

# HOUSE BILL REPORT

## HB 1598

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

**Title:** An act relating to approving the entry of Washington into the agreement among the states to elect the president by national popular vote on the same terms and conditions as entered into by the states of Hawaii, Illinois, Maryland, and New Jersey.

**Brief Description:** Approving the entry of Washington into the agreement among the states to elect the president by national popular vote.

**Sponsors:** Representatives Goodman, Hunt, Ormsby, Williams, Kagi, Kessler, Roberts, Upthegrove, Simpson and Moeller.

**Brief History:**

**Committee Activity:**

State Government & Tribal Affairs: 2/5/09, 2/19/09 [DP].

**Brief Summary of 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 Washington 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 Washington based on the national popular vote winner.

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**HOUSE COMMITTEE ON STATE GOVERNMENT & TRIBAL AFFAIRS**

**Majority Report:** Do pass. Signed by 5 members: Representatives Hunt, Chair; Appleton, Vice Chair; Flannigan, Hurst and Miloscia.

**Minority Report:** Do not pass. Signed by 2 members: Representatives Armstrong, Ranking Minority Member; Alexander.

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*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.*

**Staff:** Tracey O'Brien (786-7196)

**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' awarding electoral votes based on the national popular vote has been introduced in 48 states, and enacted in Hawaii, Illinois, Maryland, and New Jersey.

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**Summary of Bill:**

Washington shall enter into an interstate agreement with any other states that have enacted, in substantially similar form, the "Agreement Among the States to Elect the President 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.

The agreement is self-executing once states cumulatively possessing a majority of the electoral votes have enacted the agreement and the enactments have taken effect in each state.

A section addresses the agreement's contractual nature. As a result, it is the intent of the Legislature not to make any material changes so as to ensure its efficacy.

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**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

#### **Staff Summary of Public Testimony:**

(In support) This bill is about restoring our government to the principle of "one person, one vote." There is a quaint artifact of history that has the force and effect of law. During the Constitutional Convention in 1787, the delegates could not figure out how to implement the Electoral College, so they left it up to the states. And the current "winner take all" system is a vestige of the Civil War when slaves were three-fifths of a vote. It is time to move beyond this. We vote as Americans for President, not residents of Washington; however, that is exactly how our vote is counted. This bill is about making Washington and 35 other states relevant again during national elections. Candidates for President might have a more difficult campaign as more of the country becomes relevant to winning, but that is a good thing for democracy and for policy making. Four of the last 56 elections resulted in a winner of the presidency who was not a winner of the national popular vote. The Electoral College is not the problem, the "winner take all" system is the problem and this bill makes the Electoral College work again.

(Opposed) As the Electoral College goes, so goes the Constitution. Our election system has worked seamlessly for over 200 years. It prevents coalition building, it prevents tyranny and it prevents chaos. This bill would nationalize voter fraud and make the “winner take all” system national. The Electoral College contains voter fraud on a state-by-state basis. This is simply an end run around the Constitution by attempting to amend it by compact. Washington has never been attractive for national campaigns and this bill does nothing to remedy that fact. In 28 percent of presidential elections, Washington has not voted for the national popular vote winner. This bill would make Washington electors vote against the Washington voters’ wishes 28 percent of the time. If this bill passes, we will be “one person, zero vote.”

**Persons Testifying:** (In support) Representative Goodman, prime sponsor; Joe King and Jeff Gombosky, National Popular Vote; and Richard Johnson.

(Opposed) Cindy Honcoop, Luanne Van Werren, and Anne Culbertson, Washington Eagle Forum; David John Anderson; and Pad Finnigan.

**Persons Signed In To Testify But Not Testifying:** None.