

HOUSE BILL REPORT

SSB 5628

As Reported by House Committee On:
State Government & Tribal Affairs

Title: An act relating to electing the president of the United States by national popular vote.

Brief Description: Adopting the interstate agreement for the election of the president of the United States by national popular vote.

Sponsors: Senate Committee on Government Operations & Elections (originally sponsored by Senators Oemig, Fairley, Pridemore and Kohl-Welles).

Brief History:

Committee Activity:

State Government & Tribal Affairs: 2/22/08, 2/28/08 [DP].

Brief Summary of Substitute Bill

- Authorizes Washington to enter into an interstate agreement to allocate the state's electoral votes for President and Vice President of the United States based on the national popular vote winner.
- Requires each member state to conduct a statewide popular election for President and Vice President of the United States and communicate the results of the election to other member states.
- Requires presidential elector certifying officials to certify the appointment of the presidential electors of member states based on the national popular vote winner.

HOUSE COMMITTEE ON STATE GOVERNMENT & TRIBAL AFFAIRS

Majority Report: Do pass. Signed by 5 members: Representatives Hunt, Chair; Appleton, Vice Chair; Liias, Miloscia and Ormsby.

Minority Report: Do not pass. Signed by 2 members: Representatives Chandler, Ranking Minority Member; Kretz.

Staff: Tracey Taylor (786-7196).

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Background:

The President and Vice President of the United States are not elected by direct popular vote. Instead, the President and Vice President are elected by a group of 538 people who are known individually as "presidential electors" and collectively as the "electoral college." Each political party nominates its own candidates for the position of presidential elector.

Article II, Section 1 of the United States Constitution provides that "Each State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors, equal to the whole Number of Senators and Representatives to which the State may be entitled in the Congress."

In 48 states the presidential candidate receiving the most votes is awarded all of the states' electoral votes. Two states, Maine (since 1972) and Nebraska (since 1992), use a congressional district system for allocating electoral votes. The states' authority to determine the manner of awarding their electoral votes is absolute and exclusive.

The presidential electors cast their votes for President and Vice President in mid-December in meetings held in the 50 state capitals and the District of Columbia. A presidential or vice-presidential candidate must win a majority of the electoral votes in order to be elected to office (270 out of 538 electoral votes). The U.S. House of Representatives chooses the President and the U.S. Senate chooses the Vice President if there is no majority. It is possible to win the presidency without winning the most popular votes nationwide. In fact, second-place candidates were elected in 2000, 1888, 1876, and 1824.

Legislation relating to the states' electoral votes has been introduced in 48 states, passing in Maryland and New Jersey. The nearly identical bills consist of an interstate agreement that all states' electoral votes be awarded to the presidential candidate who receives the most popular votes nationwide.

Summary of Bill:

Washington shall enter into an interstate agreement with any other states that have enacted, in substantially similar form, the "Interstate Agreement for the Election of the President of the United States by National Popular Vote." Each member state of this agreement must conduct a statewide popular election for President and Vice President of the United States.

Manner of Appointing Presidential Electors in Member States

- Before the presidential electors meet and vote, each member state must determine the number of votes cast for each presidential slate. The votes from each state will be added together to produce a national popular vote total.
- At least six days prior to the meeting and voting of presidential electors, each member state must communicate the final popular presidential vote to other member states.
- The presidential elector certifying official (official) of each member state must certify the appointment of the presidential electors based on the national popular vote winner.

- If there is a tie for the national popular vote winner, the official must certify the appointment of the elector slate based on the popular vote within the official's state.

Other Provisions

- Any member state may withdraw from the agreement, except that any withdrawal occurring within six months before the end of a President's term does not become effective until a President or Vice President has been qualified to serve the next term.
- The chief executive of each state must notify all other member states when this agreement has been enacted or when the state has withdrawn.
- This agreement terminates if the electoral college is abolished.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed, except section 2 which takes effect when states cumulatively possessing a majority of the electoral votes have enacted this agreement in substantially the same form and the enactments by these states have taken effect in each state.

Staff Summary of Public Testimony:

(In support) This is not a complicated issue. For every other office, the candidate with the most votes wins – except when we elect the President. In 2000 the popular vote winner lost the presidency and the electoral college winner, and loser of the national popular vote, was sworn in as our 43rd President. Ten percent of our Presidents have been elected by overturning the will of the people. In 2004 election efforts were not focused on our own state, but Ohio. By focusing on only a few battleground states, most states and voters are overlooked. The electoral college disenfranchises the voters who did not elect the state's electoral college winner. There is no constitutional guarantee that a citizen has the right to elect the President, the method is left to the states. This bill gives the power back to the people to elect their President.

(Opposed) Reasonable people can disagree. This is an innovative approach to the on-going concerns regarding the electoral college. However, if the true problem is the electoral college, then the solution is to amend the U.S. Constitution, not enter into an interstate compact. The National Association of Secretary of States has no official position on this proposal. Electoral college votes must follow the popular vote winner in the state.

Persons Testifying: (In support) Senator Oemig, prime sponsor; Joe King, National Popular Vote; and Frances Hall.

(Opposed) Shane Hamlin, Office of the Secretary of State.

Persons Signed In To Testify But Not Testifying: None.