

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

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SENATE BILL 416

Short Title: Popular Election. (Public)

Sponsors: Senators Waddell, Murdock, and Applewhite (Primary Sponsors).

Referred to: Rules and Operations of the Senate

March 30, 2023

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH NORTH CAROLINA AS A MEMBER OF THE AGREEMENT
AMONG THE STATES TO ELECT THE PRESIDENT BY NATIONAL POPULAR
VOTE.

The General Assembly of North Carolina enacts:

SECTION 1. Article 18 of Chapter 163 of the General Statutes is amended by adding the following new sections to read:

"§ 163-209.10. Agreement Among the States to Elect the President by National Popular Vote; compact enacted and entered into.

The "Agreement Among the States to Elect the President by National Popular Vote" is enacted into law and entered into on behalf of North Carolina with any and all other states legally joining therein in a form substantially as follows:

Article I – Membership.

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

Article II – Right of the People in Member States to Vote for President and Vice President.

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

Article III – Manner of Appointing Presidential Electors in Member States.

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

The chief election official of each member state shall 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 shall 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.

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



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

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

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

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

19 **Article IV – Other Provisions.**

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

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

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

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

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

33 **Article V – Definitions.**

34 For purposes of this agreement, the following definitions shall apply:

- 35 (1) Chief election official. – The state official or body that is authorized to certify
36 the total number of popular votes for each presidential slate.
- 37 (2) Chief executive. – The governor of a state of the United States or the Mayor
38 of the District of Columbia.
- 39 (3) Elector slate. – A slate of candidates who have been nominated in a state for
40 the position of presidential elector in association with a presidential slate.
- 41 (4) Presidential elector. – An elector for President and Vice President of the
42 United States.
- 43 (5) Presidential elector certifying official. – The state official or body that is
44 authorized to certify the appointment of the state's presidential electors.
- 45 (6) Presidential slate. – A slate of two persons, the first of whom has been
46 nominated as a candidate for President of the United States and the second of
47 whom has been nominated as a candidate for Vice President of the United
48 States, or any legal successors to such persons, regardless of whether both
49 names appear on the ballot presented to the voter in a particular state.
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- 1 (7) State. – A state of the United States and the District of Columbia.
2 (8) Statewide popular election. – A general election in which votes are cast for
3 presidential slates by individual voters and counted on a statewide basis.

4 "**§ 163-209.11. Additional implementing language for National Popular Vote compact.**

5 (a) As used in G.S. 163-209.10 and in this section, the following definitions apply:

6 (1) Chief election official. – The State Board of Elections.

7 (2) Presidential elector certifying official. – The Governor as provided by
8 G.S. 163-210.

9 (b) During any election in which the Agreement Among the States to Elect the President
10 by National Popular Vote applies:

11 (1) The State Board of Elections, rather than issuing a certificate of election for
12 presidential electors under G.S. 163-182.15, shall instead issue a certificate of
13 the results of the election. The State Board of Elections shall be responsible
14 for communicating those results to the chief election official of all other
15 member states in the Agreement within the times specified in
16 G.S. 163-209.10. The State Board of Elections shall designate the national
17 popular vote winner as required under G.S. 163-209.10 and shall provide a
18 copy to the Secretary of State.

19 (2) The reference to G.S. 163-209 contained in G.S. 163-1(c) shall instead be read
20 as G.S. 163-209.10.

21 (3) The Governor, instead of proclaiming elected under G.S. 163-210 those
22 presidential electors receiving the most votes as stated in the abstracts of the
23 State Board of Elections, shall instead certify the appointment of the elector
24 slate nominated in this State in association with the national popular vote
25 winner, as provided under G.S. 163-209.10. In case of a tie in the national
26 popular vote, the Governor shall certify the appointment of the elector slate
27 nominated in association with the presidential slate receiving the largest
28 number of popular votes in this State, as provided in G.S. 163-209.10."

29 **SECTION 2.** This act is effective when it becomes law.