

1580--B

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, ROBINSON, ESPAILLAT, TITUS, ORTIZ, GREENE, J. RIVERA, POWELL, RAMOS, BARRON -- Multi-Sponsored by -- M. of A. GLICK, P. LOPEZ, MAGEE, MAISEL, MENG, 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 -- again reported from said committee with amendments, 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

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

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1 MEMBERSHIP. ANY STATE OF THE UNITED STATES AND THE DISTRICT OF COLUM-  
2 BIA MAY BECOME A MEMBER OF THIS AGREEMENT BY ENACTING THIS AGREEMENT.

3 ARTICLE II

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

7 ARTICLE III

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

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

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

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

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

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

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

47 8. THE CHIEF ELECTION OFFICIAL OF EACH MEMBER STATE SHALL IMMEDIATELY  
48 RELEASE TO THE PUBLIC ALL VOTE COUNTS OR STATEMENTS OF VOTES AS THEY ARE  
49 DETERMINED OR OBTAINED.

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

## ARTICLE IV

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

14 THIS AGREEMENT SHALL TERMINATE IF THE ELECTORAL COLLEGE IS ABOLISHED.  
15 IF ANY PROVISION OF THIS AGREEMENT IS HELD INVALID, THE REMAINING  
16 PROVISIONS SHALL NOT BE AFFECTED.

## ARTICLE V

17 DEFINITIONS. FOR PURPOSES OF THIS AGREEMENT:

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

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

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

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

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

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

37 7. "STATE" SHALL MEAN A STATE OF THE UNITED STATES AND THE DISTRICT OF  
38 COLUMBIA.

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

42 S 2. This act shall take effect immediately; provided that the commis-  
43 sioner of the state board of elections shall notify the legislative bill  
44 drafting commission upon the occurrence of the adoption of the agreement  
45 among the states to elect the president by national popular vote by two  
46 or more states in order that the commission may maintain an accurate and  
47 timely effective data base of the official text of the laws of the state  
48 of New York in furtherance of effecting the provisions of section 44 of  
49 the legislative law and section 70-b of the public officers law.  
50