

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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A. 1580--B

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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.

A. 1580--B

1 ARTICLE IV

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.

17 ARTICLE V

18 DEFINITIONS. FOR PURPOSES OF THIS AGREEMENT:

- 19 1. "CHIEF EXECUTIVE" SHALL MEAN THE GOVERNOR OF A STATE OF THE UNITED
20 STATES OR THE MAYOR OF THE DISTRICT OF COLUMBIA.
21 2. "ELECTOR SLATE" SHALL MEAN A SLATE OF CANDIDATES WHO HAVE BEEN
22 NOMINATED IN A STATE FOR THE POSITION OF PRESIDENTIAL ELECTOR IN ASSOCI-
23 ATION WITH A PRESIDENTIAL SLATE.
24 3. "CHIEF ELECTION OFFICIAL" SHALL MEAN THE STATE OFFICIAL OR BODY
25 THAT IS AUTHORIZED TO CERTIFY THE TOTAL NUMBER OF POPULAR VOTES FOR EACH
26 PRESIDENTIAL SLATE.
27 4. "PRESIDENTIAL ELECTOR" SHALL MEAN AN ELECTOR FOR PRESIDENT AND VICE
28 PRESIDENT OF THE UNITED STATES.
29 5. "PRESIDENTIAL ELECTOR CERTIFYING OFFICIAL" SHALL MEAN THE STATE
30 OFFICIAL OR BODY THAT IS AUTHORIZED TO CERTIFY THE APPOINTMENT OF THE
31 STATE'S PRESIDENTIAL ELECTORS.
32 6. "PRESIDENTIAL SLATE" SHALL MEAN A SLATE OF TWO PERSONS, THE FIRST
33 OF WHOM HAS BEEN NOMINATED AS A CANDIDATE FOR PRESIDENT OF THE UNITED
34 STATES AND THE SECOND OF WHOM HAS BEEN NOMINATED AS A CANDIDATE FOR VICE
35 PRESIDENT OF THE UNITED STATES, OR ANY LEGAL SUCCESSORS TO SUCH PERSONS,
36 REGARDLESS OF WHETHER BOTH NAMES APPEAR ON THE BALLOT PRESENTED TO THE
37 VOTER IN A PARTICULAR STATE.
38 7. "STATE" SHALL MEAN A STATE OF THE UNITED STATES AND THE DISTRICT OF
39 COLUMBIA.
40 8. "STATEWIDE POPULAR ELECTION" SHALL MEAN A GENERAL ELECTION IN WHICH
41 VOTES ARE CAST FOR PRESIDENTIAL SLATES BY INDIVIDUAL VOTERS AND COUNTED
42 ON A STATEWIDE BASIS.
43 S 2. This act shall take effect immediately; provided that the commis-
44 sioner of the state board of elections shall notify the legislative bill
45 drafting commission upon the occurrence of the adoption of the agreement
46 among the states to elect the president by national popular vote by two
47 or more states in order that the commission may maintain an accurate and
48 timely effective data base of the official text of the laws of the state
49 of New York in furtherance of effecting the provisions of section 44 of
50 the legislative law and section 70-b of the public officers law.