



# House of Representatives

General Assembly

**File No. 415**

February Session, 2018

House Bill No. 5421

*House of Representatives, April 11, 2018*

The Committee on Government Administration and Elections reported through REP. FOX of the 148th Dist., Chairperson of the Committee on the part of the House, that the bill ought to pass.

***AN ACT ADOPTING THE INTERSTATE COMPACT TO ELECT THE PRESIDENT OF THE UNITED STATES BY NATIONAL POPULAR VOTE.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective from passage*) The Agreement Among the  
2 States to Elect the President by National Popular Vote is hereby  
3 enacted into law and entered into by this state with all states legally  
4 joining therein in the form substantially as follows:

5 ARTICLE I. Membership

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

8 ARTICLE II. Right of the People in Member States to Vote for  
9 President and Vice President

10 Each member state shall conduct a state-wide popular election for

11 President and Vice President of the United States.

12 ARTICLE III. Manner of Appointing Presidential Electors in  
13 Member States

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

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

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

28 At least six days before the day fixed by law for the meeting and  
29 voting by the presidential electors, each member state shall make a  
30 final determination of the number of popular votes cast in the state for  
31 each presidential slate and shall communicate an official statement of  
32 such determination within twenty-four hours to the chief election  
33 official of each other member state.

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

39 In event of a tie for the national popular vote winner, the  
40 presidential elector certifying official of each member state shall certify  
41 the appointment of the elector slate nominated in association with the

42 presidential slate receiving the largest number of popular votes within  
43 that official's own state.

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

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

55 This article shall govern the appointment of presidential electors in  
56 each member state in any year in which this agreement is, on July  
57 twentieth, in effect in states cumulatively possessing a majority of the  
58 electoral votes.

59 **ARTICLE IV. Other Provisions**

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

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

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

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

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

76 ARTICLE V. Definitions

77 For purposes of this agreement:

78 "Chief executive" shall mean the Governor of a State of the United  
79 States or the Mayor of the District of Columbia;

80 "Elector slate" shall mean a slate of candidates who have been  
81 nominated in a state for the position of presidential elector in  
82 association with a presidential slate;

83 "Chief election official" shall mean the state official or body that is  
84 authorized to certify the total number of popular votes for each  
85 presidential slate;

86 "Presidential elector" shall mean an elector for President and Vice  
87 President of the United States;

88 "Presidential elector certifying official" shall mean the state official  
89 or body that is authorized to certify the appointment of the state's  
90 presidential electors;

91 "Presidential slate" shall mean a slate of two persons, the first of  
92 whom has been nominated as a candidate for President of the United  
93 States and the second of whom has been nominated as a candidate for  
94 Vice President of the United States, or any legal successors to such  
95 persons, regardless of whether both names appear on the ballot  
96 presented to the voter in a particular state;

97 "State" shall mean a State of the United States and the District of  
98 Columbia; and

99 "State-wide popular election" shall mean a general election in which  
100 votes are cast for presidential slates by individual voters and counted

101 on a state-wide basis.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	New section

**GAE**      *Joint Favorable*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

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***OFA Fiscal Note******State Impact:*** None***Municipal Impact:*** None***Explanation***

The bill adopts the interstate compact to commit presidential electors to the winner of the national popular vote. There is no fiscal impact as the Secretary of the State and municipalities currently collect all information required to comply with the requirements of the compact.

***The Out Years******State Impact:*** None***Municipal Impact:*** None

**OLR Bill Analysis****HB 5421*****AN ACT ADOPTING THE INTERSTATE COMPACT TO ELECT THE PRESIDENT OF THE UNITED STATES BY NATIONAL POPULAR VOTE.*****SUMMARY**

This bill adopts the interstate compact entitled “The Agreement Among the States to Elect the President by National Popular Vote,” under which Connecticut would commit its presidential electors to the national popular vote winner in a presidential election. Any state or Washington, D.C. may join the compact, which takes effect when enough jurisdictions have done so to cumulatively possess a majority of Electoral College votes (270) (see BACKGROUND). The compact includes a severability clause so that if a court finds any provision invalid, the remaining provisions are not affected. If the Electoral College is abolished, the compact terminates.

