

CHAPTER 334

AN ACT concerning electors for president and vice-president of the United States in New Jersey and amending various parts of the statutory law and supplementing Title 19 of the Revised Statutes.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

C.19:36-4 “Agreement Among the States to Elect the President by National Popular Vote.”

1. The State of New Jersey hereby enacts into law and enters into the “Agreement Among the States to Elect the President by National Popular Vote” as set forth in this section, and substantially as follows:

a. 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.

b. 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.

c. Article III—Manner of Appointing Presidential Electors in Member States

(1) 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.

(2) 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.”

(3) 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.

(4) 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.

(5) The chief election official of each member state shall 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.

(6) In event of a tie for the national popular vote winner, the presidential elector certifying official of each member state shall 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.

(7) 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 shall certify the appointment of such nominees. The chief election official of each member state

shall immediately release to the public all vote counts or statements of votes as they are determined or obtained.

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

d. Article IV—Other Provisions

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

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

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

(4) This agreement shall terminate if the electoral college is abolished.

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

e. Article V—Definitions

For purposes of this agreement:

“Chief executive” means the Governor of a State of the United States 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;

“State” means a State of the United States and the District of Columbia; and

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

2. R.S.19:13-15 is amended to read as follows:

Presidential and vice presidential electors; certificate of nomination, acceptance.

19:13-15. In presidential years the State committee of a political party shall meet at the call of its chairman, within 1 week following the closing of the party's national convention, for the purpose of nominating candidates for electors of President and Vice-President of the United States and shall certify such nomination in a written or printed or partly written and partly printed certificate of nomination.

The certificate of nomination shall contain the name of each person nominated, his residence and post-office address, the office for which he is named, and shall also contain in not more than 3 words the designation of the party the nominating body represents. The names of the candidates for President and Vice-President for whom such electors are to vote may be included in the certificate. The State committee may also appoint a committee to whom shall be delegated the power to fill vacancies occurring prior to the election of the electors, howsoever caused, and the names and addresses of such committee shall be included in the certificate.

The certificate shall be signed by the State chairman who shall make oath before an officer authorized to administer the same that he is the State chairman of the political party and that the certificate and statements therein contained are true to the best of his knowledge and belief. A certificate that such oath has been taken shall be made and signed by the officer administering the same and indorsed upon or attached to the certificate of nomination. Inclosed upon or attached to the certificate shall be statements in writing that the persons named therein accept such nominations and the oath of allegiance prescribed in section 41:1-1 of the Revised Statutes duly taken and subscribed by each or all of them before an officer or officers authorized to take oaths in this State.

The certificate of nomination and the acceptance thereof shall be filed with the Secretary of State not later than 1 week after the nomination of such electors of President and Vice-President of the United States.

The procedure for all objections to the certificates of nomination, the determination of the validity of such objections, the correction of defective certificates, and the presentation of such certificates and any documents attached thereto, shall be the same as herein provided for direct petitions of nominations.

3. R.S.19:22-8 is amended to read as follows:

Certificates of election of presidential, vice presidential electors, certifications as elector slate.

19:22-8. In case of an election for electors of president and vice president of the United States:

a. The secretary shall prepare a general certificate of the election of such electors, and lay the same before the Governor, who shall sign his name thereto, in the presence of such secretary, which the secretary shall attest by signing his name thereto, and shall thereupon affix the seal of the State thereto, and deliver the same to the president of the college of electors of this State, on the day and at the time and place appointed for the meeting of such college;

b. The secretary shall also prepare a general certificate or certificates, as the case may be, of the electors who were not elected, and lay the same before the Governor, who shall sign his name thereto, in the presence of such secretary, which the secretary shall attest by signing his name thereto, and shall thereupon affix the seal of the State thereto, and deliver the same to the president of the college of electors of this State, on the day and at the time and place appointed for the meeting of such college;

c. Only one general certificate shall be certified as the elector slate for the purpose of electing the president and vice president of the United States. In any year in which, on July 20, the "Agreement Among the States to Elect the President by National Popular Vote" is in effect in states cumulatively possessing a majority of the electoral votes, and the State of New Jersey remains a member of that agreement, the elector slate for the purpose of electing

the president and vice president shall be certified in accordance with section 1 of this act, P.L.2007, c.334 (C.19:36-4).

4. R.S.19:36-1 is amended to read as follows:

Time and place of meeting.

19:36-1. The electors of president and vice president shall convene at the State House at Trenton, on the day appointed by congress for that purpose, at the hour of three o'clock in the afternoon of that day, and constitute an electoral college. In any year in which, on July 20, the "Agreement Among the States to Elect the President by National Popular Vote" is in effect in states cumulatively possessing a majority of the electoral votes, and the State of New Jersey remains a member of that agreement, the electors for president and vice president shall be those electors certified as the elector slate in accordance with section 1 of this act, P.L.2007, c.334 (C.19:36-4).

5. R.S.19:36-2 is amended to read as follows:

Vacancies; filling.

19:36-2. a. When a vacancy shall happen in the college of electors, or when an elector shall fail to attend, by the hour of three o'clock in the afternoon of the day fixed by congress for the meeting of the college of electors, at the place of holding such meeting, those of such electors who shall be assembled at the hour and place shall immediately proceed to fill by a majority of votes such vacancy.

b. If the members of the electoral college shall have been nominated and elected as representing different political parties, any vacancy occurring shall be filled by the elector or electors representing the same political party as the absent elector; and if there shall be no elector present representing the same political party as the absent elector, then such vacancy shall be filled by a majority of the electors present, who shall choose some person of the political party which the absent elector represents.

c. Notwithstanding the provisions of subsections a. and b. of this section, in any year in which, on July 20, the "Agreement Among the States to Elect the President by National Popular Vote" is in effect in states cumulatively possessing a majority of the electoral votes, and the State of New Jersey remains a member of that agreement, any vacancy in the college of electors shall be filled in accordance with the provisions of section 1 of this act, P.L.2007, c.334 (C.19:36-4).

6. R.S.19:36-3 is amended to read as follows:

Organization, performance of duties.

19:36-3. After choosing a president and secretary from their own body, such electors shall proceed to perform the duties required of them by the constitution and laws of the United States, and in accordance with the provisions of section 1 of this act, P.L.2007, c.334 (C.19:36-4) in any year in which, on July 20, the "Agreement Among the States to Elect the President by National Popular Vote" is in effect in states cumulatively possessing a majority of the electoral votes, and the State of New Jersey remains a member of that agreement.

7. This act shall take effect immediately.

Approved January 13, 2008.