

SB 870 STAFF MEASURE SUMMARY

Senate Committee On Rules

Prepared By: Josh Nasbe, Counsel

Meeting Dates: 4/3

WHAT THE MEASURE DOES:

Enacts Interstate Compact for Agreement Among the States to Elect the President by National Popular Vote.

ISSUES DISCUSSED:

EFFECT OF AMENDMENT:

No amendment.

BACKGROUND:

The United States Constitution establishes the Electoral College as the mechanism by which the President of the United States is chosen. Under this system, each state is allocated a number of electoral votes according to the size of its Congressional delegation; one vote for each United States Senator and one vote for each member of the United States House of Representatives. The candidate receiving a majority of these electoral votes (270) is chosen as President. The authority to appoint electors is granted to each state "in such Manner as the Legislature thereof may direct." All but two states have adopted a "winner take all" system, under which all of a state's electoral votes are cast for the candidate who receives the most votes in that state. Maine and Nebraska have adopted a hybrid system, where two electoral votes are awarded to the candidate who receives the most votes statewide, and the remaining electoral votes are allocated based on results in each Congressional district. In most elections, the Electoral College has selected as President the person who received the greatest number of votes cast nationally. In five instances - Donald Trump (2016), George W. Bush (2000), Benjamin Harrison (1888), Rutherford B. Hayes (1876) and John Quincy Adams (1824) - the person chosen as President by the electoral college did not receive the greatest number of votes cast nationally.

Pursuant to this framework, the Interstate Compact for Agreement Among the States to Elect the President by National Popular Vote requires each participating state to award all of the state's electoral votes to the winner of the national popular vote. The Compact does not become effective until it is enacted by states that cumulatively possess a majority of all electoral votes. Currently, 14 jurisdictions have adopted the Compact: California, Colorado, Connecticut, Delaware, the District of Columbia, Hawaii, Illinois, Maryland, Massachusetts, New Jersey, New York, Rhode Island, Washington and Vermont. These 14 jurisdictions represent 184 electoral votes, or 68 percent of the 270 electoral votes necessary to make the Compact legally binding. Participating states are permitted to withdraw from the Compact.