

By: Johnson

S.B. No. 95

A BILL TO BE ENTITLED

AN ACT

relating to the adoption of the Agreement Among the States to Elect the President by National Popular Vote.

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

SECTION 1. Title 11, Election Code, is amended by adding Chapter 193 to read as follows:

CHAPTER 193. AGREEMENT AMONG THE STATES TO ELECT THE PRESIDENT BY NATIONAL POPULAR VOTE

Sec. 193.001. EXECUTION OF INTERSTATE COMPACT. This state enters into an agreement with all other states legally joining in the agreement in substantially the following form:

AGREEMENT AMONG THE STATES TO ELECT THE PRESIDENT BY NATIONAL POPULAR VOTE

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.

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.

ARTICLE III. MANNER OF APPOINTING PRESIDENTIAL ELECTORS IN MEMBER STATES

A. Prior to the time set by law for the meeting and voting by the presidential electors, the chief election official of each

1 member state shall determine the number of votes for each  
2 presidential slate in each State of the United States and in the  
3 District of Columbia in which votes have been cast in a statewide  
4 popular election and shall add such votes together to produce a  
5 "national popular vote total" for each presidential slate.

6 B. The chief election official of each member state shall  
7 designate the presidential slate with the largest national popular  
8 vote total as the "national popular vote winner."

9 C. The presidential elector certifying official of each  
10 member state shall certify the appointment in that official's own  
11 state of the elector slate nominated in that state in association  
12 with the national popular vote winner.

13 D. At least six days before the day fixed by law for the  
14 meeting and voting by the presidential electors, each member state  
15 shall make a final determination of the number of popular votes cast  
16 in the state for each presidential slate and shall communicate an  
17 official statement of such determination within 24 hours to the  
18 chief election official of each other member state.

19 E. The chief election official of each member state shall  
20 treat as conclusive an official statement containing the number of  
21 popular votes in a state for each presidential slate made by the day  
22 established by federal law for making a state's final determination  
23 conclusive as to the counting of electoral votes by Congress.

24 F. In event of a tie for the national popular vote winner,  
25 the presidential elector certifying official of each member state  
26 shall certify the appointment of the elector slate nominated in  
27 association with the presidential slate receiving the largest

1 number of popular votes within that official's own state.

2 G. If, for any reason, the number of presidential electors  
3 nominated in a member state in association with the national  
4 popular vote winner is less than or greater than that state's number  
5 of electoral votes, the presidential candidate on the presidential  
6 slate that has been designated as the national popular vote winner  
7 shall have the power to nominate the presidential electors for that  
8 state and that state's presidential elector certifying official  
9 shall certify the appointment of such nominees.

10 H. The chief election official of each member state shall  
11 immediately release to the public all vote counts or statements of  
12 votes as they are determined or obtained.

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

17 ARTICLE IV. OTHER PROVISIONS

18 A. This agreement shall take effect when states  
19 cumulatively possessing a majority of the electoral votes have  
20 enacted this agreement in substantially the same form and the  
21 enactments by such states have taken effect in each state.

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

26 C. The chief executive of each member state shall promptly  
27 notify the chief executive of all other states of when this

1 agreement has been enacted and has taken effect in that official's  
2 state, when the state has withdrawn from this agreement, and when  
3 this agreement takes effect generally.

4 D. This agreement shall terminate if the electoral college  
5 is abolished.

6 E. If any provision of this agreement is held invalid, the  
7 remaining provisions shall not be affected.

8 ARTICLE V. DEFINITIONS

9 For purposes of this agreement,

10 A. "chief election official" shall mean the state official  
11 or body that is authorized to certify the total number of popular  
12 votes for each presidential slate;

13 B. "chief executive" shall mean the Governor of a State of  
14 the United States or the Mayor of the District of Columbia;

15 C. "elector slate" shall mean a slate of candidates who have  
16 been nominated in a state for the position of presidential elector  
17 in association with a presidential slate;

18 D. "presidential elector" shall mean an elector for  
19 President and Vice President of the United States;

20 E. "presidential elector certifying official" shall mean  
21 the state official or body that is authorized to certify the  
22 appointment of the state's presidential electors;

23 F. "presidential slate" shall mean a slate of two persons,  
24 the first of whom has been nominated as a candidate for President of  
25 the United States and the second of whom has been nominated as a  
26 candidate for Vice President of the United States, or any legal  
27 successors to such persons, regardless of whether both names appear

1 on the ballot presented to the voter in a particular state;

2 G. "state" shall mean a State of the United States and the  
3 District of Columbia; and

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

7 Sec. 193.002. EFFECT OF TEXAS LAWS. If the laws of this  
8 state conflict with the compact, the compact controls, except that  
9 in the event of a conflict between the compact and the Texas  
10 Constitution, as determined by the courts of this state, the Texas  
11 Constitution controls.

12 SECTION 2. This Act takes effect September 1, 2023.