

H. B. 3107

(By Delegates Longstreth, Manypenny, Barker, Martin, Moore, Evans, Fleischauer, Rowan, D. Poling, Ellem, Rodighiero and Boggs)

[Introduced February 11, 2011; referred to the Committee on the Judiciary.]

A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §3-13-1, §3-13-2, §3-13-3, §3-13-4, §3-13-5 and §3-13-6, all relating to implementing an agreement among the states to elect the President and Vice President by national popular vote; setting forth who may be members to the agreement; establishing the manner of appointing presidential electors in the member states; setting forth the provisions of the agreement that the member states must enact into state law; setting forth the responsibilities of certain officials; and defining terms.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new article, designated §3-13-1, §3-13-2, §3-13-3, §3-13-4, §3-13-5 and §3-13-6, all to read as follows:

**ARTICLE 13. AGREEMENT AMONG THE STATES TO ELECT THE PRESIDENT BY NATIONAL VOTE.**

1 §3-13-1. Agreement among the states to elect the President by  
2 national popular vote.

3 The agreement among the states to elect the President by  
4 national popular vote is enacted into law and entered into with all  
5 other jurisdictions legally joining in the agreement in the form  
6 substantially as set forth in this article.

7 §3-13-2. Definitions.

8 For purposes of this article:

9 (1) "Chief executive" shall mean the Governor of a state of  
10 the United States or the Mayor of the District of Columbia.

11 (2) "Elector slate" shall mean a slate of candidates who have  
12 been nominated in a state for the position of presidential elector  
13 in association with a presidential slate.

14 (3) "Chief election official" shall mean the state official or  
15 body that is authorized to certify the total number of popular  
16 votes for each presidential slate.

17 (4) "Presidential elector" shall mean an elector for President  
18 and Vice President of the United States.

19 (5) "Presidential elector certifying official" shall mean the  
20 state official or body that is authorized to certify the  
21 appointment of the state's presidential electors.

22 (6) "Presidential slate" shall mean a slate of two persons,  
23 the first of whom has been nominated as a candidate for President  
24 of the United States and the second of whom has been nominated as  
25 a candidate for Vice President of the United States, or any legal

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

3 (7) "State" shall mean a state of the United States and the  
4 District of Columbia.

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

8 **§3-13-3. Membership.**

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

11 **§3-13-4. Right of the people in member states to vote for**

12 **President and Vice President.**

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

15 **§3-13-5. Manner of appointing presidential electors in member**  
16 **states.**

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

24 (b) The chief election official of each member state shall

1 designate the presidential slate with the largest national popular  
2 vote total as the "national popular vote winner."

3 (c) The presidential elector certifying official of each  
4 member state shall certify the appointment in that official's own  
5 state of the elector slate nominated in that state in association  
6 with the national popular vote winner.

7 (d) At least six days before the day fixed by law for the  
8 meeting and voting by the presidential electors, each member state  
9 shall make a final determination of the number of popular votes  
10 cast in the state for each presidential slate and shall communicate  
11 an official statement of such determination within twenty-four  
12 hours to the chief election official of each other member state.

13 (e) The chief election official of each member state shall  
14 treat as conclusive an official statement containing the number of  
15 popular votes in a state for each presidential slate made by the  
16 day established by federal law for making a state's final  
17 determination conclusive as to the counting of electoral votes by  
18 Congress.

19 (f) In event of a tie for the national popular vote winner,  
20 the presidential elector certifying official of each member state  
21 shall certify the appointment of the elector slate nominated in  
22 association with the presidential slate receiving the largest  
23 number of popular votes within that official's own state.

24 (g) If, for any reason, the number of presidential electors  
25 nominated in a member state in association with the national

1 popular vote winner is less than or greater than that state's  
2 number of electoral votes, the presidential candidate on the  
3 presidential slate that has been designated as the national popular  
4 vote winner shall have the power to nominate the presidential  
5 electors for that state and that state's presidential elector  
6 certifying official shall certify the appointment of such nominees.

7 (h) The chief election official of each member state shall  
8 immediately release to the public all vote counts or statements of  
9 votes as they are determined or obtained.

10 (i) This article shall govern the appointment of presidential  
11 electors in each member state in any year in which this agreement  
12 is, on July 20, in effect in states cumulatively possessing a  
13 majority of the electoral votes.

14 **§3-13-6. Other provisions.**

15 (a) This agreement shall take effect when states cumulatively  
16 possessing a majority of the electoral votes have enacted this  
17 agreement in substantially the same form and the enactments by such  
18 states have taken effect in each state.

19 (b) Any member state may withdraw from this agreement, except  
20 that a withdrawal occurring six months or less before the end of a  
21 president's term shall not become effective until a president or  
22 vice president shall have been qualified to serve the next term.

23 (c) The chief executive of each member state shall promptly  
24 notify the chief executive of all other states of when this  
25 agreement has been enacted and has taken effect in that official's

1 state, when the state has withdrawn from this agreement, and when  
2 this agreement takes effect generally.

3 (d) This agreement shall terminate if the electoral college is  
4 abolished.

5 (e) If any provision of this agreement is held invalid, the  
6 remaining provisions shall not be affected.

NOTE: The purpose of this bill is to implement an agreement among the states to elect the President and Vice President by national popular vote. The bill sets forth who may be members to the agreement. The bill establishes the manner of appointing presidential electors in the member states. The bill sets forth the provisions of the agreement that the member states must enact into state law. The bill also sets forth the responsibilities of certain officials. The bill further defines terms.

This article is new; therefore, it has been completely underscored.