF VOTES AS THEY ARE DETERMINED OR OBTAINED.

45 7. THIS ARTICLE SHALL GOVERN THE APPOINTMENT OF PRESIDENTIAL ELECTORS
46 IN EACH MEMBER STATE IN ANY YEAR IN WHICH THIS AGREEMENT IS, ON JULY
47 TWENTIETH, IN EFFECT IN STATES CUMULATIVELY POSSESSING A MAJORITY OF THE
48 ELECTORAL VOTES.

49 ARTICLE IV

50 OTHER PROVISIONS. THIS AGREEMENT SHALL TAKE EFFECT WHEN STATES CUMULA-
51 TIVELY POSSESSING A MAJORITY OF THE ELECTORAL VOTES HAVE ENACTED THIS
52 AGREEMENT IN SUBSTANTIALLY THE SAME FORM AND THE ENACTMENTS BY SUCH
53 STATES HAVE TAKEN EFFECT IN EACH STATE. ANY MEMBER STATE MAY WITHDRAW
54 FROM THIS AGREEMENT, EXCEPT THAT A WITHDRAWAL OCCURRING SIX MONTHS OR

1 LESS BEFORE THE END OF A PRESIDENT'S TERM SHALL NOT BECOME EFFECTIVE
2 UNTIL A PRESIDENT OR VICE PRESIDENT SHALL HAVE BEEN QUALIFIED TO SERVE
3 THE NEXT TERM. THE CHIEF EXECUTIVE OF EACH MEMBER STATE SHALL PROMPTLY
4 NOTIFY THE CHIEF EXECUTIVE OF ALL OTHER STATES OF WHEN THIS AGREEMENT
5 HAS BEEN ENACTED AND HAS TAKEN EFFECT IN THAT OFFICIAL'S STATE, WHEN THE
6 STATE HAS WITHDRAWN FROM THIS AGREEMENT, AND WHEN THIS AGREEMENT TAKES
7 EFFECT GENERALLY.

8 THIS AGREEMENT SHALL TERMINATE IF THE ELECTORAL COLLEGE IS ABOLISHED.
9 IF ANY PROVISION OF THIS AGREEMENT IS HELD INVALID, THE REMAINING
10 PROVISIONS SHALL NOT BE AFFECTED.

11 ARTICLE V

12 DEFINITIONS. FOR PURPOSES OF THIS AGREEMENT:

13 1. "CHIEF EXECUTIVE" SHALL MEAN THE GOVERNOR OF A STATE OF THE UNITED
14 STATES OR THE MAYOR OF THE DISTRICT OF COLUMBIA.

15 2. "ELECTOR SLATE" SHALL MEAN A SLATE OF CANDIDATES WHO HAVE BEEN
16 NOMINATED IN A STATE FOR THE POSITION OF PRESIDENTIAL ELECTOR IN ASSOCI-
17 ATION WITH A PRESIDENTIAL SLATE.

18 3. "CHIEF ELECTION OFFICIAL" SHALL MEAN THE STATE OFFICIAL OR BODY
19 THAT IS AUTHORIZED TO CERTIFY THE TOTAL NUMBER OF POPULAR VOTES FOR EACH
20 PRESIDENTIAL SLATE.

21 4. "PRESIDENTIAL ELECTOR" SHALL MEAN AN ELECTOR FOR PRESIDENT AND VICE
22 PRESIDENT OF THE UNITED STATES.

23 5. "PRESIDENTIAL ELECTOR CERTIFYING OFFICIAL" SHALL MEAN THE STATE
24 OFFICIAL OR BODY THAT IS AUTHORIZED TO CERTIFY THE APPOINTMENT OF THE
25 STATE'S PRESIDENTIAL ELECTORS.

26 6. "PRESIDENTIAL SLATE" SHALL MEAN A SLATE OF TWO PERSONS, THE FIRST
27 OF WHOM HAS BEEN NOMINATED AS A CANDIDATE FOR PRESIDENT OF THE UNITED
28 STATES AND THE SECOND OF WHOM HAS BEEN NOMINATED AS A CANDIDATE FOR VICE
29 PRESIDENT OF THE UNITED STATES, OR ANY LEGAL SUCCESSORS TO SUCH PERSONS,
30 REGARDLESS OF WHETHER BOTH NAMES APPEAR ON THE BALLOT PRESENTED TO THE
31 VOTER IN A PARTICULAR STATE.

32 7. "STATE" SHALL MEAN A STATE OF THE UNITED STATES AND THE DISTRICT OF
33 COLUMBIA.

34 8. "STATEWIDE POPULAR ELECTION" SHALL MEAN A GENERAL ELECTION IN WHICH
35 VOTES ARE CAST FOR PRESIDENTIAL SLATES BY INDIVIDUAL VOTERS AND COUNTED
36 ON A STATEWIDE BASIS.

37 S 2. The commissioner of the board of elections shall notify the
38 legislative bill drafting commission upon the occurrence of the adoption
39 of the agreement among the states to elect the president by national
40 popular vote by two or more states in order that the commission may
41 maintain an accurate and timely effective data base of the official text
42 of the laws of the state of New York in furtherance of effecting the
43 provisions of section 44 of the legislative law and section 70-b of the
44 public officers law.

45 S 3. This act shall take effect immediately.