EFFECTIVE DATE: Upon passage

**PROCEDURE FOR DETERMINING PRESIDENTIAL ELECTORS**

Under the compact, each state that joins (“member state”) must elect its presidential electors in accordance with specified procedures. These electors must cast their votes for the presidential and vice presidential candidates who receive a plurality of the national popular vote. The following procedures take place in each member state:

1. the state conducts its presidential election as a “statewide popular election” whereby individuals cast votes and the votes are counted statewide;
2. the state’s chief election official determines the number of votes cast for each presidential slate (president and vice president) in

each state (including non-member states) and Washington, D.C. where a statewide popular election occurred and adds them to produce a national popular vote total (see BACKGROUND);

3. the chief election official designates the presidential slate with the largest number of votes as the “national popular vote winner”;
4. the official responsible for certifying the appointment of the state’s presidential electors (“certifying official”) certifies that their nomination is based on the national popular vote winner; and
5. at least six days before the presidential electors meet to vote, the state (presumably through the chief election official) makes a final determination of each presidential slate’s popular vote total for the state and within 24 hours, communicates that information through an official statement to every other member state (see BACKGROUND).

The compact requires each member to treat an official statement containing a state’s popular vote totals as conclusive and representative of its final vote. At this point, the certifying official certifies the appointment of the presidential electors in association with the national popular vote winner.

In the event of a tie for the national popular vote winner, each member state's certifying official certifies the appointment of the presidential electors nominated in association with the candidate receiving the largest number of popular votes in the state.

If the number of presidential electors a member state nominates is more or less than its number of electoral votes, the national popular vote winner nominates the presidential electors for the state, and the certifying official certifies their appointment.

Finally, each member state's chief election official must release to the public the vote counts and statements of vote immediately after



they are determined or obtained.

## **OTHER PROVISIONS**

Any member state may withdraw from the compact, but a withdrawal during the last six months of a presidential term is not effective until the next president or vice president is qualified to serve (i.e., begins) the next term.

The compact requires each member state's chief executive (governor, or mayor for Washington, D.C.) to notify every other state's chief executive if and when the compact is enacted and takes effect in the official's state or the state withdraws. Each chief executive must also notify every other chief executive when the compact takes effect nationwide.

The compact's governing clause specifies that it applies to the appointment of presidential electors in any year when, on July 20, the compact is in effect because enough states have become members to cumulatively possess a majority of electoral votes (270).

## **BACKGROUND**

### ***Member States***

To date, 10 states (California, Hawaii, Illinois, Maryland, Massachusetts, New Jersey, New York, Rhode Island, Vermont, and Washington) and Washington, D.C. have adopted the compact. Together they hold 165 electoral votes.

### ***Aggregating National Popular Votes, Including Non-Member States***

Popular vote tallies from all 50 states and Washington, D.C. are included in the "national popular vote total," regardless of whether the jurisdiction is a member of the compact. Popular votes can be counted from non-member states only if the state votes by popular vote. While all states currently conduct elections this way, neither the U.S. Constitution nor any state constitution, except Colorado's, provides individuals with the right to vote for president and vice president. Instead, state laws provide this right. Since a state could, by law, take

the presidential vote away from its people, the compact addresses this unlikely event by specifying that the popular votes of every state that voted by popular vote would be aggregated to produce the national popular vote total.

***Date When Presidential Electors Meet to Vote***

The six-day deadline corresponds to the deadline in federal law's "safe harbor" provision (3 U.S.C. § 5). Under the safe harbor provision, if a state settles any controversy and makes a final determination concerning its presidential elector appointments at least six days before the time fixed by law for the electors' meeting, that determination is conclusive. Federal law requires the presidential electors of each state to meet and vote on the first Monday after the second Wednesday in December.

***Related Bill***

sSB 408, reported favorably by the House Government Administration and Elections Committee, contains the same provisions.

**COMMITTEE ACTION**

Government Administration and Elections Committee

Joint Favorable

Yea 9      Nay 8      (03/23/2018)