

MAINE STATE LEGISLATURE

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131st MAINE LEGISLATURE

FIRST SPECIAL SESSION-2023

Legislative Document

No. 1578

H.P. 1023

House of Representatives, April 11, 2023

**An Act to Adopt an Interstate Compact to Elect the President of the
United States by National Popular Vote**

Reference to the Committee on Veterans and Legal Affairs suggested and ordered printed.

A handwritten signature in cursive script that reads "R. B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative BELL of Yarmouth.
Cosponsored by Representative ZAGER of Portland, Senator POULIOT of Kennebec and
Representatives: JAUCH of Topsham, SUPICA of Bangor, Speaker TALBOT ROSS of
Portland, TERRY of Gorham, Senators: DAUGHTRY of Cumberland, President JACKSON of
Aroostook, VITELLI of Sagadahoc.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 21-A MRSA §723-A, sub-§1, ¶A**, as enacted by IB 2015, c. 3, §5, is
3 amended to read:

4 A. "Batch elimination" means the simultaneous ~~defeat~~ removal from consideration of
5 multiple candidates for whom it is mathematically impossible to be elected.

6 **Sec. 2. 21-A MRSA §723-A, sub-§1, ¶C**, as enacted by IB 2015, c. 3, §5, is
7 amended to read:

8 C. "Continuing candidate" means a candidate who has not been ~~defeated~~ removed from
9 consideration.

10 **Sec. 3. 21-A MRSA §723-A, sub-§2**, as amended by PL 2019, c. 320, §12, is
11 further amended to read:

12 **2. Procedures.** Except as provided in subsections 3 ~~and~~ 4 ~~and~~ 7, the following
13 procedures are used to determine the winner of an election determined by ranked-choice
14 voting. The ranked-choice voting count must proceed in rounds. In each round, the number
15 of votes for each continuing candidate must be counted. Each continuing ballot counts as
16 one vote for its highest-ranked continuing candidate for that round. Exhausted ballots are
17 not counted for any continuing candidate. The round then ends with one of the following
18 2 potential outcomes.

19 A. If there are 2 or fewer continuing candidates, the candidate with the most votes is
20 declared the winner of the election.

21 B. If there are more than 2 continuing candidates, the last-place candidate is ~~defeated~~
22 removed from consideration and a new round begins.

23 **Sec. 4. 21-A MRSA §723-A, sub-§3**, as amended by PL 2019, c. 320, §13, is
24 further amended to read:

25 **3. Ties.** A tie under this section between last-place candidates in any round must be
26 decided by lot, and the candidate chosen by lot is ~~defeated~~ removed from consideration.
27 The result of the tie resolution must be recorded and reused in the event of a recount. A tie
28 between candidates for the most votes in the final round must be decided as provided in
29 section 732.

30 **Sec. 5. 21-A MRSA §723-A, sub-§4, ¶B**, as amended by PL 2019, c. 320, §14, is
31 further amended to read:

32 B. Two or more candidates may be ~~defeated~~ removed from consideration
33 simultaneously by batch elimination in any round of counting.

34 **Sec. 6. 21-A MRSA §723-A, sub-§7** is enacted to read:

35 **7. Procedures for using ranked-choice voting when National Popular Vote for**
36 **President Act governs.** In a presidential election determined by ranked-choice voting
37 when the National Popular Vote for President Act governs the appointment of presidential
38 electors, the following procedures are used to determine the presidential vote count, except
39 that, notwithstanding subsection 3, a statewide tie between the candidates in the final round
40 may not be resolved and the provisions of subsection 4 regarding the modification of the
41 ballot and count are permitted.

1 A. As used in this subsection, unless the context otherwise indicates, the following
2 terms have the following meanings.

3 (1) "Continuing presidential slate" means a presidential slate that has not been
4 removed from consideration.

5 (2) "Final round" means the round that ends with the result described in paragraph
6 C, subparagraph (1).

7 B. If no presidential slate initially receives more than 50% of the first-choice votes,
8 the ranked-choice voting count must be conducted under the supervision of the
9 Secretary of State for successive rounds.

