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BILL



ANALYSIS

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Senate Bill 88 (as introduced 2-10-15)
Sponsor: Senator Rebekah Warren
Committee: Elections and Government Reform

Date Completed: 9-23-15

CONTENT

The bill would enact the "Interstate Compact to Elect the President by National Popular Vote", and enter Michigan into the Compact with all jurisdictions legally joining in it.

The form of the Compact would be substantially as described below.

Article I - Membership

Any state of the United States and the District of Columbia could become a member of the Compact by enacting it.

Article II - Right of the People in Member States to Vote for President & Vice President

Each member state would have to conduct a statewide popular election for President and Vice President of the United States.

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

("Presidential slate" would mean a slate of two people, 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 those people, regardless of whether both names appear on the ballot presented to the voters in a particular state.)

Article III - Manner of Appointing Presidential Electors in Member States

Before the time set by law for the presidential electors to meet and vote, the chief election official of each member state would have to determine the number of votes for each presidential slate in each state and in the District of Columbia in which votes had been cast in a statewide popular election, and would have to add those votes together to produce a "national popular vote total" for each presidential slate.

The chief election official would have to 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 would have to certify the appointment in that official's own state of the elector slate nominated in that state in association with the national popular vote winner.

("Elector slate" would mean a slate of candidates who have been nominated in a state for the position of presidential elector in association with a presidential slate. "Presidential elector" would mean an elector for President and Vice President of the United States.)

At least six days before the date set by law for the presidential electors to meet and vote, each member state would have to make a final determination of the number of popular votes cast in the state for each presidential slate. Each member state would have to communicate an official statement of that determination within 24 hours to the chief election official of every other member state.

The chief election official of each member state would have to treat as conclusive an official statement containing the number of popular votes in a state for each presidential 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.

If there were a tie for the national popular vote winner, the presidential elector certifying official of each member state would have to certify the appointment of the elector slate nominated in association with the presidential slate receiving the largest number of popular votes within that official's own state.

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

The chief election official of each member state immediately would have to release to the public all vote counts or statements of votes as they were determined or obtained.

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

Article IV - Other Provisions

The Compact would take effect when states cumulatively possessing a majority of the electoral votes had enacted it in substantially the same form and the enactments by those states had taken effect in each state.

Any member state could withdraw from the Compact, although a withdrawal occurring within 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 promptly have to notify the chief executive of all other states when the Compact had been enacted and had taken effect in that official's state, when the state had withdrawn from the Compact, and when it took effect generally.

The Compact would terminate if the Electoral College were abolished.

If any provision of the Compact were held invalid, the remaining provisions would not be affected.

Article V - Definitions

Article V contains the definitions incorporated above.

The article also contains the following definitions.

"Chief executive" would mean the governor of a state of the United States or the mayor of the District of Columbia.

"Chief election official" would mean the state official or body that is authorized to certify the total number of popular votes for each presidential slate.

"Presidential elector certifying official" would mean the state official or body that is authorized to certify the appointment of the state's presidential electors.

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

The bill would have a negligible fiscal impact on the Department of State. According to the Department, any costs incurred as a result of the bill would be absorbed by the Department's annual appropriations.

Fiscal Analyst: Joe Carrasco