

**SUBSTITUTE FOR
HOUSE BILL NO. 4440**

A bill to amend 1954 PA 116, entitled
"Michigan election law,"
by amending section 42 (MCL 168.42), as amended by 1999 PA 216.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 42. In the year in which presidential electors are to be
2 elected under section 43, each political party in this state shall
3 choose at its fall state convention a number of candidates for
4 electors of ~~president~~**President** and ~~vice-president~~**Vice President**
5 of the United States equal to the number of senators and
6 representatives in ~~congress~~**Congress** that this state is entitled to
7 elect. The chairperson and the secretary of the state central
8 committee of each political party shall, within 1 business day
9 after the conclusion of the state convention, forward by registered



1 or certified mail a certificate containing the names of the
2 candidates for **presidential** electors to the secretary of state.

3 (2) ~~The~~ **Except as otherwise provided in subsection (3), the**
4 candidates for electors of ~~president~~ **President** and ~~vice-president~~
5 **Vice President** who ~~shall be~~ **are** considered elected are those whose
6 names have been certified to the secretary of state by that
7 political party receiving the greatest number of votes for those
8 offices at the next November election.

9 (3) If the agreement among the states to elect the President
10 by national popular vote governs the appointment of electors for
11 President and Vice President in this state, all of the following
12 apply:

13 (a) As soon as practicable after this state conducts a
14 statewide popular election for President and Vice President of the
15 United States, and no later than the twentieth day after that
16 election, the board of state canvassers shall complete the canvass
17 of the returns for each presidential slate and determine the number
18 of popular votes cast in this state for each presidential slate,
19 with the outcome determined solely by the vote of the electors of
20 this state casting ballots in the election.

21 (b) As soon as practicable after completing the canvass and
22 determination under subdivision (a), and not less than 6 days
23 before the date that the electors for President and Vice President
24 of the United States convene under section 47, the board of state
25 canvassers shall make a final determination of the number of
26 popular votes cast in this state for each presidential slate in the
27 election as provided under the agreement, with the outcome
28 determined solely by the vote of the electors of this state casting
29 ballots in the election.



1 (c) The board of state canvassers shall communicate to the
2 chief election official of each other member state an official
3 statement of the final determination by the board of state
4 canvassers under subdivision (b) within 24 hours after the
5 determination as provided in the agreement.

6 (d) As soon as practicable after this state conducts a
7 statewide popular election for President and Vice President of the
8 United States, and not less than 6 days before the date that the
9 electors for President and Vice President of the United States
10 convene under section 47, the board of state canvassers shall, as
11 provided in the agreement, do all of the following:

12 (i) Determine the number of votes for each presidential slate
13 in each state in which votes were cast in a statewide popular
14 election.

15 (ii) Add the votes for each presidential slate in each state
16 determined under subparagraph (i) together to determine the national
17 popular vote total for each presidential slate.

18 (iii) Certify the determination under subparagraph (ii) as the
19 national popular vote total for each presidential slate.

20 (iv) Designate and certify the presidential slate with the
21 largest national popular vote total under subparagraph (iii) as the
22 national popular vote winner, or, if there is a tie for the largest
23 national popular vote total under subparagraph (iii) among 2 or more
24 presidential slates, designate and certify that there is a tie for
25 the national popular vote winner.

26 (v) Transmit the certifications under subparagraphs (iii) and
27 (iv) to the secretary of state and the governor.

28 (e) As soon as practicable after the certifications under
29 subdivision (d) are made, and not less than 6 days before the date



1 that the electors for President and Vice President of the United
2 States convene under section 47, the governor shall do all of the
3 following:

4 (i) If there was not a tie for the national popular winner
5 under subdivision (d), the governor shall, as provided under the
6 agreement, certify the appointment in this state as the electors
7 for President and Vice President of the United States the elector
8 slate associated with the national popular vote winner determined
9 under subdivision (d). If there is a tie for the national popular
10 vote winner under subdivision (d), the governor shall, as provided
11 under the agreement, certify the appointment in this state as the
12 electors for President and Vice President of the United States the
13 elector slate nominated under subsection (1) associated with the
14 presidential slate determined to have received the highest number
15 of votes in this state under subdivision (b).

16 (ii) Issue a certificate of ascertainment of appointment of
17 electors documenting the certifications under subparagraph (i) that
18 includes all of the following:

19 (A) The names of the electors of this state who are certified
20 as appointed as the electors for President and Vice President of
21 the United States under subparagraph (i). If there was not a tie for
22 the national popular vote winner under subdivision (d), the
23 certificate must indicate that the electors were associated with
24 the presidential slate certified as the national popular vote
25 winner under subdivision (d) and must also include both the
26 national popular vote total determined for that presidential slate
27 under subdivision (d) and the total number of popular votes for
28 that presidential slate in this state as determined under
29 subdivision (b). If there is a tie for the national popular vote



1 winner under subdivision (d), the certificate must indicate that
2 the electors were associated with the presidential slate determined
3 to have received the highest number of popular votes in this state
4 under subdivision (b) and must also include both the total number
5 of popular votes for that presidential slate in this state as
6 determined under subdivision (b) and the national popular vote
7 total as determined for that presidential slate under subdivision
8 (d).

9 (B) The names of the candidates for elector for each elector
10 slate associated with a presidential slate other than the
11 presidential slate in sub-subparagraph (A), the national popular
12 vote total as determined under subdivision (d) for each of the
13 other presidential slates, and the total number of popular votes in
14 this state as determined under subdivision (b) for each of the
15 other presidential slates.

16 (C) The great seal of this state.

17 (D) At least 1 security feature for the purpose of verifying
18 the authenticity of the certificate, as determined by the governor.

19 (iii) Immediately after issuing a certificate of ascertainment
20 of appointment of electors under subparagraph (ii), transmit the
21 certificate to the Archivist of the United States by the most
22 expeditious delivery method available.

23 (iv) As soon as practicable after issuing a certificate of
24 ascertainment of appointment of electors under subparagraph (ii),
25 but not later than the date that the electors for President and
26 Vice President of the United States convene under section 47,
27 transmit 6 duplicate-originals of the certificate to the electors
28 for President and Vice President of this state and 1 duplicate-
29 original of the certificate to the secretary of state.



1 (4) As used in this subsection and subsection (3):

2 (a) "Agreement" means the agreement among the states to elect
3 the President by national popular vote.

4 (b) "Chief election official", "elector slate", "presidential
5 slate", "state", and "statewide popular election" mean those terms
6 as defined in the agreement.

7 (c) "Member state" means a state in which the agreement is in
8 effect and governs the appointment of electors for President and
9 Vice President in that state.

10 Enacting section 1. This amendatory act does not take effect
11 unless House Bill No. 4156 of the 102nd Legislature is enacted into
12 law.

