

**A 4422** Dinowitz (MS) Same as [S 3149](#) GRIFFO  
Election Law  
TITLE....Relates to enacting the agreement among the  
states to elect the president by national popular vote  
02/05/13 referred to election law

**S3149** GRIFFO Same as [A 4422](#) Dinowitz (MS)  
ON FILE: 02/01/13 Election Law  
TITLE....Relates to enacting the agreement among the  
states to elect the president by national popular vote  
01/30/13 REFERRED TO ELECTIONS

DINOWITZ, THIELE, MILLMAN, GALEF, LAVINE, KAVANAGH, GOTTFRIED, COOK, JAFFEE, TITUS, ENGLEBRIGHT, PERRY, O'DONNELL, PAULIN, LIFTON, CAMARA, ROBINSON, ORTIZ, RIVERA, RAMOS, QUART, BARRON, BOYLAND, BROOK-KRASNY, COLTON, CASTRO, BRENNAN, SCHIMEL, GIBSON, HOOPER, LUPARDO, GUNTHER, ROSENTHAL, WEPRIN, MILLER, MAGNARELLI, STEVENSON, RODRIGUEZ, GOLDFEDER, ZEBROWSKI, STECK, SEPULVEDA, STIRPE, MOSLEY; M-S: Abinanti, Arroyo, Brindisi, Crespo, Crouch, Cymbrowitz, DenDekker, Duprey, Espinal, Fahy, Glick, Hawley, Heastie, Jacobs, Lentol, P. Lopez, Magee, Maisel, Markey, McDonald, McDonough, Moya, Oaks, Ryan, Scarborough, Simanowitz, Skartados, Sweeney, Titone, Weinstein, Weisenberg

Add Art 12 Title IV SS12-400 & 12-402, El L

Enacts the agreement among the states to elect the president by national popular vote; creates a compact between the states and the District of Columbia; defines terms.

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# STATE OF NEW YORK

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4422

2013-2014 Regular Sessions

## IN ASSEMBLY

February 5, 2013

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Introduced by M. of A. DINOWITZ, THIELE, MILLMAN, GALEF, LAVINE, KAVANAGH, GOTTFRIED, COOK, JAFFEE, TITUS, ENGLEBRIGHT, PERRY, O'DONNELL, PAULIN, LIFTON, CAMARA, ROBINSON, ORTIZ, RIVERA, RAMOS, QUART, BARRON, BOYLAND, BROOK-KRASNY, COLTON, CASTRO, BRENNAN, SCHIMEL, GIBSON, HOOPER, LUPARDO, GUNTHER, ROSENTHAL, WEPRIN, MILLER, MAGNARELLI, STEVENSON, RODRIGUEZ, GOLDFEDER, ZEBROWSKI, STECK, SEPULVEDA -- Multi-Sponsored by -- M. of A. ABINANTI, ARROYO, BRINDISI, CRESPO, CROUCH, CYMBROWITZ, DenDEKKER, DUPREY, ESPINAL, GLICK, HAWLEY, HEASTIE, JACOBS, LENTOL, P. LOPEZ, MAGEE, MAISEL, MARKEY, McDONALD, McDONOUGH, MOYA, OAKS, RYAN, SCARBOROUGH, SIMANOWITZ, SKARTADOS, SWEENEY, TITONE, WEINSTEIN, WEISENBERG -- read once and referred to the Committee on Election Law

AN ACT to amend the election law, in relation to enacting the agreement among the states to elect the president by national popular vote

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Article 12 of the election law is amended by adding a new  
2 title 4 to read as follows:

3 TITLE IV

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

6 Section 12-400. Short title.

7 12-402. Adoption and text of compact.

8 § 12-400. Short title. This title shall be known and may be cited as  
9 "agreement among the states to elect the president by national popular  
10 vote".

