

Introduced by Senator Migden

December 5, 2006

An act to add Chapter 1.5 (commencing with Section 6920) to Part 2 of Division 6 of the Elections Code, relating to presidential elections.

LEGISLATIVE COUNSEL'S DIGEST

SB 37, as introduced, Migden. Electoral college: interstate compact.

Existing law provides for statewide election of a slate of electors to vote in the electoral college for President and Vice President of the United States. Under existing law, each political party selects its slate of presidential electors in accordance with statutory procedures that differ by party.

This bill would ratify a specified interstate compact that requires the chief election official of each signatory state to appoint the slate of presidential electors that was nominated in association with the presidential ticket that received the largest national popular vote total. This compact would only become effective if states cumulatively possessing a majority of the total electoral votes have ratified the compact.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Chapter 1.5 (commencing with Section 6920) is
- 2 added to Part 2 of Division 6 of the Elections Code, to read:

CHAPTER 1.5. VOTING COMPACT

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6920. The Legislature of the State of California hereby ratifies the Agreement Among the States to Elect the President by National Popular Vote as set forth in Section 6921.

6921. The provisions of the Agreement Among the States to Elect the President by National Popular Vote are as follows:

Article 1. Membership

Any state of the United States and the District of Columbia may become a member of this agreement by enacting this agreement.

Article 2. Right of the People in Member States to Vote for President and Vice President

Each member state shall conduct a statewide popular election for President and Vice President of the United States.

Article 3. Manner of Appointing Presidential Electors in Member States

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.

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.”

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.

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

1 state for each presidential slate and shall communicate an official
2 statement of such determination within 24 hours to the chief
3 election official of each other member state.

4 The chief election official of each member state shall treat as
5 conclusive an official statement containing the number of popular
6 votes in a state for each presidential slate made by the day
7 established by federal law for making a state's final determination
8 conclusive as to the counting of electoral votes by Congress.

9 In event of a tie for the national popular vote winner, the
10 presidential elector certifying official of each member state shall
11 certify the appointment of the elector slate nominated in association
12 with the presidential slate receiving the largest number of popular
13 votes within that official's own state.

14 If, for any reason, the number of presidential electors nominated
15 in a member state in association with the national popular vote
16 winner is less than or greater than that state's number of electoral
17 votes, the presidential candidate on the presidential slate that has
18 been designated as the national popular vote winner shall have the
19 power to nominate the presidential electors for that state and that
20 state's presidential elector certifying official shall certify the
21 appointment of such nominees.

22 The chief election official of each member state shall
23 immediately release to the public all vote counts or statements of
24 votes as they are determined or obtained.

25 This article shall govern the appointment of presidential electors
26 in each member state in any year in which this agreement is, on
27 July 20, in effect in states cumulatively possessing a majority of
28 the electoral votes.

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Article 4. Other Provisions

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32 This agreement shall take effect when states cumulatively
33 possessing a majority of the electoral votes have enacted this
34 agreement in substantially the same form and the enactments by
35 such states have taken effect in each state.

36 Any member state may withdraw from this agreement, except
37 that a withdrawal occurring six months or less before the end of a
38 President's term shall not become effective until a President or
39 Vice President shall have been qualified to serve the next term.

1 The chief executive of each member state shall promptly notify
 2 the chief executive of all other states of when this agreement has
 3 been enacted and has taken effect in that official’s state, when the
 4 state has withdrawn from this agreement, and when this agreement
 5 takes effect generally.

6 This agreement shall terminate if the electoral college is
 7 abolished.

8 If any provision of this agreement is held invalid, the remaining
 9 provisions shall not be affected.

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Article 5. Definitions

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13 For purposes of this agreement, “chief executive” shall mean
 14 the governor of a state of the United States or the Mayor of the
 15 District of Columbia; “elector slate” shall mean a slate of
 16 candidates who have been nominated in a state for the position of
 17 presidential elector in association with a presidential slate; “chief
 18 election official” shall mean the state official or body that is
 19 authorized to certify the total number of popular votes for each
 20 presidential slate; “Presidential elector” shall mean an elector for
 21 President and Vice President of the United States; “presidential
 22 elector certifying official” shall mean the state official or body
 23 that is authorized to certify the appointment of the state’s
 24 presidential electors; “presidential slate” shall mean a slate of two
 25 persons, the first of whom has been nominated as a candidate for
 26 President of the United States and the second of whom has been
 27 nominated as a candidate for Vice President of the United States,
 28 or any legal successors to such persons, regardless of whether both
 29 names appear on the ballot presented to the voter in a particular
 30 state; “state” shall mean a state of the United States and the District
 31 of Columbia; and “statewide popular election” shall mean a general
 32 election in which votes are cast for presidential slates by individual
 33 voters and counted on a statewide basis.

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