

STATE OF MAINE

IN THE YEAR OF OUR LORD
TWO THOUSAND TWENTY-FOUR

H.P. 1023 - L.D. 1578

An Act to Adopt an Interstate Compact to Elect the President of the United States by National Popular Vote

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 21-A MRSA §723-A, sub-§1, ¶C, as enacted by IB 2015, c. 3, §5, is amended to read:

C. "Continuing candidate" means a candidate who has not been ~~defeated~~ removed from consideration.

Sec. 2. 21-A MRSA §723-A, sub-§2, as amended by PL 2019, c. 320, §12, is further amended to read:

2. Procedures. Except as provided in subsections 3 ~~and~~ 4 ~~and~~ 7, the following procedures are used to determine the winner of an election determined by ranked-choice voting. The ranked-choice voting count must proceed in rounds. In each round, the number of votes for each continuing candidate must be counted. Each continuing ballot counts as one vote for its highest-ranked continuing candidate for that round. Exhausted ballots are not counted for any continuing candidate. The round then ends with one of the following 2 potential outcomes.

A. If there are 2 or fewer continuing candidates, the candidate with the most votes is declared the winner of the election.

B. If there are more than 2 continuing candidates, the last-place candidate is ~~defeated~~ removed from consideration and a new round begins.

Sec. 3. 21-A MRSA §723-A, sub-§3, as amended by PL 2019, c. 320, §13, is further amended to read:

3. Ties. A tie under this section between last-place candidates in any round must be decided by lot, and the candidate chosen by lot is ~~defeated~~ removed from consideration. The result of the tie resolution must be recorded and reused in the event of a recount. A tie between candidates for the most votes in the final round must be decided as provided in section 732.

Sec. 4. 21-A MRSA §723-A, sub-§7 is enacted to read:

7. Procedures for using ranked-choice voting when National Popular Vote for President Act governs. In a presidential election determined by ranked-choice voting when the National Popular Vote for President Act governs the appointment of presidential electors, the following procedures are used to determine the presidential vote count, except that, notwithstanding subsection 3, a statewide tie between the candidates in the final round may not be resolved and the provisions of subsection 4 regarding the modification of the ballot and count are permitted.

A. As used in this subsection, unless the context otherwise indicates, the following terms have the following meanings.

(1) "Continuing presidential slate" means a presidential slate that has not been removed from consideration.

(2) "Final round" means the round that ends with the result described in paragraph C, subparagraph (1).

B. If no presidential slate initially receives more than 50% of the first-choice votes, the ranked-choice voting count must be conducted under the supervision of the Secretary of State for successive rounds.

C. The ranked-choice voting count must proceed in rounds. In each round, the number of votes for each continuing presidential slate must be counted. Each continuing ballot counts as one vote for its highest-ranked continuing presidential slate for that round. Exhausted ballots are not counted for any continuing presidential slate.

The round then ends with one of the following 2 potential outcomes.

(1) If there are 2 or fewer continuing presidential slates, the vote counts of those continuing presidential slates are recorded as the results of the presidential vote counting process and no further rounds may occur.

(2) If there are more than 2 continuing presidential slates, the last-place presidential slate is removed from consideration and a new round begins.

Sec. 5. 21-A MRSA §801, sub-§2, as enacted by PL 2019, c. 539, §4, is amended to read:

2. Counting of ballots. Counting of ballots for candidates for President must proceed according to the ranked-choice method of counting votes described in section 723-A, with the exception of subsection 7. If the National Popular Vote for President Act governs the manner of appointing presidential electors, counting of ballots must proceed according to the ranked-choice method of counting votes as described in section 723-A, subsection 7.

Sec. 6. 21-A MRSA §803, as amended by PL 2021, c. 273, §29, is repealed and the following enacted in its place:

§803. Duties of Governor

1. Duties. Except when the National Popular Vote for President Act governs the appointment of presidential electors, as soon as possible after the presidential electors are chosen, the Governor shall send a certificate of the determination of the electors to the Archivist of the United States under state seal. The certificate must state the names of the electors and the number of votes each candidate for President received statewide and for each congressional district in the final round of tabulation under section 723-A. The

Governor shall deliver 6 certificates under state seal to the electors before the day established by federal law for the meeting of electors.

2. Duties when National Popular Vote for President Act governs. Notwithstanding subsection 1, when the National Popular Vote for President Act governs the appointment of presidential electors, the Governor has the following duties.

A. As soon as possible after the canvass of the presidential count under section 723-A, subsection 7 is determined, the Governor shall send a certificate of determination containing the names of the electors and the statewide number of votes for each presidential slate that received votes in the final round to the Archivist of the United States under state seal. This final round vote is deemed to be the determination of the vote in the State for the purposes of section 1304.

As used in this paragraph, "final round" means the round that ends with the result described in section 723-A, subsection 7, paragraph C, subparagraph (1).

B. No later than the day before the day established by federal law for the meeting of electors, the Governor shall deliver 6 certificates under state seal to the electors appointed as provided in the National Popular Vote for President Act.

