

CERTIFICATION OF ENROLLMENT

SENATE BILL 5599

Chapter 264, Laws of 2009

61st Legislature
2009 Regular Session

PRESIDENTIAL ELECTION--POPULAR VOTE--STATES' AGREEMENT--WASHINGTON

EFFECTIVE DATE: 07/26/09

Passed by the Senate March 12, 2009
YEAS 28 NAYS 21

BRAD OWEN

President of the Senate

Passed by the House April 15, 2009
YEAS 52 NAYS 42

FRANK CHOPP

Speaker of the House of Representatives

Approved April 28, 2009, 4:34 p.m.

CHRISTINE GREGOIRE

Governor of the State of Washington

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SENATE BILL 5599** as passed by the Senate and the House of Representatives on the dates hereon set forth.

THOMAS HOEMANN

Secretary

FILED

April 29, 2009

**Secretary of State
State of Washington**

SENATE BILL 5599

Passed Legislature - 2009 Regular Session

State of Washington 61st Legislature 2009 Regular Session

By Senators McDermott, Oemig, Kohl-Welles, Pridemore, Marr, Brown, Tom, Kline, McAuliffe, Regala, and Shin

Read first time 01/27/09. Referred to Committee on Government Operations & Elections.

1 AN ACT Relating to approving the entry of Washington into the
2 agreement among the states to elect the president by national popular
3 vote on the same terms and conditions as entered into by the states of
4 Hawaii, Illinois, Maryland, and New Jersey; amending RCW 29A.56.320;
5 adding a new section to chapter 29A.56 RCW; and creating a new section.

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

7 NEW SECTION. **Sec. 1.** It is the intent of the legislature to enter
8 into the agreement among the states to elect the president by national
9 popular vote. This agreement is a contract between the member states.
10 As a contract, this agreement is governed by the legal principles
11 applicable to contracts. As with a contract, in order for this
12 agreement to have the force of law in a jurisdiction that wishes to
13 enter into the agreement, it must be accepted in precisely the same
14 terms that constitute the offer. Any material variance between the
15 offer and acceptance precludes the formation of a contract. Therefore,
16 the agreement among the states to elect the president by national
17 popular vote must be enacted by Washington under identical terms as
18 contained in the agreement and as enacted by Hawaii, Illinois,
19 Maryland, and New Jersey, subject to only nonmaterial changes.

1 NEW SECTION. **Sec. 2.** A new section is added to chapter 29A.56 RCW
2 to read as follows:

3 The agreement among the states to elect the president by national
4 popular vote is hereby entered into and enacted into law with all
5 jurisdictions legally joining therein, in the form substantially as
6 follows:

7 ARTICLE I - Membership

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

10 ARTICLE II - Right of the People in Member States to Vote
11 for President and Vice President

12 Each member state shall conduct a statewide popular election for
13 president and vice president of the United States.

14 ARTICLE III - Manner of Appointing Presidential Electors
15 in Member States

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

23 The chief election official of each member state shall designate
24 the presidential slate with the largest national popular vote total as
25 the "national popular vote winner."

26 The presidential elector certifying official of each member state
27 shall certify the appointment in that official's own state of the
28 elector slate nominated in that state in association with the national
29 popular vote winner.

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

7 The chief election official of each member state shall treat as
8 conclusive an official statement containing the number of popular votes
9 in a state for each presidential slate made by the day established by
10 federal law for making a state's final determination conclusive as to
11 the counting of electoral votes by congress.

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

17 If, for any reason, the number of presidential electors nominated
18 in a member state in association with the national popular vote winner
19 is less than or greater than that state's number of electoral votes,
20 the presidential candidate on the presidential slate that has been
21 designated as the national popular vote winner shall have the power to
22 nominate the presidential electors for that state and that state's
23 presidential elector certifying official shall certify the appointment
24 of such nominees.

25 The chief election official of each member state shall immediately
26 release to the public all vote counts or statements of votes as they
27 are determined or obtained.

28 This article shall govern the appointment of presidential electors
29 in each member state in any year in which this agreement is, on July
30 20, in effect in states cumulatively possessing a majority of the
31 electoral votes.

32 ARTICLE IV - Other Provisions

33 This agreement shall take effect when states cumulatively
34 possessing a majority of the electoral votes have enacted this

1 agreement in substantially the same form and the enactments by such
2 states have taken effect in each state.

3 Any member state may withdraw from this agreement, except that a
4 withdrawal occurring six months or less before the end of a president's
5 term shall not become effective until a president or vice president
6 shall have been qualified to serve the next term.

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

12 This agreement shall terminate if the electoral college is
13 abolished.

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

16 ARTICLE V - Definitions

17 For purposes of this agreement:

18 "Chief executive" shall mean the governor of a state of the United
19 States or the mayor of the District of Columbia;

20 "Elector slate" shall mean a slate of candidates who have been
21 nominated in a state for the position of presidential elector in
22 association with a presidential slate;

23 "Chief election official" shall mean the state official or body
24 that is authorized to certify the total number of popular votes for
25 each presidential slate;

26 "Presidential elector" shall mean an elector for president and vice
27 president of the United States;

28 "Presidential elector certifying official" shall mean the state
29 official or body that is authorized to certify the appointment of the
30 state's presidential electors;

31 "Presidential slate" shall mean a slate of two persons, the first
32 of whom has been nominated as a candidate for president of the United
33 States and the second of whom has been nominated as a candidate for
34 vice president of the United States, or any legal successors to such

1 persons, regardless of whether both names appear on the ballot
2 presented to the voter in a particular state;

3 "State" shall mean a state of the United States and the District of
4 Columbia; and

5 "Statewide popular election" shall mean a general election in which
6 votes are cast for presidential slates by individual voters and counted
7 on a statewide basis.

8 **Sec. 3.** RCW 29A.56.320 and 2003 c 111 s 1425 are each amended to
9 read as follows:

10 In the year in which a presidential election is held, each major
11 political party and each minor political party or independent candidate
12 convention held under chapter 29A.20 RCW that nominates candidates for
13 president and vice president of the United States shall nominate
14 presidential electors for this state. The party or convention shall
15 file with the secretary of state a certificate signed by the presiding
16 officer of the convention at which the presidential electors were
17 chosen, listing the names and addresses of the presidential electors.
18 Each presidential elector shall execute and file with the secretary of
19 state a pledge that, as an elector, he or she will vote for the
20 candidates nominated by that party. The names of presidential electors
21 shall not appear on the ballots. The votes cast for candidates for
22 president and vice president of each political party shall be counted
23 for the candidates for presidential electors of that political party;
24 however, if the interstate compact entitled the "agreement among the
25 states to elect the president by national popular vote," as set forth
26 in section 2 of this act, governs the appointment of the presidential
27 electors for a presidential election as provided in clause 9 of Article
28 III of that compact, then the final appointment of presidential
29 electors for that presidential election shall be in accordance with
30 that compact.

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