10 C. The ranked-choice voting count must proceed in rounds. In each round, the number
11 of votes for each continuing candidate presidential slate must be counted. Each
12 continuing ballot counts as one vote for its highest-ranked continuing presidential slate
13 for that round. Exhausted ballots are not counted for any continuing presidential slate.

14 The round then ends with one of the following 2 potential outcomes.

15 (1) If there are 2 or fewer continuing presidential slates, the vote counts of those
16 continuing presidential slates are recorded as the results of the presidential vote
17 counting process and no further rounds may occur.

18 (2) If there are more than 2 continuing presidential slates, the last-place presidential
19 slate is removed from consideration and a new round begins.

20 **Sec. 7. 21-A MRSA §801, sub-§2**, as enacted by PL 2019, c. 539, §4, is amended
21 to read:

22 **2. Counting of ballots.** Counting of ballots for candidates for President must proceed
23 according to the ranked-choice method of counting votes described in section 723-A, with
24 the exception of subsection 7. If the National Popular Vote for President Act governs the
25 manner of appointing presidential electors, counting of ballots must proceed according to
26 the ranked-choice method of counting votes as described in section 723-A, subsection 7.

27 **Sec. 8. 21-A MRSA §803**, as amended by PL 2021, c. 273, §29, is repealed and the
28 following enacted in its place:

29 **§803. Duties of Governor**

30 **1. Duties.** Except when the National Popular Vote for President Act governs the
31 appointment of presidential electors, as soon as possible after the presidential electors are
32 chosen, the Governor shall send a certificate of the determination of the electors to the
33 Archivist of the United States under state seal. The certificate must state the names of the
34 electors and the number of votes each candidate for President received statewide and for
35 each congressional district in the final round of tabulation under section 723-A. The
36 Governor shall deliver 6 certificates under state seal to the electors before the day
37 established by federal law for the meeting of electors.

38 **2. Duties when National Popular Vote for President Act governs.** Notwithstanding
39 subsection 1, when the National Popular Vote for President Act governs the appointment
40 of presidential electors, the Governor has the following duties.

41 A. As soon as possible after the canvass of the presidential count under section 723-A,
42 subsection 7 is determined, the Governor shall send a certificate of determination

1 containing the statewide number of votes for each presidential slate that received votes
2 in the final round to the Archivist of the United States under state seal. This final round
3 vote is deemed to be the determination of the vote in the State for the purposes of
4 section 1304.

5 As used in this paragraph, "final round" means the round that ends with the result
6 described in section 723-A, subsection 7, paragraph C, subparagraph (1).

7 B. As soon as possible after the electors are appointed as provided in the National
8 Popular Vote for President Act, the Governor shall send a certificate of determination
9 of the electors containing the names of the electors to the Archivist of the United States
10 under state seal. This certificate may be included with the certificate required pursuant
11 to paragraph A if this certificate is available at the time the certificate required by
12 paragraph A is required to be issued.

13 C. No later than the day before the day established by federal law for the meeting of
14 electors, the Governor shall deliver 6 certificates under state seal to the electors
15 appointed as provided in the National Popular Vote for President Act.

16 **Sec. 9. 21-A MRSA §805, sub-§2**, as amended by PL 2019, c. 539, §5, is further
17 amended to read:

18 **2. Presidential electors.** The Except as provided in subsection 2-A, the presidential
19 electors at large shall cast their ballots for the presidential and vice-presidential candidates
20 who received the largest number of votes in the State according to the ranked-choice
21 method of counting votes described in section 723-A. The presidential electors of each
22 congressional district shall cast their ballots for the presidential and vice-presidential
23 candidates who received the largest number of votes in each respective congressional
24 district according to the ranked-choice method of counting votes described in section
25 723-A.

26 **Sec. 10. 21-A MRSA §805, sub-§2-A** is enacted to read:

27 **2-A. Presidential electors when National Popular Vote for President Act governs.**
28 Notwithstanding subsection 2, when the National Popular Vote for President Act governs
29 the appointment of presidential electors, the presidential electors shall cast their ballots for
30 the presidential slate designated as the national popular vote winner pursuant to section
31 1304.

