

Legislative Analysis



INTERSTATE PRESIDENTIAL ELECTION COMPACT

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House Bill 6610

Sponsor: Rep. Steve Tobocman

Committee: Ethics and Elections

Complete to 12-9-08

A SUMMARY OF HOUSE BILL 6610 AS INTRODUCED 11-6-08

BRIEF SUMMARY:

House Bill 6610 would create a new act to be known as the "Interstate Compact to Elect the President by National Popular Vote."

Under the bill, the interstate compact to elect the president by popular vote would, itself, be enacted into law. Then all jurisdictions would legally enter into the compact. The bill presents the language of the compact--drafted as five articles--in substantially the form in which it is proposed that the language of the compact be adopted. A description of each article follows.

BACKGROUND INFORMATION:

The National Popular Vote bill is a state-based way to implement nationwide popular election of the president. The current system of electing the president in 48 states has a winner-take-all rule, awarding all of a state's electoral votes to the presidential candidate who receives the most popular votes in each state. Under the present system, a candidate can win the presidency without winning the most popular votes nationwide.

Under the proposed legislation, the popular votes from all 50 states and the District of Columbia would be added together to obtain a national grand total for each presidential candidate. Then, state election officials in all states participating in the plan would award their electoral votes to the presidential candidate who received the largest number of popular votes nationwide. The compact would take effect only when enacted by states collectively possessing 270 of the 538 electoral votes. The aim is to guarantee that the presidential candidate receiving the most popular votes nationwide would win enough electoral votes in the Electoral College to become president. The 270-vote threshold represents a majority of the people of the United States, ensuring that every vote in all 50 states and the District of Columbia is equally important in presidential elections.

DETAILED DESCRIPTION:

Article I - Membership. This article specifies that any state of the United States and the District of Columbia could become a member of this agreement by enacting it.

Article II - Right of the People in Member States to Vote for President and Vice President. Before the meeting of the presidential electors, this article requires the chief election official of each state to determine the number of votes cast for each presidential slate in a statewide election. Added together, those votes would produce a "national popular vote total" for each slate. The slate receiving the largest vote total would be declared the "national popular vote winner," so designated by the state's chief election official.

Then each member state's presidential elector certifying official would certify the appointment of the elector slate nominated, in association with the national popular vote winner. At least six days before the day set by law for the meeting and voting by the presidential electors, each member state would make a final determination of the number of popular votes cast in the state for each presidential slate, and then communicate an official statement of that determination, within 24 hours, to the other member states.

The bill requires that the chief election official of each member state treat as conclusive an official statement containing the number of popular votes for each slate (made by the day established by federal law for making a state's final determination conclusive), as to the counting of electoral votes by Congress.

In the event of a tie for the national popular vote winner, the presidential elector certifying official of each member state would certify the appointment of the slate receiving the largest number of popular votes.

If the number of presidential electors nominated in a member state were less or greater than the state's number of electoral votes, the presidential candidate on the slate that had been designated as the national popular vote winner would have the power to nominate the presidential electors for that state, and that state's presidential elector certifying official would certify the appointment of the nominees.

The bill requires that the chief election official of each member state immediately release to the public all of the vote counts or statements of votes as they are determined or obtained.

Under the bill, *Article III* would govern the appointment of presidential electors in each member state in any year in which this agreement was, on July 20, in effect in states cumulatively possessing a majority of electoral votes.

Article IV - Other Provisions. The bill requires that this agreement take effect when states cumulatively possessing a majority of the electoral votes have enacted the agreement in substantially the same form, and those enactments have taken effect. Any member state could withdraw from the agreement, except that a withdrawal that occurred less than six months before the end of a president's term would not become effective until a president or vice president had been qualified to serve the next term.

The chief executive of each member state would be required to promptly notify the chief executive of all other states of three events: when this agreement had been enacted and taken effect; when the state had withdrawn from the agreement; and when the agreement took effect generally.

The bill specifies that the agreement would terminate if the Electoral College was abolished.

Under the bill, if any provision of the agreement was held to be invalid, the remaining provisions would not be affected.

Article V - Definitions. The bill defines "chief executive" to mean the governor of a state (or the mayor of the District of Columbia). "Elector slate" means a slate of candidates who have been nominated in a state for the position of presidential elector in association with a presidential slate.

"Chief election official" means the state official or body that is authorized to certify the total number of popular votes for each presidential slate. "Presidential elector" means an elector for president and vice president of the United States. "Presidential elector certifying official" means the state official or body that is authorized to certify the appointment of the state's presidential electors.

"Presidential slate" means a slate of two persons, the first of whom has been nominated as a candidate for President of the United States and the second of whom has been nominated as a candidate for Vice President of the United States, or any legal successors to such persons, regardless of whether both names appear on the ballot presented to the voter in a particular state.

"Statewide popular election" means a general election in which votes are cast for presidential slates by individual voters and counted on a statewide basis.

The compact contains a six-month blackout period from July 20 of each presidential year through the inauguration. During this period, states may not withdraw from the compact (<http://www.nationalpopularvote.com/pages/explanation.php>).

FISCAL IMPACT:

A fiscal analysis is in process.

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.