



House of Representatives

General Assembly

File No. 472

February Session, 2018

Substitute Senate Bill No. 408

House of Representatives, April 12, 2018

The House 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 substitute bill ought to pass.

AN ACT ENTERING CONNECTICUT INTO THE NATIONAL POPULAR VOTE COMPACT.

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

Statement of Legislative Commissioners:

Title was changed.

GAE *House Favorable Subst. -LCO*

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.

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**sSB 408*****AN ACT ENTERING CONNECTICUT INTO THE NATIONAL POPULAR VOTE COMPACT.*****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

HB 5421, reported favorably by the Government Administration and Elections Committee, contains the same provisions.

Split Committee (Pursuant to Joint Rule 5(c))

A motion for a favorable report on the same bill by the Senate GAE Committee failed by a 2-2 vote.

COMMITTEE ACTION

Government Administration and Elections Committee

House Favorable

Yea 7 Nay 6 (03/23/2018)