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**SENATE BILL 5074**

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**State of Washington 66th Legislature 2019 Regular Session**

**By** Senators Kuderer, Pedersen, Hunt, Conway, Nguyen, Saldaña, Palumbo, Wellman, and Darneille; by request of Uniform Law Commission

AN ACT Relating to enactment of the uniform faithful presidential electors act; amending RCW 29A.56.320, 29A.56.340, and 29A.56.350; adding new sections to chapter 29A.56 RCW; creating new sections; and repealing RCW 29A.56.330.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. **Sec.**  SHORT TITLE. This act may be known and cited as the uniform faithful presidential electors act.

NEW SECTION. **Sec.**  DEFINITIONS. The definitions in this section apply throughout this section and sections 3 through 8 of this act unless the context clearly requires otherwise.

(1) "Cast" means accepted by the secretary of state in accordance with section 7(2) of this act.

(2) "Elector" means an individual selected as a presidential elector under RCW 29A.56.320 and sections 3 through 8 of this act.

(3) "President" means president of the United States.

(4) "Unaffiliated presidential candidate" means a candidate for president who qualifies for the general election ballot in this state by means other than nomination by a political party.

(5) "Vice president" means vice president of the United States.

NEW SECTION. **Sec.**  DESIGNATION OF STATE'S ELECTORS. For each elector position in this state, a political party contesting the position, or an unaffiliated presidential candidate, shall submit to the secretary of state the names of two qualified individuals. One of the individuals must be designated "elector nominee" and the other "alternate elector nominee." Except as otherwise provided in sections 5 through 8 of this act, this state's electors are the winning elector nominees under the laws of this state.

NEW SECTION. **Sec.**  PLEDGE. Each elector nominee and alternate elector nominee of a political party shall execute the following pledge: "If selected for the position of elector, I agree to serve and to mark my ballots for president and vice president for the nominees for those offices of the party that nominated me." Each elector nominee and alternate elector nominee of an unaffiliated presidential candidate shall execute the following pledge: "If selected for the position of elector as a nominee of an unaffiliated presidential candidate, I agree to serve and to mark my ballots for that candidate and for that candidate's vice presidential running mate." The executed pledges must accompany the submission of the corresponding names to the secretary of state.

NEW SECTION. **Sec.**  CERTIFICATION OF ELECTORS. In submitting this state's certificate of ascertainment as required by 3 U.S.C. Sec. 6, the governor shall certify this state's electors and state in the certificate that:

(1) The electors will serve as electors unless a vacancy occurs in the office of elector before the end of the meeting at which elector votes are cast, in which case a substitute elector will fill the vacancy; and

(2) If a substitute elector is appointed to fill a vacancy, the governor will submit an amended certificate of ascertainment stating the names on the final list of this state's electors.

NEW SECTION. **Sec.**  PRESIDING OFFICER—ELECTOR VACANCY. (1) The secretary of state shall preside at the meeting of electors described in section 7 of this act.

(2) The position of an elector not present to vote is vacant. The secretary of state shall appoint an individual as a substitute elector to fill a vacancy as follows:

(a) If the alternate elector is present to vote, by appointing the alternate elector for the vacant position;

(b) If the alternate elector for the vacant position is not present to vote, by appointing an elector chosen by lot from among the alternate electors present to vote who were nominated by the same political party or unaffiliated presidential candidate;

(c) If the number of alternate electors present to vote is insufficient to fill any vacant position pursuant to (a) and (b) of this subsection, by appointing any immediately available individual who is qualified to serve as an elector and chosen through nomination by and plurality vote of the remaining electors, including nomination and vote by a single elector if only one remains;

(d) If there is a tie between at least two nominees for substitute elector in a vote conducted under (c) of this subsection, by appointing an elector chosen by lot from among those nominees; or

(e) If all elector positions are vacant and cannot be filled pursuant to (a) through (d) of this subsection, by appointing a single presidential elector, with remaining vacant positions to be filled under (c) of this subsection and, if necessary, (d) of this subsection.

(3) To qualify as a substitute elector under subsection (2) of this section, an individual who has not executed the pledge required under section 4 of this act shall execute the following pledge: "I agree to serve and to mark my ballots for president and vice president consistent with the pledge of the individual to whose elector position I have succeeded."

NEW SECTION. **Sec.**  ELECTOR VOTING. (1) At the time designated for elector voting and after all vacant positions have been filled under section 6 of this act, the secretary of state shall provide each elector with a presidential and a vice presidential ballot. The elector shall mark the elector's presidential and vice presidential ballots with the elector's votes for the offices of president and vice president, respectively, along with the elector's signature and the elector's legibly printed name.

