

HOUSE BILL 73

G1
HB 387/12 – W&M

3lr1082

By: **Delegate O'Donnell**
Introduced and read first time: January 11, 2013
Assigned to: Ways and Means

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 2012 Supplement)
21 (As enacted by Chapters 43 and 44 of the Acts of the General Assembly of 2007)

22 BY repealing
23 Article – Election Law
24 Section 8–5A–01 and the subtitle “Subtitle 5A. Agreement Among the States to
25 Elect the President by National Popular Vote”
26 Annotated Code of Maryland
27 (2010 Replacement Volume and 2012 Supplement)

28 BY repealing

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Chapter 43 of the Acts of the General Assembly of 2007
2 Section 3

3 BY repealing
4 Chapter 44 of the Acts of the General Assembly of 2007
5 Section 3

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

8 **Article – Election Law**

9 8–503.

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

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

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

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

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

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

26 8–504.

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

30 (2) Presidential electors shall be elected [under the procedure
31 provided in § 8–5A–01 of this title] **AT LARGE BY THE VOTERS OF THE ENTIRE**
32 **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, 2013.