

# HOUSE BILL 387

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HB 25/11 – W&M

2lr2303

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By: **Delegate O'Donnell**

Introduced and read first time: February 1, 2012

Assigned to: Ways and Means

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## A BILL ENTITLED

1 AN ACT concerning

2 **Presidential Elections – Agreement Among the States to Elect the President**  
3 **by National Popular Vote – Repeal**

4 FOR the purpose of rescinding the State's consent to enter into the Agreement Among  
5 the States to Elect the President by National Popular Vote and repealing the  
6 statutory provisions reciting the Agreement; repealing certain provisions of law  
7 relating to the nomination of presidential electors; specifying that presidential  
8 electors in the State continue to be elected at large by the voters of the entire  
9 State and not in accordance with the procedure outlined in the Agreement;  
10 specifying that presidential electors cast their votes for the candidates for  
11 President and Vice President who received a plurality of the votes cast in the  
12 State and not as defined under the Agreement; repealing a certain contingency  
13 relating to the State's entry into the Agreement; and generally relating to the  
14 repeal of the Agreement Among the States to Elect the President by National  
15 Popular Vote.

16 BY repealing and reenacting, with amendments,  
17 Article – Election Law  
18 Section 8–503 through 8–505  
19 Annotated Code of Maryland  
20 (2010 Replacement Volume and 2011 Supplement)

21 BY repealing  
22 Article – Election Law  
23 Section 8–5A–01 and the subtitle “Subtitle 5A. Agreement Among the States to  
24 Elect the President by National Popular Vote”  
25 Annotated Code of Maryland  
26 (2010 Replacement Volume and 2011 Supplement)

27 BY repealing  
28 Chapter 43 of the Acts of the General Assembly of 2007

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Section 3

2 BY repealing

3 Chapter 44 of the Acts of the General Assembly of 2007

4 Section 3

5 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
6 MARYLAND, That the Laws of Maryland read as follows:

7 **Article – Election Law**

8 8–503.

9 (a) Each political party shall nominate or provide for the nomination of  
10 candidates for presidential elector of the party in accordance with party rules.

11 (b) The number of candidates nominated by each political party shall be the  
12 number that this State is entitled to elect.

13 (c) (1) The names of individuals nominated as candidates for presidential  
14 elector by a political party shall be certified to the State Board by the presiding officers  
15 of the political party.

16 (2) The names of individuals nominated as candidates for presidential  
17 elector by a candidate for President of the United States who is nominated by petition  
18 shall be certified to the State Board by the candidate on a form prescribed by the State  
19 Board.

20 (3) The electors shall be certified to the State Board at least 30 days  
21 before the general election.

22 [(d) If the number of presidential electors nominated is less than or greater  
23 than the State's number of electoral votes, presidential electors shall be nominated as  
24 provided for under Article III of § 8–5A–01 of this title.]

25 8–504.

26 (a) (1) At the general election for President and Vice President of the  
27 United States there shall be elected, in accordance with subsection (b) of this section,  
28 the number of presidential electors to which this State is entitled.

29 (2) Presidential electors shall be elected [under the procedure  
30 provided in § 8–5A–01 of this title] **AT LARGE BY THE VOTERS OF THE ENTIRE**  
31 **STATE.**

1 (b) (1) The names of the candidates for the office of presidential elector  
2 may not be printed on the ballot.

3 (2) A vote for the candidates for President and Vice President of a  
4 political party shall be considered to be and counted as a vote for each of the  
5 presidential electors of the political party nominated in accordance with § 8–503 of  
6 this subtitle.

7 8–505.

8 (a) (1) The individuals elected to the office of presidential elector shall  
9 meet in the State House in the City of Annapolis on the day provided by the  
10 Constitution and laws of the United States.

11 (2) The conduct of the meeting shall be consistent with the  
12 requirements of federal law.

13 (b) (1) Before proceeding to perform the duties of their office, the  
14 presidential electors who are present shall fill any vacancy in the office of elector,  
15 whether the vacancy is caused by absence or other reason.

16 (2) An individual appointed to fill a vacancy is entitled to all rights  
17 and privileges of the duly elected electors.

18 (c) After taking the oath prescribed by Article I, § 9 of the Maryland  
19 Constitution before the Clerk of the Court of Appeals or, in the Clerk's absence, before  
20 one of the Clerk's deputies, the presidential electors shall cast their votes for the  
21 candidates for President and Vice President who received a plurality of the votes cast  
22 in [the national popular vote total defined in § 8–5A–01 of this title] **THE STATE**.

