

S.F. No. 538 – National Popular Vote Compact

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S.F. 538 enacts an agreement among states to elect the president by national popular vote. This is also referred to as the national popular vote compact. Under this act, presidential electors pledge they will vote for the national popular vote winner for president. In effect, this means that the presidential candidate who wins the most popular votes nationwide will be elected president.

Section 1 [State canvassing board] makes a conforming change. If the national popular vote agreement becomes effective, the State Canvassing Board is required to abide by the requirements of the compact.

Section 2 [Agreement among the states to elect the president by national popular vote] includes the provisions of the agreement.

Article 1, starting on line 2.6, provides that any state may become a member of this agreement by enacting the agreement.

Article 2, starting on line 2.9, requires each member state to conduct a statewide popular election for president and vice president.

Article 3, starting on line 2.13, provides the manner of appointing presidential electors. The total number of popular votes for each presidential slate from each state are added together to get the national popular vote total. A final determination of the number of votes cast in each state for president must be made no later than six days prior to the meeting date for the electoral college. Each state must communicate its vote total to all other states within 24 hours of making its determination. All vote counts are made public. In case of a tie in the national popular vote total, the electors from each member state would be allocated based on the popular vote totals in that state. This article only applies in a year in which the agreement is, on July 20, in effect in states cumulatively possessing 270 (or more) electoral votes.

Article 4, starting on line 3.10, provides that the agreement between the member states only takes effect when states cumulatively possessing 270 (or more) electoral votes have enacted this

agreement. A member state may withdraw from the agreement, but a withdrawal occurring within six months of the end of a president's term is not effective until the new president is qualified to serve the next term. If the electoral college is abolished, this agreement terminates automatically.

Article 5, starting on line 3.23, provides definitions for the act.

Section 3 [Conflict of laws] provides that when the national popular vote agreement is in effect, the agreement supersedes any conflicting state law.

Background. Fifteen states and the District of Columbia have enacted laws codifying the agreement. These states represent a total of 195 electoral college votes. The states are California, Colorado, Connecticut, Delaware, Hawaii, Illinois, Maryland, Massachusetts, New Jersey, New Mexico, New York, Oregon, Rhode Island, Vermont, and Washington.