

AMENDED IN SENATE APRIL 10, 2007

SENATE BILL

No. 37

Introduced by Senator Migden

(Coauthors: Senators Calderon, Lowenthal, Oropeza, Scott, and Yee)

(Coauthors: Assembly Members Dymally, Hancock, and Lieu)

December 5, 2006

An act to add Chapter 1.5 (commencing with Section 6920) to Part 2 of Division 6 of the Elections Code, relating to presidential elections.

LEGISLATIVE COUNSEL'S DIGEST

SB 37, as amended, Migden. Electoral college: interstate compact.

Existing law provides for statewide election of a slate of electors to vote in the electoral college for President and Vice President of the United States. Under existing law, each political party selects its slate of presidential electors in accordance with statutory procedures that differ by party.

This bill would ratify a specified interstate compact that requires the chief election official of each signatory state to appoint the slate of presidential electors that was nominated in association with the presidential ticket that received the largest national popular vote total. This compact would only become effective if states cumulatively possessing a majority of the total electoral votes have ratified the compact.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Chapter 1.5 (commencing with Section 6920) is added to Part 2 of Division 6 of the Elections Code, to read:

CHAPTER 1.5. VOTING COMPACT

6920. The Legislature of the State of California hereby ratifies the Agreement Among the States to Elect the President by National Popular Vote as set forth in Section 6921.

6921. The provisions of the Agreement Among the States to Elect the President by National Popular Vote are as follows:

Article 1. Membership

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

Article 2. 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 3. 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~~ *those* 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

1 elector slate nominated in that state in association with the national
2 popular vote winner.

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

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

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

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

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

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

34 35 Article 4. Other Provisions

36
37 This agreement shall take effect when states cumulatively
38 possessing a majority of the electoral votes have enacted this
39 agreement in substantially the same form and the enactments by
40 such states have taken effect in each state.

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

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

10 This agreement shall terminate if the electoral college is
11 abolished.

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

14 Article 5. Definitions

15
16
17 For purposes of this agreement, "chief executive" shall mean
18 the governor of a state of the United States or the Mayor of the
19 District of Columbia; "elector slate" shall mean a slate of
20 candidates who have been nominated in a state for the position of
21 presidential elector in association with a presidential slate; "chief
22 election official" shall mean the state official or body that is
23 authorized to certify the total number of popular votes for each
24 presidential slate; "presidential elector" shall mean an elector for
25 President and Vice President of the United States; "presidential
26 elector certifying official" shall mean the state official or body
27 that is authorized to certify the appointment of the state's
28 presidential electors; "presidential slate" shall mean a slate of two
29 persons, the first of whom has been nominated as a candidate for
30 President of the United States and the second of whom has been
31 nominated as a candidate for Vice President of the United States,
32 or any legal successors to such persons, regardless of whether both
33 names appear on the ballot presented to the voter in a particular
34 state; "state" shall mean a state of the United States and the District
35 of Columbia; and "statewide popular election" shall mean a general
36 election in which votes are cast for presidential slates by individual
37 voters and counted on a statewide basis.