

Regular Session, 2011

SENATE BILL NO. 126

BY SENATOR MCPHERSON

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

ELECTION CODE. Makes Louisiana a party to an interstate compact entitled the "Agreement Among the States to Elect the President by National Popular Vote". (8/15/11)

1 AN ACT

2 To enact R.S. 18:1266, relative to presidential electors; to enter the state of Louisiana into

3 an interstate compact titled the "Agreement Among the States to Elect the President

4 by National Popular Vote"; and to provide for related matters.

5 Be it enacted by the Legislature of Louisiana:

6 Section 1. R.S. 18:1266 is hereby enacted to read as follows:

7 **§1266. "Agreement Among the States to Elect the President by National**

8 **Popular Vote"; Louisiana participation**

9 **The "Agreement Among the States to Elect the President by National**

10 **Popular Vote" the full text of which is set forth in this Section and confirmed**

11 **by the Louisiana Legislature, is hereby entered into on behalf of the state of**

12 **Louisiana. The compact shall become effective when states cumulatively**

13 **possessing a majority of the electoral votes have enacted this interstate compact**

14 **in substantially the same form and the enactments by such states have taken**

15 **effect in each state. The full text of said compact is as follows:**

16 **AGREEMENT AMONG THE STATES TO ELECT THE PRESIDENT**

17 **BY NATIONAL POPULAR VOTE**

1 Article I--Membership

2 Any state of the United States and the District of Columbia may become
3 a member of this agreement by enacting this agreement.

4 Article II--Right of the People in Member States to Vote for President
5 and Vice President

6 Each member state shall conduct a statewide popular election for
7 President and Vice President of the United States.

8 Article III--Manner of Appointing Presidential Electors in Member
9 States

10 Prior to the time set by law for the meeting and voting by the
11 presidential electors, the chief election official of each member state shall
12 determine the number of votes for each presidential slate in each state of the
13 United States and in the District of Columbia in which votes have been cast in
14 a statewide popular election and shall add such votes together to produce a
15 "national popular vote total" for each presidential slate.

16 The chief election official of each member state shall designate the
17 presidential slate with the largest national popular vote total as the "national
18 popular vote winner".

19 The presidential elector certifying official of each member state shall
20 certify the appointment in that official's own state of the elector slate nominated
21 in that state in association with the national popular vote winner.

22 At least six days before the day fixed by law for the meeting and voting
23 by the presidential electors, each member state shall make a final determination
24 of the number of popular votes cast in the state for each presidential slate and
25 shall communicate an official statement of such determination within 24 hours
26 to the chief election official of each other member state.

27 The chief election official of each member state shall treat as conclusive
28 an official statement containing the number of popular votes in a state for each
29 presidential slate made by the day established by federal law for making a

1 state's final determination conclusive as to the counting of electoral votes by
2 Congress.

3 In the event of a tie for the national popular vote winner, the presidential
4 elector certifying official of each member state shall certify the appointment of
5 the elector slate nominated in association with the presidential slate receiving
6 the largest number of popular votes within that official's own state.

7 If, for any reason, the number of presidential electors nominated in a
8 member state in association with the national popular vote winner is less than
9 or greater than that state's number of electoral votes, the presidential candidate
10 on the presidential slate that has been designated as the national popular vote
11 winner shall have the power to nominate the presidential electors for that state
12 and that state's presidential elector certifying official shall certify the
13 appointment of such nominees. The chief election official of each member state
14 shall immediately release to the public all vote counts or statements of votes as
15 they are determined or obtained.

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

19 Article IV-Other Provisions

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

23 Any member state may withdraw from this agreement, except that a
24 withdrawal occurring six months or less before the end of a President's term
25 shall not become effective until a President or Vice President shall have been
26 qualified to serve the next term.

27 The chief executive of each member state shall promptly notify the chief
28 executive of all other states of when this agreement has been enacted and has
29 taken effect in that official's state, when the state has withdrawn from this

1 agreement, and when this agreement takes effect generally.

