

SENATE, No. 2695

STATE OF NEW JERSEY 212th LEGISLATURE

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Sponsored by:

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District 27 (Essex)

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SYNOPSIS

Enacts the “Agreement Among the States to Elect the President by National Popular Vote.”

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning electors for president and vice-president of the
2 United States in New Jersey and amending various parts of the
3 statutory law and supplementing Title 19 of the Revised Statutes.

4
5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
6 *of New Jersey:*

7
8 1. (New section) The State of New Jersey hereby enacts into
9 law and enters into the “Agreement Among the States to Elect the
10 President by National Popular Vote” as set forth in this section, and
11 substantially as follows:

12 a. Article I—Membership

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

15 b. Article II—Right of the People in Member States to Vote for
16 President and Vice President

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

19 c. Article III—Manner of Appointing Presidential Electors in
20 Member States

21 (1) Prior to the time set by law for the meeting and voting by the
22 presidential electors, the chief election official of each member
23 state shall determine the number of votes for each presidential slate
24 in each State of the United States and in the District of Columbia in
25 which votes have been cast in a statewide popular election and shall
26 add such votes together to produce a “national popular vote total”
27 for each presidential slate.

28 (2) The chief election official of each member state shall
29 designate the presidential slate with the largest national popular
30 vote total as the “national popular vote winner.”

31 (3) The presidential elector certifying official of each member
32 state shall certify the appointment in that official’s own state of the
33 elector slate nominated in that state in association with the national
34 popular vote winner.

35 (4) At least six days before the day fixed by law for the meeting
36 and voting by the presidential electors, each member state shall
37 make a final determination of the number of popular votes cast in
38 the state for each presidential slate and shall communicate an
39 official statement of such determination within 24 hours to the chief
40 election official of each other member state.

41 (5) The chief election official of each member state shall treat as
42 conclusive an official statement containing the number of popular
43 votes in a state for each presidential slate made by the day
44 established by federal law for making a state’s final determination
45 conclusive as to the counting of electoral votes by Congress.

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 (6) In event of a tie for the national popular vote winner, the
2 presidential elector certifying official of each member state shall
3 certify the appointment of the elector slate nominated in association
4 with the presidential slate receiving the largest number of popular
5 votes within that official's own state.

6 (7) If, for any reason, the number of presidential electors
7 nominated in a member state in association with the national
8 popular vote winner is less than or greater than that state's number
9 of electoral votes, the presidential candidate on the presidential
10 slate that has been designated as the national popular vote winner
11 shall have the power to nominate the presidential electors for that
12 state and that state's presidential elector certifying official shall
13 certify the appointment of such nominees. The chief election
14 official of each member state shall immediately release to the public
15 all vote counts or statements of votes as they are determined or
16 obtained.

17 (8) This article shall govern the appointment of presidential
18 electors in each member state in any year in which this agreement
19 is, on July 20, in effect in states cumulatively possessing a majority
20 of the electoral votes.

21 d. Article IV—Other Provisions

22 (1) This agreement shall take effect when states cumulatively
23 possessing a majority of the electoral votes have enacted this
24 agreement in substantially the same form and the enactments by
25 such states have taken effect in each state.

26 (2) Any member state may withdraw from this agreement,
27 except that a withdrawal occurring six months or less before the end
28 of a President's term shall not become effective until a President or
29 Vice President shall have been qualified to serve the next term.

30 (3) The chief executive of each member state shall promptly
31 notify the chief executive of all other states of when this agreement
32 has been enacted and has taken effect in that official's state, when
33 the state has withdrawn from this agreement, and when this
34 agreement takes effect generally.

35 (4) This agreement shall terminate if the electoral college is
36 abolished.

37 (5) If any provision of this agreement is held invalid, the
38 remaining provisions shall not be affected.