(2) Except as otherwise provided by law of this state other than sections 2 through 8 of this act, each elector shall present both completed ballots to the secretary of state, who shall examine the ballots and accept as cast all ballots of electors whose votes are consistent with their pledges executed under section 4 or 6(3) of this act. Except as otherwise provided by law of this state other than sections 2 through 8 of this act, the secretary of state may not accept and may not count either an elector's presidential or vice presidential ballot if the elector has not marked both ballots or has marked a ballot in violation of the elector's pledge.

(3) An elector who refuses to present a ballot, presents an unmarked ballot, or presents a ballot marked in violation of the elector's pledge executed under section 4 or 6(3) of this act vacates the office of elector, creating a vacant position to be filled under section 6 of this act.

(4) The secretary of state shall distribute ballots to and collect ballots from a substitute elector and repeat the process under this section of examining ballots, declaring and filling vacant positions as required, and recording appropriately completed ballots from the substituted electors, until all of this state's electoral votes have been cast and recorded.

NEW SECTION. **Sec.**  ELECTOR REPLACEMENT; ASSOCIATED CERTIFICATES. (1) After the vote of this state's electors is completed, if the final list of electors differs from any list that the governor previously included on a certificate of ascertainment prepared and transmitted under 3 U.S.C. Sec. 6, the secretary of state immediately shall prepare an amended certificate of ascertainment and transmit it to the governor for the governor's signature.

(2) The governor immediately shall deliver the signed amended certificate of ascertainment to the secretary of state and a signed duplicate original of the amended certificate of ascertainment to all individuals entitled to receive this state's certificate of ascertainment, indicating that the amended certificate of ascertainment is to be substituted for the certificate of ascertainment previously submitted.

(3) The secretary of state shall prepare a certificate of vote. The electors on the final list shall sign the certificate. The secretary of state shall process and transmit the signed certificate with the amended certificate of ascertainment under 3 U.S.C. Secs. 9, 10, and 11.

NEW SECTION. **Sec.**  UNIFORMITY OF APPLICATION AND CONSTRUCTION. In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

**Sec.**  RCW 29A.56.320 and 2013 c 11 s 56 are each amended to read as follows:

(1) In the year in which a presidential election is held, each major political party and each minor political party or independent candidate convention that nominates candidates for president and vice president of the United States shall nominate presidential electors for this state. The party or convention shall file with the secretary of state a certificate signed by the presiding officer of the convention at which the presidential electors were chosen, listing the names and addresses of the presidential electors. ((~~Each presidential elector shall execute and file with the secretary of state a pledge that, as an elector, he or she will vote for the candidates nominated by that party.~~))

(2) The names of presidential electors shall not appear on the ballots. The votes cast for candidates for president and vice president of each political party shall be counted for the candidates for presidential electors of that political party; however, if the interstate compact entitled the "agreement among the states to elect the president by national popular vote," as set forth in RCW 29A.56.300, governs the appointment of the presidential electors for a presidential election as provided in clause 9 of Article III of that compact, then the final appointment of presidential electors for that presidential election shall be in accordance with that compact.

**Sec.**  RCW 29A.56.340 and 2003 c 111 s 1427 are each amended to read as follows:

The electors of the president and vice president shall convene at the seat of government on the day fixed by federal statute, at the hour of twelve o'clock noon of that day. ((~~If there is any vacancy in the office of an elector occasioned by death, refusal to act, neglect to attend, or otherwise, the electors present shall immediately proceed to fill it by voice vote, and plurality of votes. When all of the electors have appeared and the vacancies have been filled they shall constitute the college of electors of the state of Washington, and shall proceed to perform the duties required of them by the Constitution and laws of the United States. Any elector who votes for a person or persons not nominated by the party of which he or she is an elector is subject to a civil penalty of up to one thousand dollars.~~))

**Sec.**  RCW 29A.56.350 and 2013 c 38 s 1 are each amended to read as follows:

Every presidential elector who attends at the time and place appointed, and gives his or her vote for president and vice president consistent with his or her pledge under section 4 or 6(3) of this act, is entitled to receive from this state a subsistence allowance and travel expenses pursuant to RCW 43.03.050 and 43.03.060 for each day's attendance at the meeting of the college of electors.

NEW SECTION. **Sec.**  RCW 29A.56.330 (Counting and canvassing the returns) and 2003 c 111 s 1426 & 1965 c 9 s 29.71.030 are each repealed.

NEW SECTION. **Sec.**  CODIFICATION. Sections 2 through 8 of this act are each added to chapter 29A.56 RCW.

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