

1580--A

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, 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:

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.

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

LBD02437-04-9

ARTICLE II

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 SLATE.
13

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

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

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

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

32 6. IN EVENT OF A TIE FOR THE NATIONAL POPULAR VOTE WINNER, THE PRESI-
33 DENTIAL ELECTOR CERTIFYING OFFICIAL OF EACH MEMBER STATE SHALL CERTIFY
34 THE APPOINTMENT OF THE ELECTOR SLATE NOMINATED IN ASSOCIATION WITH THE
35 PRESIDENTIAL SLATE RECEIVING THE LARGEST NUMBER OF POPULAR VOTES WITHIN
36 THAT OFFICIAL'S OWN STATE.

37 7. IF, FOR ANY REASON, THE NUMBER OF PRESIDENTIAL ELECTORS NOMINATED
38 IN A MEMBER STATE IN ASSOCIATION WITH THE NATIONAL POPULAR VOTE WINNER
39 IS LESS THAN OR GREATER THAN THAT STATE'S NUMBER OF ELECTORAL VOTES, THE
40 PRESIDENTIAL CANDIDATE ON THE PRESIDENTIAL SLATE THAT HAS BEEN DESIG-
41 NATED AS THE NATIONAL POPULAR VOTE WINNER SHALL HAVE THE POWER TO NOMI-
42 NATE THE PRESIDENTIAL ELECTORS FOR THAT STATE AND THAT STATE'S PRESIDEN-
43 TIAL ELECTOR CERTIFYING OFFICIAL SHALL CERTIFY THE APPOINTMENT OF SUCH
44 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.

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

ARTICLE IV

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

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

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

14 ARTICLE V

15 DEFINITIONS. FOR PURPOSES OF THIS AGREEMENT:

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

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

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

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

26 5. "PRESIDENTIAL ELECTOR CERTIFYING OFFICIAL" SHALL MEAN THE STATE
27 OFFICIAL OR BODY THAT IS AUTHORIZED TO CERTIFY THE APPOINTMENT OF THE
28 STATE'S PRESIDENTIAL ELECTORS.

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

35 7. "STATE" SHALL MEAN A STATE OF THE UNITED STATES AND THE DISTRICT OF
36 COLUMBIA.

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

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

48 S 3. This act shall take effect immediately.