39 e. Article V—Definitions

40 For purposes of this agreement,

41 "Chief executive" means the Governor of a State of the United
42 States or the Mayor of the District of Columbia;

43 "Elector slate" means a slate of candidates who have been
44 nominated in a state for the position of presidential elector in
45 association with a presidential slate;

46 "Chief election official" means the state official or body that is
47 authorized to certify the total number of popular votes for each
48 presidential slate;

1 “Presidential elector” means an elector for President and Vice
2 President of the United States;

3 “Presidential elector certifying official” means the state official
4 or body that is authorized to certify the appointment of the state’s
5 presidential electors;

6 “Presidential slate” means a slate of two persons, the first of
7 whom has been nominated as a candidate for President of the
8 United States and the second of whom has been nominated as a
9 candidate for Vice President of the United States, or any legal
10 successors to such persons, regardless of whether both names
11 appear on the ballot presented to the voter in a particular state;

12 “State” means a State of the United States and the District of
13 Columbia; and

14 “Statewide popular election” means a general election in which
15 votes are cast for presidential slates by individual voters and
16 counted on a statewide basis.

17

18 2. R.S.19:13-15 is amended to read as follows:

19 19:13-15. In presidential years the State committee of a political
20 party shall meet at the call of its chairman, within 1 week following
21 the closing of the party's national convention, for the purpose of
22 nominating candidates for electors of President and Vice-President
23 of the United States and shall certify such nomination in a written
24 or printed or partly written and partly printed certificate of
25 nomination.

26 The certificate of nomination shall contain the name of each
27 person nominated, his residence and post-office address, the office
28 for which he is named, and shall also contain in not more than 3
29 words the designation of the party the nominating body represents.
30 The names of the candidates for President and Vice-President for
31 whom such electors are to vote may be included in the certificate.
32 The State committee may also appoint a committee to whom shall
33 be delegated the power to fill vacancies occurring prior to the
34 election of the electors, howsoever caused, and the names and
35 addresses of such committee shall be included in the certificate.

36 The certificate shall be signed by the State chairman who shall
37 make oath before an officer authorized to administer the same that
38 he is the State chairman of the political party and that the certificate
39 and statements therein contained are true to the best of his
40 knowledge and belief. A certificate that such oath has been taken
41 shall be made and signed by the officer administering the same and
42 indorsed upon or attached to the certificate of nomination.
43 Inclosed upon or attached to the certificate shall be statements in
44 writing that the persons named therein accept such nominations and
45 the oath of allegiance prescribed in section 41:1-1 of the Revised
46 Statutes duly taken and subscribed by each or all of them before an
47 officer or officers authorized to take oaths in this State.

1 The certificate of nomination and the acceptance thereof shall be
2 filed with the Secretary of State not later than 1 week after the
3 nomination of such electors of President and Vice-President of the
4 United States.

5 The procedure for all objections to the certificates of nomination,
6 the determination of the validity of such objections, the correction
7 of defective certificates, and the presentation of such certificates
8 and any documents attached thereto, shall be the same as herein
9 provided for direct petitions of nominations.
10 (cf: P.L.1968, c.87, s.1)

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12 3. R.S.19:22-8 is amended to read as follows:

13 19:22-8. In case of an election for electors of president and vice
14 president of the United States[, such]:

15 a. The secretary shall prepare a general certificate of the election
16 of such electors, and lay the same before the governor, who shall
17 sign his name thereto, in the presence of such secretary, which the
18 secretary shall attest by signing his name thereto, and shall
19 thereupon affix the seal of the state thereto, and deliver the same to
20 the president of the college of electors of this state, on the day and
21 at the time and place appointed for the meeting of such college;

22 b. The secretary shall also prepare a general certificate or
23 certificates, as the case may be, of the electors who were not
24 elected, and lay the same before the governor, who shall sign his
25 name thereto, in the presence of such secretary, which the secretary
26 shall attest by signing his name thereto, and shall thereupon affix
27 the seal of the state thereto, and deliver the same to the president of
28 the college of electors of this state, on the day and at the time and
29 place appointed for the meeting of such college;

30 c. Only one general certificate shall be certified as the elector
31 slate for the purpose of electing the president and vice president of
32 the United States. In any year in which, on July 20, the "Agreement
33 Among the States to Elect the President by National Popular Vote"
34 is in effect in states cumulatively possessing a majority of the
35 electoral votes, and the State of New Jersey remains a member of
36 that agreement, the elector slate for the purpose of electing the
37 president and vice president shall be certified in accordance with
38 section 1 of this act, P.L. , c. (C.) (pending before the
39 Legislature as this bill).

