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SENATE BILL NO. 824

Offered January 14, 2009

Prefiled December 10, 2008

A BILL to amend and reenact § 24.2-203 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 2 of Title 24.2 an article numbered 2.1, consisting of a section numbered 24.2-209.1, relating to the presidential electors and the National Popular Vote Compact.

Patron—Miller, Y.B.

Referred to Committee on Privileges and Elections

Be it enacted by the General Assembly of Virginia:

1. That § 24.2-203 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Chapter 2 of Title 24.2 an article numbered 2.1, consisting of a section numbered 24.2-209.1 as follows:

§ 24.2-203. Convening of electors; filling vacancies; how electors required to vote.

The electors shall convene at the capitol building in the capital city of the Commonwealth at 12:00 noon on the first Monday after the second Wednesday in December following their election. Those electors present shall immediately fill, by ballot and by a plurality of votes, any vacancy due to death, failure or inability to attend, refusal to act, or other cause. When all electors are present, or the vacancies have been filled, they shall proceed to perform the duties required of such electors by the Constitution and laws of Virginia and the United States.

Electors selected by the state convention of any political party as defined in § 24.2-101 shall be required to vote for the nominees of the national convention to which the state convention elects delegates. Electors named in any petition of qualified voters as provided in § 24.2-543 shall be required to vote for the persons named for President and for Vice President in the petition.

Article 2.1.

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

§ 24.2-209.1. Agreement Among the States to Elect the President by National Popular Vote; form of compact.

The Agreement Among the States to Elect the President by National Popular Vote is enacted into law and entered into with all other jurisdictions legally joining therein in the form substantially as follows:

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

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

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

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

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

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

In event of a tie for the national popular vote winner, the presidential elector certifying official of each member state shall certify the appointment of the elector slate nominated in association with the

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59 *presidential slate receiving the largest number of popular votes within that official's own state.*

60 *If, for any reason, the number of presidential electors nominated in a member state in association*  
61 *with the national popular vote winner is less than or greater than that state's number of electoral votes,*  
62 *the presidential candidate on the presidential slate that has been designated as the national popular*  
63 *vote winner shall have the power to nominate the presidential electors for that state and that state's*  
64 *presidential elector certifying official shall certify the appointment of such nominees.*

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

67 *This article shall govern the appointment of presidential electors in each member state in any year in*  
68 *which this agreement is, on July 20, in effect in states cumulatively possessing a majority of the*  
69 *electoral votes.*

#### 70 *ARTICLE IV. Other Provisions*

71 *This agreement shall take effect when states cumulatively possessing a majority of the electoral votes*  
72 *have enacted this agreement in substantially the same form and the enactments by such states have*  
73 *taken effect in each state.*

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

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

80 *This agreement shall terminate if the electoral college is abolished.*

81 *If any provision of this agreement is held invalid, the remaining provisions shall not be affected.*

#### 82 *ARTICLE V. Definitions*

83 *For purposes of this agreement:*

84 *"chief executive" shall mean the Governor of a State of the United States or the Mayor of the*  
85 *District of Columbia;*

86 *"elector slate" shall mean a slate of candidates who have been nominated in a state for the position*  
87 *of presidential elector in association with a presidential slate;*

88 *"chief election official" shall mean the state official or body that is authorized to certify the total*  
89 *number of popular votes for each presidential slate;*

90 *"presidential elector" shall mean an elector for President and Vice President of the United States;*

91 *"presidential elector certifying official" shall mean the state official or body that is authorized to*  
92 *certify the appointment of the state's presidential electors;*

93 *"presidential slate" shall mean a slate of two persons, the first of whom has been nominated as a*  
94 *candidate for President of the United States and the second of whom has been nominated as a*  
95 *candidate for Vice President of the United States, or any legal successors to such persons, regardless of*  
96 *whether both names appear on the ballot presented to the voter in a particular state;*

97 *"state" shall mean a State of the United States and the District of Columbia; and*

98 *"statewide popular election" shall mean a general election in which votes are cast for presidential*  
99 *slates by individual voters and counted on a statewide basis.*