23 [Subtitle 5A. Agreement Among the States to Elect  
24 the President by National Popular Vote.]

25 [8–5A–01.

26 The State of Maryland hereby enters the agreement among the states to elect  
27 the President by national popular vote as set forth in this section. The text of the  
28 agreement is as follows:

29 Article I. Membership.

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

32 Article II. Right of the People in Member States to Vote for President and Vice  
33 President.

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

3 Article III. Manner of Appointing Presidential Electors in Member States.

4 Prior to the time set by law for the meeting and voting by the presidential  
5 electors, the chief election official of each member state shall determine the number of  
6 votes for each presidential slate in each state of the United States and in the District  
7 of Columbia in which votes have been cast in a statewide popular election and shall  
8 add such votes together to produce a “national popular vote total” for each presidential  
9 slate.

10 The chief election official of each member state shall designate the presidential  
11 slate with the largest national popular vote total as the “national popular vote  
12 winner.”

13 The presidential elector certifying official of each member state shall certify the  
14 appointment in that official’s own state of the elector slate nominated in that state in  
15 association with the national popular vote winner.

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

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

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

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

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

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

4 Article IV. Other Provisions.

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

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

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

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

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

19 Article V. Definitions.

20 For purposes of this agreement,

21 "chief executive" shall mean the Governor of a state of the United States or the  
22 Mayor of the District of Columbia;

23 "elector slate" shall mean a slate of candidates who have been nominated in a  
24 state for the position of presidential elector in association with a presidential slate;

25 "chief election official" shall mean the state official or body that is authorized to  
26 certify the total number of popular votes for each presidential slate;

27 "presidential elector" shall mean an elector for President and Vice President of  
28 the United States;

29 "presidential elector certifying official" shall mean the state official or body that  
30 is authorized to certify the appointment of the state's presidential electors;

31 "presidential slate" shall mean a slate of two persons, the first of whom has  
32 been nominated as a candidate for President of the United States and the second of  
33 whom has been nominated as a candidate for Vice President of the United States, or

1 any legal successors to such persons, regardless of whether both names appear on the  
2 ballot presented to the voter in a particular state;

3 “state” shall mean a state of the United States and the District of Columbia; and

4 “statewide popular election” shall mean a general election in which votes are  
5 cast for presidential slates by individual voters and counted on a statewide basis.]

#### 6 **Chapter 43 of the Acts of 2007**

7 [SECTION 3. AND BE IT FURTHER ENACTED, That Section 1 of this Act  
8 may not take effect until the interstate compact entitled “Agreement Among the  
9 States to Elect the President by National Popular Vote” is enacted in substantially the  
10 same form by states cumulatively possessing a majority of the electoral votes and the  
11 enactments of the compact have taken effect in each state; that Section 1 of this Act  
12 shall only govern the appointment of presidential electors in any year in which the  
13 Agreement Among the States to Elect the President by National Popular Vote is, on  
14 July 20, in effect in states cumulatively possessing a majority of the electoral votes;  
15 that all the states of the United States are requested to concur in this Act of the  
16 General Assembly of Maryland by the enactment of a similar Act; and that the  
17 Department of Legislative Services shall notify the appropriate officials of the  
18 combined states of the enactment of this Act.]

#### 19 **Chapter 44 of the Acts of 2007**

20 [SECTION 3. AND BE IT FURTHER ENACTED, That Section 1 of this Act  
21 may not take effect until the interstate compact entitled “Agreement Among the  
22 States to Elect the President by National Popular Vote” is enacted in substantially the  
23 same form by states cumulatively possessing a majority of the electoral votes and the  
24 enactments of the compact have taken effect in each state; that Section 1 of this Act  
25 shall only govern the appointment of presidential electors in any year in which the  
26 Agreement Among the States to Elect the President by National Popular Vote is, on  
27 July 20, in effect in states cumulatively possessing a majority of the electoral votes;  
28 that all the states of the United States are requested to concur in this Act of the  
29 General Assembly of Maryland by the enactment of a similar Act; and that the  
30 Department of Legislative Services shall notify the appropriate officials of the  
31 combined states of the enactment of this Act.]

32 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
33 July 1, 2012.