40 (cf: R.S.19:22-8)

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42 4. R.S.19:36-1 is amended to read as follows:

43 19:36-1. The electors of president and vice president shall
44 convene at the state house at Trenton, on the day appointed by
45 congress for that purpose, at the hour of three o'clock in the
46 afternoon of that day, and constitute an electoral college. In any
47 year in which, on July 20, the "Agreement Among the States to
48 Elect the President by National Popular Vote" is in effect in states

1 cumulatively possessing a majority of the electoral votes, and the
2 State of New Jersey remains a member of that agreement, the
3 electors for president and vice president shall be those electors
4 certified as the elector slate in accordance with section 1 of this act,
5 P.L. , c. (C.) (pending before the Legislature as this bill).
6 (cf: R.S.19:36-1)

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8 5. R.S.19:36-2 is amended to read as follows:

9 19:36-2. a. When a vacancy shall happen in the college of
10 electors, or when an elector shall fail to attend, by the hour of three
11 o'clock in the afternoon of the day fixed by congress for the meeting
12 of the college of electors, at the place of holding such meeting,
13 those of such electors who shall be assembled at the hour and place
14 shall immediately proceed to fill by a majority of votes such
15 vacancy.

16 b. If the members of the electoral college shall have been
17 nominated and elected as representing different political parties,
18 any vacancy occurring shall be filled by the elector or electors
19 representing the same political party as the absent elector; and if
20 there shall be no elector present representing the same political
21 party as the absent elector, then such vacancy shall be filled by a
22 majority of the electors present, who shall choose some person of
23 the political party which the absent elector represents.

24 c. Notwithstanding the provisions of subsections a. and b. of this
25 section, in any year in which, on July 20, the “Agreement Among
26 the States to Elect the President by National Popular Vote” is in
27 effect in states cumulatively possessing a majority of the electoral
28 votes, and the State of New Jersey remains a member of that
29 agreement, any vacancy in the college of electors shall be filled in
30 accordance with the provisions of section 1 of this act, P.L. , c.
31 (C.) (pending before the Legislature as this bill).
32 (cf: R.S.19:36-2)

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34 6. R.S.19:36-3 is amended to read as follows:

35 19:36-3. After choosing a president and secretary from their
36 own body, such electors shall proceed to perform the duties
37 required of them by the constitution and laws of the United States,
38 and in accordance with the provisions of section 1 of this act,
39 P.L. , c. (C.) (pending before the Legislature as this bill) in any
40 year in which, on July 20, the “Agreement Among the States to
41 Elect the President by National Popular Vote” is in effect in states
42 cumulatively possessing a majority of the electoral votes, and the
43 State of New Jersey remains a member of that agreement.
44 (cf: R.S.19:36-3)

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46 7. This act shall take effect immediately.

STATEMENT

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This bill enacts into law the “Agreement Among the States to Elect the President by National Popular Vote,” and conforms various New Jersey statutes to the provisions of the agreement.

The agreement, section 1 of this bill, is enacted as an interstate compact and requires that the electors for president and vice president of the United States in each member state cast their electoral votes for the presidential slate that won the popular vote nationwide. Therefore, this agreement changes the current operation of the electoral college in New Jersey, where electoral votes are allocated in the winner-take-all manner to the presidential slate that won the most votes in the State, regardless of whether that presidential slate won the popular vote nationwide. Under the agreement, the New Jersey electors associated with the presidential slate that won the most popular votes nationwide will be certified as the elector slate for the purpose of casting the State’s electoral votes.

The agreement would become effective only when it has been enacted by enough states to collectively possess the majority of the electoral votes required to decide a presidential win – currently 270 of the 538 electoral votes.

By enacting this agreement, New Jersey would join efforts in other States to reform the current system of electing the president and vice president of the United States, as supported by approximately 70% of all Americans. This agreement ensures that all states are competitive in presidential elections, makes all votes important and equal, and guarantees that the candidate who received the most popular votes nationwide wins the presidency.