11 § 12-402. Adoption and text of compact. The agreement among the states  
12 to elect the president by national popular vote is adopted and enacted  
13 into law as follows:

14 ARTICLE I

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets  
[-] is old law to be omitted.

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1 Membership. Any state of the United States and the District of Colum-  
2 bia may become a member of this agreement by enacting this agreement.

3 ARTICLE II

4 Right of the people in member states to vote for president and vice  
5 president. Each member state shall conduct a statewide popular election  
6 for president and vice president of the United States.

7 ARTICLE III

8 Manner of appointing presidential electors in member states. 1. Prior  
9 to the time set by law for the meeting and voting by the presidential  
10 electors, the chief election official of each member state shall deter-  
11 mine the number of votes for each presidential slate in each state of  
12 the United States and in the District of Columbia in which votes have  
13 been cast in a statewide popular election and shall add such votes  
14 together to produce a "national popular vote total" for each presiden-  
15 tial slate.

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

19 3. The presidential elector certifying official of each member state  
20 shall certify the appointment in that official's own state of the elec-  
21 tor slate nominated in that state in association with the national popu-  
22 lar vote winner.

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

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

34 6. In event of a tie for the national popular vote winner, the presi-  
35 dential elector certifying official of each member state shall certify  
36 the appointment of the elector slate nominated in association with the  
37 presidential slate receiving the largest number of popular votes within  
38 that official's own state.

39 7. If, for any reason, the number of presidential electors nominated  
40 in a member state in association with the national popular vote winner  
41 is less than or greater than that state's number of electoral votes, the  
42 presidential candidate on the presidential slate that has been desig-  
43 nated as the national popular vote winner shall have the power to nomi-  
44 nate the presidential electors for that state and that state's presiden-  
45 tial elector certifying official shall certify the appointment of such  
46 nominees.

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

50 9. This article shall govern the appointment of presidential electors  
51 in each member state in any year in which this agreement is, on July  
52 twentieth, in effect in states cumulatively possessing a majority of the  
53 electoral votes.

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1 ARTICLE IV

2 Other provisions. This agreement shall take effect when states cumula-  
3 tively possessing a majority of the electoral votes have enacted this  
4 agreement in substantially the same form and the enactments by such  
5 states have taken effect in each state. Any member state may withdraw  
6 from this agreement, except that a withdrawal occurring six months or  
7 less before the end of a president's term shall not become effective  
8 until a president or vice president shall have been qualified to serve  
9 the next term. The chief executive of each member state shall promptly  
10 notify the chief executive of all other states of when this agreement  
11 has been enacted and has taken effect in that official's state, when the  
12 state has withdrawn from this agreement, and when this agreement takes  
13 effect generally.

14 This agreement shall terminate if the electoral college is abolished.  
15 If any provision of this agreement is held invalid, the remaining  
16 provisions shall not be affected.

17 ARTICLE V

18 Definitions. For purposes of this agreement:

19 1. "Chief executive" shall mean the governor of a state of the United  
20 States or the mayor of the District of Columbia.

21 2. "Elector slate" shall mean a slate of candidates who have been  
22 nominated in a state for the position of presidential elector in associ-  
23 ation with a presidential slate.

24 3. "Chief election official" shall mean the state official or body  
25 that is authorized to certify the total number of popular votes for each  
26 presidential slate.

27 4. "Presidential elector" shall mean an elector for president and vice  
28 president of the United States.

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

32 6. "Presidential slate" shall mean a slate of two persons, the first  
33 of whom has been nominated as a candidate for president of the United  
34 States and the second of whom has been nominated as a candidate for vice  
35 president of the United States, or any legal successors to such persons,  
36 regardless of whether both names appear on the ballot presented to the  
37 voter in a particular state.

38 7. "State" shall mean a state of the United States and the District of  
39 Columbia.

40 8. "Statewide popular election" shall mean a general election in which  
41 votes are cast for presidential slates by individual voters and counted  
42 on a statewide basis.