2 This agreement shall terminate if the electoral college is abolished.

3 If any provision of this agreement is held invalid, the remaining
4 provisions shall not be affected.

5 Article V-Definitions

6 For purposes of this agreement,

7 "chief executive" shall mean the governor of a state of the United States
8 or the Mayor of the District of Columbia;

9 "elector slate" shall mean a slate of candidates who have been nominated
10 in a state for the position of presidential elector in association with a
11 presidential slate;

12 "chief election official" shall mean the state official or body that is
13 authorized to certify the total number of popular votes for each presidential
14 slate;

15 "presidential elector" shall mean an elector for President and Vice
16 President of the United States;

17 "presidential elector certifying official" shall mean the state official or
18 body that is authorized to certify the appointment of the state's presidential
19 electors;

20 "presidential slate" shall mean a slate of two persons, the first of whom
21 has been nominated as a candidate for President of the United States and the
22 second of whom has been nominated as a candidate for Vice President of the
23 United States, or any legal successors to such persons, regardless of whether
24 both names appear on the ballot presented to the voter in a particular state;

25 "state" shall mean a state of the United States and the District of
26 Columbia; and

27 "statewide popular election" shall mean a general election in which votes
28 are cast for presidential slates by individual voters and counted on a statewide
29 basis.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Alden A. Clement, Jr.

DIGEST

Present law, relative to the allocation of presidential electors, provides that a vote for presidential and vice presidential candidates is a vote for each of the electors nominated in support of those candidates and provides that the secretary of state ascertain from the returns the slate of candidates who received the greatest number of votes cast for presidential electors. Present law further provides that the governor is to issue a certification of election to the persons elected and authorize them to cast the vote of the state for president and vice president.

Proposed law enters La. into the interstate compact titled the "Agreement Among the States to Elect the President by National Popular Vote" (the agreement).

Proposed law provides for the compact to become effective when states cumulatively possessing a majority of the electoral votes have enacted the interstate compact in substantially the same form and the enactments by such states have taken effect in each state.

Proposed law sets forth the complete text of the agreement.

The agreement (Article I) provides that any state of the U.S. and the District of Columbia may become a member of the compact by enacting it.

The agreement (Article II) requires each member state to conduct a statewide popular election for president and vice president of the U.S.

The agreement (Article III) provides that prior to the time set by law for the meeting and voting by the presidential electors, the chief election official of each member state is to determine the number of votes for each presidential slate in each state and the District of Columbia and add such votes together to produce a "national popular vote total" for each presidential slate. The agreement further requires the chief election official to designate the presidential slate with the largest national popular vote total as the "national popular vote winner." The agreement further requires the presidential elector certifying official of each member state 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. The agreement further requires that at least six days before the day fixed by law for the meeting and voting by the presidential electors, each member state is to make a final determination of the number of popular votes cast in the state for each presidential slate and communicate an official statement of such determination within 24 hours to the chief election official of each other member state. The agreement further requires the chief election official of each member state 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. The agreement further requires that in the event of a tie for the winner, the presidential elector certifying official of each member state is 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. The agreement further requires that if, for any reason, the number of presidential electors nominated in a member state in association with the national popular vote winner is less than or greater than that state's number of electoral votes, the presidential candidate on the presidential slate that has been designated as the national popular vote winner shall have the power to nominate the presidential electors for that state and that state's presidential elector certifying official is to certify the appointment of such nominees. The agreement further requires the chief election official of each member state to immediately release to the public all vote counts or statements of votes as they are determined or obtained. The agreement further requires that

the agreement governs the appointment of presidential electors in each member state in any year in which it is in effect in states cumulatively possessing a majority of the electoral votes (on July 20).

The agreement (Article IV) provides that any member state may withdraw from the agreement, except that a withdrawal occurring six months or less 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 agreement further requires the chief executive of each member state to promptly notify the chief executive of all other states when the agreement has been enacted and taken effect in the state, when the state has withdrawn from the agreement, and when the agreement takes effect generally. The agreement further requires for the agreement to terminate if the electoral college is abolished. The agreement further requires that if any provision of the agreement is held invalid, the remaining provisions are not affected.

Effective August 15, 2011.

(Adds R.S. 18:1266)