ASSEMBLY, No. 161

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:
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SYNOPSIS

Repeals the "Agreement Among the States to Elect the President by National Popular Vote."

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.

AN ACT concerning electors for president and vice-president in New Jersey, amending various part of the statutory law, and repealing section 1 of P.L.2007, c.334 (C.19:36-4).

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

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

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;**]** Deleted by amendment, P.L. , c. (pending before the Legislature as this bill).

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)**]** Deleted by amendment, P.L. , c. (pending before the Legislature as this bill).

(cf: P.L.2007, c.334, s.3)

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

19:36-1. The electors of president and vice president shall convene at the State House at Trenton, or in another State building within the State House Complex at Trenton, or the War Memorial at Trenton, on the day appointed by congress for that purpose, at the

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

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 P.L.2007, c.334 (C.19:36-4).]

(cf: P.L.2008, c.103, s.1)

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

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)] Deleted by amendment, P.L. , c. (pending before the Legislature as this bill).

(cf: P.L.2007, c.334, s.5)

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

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**]**.
(cf: P.L.2007, c.334, s.6)

5. Section 1 of P.L.2007, c.334 (C.19:36-4) is repealed.

6. This act shall take effect immediately.

STATEMENT

This bill repeals the "Agreement Among the States to Elect the President by National Popular Vote," adopted as part of the New Jersey statutes pursuant to P.L.2007, c.334, and amends various parts of the statutory law to remove any reference to the agreement.

Pursuant to the agreement, when enough states collectively possessing the majority of the electoral votes required to decide a presidential race become parties to the agreement, New Jersey's electoral votes will be required to be allocated to the presidential candidate that won the popular vote nationwide, regardless of whether that candidate won in New Jersey.

This manner of allocating electoral votes is a radical departure from the current system in New Jersey which, in the winner-take-all manner, the State's electoral votes are allocated to the candidate that won the popular vote in the State. By requiring that the State's electoral votes be allocated to the national popular vote winner instead of the candidate who won in New Jersey, the national popular vote agreement disenfranchises New Jersey voters and arguably amounts to the circumvention of the United States Constitution.