

As Introduced

133rd General Assembly

Regular Session

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H. B. No. 70

Representative Leland

**Cosponsors: Representatives Boyd, Smith, K., Ingram, Skindell, Lightbody,
Boggs**

A BILL

To amend sections 3505.39 and 3505.40 and to enact 1
section 3505.381 of the Revised Code to adopt 2
the Agreement Among the States to Elect the 3
President by National Popular Vote. 4

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 3505.39 and 3505.40 be amended 5
and section 3505.381 of the Revised Code be enacted to read as 6
follows: 7

Sec. 3505.381. The "Agreement Among the States to Elect 8
the President by National Popular Vote" is intended to permit 9
states to join together to establish an interstate compact to 10
elect the president of the United States based upon the national 11
popular vote. Pursuant to terms and conditions of this section, 12
the state of Ohio seeks to join with other states to enact the 13
Agreement Among the States to Elect the President by National 14
Popular Vote. 15

The Agreement Among the States to Elect the President by 16
National Popular Vote is hereby enacted into law and entered 17

<u>into with all other states which have legally joined therein:</u>	18
<u>"Agreement Among the States to Elect the President by</u>	19
<u>National Popular Vote"</u>	20
<u>Article I. Membership</u>	21
<u>Any state of the United States and the District of</u>	22
<u>Columbia may become a member of this agreement by enacting this</u>	23
<u>agreement.</u>	24
<u>Article II. Right of the People in Member States to Vote</u>	25
<u>for President and Vice President</u>	26
<u>Each member state shall conduct a statewide popular</u>	27
<u>election for President and Vice President of the United States.</u>	28
<u>Article III. Manner of Appointing Presidential Electors in</u>	29
<u>Member States</u>	30
<u>Prior to the time set by law for the meeting and voting by</u>	31
<u>the presidential electors, the chief election official of each</u>	32
<u>member state shall determine the number of votes for each</u>	33
<u>presidential slate in each state of the United States and in the</u>	34
<u>District of Columbia in which votes have been cast in a</u>	35
<u>statewide popular election and shall add such votes together to</u>	36
<u>produce a "national popular vote total" for each presidential</u>	37
<u>slate.</u>	38
<u>The chief election official of each member state shall</u>	39
<u>designate the presidential slate with the largest national</u>	40
<u>popular vote total as the "national popular vote winner."</u>	41
<u>The presidential elector certifying official of each</u>	42
<u>member state shall certify the appointment in that official's</u>	43
<u>own state of the elector slate nominated in that state in</u>	44
<u>association with the national popular vote winner.</u>	45

At least six (6) days before the day fixed by law for the 46
meeting and voting by the presidential electors, each member 47
state shall make a final determination of the number of popular 48
votes cast in the state for each presidential slate and shall 49
communicate an official statement of such determination within 50
twenty-four (24) hours to the chief election official of each 51
member state. 52

The chief election official of each member state shall 53
treat as conclusive an official statement containing the number 54
of popular votes in a state for each presidential slate made by 55
the day established by federal law for making a state's final 56
determination conclusive as to the counting of electoral votes 57
by Congress. 58

In event of a tie for the national popular vote winner, 59
the presidential elector certifying official of each member 60
state shall certify the appointment of the elector slate 61
nominated in association with the presidential slate receiving 62
the largest number of popular votes within that official's own 63
state. 64

If, for any reason, the number of presidential electors 65
nominated in a member state in association with the national 66
popular vote winner is less than or greater than that state's 67
number of electoral votes, the presidential candidate on the 68
presidential slate that has been designated as the national 69
popular vote winner shall have the power to nominate the 70
presidential electors for that state and that state's 71
presidential elector certifying official shall certify the 72
appointment of such nominees. 73

The chief election official of each member state shall 74
immediately release to the public all vote counts or statements 75

of votes as they are determined or obtained. 76

This article shall govern the appointment of presidential 77
electors in each member state in any year in which this 78
agreement is, on July 20, in effect in states cumulatively 79
possessing a majority of the electoral votes. 80

Article IV. Other Provisions 81

This agreement shall take effect when states cumulatively 82
possessing a majority of the electoral votes have enacted this 83
agreement in substantially the same form and the enactments by 84
such states have taken effect in each state. 85

Any member state may withdraw from this agreement, except 86
that a withdrawal occurring six (6) months or less before the 87
end of a President's term shall not become effective until a 88
President or Vice President shall have been qualified to serve 89
the next term. 90

The chief executive of each member state shall promptly 91
notify the chief executive of all other states of when this 92
agreement has been enacted and has taken effect in that 93
official's state, when the state has withdrawn from this 94
agreement, and when this agreement takes effect generally. 95

This agreement shall terminate if the Electoral College is 96
abolished. 97

If any provision of this agreement is held invalid, the 98
remaining provisions shall not be effected. 99

Article V. Definitions 100

For purposes of this agreement: 101

(A) "Chief Executive" shall mean the Governor of a state 102

of the United States or the Mayor of the District of Columbia; 103

(B) "Elector Slate" shall mean a slate of candidates who 104
have been nominated in a state for the position of presidential 105
elector in association with a presidential slate; 106

