

## **CHAPTER 43**

**(Senate Bill 634)**

AN ACT concerning

### **Presidential Elections – Agreement Among the States to Elect the President by National Popular Vote**

FOR the purpose of altering certain methods of nominating presidential electors; altering certain methods of electing presidential electors; repealing a certain restriction governing elector voting; entering the State of Maryland into the Agreement Among the States to Elect the President by National Popular Vote; providing that any state is eligible to become a member state; requiring a statewide popular election for President and Vice President of the United States; establishing a certain procedure for appointing presidential electors in member states; specifying when the Agreement becomes effective; providing for the withdrawal of a member state; requiring notification of member states; specifying that the provisions of the Agreement are severable; defining certain terms; making this Act subject to a certain contingency; and generally relating to the Agreement Among the States to Elect the President by National Popular Vote.

BY repealing and reenacting, with amendments,

Article – Election Law

Section 8–503, 8–504, and 8–505

Annotated Code of Maryland

(2003 Volume and 2006 Supplement)

BY adding to

Article – Election Law

Section 8–5A–01 to be under the new subtitle “Subtitle 5A. Agreement Among  
the States to Elect the President by National Popular Vote”

Annotated Code of Maryland

(2003 Volume and 2006 Supplement)

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

#### **Article – Election Law**

8-503.

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

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

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

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

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

**(D) IF THE NUMBER OF PRESIDENTIAL ELECTORS NOMINATED IS LESS THAN OR GREATER THAN THE STATE'S NUMBER OF ELECTORAL VOTES, PRESIDENTIAL ELECTORS SHALL BE NOMINATED AS PROVIDED FOR UNDER ARTICLE III OF § 8-5A-01 OF THIS TITLE.**

8-504.

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

(2) Presidential electors shall be elected [at large by the voters of the entire State] **UNDER THE PROCEDURE PROVIDED IN § 8-5A-01 OF THIS TITLE.**

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

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

8-505.

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

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

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

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

(c) After taking the oath prescribed by Article I, § 9 of the Maryland Constitution before the Clerk of the Court of Appeals or, in the Clerk's absence, before one of the Clerk's deputies, the presidential electors shall cast their votes for the candidates for President and Vice President who received a plurality of the votes cast in [the State of Maryland] **THE NATIONAL POPULAR VOTE TOTAL DEFINED IN § 8-5A-01 OF THIS TITLE.**

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

**SUBTITLE 5A. AGREEMENT AMONG THE STATES TO ELECT  
THE PRESIDENT BY NATIONAL POPULAR VOTE.**

**8-5A-01.**

**THE STATE OF MARYLAND HEREBY ENTERS THE AGREEMENT AMONG THE STATES TO ELECT THE PRESIDENT BY NATIONAL POPULAR VOTE AS SET FORTH IN THIS SECTION. THE TEXT OF THE AGREEMENT IS AS FOLLOWS:**

**ARTICLE I. MEMBERSHIP.**

**ANY STATE OF THE UNITED STATES AND THE DISTRICT OF COLUMBIA MAY BECOME A MEMBER OF THIS AGREEMENT BY ENACTING THIS AGREEMENT.**

**ARTICLE II. RIGHT OF THE PEOPLE IN MEMBER STATES TO VOTE FOR  
PRESIDENT AND VICE PRESIDENT.**

**EACH MEMBER STATE SHALL CONDUCT A STATEWIDE POPULAR ELECTION  
FOR PRESIDENT AND VICE PRESIDENT OF THE UNITED STATES.**

**ARTICLE III. MANNER OF APPOINTING PRESIDENTIAL ELECTORS IN  
MEMBER STATES.**

**PRIOR TO THE TIME SET BY LAW FOR THE MEETING 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 SIX DAYS BEFORE THE DAY FIXED BY LAW FOR THE MEETING  
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 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 SHALL HAVE THE POWER TO 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 SHALL GOVERN THE APPOINTMENT OF PRESIDENTIAL ELECTORS IN EACH MEMBER STATE IN ANY YEAR IN WHICH THIS AGREEMENT IS, ON JULY 20, IN EFFECT IN STATES CUMULATIVELY POSSESSING A MAJORITY OF THE ELECTORAL VOTES.**

#### **ARTICLE IV. OTHER PROVISIONS.**

**THIS AGREEMENT SHALL TAKE 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 SIX MONTHS OR LESS BEFORE THE END OF A PRESIDENT'S TERM SHALL NOT BECOME EFFECTIVE UNTIL A PRESIDENT OR VICE PRESIDENT SHALL HAVE BEEN QUALIFIED TO SERVE THE NEXT TERM.**

**THE CHIEF EXECUTIVE OF EACH MEMBER STATE SHALL PROMPTLY NOTIFY THE CHIEF EXECUTIVE OF ALL OTHER STATES OF 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 SHALL TERMINATE IF THE ELECTORAL COLLEGE IS ABOLISHED.**

**IF ANY PROVISION OF THIS AGREEMENT IS HELD INVALID, THE REMAINING PROVISIONS SHALL NOT BE AFFECTED.**

#### **ARTICLE V. DEFINITIONS.**

**FOR PURPOSES OF THIS AGREEMENT,**

**“CHIEF EXECUTIVE” SHALL MEAN THE GOVERNOR OF A STATE OF THE UNITED STATES OR THE MAYOR OF THE DISTRICT OF COLUMBIA;**

**“ELECTOR SLATE” SHALL MEAN A SLATE OF CANDIDATES WHO HAVE BEEN NOMINATED IN A STATE FOR THE POSITION OF PRESIDENTIAL ELECTOR IN ASSOCIATION WITH A PRESIDENTIAL SLATE;**

**“CHIEF ELECTION OFFICIAL” SHALL MEAN THE STATE OFFICIAL OR BODY THAT IS AUTHORIZED TO CERTIFY THE TOTAL NUMBER OF POPULAR VOTES FOR EACH PRESIDENTIAL SLATE;**

**“PRESIDENTIAL ELECTOR” SHALL MEAN AN ELECTOR FOR PRESIDENT AND VICE PRESIDENT OF THE UNITED STATES;**

**“PRESIDENTIAL ELECTOR CERTIFYING OFFICIAL” SHALL MEAN THE STATE OFFICIAL OR BODY THAT IS AUTHORIZED TO CERTIFY THE APPOINTMENT OF THE STATE’S PRESIDENTIAL ELECTORS;**

**“PRESIDENTIAL SLATE” SHALL MEAN A SLATE OF TWO PERSONS, THE FIRST OF WHOM HAS BEEN NOMINATED AS A CANDIDATE FOR PRESIDENT OF THE UNITED STATES AND THE SECOND 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 VOTER IN A PARTICULAR STATE;**

**“STATE” SHALL MEAN A STATE OF THE UNITED STATES AND THE DISTRICT OF COLUMBIA; AND**

**“STATEWIDE POPULAR ELECTION” SHALL MEAN A GENERAL ELECTION IN WHICH VOTES ARE CAST FOR PRESIDENTIAL SLATES BY INDIVIDUAL VOTERS AND COUNTED ON A STATEWIDE BASIS.**

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

SECTION 4. AND BE IT FURTHER ENACTED, That, except as provided in Section 3 of this Act, this Act shall take effect October 1, 2007.

**Approved by the Governor, April 10, 2007.**