Sec. 7. 21-A MRSA §805, sub-§2, as amended by PL 2019, c. 539, §5, is further amended to read:

2. Presidential electors. The Except as provided in subsection 2-A, the presidential electors at large shall cast their ballots for the presidential and vice-presidential candidates who received the largest number of votes in the State according to the ranked-choice method of counting votes described in section 723-A. The presidential electors of each congressional district shall cast their ballots for the presidential and vice-presidential candidates who received the largest number of votes in each respective congressional district according to the ranked-choice method of counting votes described in section 723-A.

Sec. 8. 21-A MRSA §805, sub-§2-A is enacted to read:

2-A. Presidential electors when National Popular Vote for President Act governs. Notwithstanding subsection 2, when the National Popular Vote for President Act governs the appointment of presidential electors, the presidential electors shall cast their ballots for the presidential slate designated as the national popular vote winner pursuant to section 1304.

Sec. 9. 21-A MRSA c. 17 is enacted to read:

CHAPTER 17

ELECTION OF THE PRESIDENT OF THE UNITED STATES BY POPULAR VOTE

SUBCHAPTER 1

INTERSTATE COMPACT: AGREEMENT AMONG THE STATES TO ELECT THE PRESIDENT OF THE UNITED STATES BY NATIONAL POPULAR VOTE

§1301. Short title

This subchapter may be known and cited as "the National Popular Vote for President Act."

§1302. Membership - Article 1

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

§1303. Right of people in member states to vote for President and Vice President - Article 2

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

§1304. Manner of appointing presidential electors in member states - Article 3

Prior to the time set by law for the meeting of and voting by the presidential electors, the chief election official of each member state shall determine the number of votes 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 shall add such votes together to produce a national popular vote total for each presidential slate.

The chief election official of each member state shall designate the presidential slate with the largest national popular vote total as 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 that state in association with the national popular vote winner.

At least 6 days before the day fixed by law for the meeting of and voting by the presidential electors, each member state shall make a final determination of the number of popular votes cast in the state for each presidential slate and shall communicate an official statement of such determination within 24 hours to the chief election official of each other member state.

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

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 of the elector slate nominated in association with the presidential slate receiving the largest number of popular votes within that official's own state.

If, for any reason, 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 has been designated as the national popular vote winner may nominate the presidential electors for that state and that state's presidential elector certifying official shall certify the appointment of such nominees.

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

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

§1305. Contingent effective date; withdrawal; notification; severability - Article 4

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

Any member state may withdraw from this agreement, except that a withdrawal occurring 6 months or less before the end of a President's term does not become effective until a President or Vice President has been qualified to serve the next term.

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

This agreement terminates if the electoral college is abolished.

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

§1306. Definitions - Article 5

As used in this agreement, the following terms have the following meanings.

1. Chief election official. "Chief election official" means the state official or body that is authorized to certify the total number of popular votes for each presidential slate.

2. Chief executive. "Chief executive" means the governor of a state of the United States or the Mayor of the District of Columbia.

3. Elector slate. "Elector slate" means a slate of candidates who have been nominated in a state for the position of presidential elector in association with a presidential slate.

4. Presidential elector. "Presidential elector" means an elector for President and Vice President of the United States.

5. Presidential elector certifying official. "Presidential elector certifying official" means the state official or body that is authorized to certify the appointment of the state's presidential electors.

6. Presidential slate. "Presidential slate" means a slate of 2 persons, the first of whom has been nominated as a candidate for President of the United States and the 2nd of whom has been nominated as a candidate for Vice President of the United States, or any legal successors to such persons, regardless of whether both names appear on the ballot presented to the voters in a particular state.

7. State. "State" means a state of the United States and the District of Columbia.

8. Statewide popular election. "Statewide popular election" means a general election in which votes are cast for presidential slates by individual voters and counted on a statewide basis.

§1307. Conflicts

All laws in a member state in conflict with this agreement are superseded to the extent of the conflict.

SUBCHAPTER 2

PROVISIONS REGARDING THE NATIONAL POPULAR VOTE FOR PRESIDENT ACT

§1310. Duty of Secretary of State to provide notice of effect and discontinuation of National Popular Vote for President Act

Upon receipt of notice that the states participating in the interstate compact to elect the President of the United States described in subchapter 1 hold a majority of the total electoral votes, the Secretary of State immediately shall inform the Governor, the President of the Senate, the Speaker of the House of Representatives, the Secretary of the Senate, the Clerk of the House of Representatives and the Revisor of Statutes that the National Popular Vote for President Act governs the appointment of presidential electors.

If the Secretary of State is subsequently notified or learns that the National Popular Vote for President Act does not govern the appointment of presidential electors due to the number of electoral votes held by the states participating in the interstate compact to elect the President of the United States being less than a majority of the total electoral votes, the Secretary of State shall immediately inform the Governor, the President of the Senate, the Speaker of the House of Representatives, the Secretary of the Senate, the Clerk of the House of Representatives and the Revisor of Statutes of that fact.

Sec. 10. Legislative intent. The text and numbering of the Interstate Compact: Agreement Among the States to Elect the President of the United States by National Popular Vote have been changed to conform to Maine statutory conventions. The changes are technical in nature, and it is the intent of the Legislature that this Act be interpreted as substantively the same as the original interstate compact.