

4208

2011-2012 Regular Sessions

I N S E N A T E

March 23, 2011

Introduced by Sen. GRIFFO -- read twice and ordered printed, and when printed to be committed to the Committee on Elections

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

18 RIGHT OF THE PEOPLE IN MEMBER STATES TO VOTE FOR PRESIDENT AND VICE
19 PRESIDENT. EACH MEMBER STATE SHALL CONDUCT A STATEWIDE POPULAR ELECTION
20 FOR PRESIDENT AND VICE PRESIDENT OF THE UNITED STATES.

21 ARTICLE III

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

LBD01750-01-1

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

9 2. THE CHIEF ELECTION OFFICIAL OF EACH MEMBER STATE SHALL DESIGNATE
10 THE PRESIDENTIAL SLATE WITH THE LARGEST NATIONAL POPULAR VOTE TOTAL AS
11 THE "NATIONAL POPULAR VOTE WINNER".

12 3. THE PRESIDENTIAL ELECTOR CERTIFYING OFFICIAL OF EACH MEMBER STATE
13 SHALL CERTIFY THE APPOINTMENT IN THAT OFFICIAL'S OWN STATE OF THE ELEC-
14 TOR SLATE NOMINATED IN THAT STATE IN ASSOCIATION WITH THE NATIONAL POPU-
15 LAR VOTE WINNER.

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

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

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

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

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

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

47 ARTICLE IV

48 OTHER PROVISIONS. THIS AGREEMENT SHALL TAKE EFFECT WHEN STATES CUMULA-
49 TIVELY POSSESSING A MAJORITY OF THE ELECTORAL VOTES HAVE ENACTED THIS
50 AGREEMENT IN SUBSTANTIALLY THE SAME FORM AND THE ENACTMENTS BY SUCH
51 STATES HAVE TAKEN EFFECT IN EACH STATE. ANY MEMBER STATE MAY WITHDRAW
52 FROM THIS AGREEMENT, EXCEPT THAT A WITHDRAWAL OCCURRING SIX MONTHS OR
53 LESS BEFORE THE END OF A PRESIDENT'S TERM SHALL NOT BECOME EFFECTIVE
54 UNTIL A PRESIDENT OR VICE PRESIDENT SHALL HAVE BEEN QUALIFIED TO SERVE
55 THE NEXT TERM. THE CHIEF EXECUTIVE OF EACH MEMBER STATE SHALL PROMPTLY

1 NOTIFY THE CHIEF EXECUTIVE OF ALL OTHER STATES OF WHEN THIS AGREEMENT
2 HAS BEEN ENACTED AND HAS TAKEN EFFECT IN THAT OFFICIAL'S STATE, WHEN THE
3 STATE HAS WITHDRAWN FROM THIS AGREEMENT, AND WHEN THIS AGREEMENT TAKES
4 EFFECT GENERALLY.

5 THIS AGREEMENT SHALL TERMINATE IF THE ELECTORAL COLLEGE IS ABOLISHED.
6 IF ANY PROVISION OF THIS AGREEMENT IS HELD INVALID, THE REMAINING
7 PROVISIONS SHALL NOT BE AFFECTED.

8 ARTICLE V

9 DEFINITIONS. FOR PURPOSES OF THIS AGREEMENT:

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

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

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

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

20 5. "PRESIDENTIAL ELECTOR CERTIFYING OFFICIAL" SHALL MEAN THE STATE
21 OFFICIAL OR BODY THAT IS AUTHORIZED TO CERTIFY THE APPOINTMENT OF THE
22 STATE'S PRESIDENTIAL ELECTORS.

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

29 7. "STATE" SHALL MEAN A STATE OF THE UNITED STATES AND THE DISTRICT OF
30 COLUMBIA.

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

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