43 § 2. This act shall take effect immediately; provided that the commis-  
44 sioner of the state board of elections shall notify the legislative bill  
45 drafting commission upon the occurrence of the adoption of the agreement  
46 among the states to elect the president by national popular vote by two  
47 or more states in order that the commission may maintain an accurate and  
48 timely effective data base of the official text of the laws of the state  
49 of New York in furtherance of effecting the provisions of section 44 of  
50 the legislative law and section 70-b of the public officers law.

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**NEW YORK STATE ASSEMBLY**  
**MEMORANDUM IN SUPPORT OF LEGISLATION**  
**submitted in accordance with Assembly Rule III, Sec 1(f)**

BILL NUMBER: A4422

SPONSOR: Dinowitz (MS)

TITLE OF BILL: An act to amend the election law, in relation to  
enacting the agreement among the states to elect the president by  
national popular vote

PURPOSE OR GENERAL IDEA OF BILL:

To make an interstate agreement among member states to award their elec-  
toral votes for president to the candidate that receives a majority of  
the popular vote cast within all 50 states including the District of  
Columbia, These participating states will award their electoral votes  
together in an effort to reflect the will of the majority of voters who  
participated in the election.

## SUMMARY OF SPECIFIC PROVISIONS:

See Bill

## JUSTIFICATION:

Article II of the United States Constitution explicitly outlines the manner in which the President and Vice President are elected saying that "Each State shall appoint, in such a manner as the Legislature thereof may direct, a Number of Electors, equal to the whole numbers of Senators and Representatives to which the State may be entitled to in the Congress..."

21st Century politics has created a system in which candidates are provided with voting histories, demographic analysis, and scores of other types of information that shapes how campaign time and money is spent. Certain states may be deemed "Red", or historically in support of Republican candidates or "Blue", meaning historically in support of Democratic candidates. In addition, candidates for President have spent a majority of their time campaigning in "battleground states" that research has shown to be evenly divided and a potential victory for either candidate, while depending on the votes from "Red" or "Blue" states without working to earn them.

Also in the Presidential elections of 2000 and 2004, the winners were selected based upon the outcomes of elections in one state or less because of their weight in the Electoral College. The "winner take all" system is no longer adequate, and the voice of millions of Americans should not be concentrated into the outcome of one state's election.

This interstate agreement would send a clear message to Presidential candidates that no citizens' vote can be expected based upon party affiliation alone. An office that is representing all 50 states should be filled by a candidate who campaigned in all 50 states to gain the knowledge and support of all citizens.

A federal constitutional amendment (requiring two-thirds of Congress and 38 states) is not required to change the state laws that currently specify use of the winner-take-all rule. Nationwide popular election of the President can be implemented if the states join together to pass identical state laws awarding all of their electoral votes to the presidential candidate receiving the most popular votes in all 50 states and the District of Columbia. The proposed state legislation would come into effect only when it has been enacted, in identical form, by enough states to elect a President—that is, by states possessing a majority (270) of the 538 electoral votes.

## PRIOR LEGISLATIVE HISTORY:

2011-12- A.489- Advanced to 3rd Reading Cal.15/S.4208- Passed Senate  
2009-10- A.1580-A- Advanced to 3rd Reading cal. 508/S.2286-Passed Senate

2007-08- A.3883-A- Advanced to 3rd Reading cal. 972/S.7582- Referred to Elections

2005-06- A.11563- Referred to Election Law/A.12102- Referred to Election Law

## FISCAL IMPLICATIONS:

None

**EFFECTIVE DATE:**

This act shall take effect immediately; provided that the commissioner of the State Board of Elections shall notify the Legislative Bill Drafting Commission upon the concurrence of the adoption of the agreement among the states to elect the president by national popular vote by two or more states in order that the commission may maintain an accurate and timely effective data base of the official text of the laws of the state of New York in furtherance of effecting the provisions of section 44 of the legislative law and section 70-b of the public officers law.