



SPONSOR: Rep. D.E. Williams & Sen. Katz
Reps. Bennett, Brady, Q. Johnson, Kowalko, Mitchell

HOUSE OF REPRESENTATIVES
145th GENERAL ASSEMBLY

HOUSE BILL NO. 198

AN ACT TO AMEND TITLE 15 OF THE DELAWARE CODE RELATING TO THE AGREEMENT AMONG THE STATES TO ELECT THE PRESIDENT BY NATIONAL POPULAR VOTE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 Section 1. Amend Chapter 43, Title 15 of the Delaware Code by adding a new "§ 4311" thereto as follows:

2 "§4311. The Agreement Among the States to Elect the President by National Popular Vote."

3 The Agreement Among the States to Elect the President by National Popular Vote is enacted into law and entered
4 into with all other jurisdictions legally joining therein in form substantially as follows:

5 ARTICLE I.

6 MEMBERSHIP

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

9 ARTICLE II

10 RIGHT OF THE PEOPLE IN MEMBER STATES TO VOTE FOR PRESIDENT AND VICE PRESIDENT

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

13 ARTICLE III

14 MANNER OF APPOINTING PRESIDENTIAL ELECTORS IN MEMBER STATES

15 Prior to the time set by law for the meeting and voting by the presidential electors, the chief election official of
16 each member state shall determine the number of votes for each presidential slate in each State of the United States and in
17 the District of Columbia in which votes have been cast in a statewide popular election and shall add such votes together to
18 produce a "national popular vote total" for each presidential slate.

19 The chief election official of each member state shall designate the presidential slate with the largest national
20 popular vote total as the "national popular vote winner."

21 The presidential elector certifying official of each member state shall certify the appointment in that official's own
22 state of the elector slate nominated in that state in association with the national popular vote winner.

23 At least six days before the day fixed by law for the meeting and voting by the presidential electors, each member
24 state shall make a final determination of the number of popular votes cast in the state for each presidential slate and shall
25 communicate an official statement of such determination within 24 hours to the chief election official of each other member
26 state.

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

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

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

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

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

42 ARTICLE IV

43 OTHER PROVISIONS

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

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

49 The chief executive of each member state shall promptly notify the chief executive of all other states of when this
50 agreement has been enacted and has taken effect in that official's state, when the state has withdrawn from this agreement,
51 and when this agreement takes effect generally.

52 This agreement shall terminate if the electoral college is abolished.

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

54 ARTICLE V

55 DEFINITIONS

56 For purposes of this agreement:

57 (1) 'chief executive' shall mean the Governor of a State of the United States or the Mayor of the District of
58 Columbia;

59 (2) 'elector slate' shall mean a slate of candidates who have been nominated in a state for the position of
60 presidential elector in association with a presidential slate;

61 (3) 'chief election official' shall mean the state official or body that is authorized to certify the total number of
62 popular votes for each presidential slate;

63 (4) 'presidential elector' shall mean an elector for President and Vice President of the United States;

64 (5) 'presidential elector certifying official' shall mean the state official or body that is authorized to certify the
65 appointment of the state's presidential electors;

66 (6) 'presidential slate' shall mean a slate of two persons, the first of whom has been nominated as a candidate for
67 President of the United States and the second of whom has been nominated as a candidate for Vice President of the United
68 States, or any legal successors to such persons, regardless of whether both names appear on the ballot presented to the voter
69 in a particular state;

70 (7) 'state' shall mean a State of the United States and the District of Columbia; and

71 (8) 'statewide popular election' shall mean a general election in which votes are cast for presidential slates by
72 individual voters and counted on a statewide basis.

SYNOPSIS

This act enters Delaware into an interstate compact known as the Agreement Among the States to Elect the President by National Popular Vote. Article II of the U.S. Constitution gives the states exclusive and plenary authority to decide the manner of awarding their electoral votes. Under the compact, the state agrees to award its electoral votes to the presidential ticket that receives the most popular votes in all 50 states and the District of Columbia. The compact goes into effect when states cumulatively possessing a majority of the electoral votes have joined the compact. A state may withdraw from the compact; however, a withdrawal occurring six months or less before the end of a President's term shall not become effective until a President and Vice President have been qualified to serve the next term.

Specifically, this act

- (1) Permits any State of the United States and the District of Columbia to become a member of the compact;
- (2) Requires each member of the compact to conduct a statewide popular election for President and Vice President;
- (3) Requires the chief election official of each member state to determine the number of votes cast 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 to add such votes together to produce a "national popular vote total" for each presidential slate;
- (4) Requires the presidential elector certifying official of each member state to certify the appointment in that official's state of the elector slate nominated in that state in association with the presidential slate that had the largest national popular vote total;
- (5) Requires, at least six days before the day fixed by law for the meeting and voting by presidential electors, each member state to make a final determination of the number of popular votes cast in the state for each presidential slate and

to communicate an official statement of such results to the chief election officer of every other state; Requires the chief election official of each member state to treat any such statement received from another state as conclusive;

(6) Provides that, in the event of a tie for 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 association with the presidential slate receiving the largest number of popular votes within that official's state;

(7) Provides that if the number of presidential electors nominated in a member state in association with the national popular vote winner is less than or greater than that state's number of electoral votes, the presidential candidate on the presidential slate that had the largest national popular vote total shall have the power to nominate the presidential electors for that state and that state's presidential elector certifying official shall certify the appointment of such nominees;

(8) Provides that this compact will govern the appointment of presidential electors in each member state in any year in which the agreement is, on July 20, in effect in states cumulatively possessing a majority of electoral votes;

(9) Provides that the compact shall take effect when states cumulatively possessing a majority of the electoral votes have enacted the compact in substantially the same form and the enactments in such states have taken effect in each state;

(10) Permits any member state to withdraw from the agreement, except that a withdrawal occurring six months or less before the end of a President's term shall not become effective until a President and Vice President have been qualified to serve the next term;

(11) Requires the Governor (or the Mayor in the case of the District of Columbia) of each member state to notify the Governor (Mayor) of all other states when the compact has been enacted and has taken effect in that official's state, when the state has withdrawn from the compact, and when the compact takes effect generally;

(12) Provides that the compact shall terminate if the electoral college is abolished;

(13) Defines various terms for the purposes of the compact; and,

(14) Provides that if any provision of the compact is held invalid, the remaining provisions shall not be affected.