32 **Sec. 11. 21-A MRSA c. 17** is enacted to read:

33 **CHAPTER 17**

34 **ELECTION OF THE PRESIDENT OF THE UNITED STATES BY POPULAR**
35 **VOTE**

36 **SUBCHAPTER 1**

37 **INTERSTATE COMPACT: AGREEMENT AMONG THE STATES TO ELECT**
38 **THE PRESIDENT OF THE UNITED STATES BY NATIONAL POPULAR VOTE**

1 **§1301. Short title**

2 This subchapter may be known and cited as the National Popular Vote for President
3 Act.

4 **§1302. Membership - Article 1**

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

7 **§1303. Right of people in member states to vote for President and Vice President -**
8 **Article 2**

9 Each member state shall conduct a statewide popular election for President and Vice
10 President of the United States.

11 **§1304. Manner of appointing presidential electors in member states - Article 3**

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

17 The chief election official of each member state shall designate the presidential slate
18 with the largest national popular vote total as the national popular vote winner.

19 The presidential elector certifying official of each member state shall certify the
20 appointment in that official's own state of the elector slate nominated in that state in
21 association with the national popular vote winner.

22 At least 6 days before the day fixed by law for the meeting of and voting by the
23 presidential electors, each member state shall make a final determination of the number of
24 popular votes cast in the state for each presidential slate and shall communicate an official
25 statement of such determination within 24 hours to the chief election official of each other
26 member state.

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

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

35 If, for any reason, the number of presidential electors nominated in a member state in
36 association with the national popular vote winner is less than or greater than that state's
37 number of electoral votes, the presidential candidate on the presidential slate that has been
38 designated as the national popular vote winner may nominate the presidential electors for
39 that state and that state's presidential elector certifying official shall certify the appointment
40 of such nominees.

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

1 This article governs the appointment of presidential electors in each member state in
2 any year in which this agreement is, on July 20th, in effect in states cumulatively possessing
3 a majority of the electoral votes.

4 **§1305. Contingent effective date; withdrawal; notification; severability - Article 4**

5 This agreement takes effect when states cumulatively possessing a majority of the
6 electoral votes have enacted this agreement in substantially the same form and the
7 enactments by such states have taken effect in each state.

8 Any member state may withdraw from this agreement, except that a withdrawal
9 occurring 6 months or less before the end of a President's term does not become effective
10 until a President or Vice President has been qualified to serve the next term.

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

15 This agreement terminates if the electoral college is abolished.

16 If any provision of this agreement is held invalid, the remaining provisions are not
17 affected.

18 **§1306. Definitions - Article 5**

19 As used in this agreement, the following terms have the following meanings.

20 **1. Chief election official.** "Chief election official" means the state official or body
21 that is authorized to certify the total number of popular votes for each presidential slate.

22 **2. Chief executive.** "Chief executive" means the governor of a state of the United
23 States or the Mayor of the District of Columbia.

24 **3. Elector slate.** "Elector slate" means a slate of candidates who have been nominated
25 in a state for the position of presidential elector in association with a presidential slate.

26 **4. Presidential elector.** "Presidential elector" means an elector for President and Vice
27 President of the United States.

28 **5. Presidential elector certifying official.** "Presidential elector certifying official"
29 means the state official or body that is authorized to certify the appointment of the state's
30 presidential electors.

31 **6. Presidential slate.** "Presidential slate" means a slate of 2 persons, the first of whom
32 has been nominated as a candidate for President of the United States and the 2nd of whom
33 has been nominated as a candidate for Vice President of the United States, or any legal
34 successors to such persons, regardless of whether both names appear on the ballot presented
35 to the voters in a particular state.

36 **7. State.** "State" means a state of the United States and the District of Columbia.

37 **8. Statewide popular election.** "Statewide popular election" means a general election
38 in which votes are cast for presidential slates by individual voters and counted on a
39 statewide basis.

40 **§1307. Conflicts**

1 To clarify the process under ranked-choice voting regarding candidates, the bill
2 replaces the word "defeated" with the term "removed from consideration."

3 The National Popular Vote for President Act is only in effect when the number of
4 electoral votes held by the participating states equals a majority of the overall total number
5 of electoral votes, so that if that number falls below a majority, due to a state withdrawing
6 as a member of the compact, the National Popular Vote for President Act will not govern
7 subsequent presidential elections. The Secretary of State is required to provide notice of
8 both when the Act is in effect and when it has been discontinued.