

1 **Senate Bill No. 463**

2 (By Senators Beach, Browning, Edgell, Fanning, Foster,
3 Green, Klempa, Laird, Miller, Snyder,
4 Stollings, Wills, Yost, Kessler (Acting President), McCabe and
5 Jenkins)

6 _____
7 [Introduced February 8, 2011; referred to the Committee on the
8 Judiciary; and then to the Committee on Finance.]

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10
11 A BILL to amend the Code of West Virginia, 1931, as amended, by
12 adding thereto a new article, designated §3-13-1, §3-13-2,
13 §3-13-3, §3-13-4, §3-13-5 and §3-13-6, all relating to
14 implementing an agreement among the states to elect the
15 President and Vice President by national popular vote; setting
16 forth who may be members to the agreement; establishing the
17 manner of appointing presidential electors in the member
18 states; setting forth the provisions of the agreement that the
19 member states must enact into state law; setting forth the
20 responsibilities of certain officials; and defining terms.

21 *Be it enacted by the Legislature of West Virginia:*

22 That the Code of West Virginia, 1931, as amended, be amended
23 by adding thereto a new article, designated §3-13-1, §3-13-2,
24 §3-13-3, §3-13-4, §3-13-5 and §3-13-6, all to read as follows:

1 **ARTICLE 13. AGREEMENT AMONG THE STATES TO ELECT THE PRESIDENT BY**
2 **NATIONAL VOTE.**

3 **§3-13-1. Agreement among the states to elect the President by**
4 **national popular vote.**

5 The agreement among the states to elect the President by
6 national popular vote is enacted into law and entered into with all
7 other jurisdictions legally joining in the agreement in the form
8 substantially as set forth in this article.

9 **§3-13-2. Definitions.**

10 For purposes of this article:

11 (1) "Chief executive" shall mean the Governor of a state of
12 the United States or the Mayor of the District of Columbia.

13 (2) "Elector slate" shall mean a slate of candidates who have
14 been nominated in a state for the position of presidential elector
15 in association with a presidential slate.

16 (3) "Chief election official" shall mean the state official or
17 body that is authorized to certify the total number of popular
18 votes for each presidential slate.

19 (4) "Presidential elector" shall mean an elector for President
20 and Vice President of the United States.

21 (5) "Presidential elector certifying official" shall mean the
22 state official or body that is authorized to certify the
23 appointment of the state's presidential electors.

24 (6) "Presidential slate" shall mean a slate of two persons,

1 the first of whom has been nominated as a candidate for President
2 of the United States and the second of whom has been nominated as
3 a candidate for Vice President of the United States, or any legal
4 successors to such persons, regardless of whether both names appear
5 on the ballot presented to the voter in a particular state.

6 (7) "State" shall mean a state of the United States and the
7 District of Columbia.

8 (8) "Statewide popular election" shall mean a general election
9 in which votes are cast for presidential slates by individual
10 voters and counted on a statewide basis.

11 **§3-13-3. Membership.**

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

14 **§3-13-4. Right of the people in member states to vote for**
15 **President and Vice President.**

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

18 **§3-13-5. Manner of appointing presidential electors in member**
19 **states.**

20 (a) Prior to the time set by law for the meeting and voting by
21 the presidential electors, the chief election official of each
22 member state shall determine the number of votes for each
23 presidential slate in each state of the United States and in the
24 District of Columbia in which votes have been cast in a statewide

1 popular election and shall add such votes together to produce a
2 "national popular vote total" for each presidential slate.

3 (b) The chief election official of each member state shall
4 designate the presidential slate with the largest national popular
5 vote total as the "national popular vote winner."

6 (c) The presidential elector certifying official of each
7 member state shall certify the appointment in that official's own
8 state of the elector slate nominated in that state in association
9 with the national popular vote winner.

10 (d) At least six days before the day fixed by law for the
11 meeting and voting by the presidential electors, each member state
12 shall make a final determination of the number of popular votes
13 cast in the state for each presidential slate and shall communicate
14 an official statement of such determination within twenty-four
15 hours to the chief election official of each other member state.

16 (e) The chief election official of each member state shall
17 treat as conclusive an official statement containing the number of
18 popular votes in a state for each presidential slate made by the
19 day established by federal law for making a state's final
20 determination conclusive as to the counting of electoral votes by
21 Congress.

22 (f) In event of a tie for the national popular vote winner,
23 the presidential elector certifying official of each member state
24 shall certify the appointment of the elector slate nominated in

1 association with the presidential slate receiving the largest
2 number of popular votes within that official's own state.

3 (g) If, for any reason, the number of presidential electors
4 nominated in a member state in association with the national
5 popular vote winner is less than or greater than that state's
6 number of electoral votes, the presidential candidate on the
7 presidential slate that has been designated as the national popular
8 vote winner shall have the power to nominate the presidential
9 electors for that state and that state's presidential elector
10 certifying official shall certify the appointment of such nominees.

11 (h) The chief election official of each member state shall
12 immediately release to the public all vote counts or statements of
13 votes as they are determined or obtained.

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

18 **§3-13-6. Other provisions.**

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

23 (b) Any member state may withdraw from this agreement, except
24 that a withdrawal occurring six months or less before the end of a

1 President's term shall not become effective until a President or
2 Vice President shall have been qualified to serve the next term.

3 (c) The chief executive of each member state shall promptly
4 notify the chief executive of all other states of when this
5 agreement has been enacted and has taken effect in that official's
6 state, when the state has withdrawn from this agreement, and when
7 this agreement takes effect generally.

8 (d) This agreement shall terminate if the electoral college is
9 abolished.

10 (e) If any provision of this agreement is held invalid, the
11 remaining provisions shall not be affected.

NOTE: The purpose of this bill is to implement an agreement among the states to elect the President and Vice President by national popular vote. The bill sets forth who may be members to the agreement. The bill establishes the manner of appointing presidential electors in the member states. The bill sets forth the provisions of the agreement that the member states must enact into state law. The bill also sets forth the responsibilities of certain officials. The bill further defines terms.

This article is new; therefore, strike-throughs and underscoring have been omitted.