

HOUSE BILL 544

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HB 53/16 – W&M

11r0824

By: **Delegate Hornberger**

Introduced and read first time: January 20, 2021

Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

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

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

15 BY repealing

16 Article – Election Law
17 Section 8–503(d)
18 Annotated Code of Maryland
19 (2017 Replacement Volume and 2020 Supplement)
20 (As enacted by Chapters 43 and 44 of the Acts of the General Assembly of 2007)

21 BY repealing and reenacting, with amendments,

22 Article – Election Law
23 Section 8–504 and 8–505
24 Annotated Code of Maryland
25 (2017 Replacement Volume and 2020 Supplement)
26 (As enacted by Chapters 43 and 44 of the Acts of the General Assembly of 2007)

27 BY repealing

28 Article – Election Law

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Section 8–5A–01 and the subtitle “Subtitle 5A. Agreement Among the States to Elect
2 the President by National Popular Vote”
3 Annotated Code of Maryland
4 (2017 Replacement Volume and 2020 Supplement)

5 BY repealing

6 Chapter 43 of the Acts of the General Assembly of 2007
7 Section 3

8 BY repealing

9 Chapter 44 of the Acts of the General Assembly of 2007
10 Section 3

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

13 **Article – Election Law**

14 8–503.

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

18 8–504.

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

22 (2) Presidential electors shall be elected [under the procedure provided in
23 § 8–5A–01 of this title] **AT LARGE BY THE VOTERS OF THE ENTIRE STATE.**

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

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

29 8–505.

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

33 (2) The conduct of the meeting shall be consistent with the requirements

1 of federal law.

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

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

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

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

14 [8-5A-01.

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

18 Article I. Membership.

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

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

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

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

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

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

32 The presidential elector certifying official of each member state shall certify the
33 appointment in that official's own state of the elector slate nominated in that state in

1 association with the national popular vote winner.

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

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

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

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

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

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

26 Article IV. Other Provisions.

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

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

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

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

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

4 Article V. Definitions.

5 For purposes of this agreement,

6 “chief executive” shall mean the Governor of a state of the United States or the Mayor
7 of the District of Columbia;

8 “elector slate” shall mean a slate of candidates who have been nominated in a state
9 for the position of presidential elector in association with a presidential slate;

10 “chief election official” shall mean the state official or body that is authorized to
11 certify the total number of popular votes for each presidential slate;

12 “presidential elector” shall mean an elector for President and Vice President of the
13 United States;

14 “presidential elector certifying official” shall mean the state official or body that is
15 authorized to certify the appointment of the state’s presidential electors;

16 “presidential slate” shall mean a slate of two persons, the first of whom has been
17 nominated as a candidate for President of the United States and the second of whom has
18 been nominated as a candidate for Vice President of the United States, or any legal
19 successors to such persons, regardless of whether both names appear on the ballot
20 presented to the voter in a particular state;

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

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

24 **Chapter 43 of the Acts of 2007**

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

1 officials of the combined states of the enactment of this Act.]

2 **Chapter 44 of the Acts of 2007**

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

14 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
15 1, 2021.