(C) "Chief Election Official" shall mean the state 107
official or body that is authorized to certify the total number 108
of popular votes for each presidential slate; 109

(D) "Presidential Elector" shall mean an elector for 110
President and Vice President of the United States; 111

(E) "Presidential Elector Certifying Official" shall mean 112
the state official or body that is authorized to certify the 113
appointment of the state's presidential electors; 114

(F) "Presidential Slate" shall mean a slate of two 115
persons, the first of whom has been nominated as a candidate for 116
President of the United States and the second of whom has been 117
nominated as a candidate for Vice President of the United 118
States, or any legal successors to such persons, regardless of 119
whether both names appear on the ballot presented to the voter 120
in a particular state; 121

(G) "State" shall mean a state of the United States and 122
the District of Columbia; 123

(H) "Statewide Popular Election" means a general election 124
in which votes are cast for presidential slates by individual 125
voters and counted on a statewide basis. 126

Sec. 3505.39. ~~The~~ (A) (1) If the agreement among the states 127
to elect the president by national popular vote, enacted in 128
section 3505.381 of the Revised Code, does not govern the 129
appointment of presidential electors as provided in Article III 130

of that agreement, the secretary of state shall immediately upon 131
the completion of the canvass of election returns mail to each 132
presidential elector so elected a certificate of ~~his~~ election 133
and shall notify ~~him~~ the elector to attend, at a place in the 134
state capitol which the secretary of state shall select, at 135
twelve noon on the day designated by the congress of the United 136
States, a meeting of the state's presidential electors for the 137
purpose of discharging the duties enjoined on them by the 138
constitution of the United States. The secretary of state, ten 139
days prior to such meeting, shall by letter remind each such 140
elector of the meeting to be held for casting the vote of the 141
state for president and vice-president of the United States. 142
~~Each such~~ 143

(2) If the agreement among the states to elect the 144
president by national popular vote, enacted in section 3505.381 145
of the Revised Code, governs the appointment of presidential 146
electors as provided in Article III of that agreement, the 147
secretary of state shall determine the winner of the national 148
popular vote for president and vice-president of the United 149
States, certify the appointment of the elector slate nominated 150
in association with the winner of the national popular vote, and 151
follow the procedures in section 3505.381 for notification of 152
the elector slate. The presidential electors so appointed shall 153
attend, at a place in the state capitol which the secretary of 154
state shall select, at twelve noon on the day designated by the 155
congress of the United States, a meeting of the state's 156
presidential electors for purposes of discharging the duties 157
enjoined on them by the Constitution of the United States. 158

(B) Each presidential elector elected or appointed 159
pursuant to division (A) of this section shall give notice to 160
the secretary of state before nine a.m. of that day whether or 161

not ~~he~~ the elector will be present at the appointed hour ready 162
to perform ~~his~~ the duties as a presidential elector. If at 163
twelve noon at the place selected by the secretary of state 164
presidential electors equal in number to the whole number of 165
senators and representatives to which the state may at the time 166
be entitled in the congress of the United States, are not 167
present, the presidential electors present shall immediately 168
proceed, in the presence of the governor and secretary of state, 169
to appoint by ballot such number of persons to serve as 170
presidential electors so that the number of duly elected 171
presidential electors present at such time and place plus the 172
presidential electors so appointed shall be equal in number to 173
the whole number of senators and representatives to which the 174
state is at that time entitled in the congress of the United 175
States; provided, that each such appointment shall be made by a 176
separate ballot, and that all appointments to fill vacancies 177
existing because duly elected presidential electors are not 178
present shall be made before other appointments are made, and 179
that in making each such appointment the person appointed shall 180
be of the same political party as the duly elected presidential 181
elector whose absence requires such appointment to be made. In 182
case of a tie vote the governor shall determine the results by 183
lot. The electors making such appointments shall certify 184
forthwith to the secretary of state the names of the persons so 185
appointed and the secretary of state shall immediately issue to 186
such appointees certificates of their appointment and notify 187
them thereof. All of the state's presidential electors, both 188
those duly elected who are then present and those appointed as 189
herein provided, shall then meet and organize by electing one of 190
their number as ~~chairman~~ chairperson and by designating the 191
secretary of state as ex officio secretary and shall then and 192
there discharge all of the duties enjoined upon presidential 193

electors by the constitution and laws of the United States. Each 194
presidential elector shall receive ten dollars for each day's 195
attendance in Columbus as such and mileage at the rate of ten 196
cents per mile for the estimated distance by the usual route 197
from ~~his~~ the elector's place of residence to Columbus. Such 198
compensation and mileage shall be upon vouchers issued by the 199
secretary of state, and shall be paid by the treasurer of state 200
out of the general fund. 201

Sec. 3505.40. A presidential elector elected at a general 202
election or appointed pursuant to section 3505.381 or 3505.39 of 203
the Revised Code shall, when discharging the duties enjoined 204
upon ~~him~~ the elector by the constitution or laws of the United 205
States, cast ~~his~~ the elector's electoral vote for the nominees 206
for president and vice-president of the political party which 207
certified ~~him~~ the elector to the secretary of state as a 208
presidential elector pursuant to law. 209

Section 2. That existing sections 3505.39 and 3505.40 of 210
the Revised Code are hereby repealed. 211