

## NATIONAL POPULAR VOTE

Phone: (517) 373-8080  
<http://www.house.mi.gov/hfa>

### House Bill 4440 (H-1) as reported from committee

**Sponsor: Rep. Carrie A. Rheingans**

**Committee: Elections**

**Complete to 6-11-23**

Analysis available at  
<http://www.legislature.mi.gov>

## SUMMARY:

House Bill 4440 would amend the Michigan Election Law to reflect changes to Michigan's presidential election process that would be made by entering into the National Popular Vote (NPV) Compact, an agreement among member states to award their electors to the presidential candidate receiving the most votes nationwide.<sup>1</sup>

Under the bill, if the compact becomes effective, then the electors representing the political party of the presidential candidate that won the national popular vote at the next November election would be considered Michigan's presidential electors under the Michigan Election Law. The provisions described below would apply only if the National Popular Vote Compact governs how Michigan's presidential electors are appointed.

As soon as practicable after completing its canvass and determination, the Board of State Canvassers (BSC) would have to make a final determination of the number of popular votes cast in Michigan for each presidential slate.<sup>2</sup> The BSC would have to communicate an official statement of the final determination to the chief election officials of each other NPV member state within 24 hours of making the final determination.

As soon as practicable, the BSC would then determine the number of votes received by each presidential slate in each state, add the votes together to determine a national popular vote total for each slate, and certify the determination as the NPV total for each slate. The BSC would have to designate and certify the presidential slate receiving the largest NPV total as the national popular vote winner and transmit the certifications to the Michigan secretary of state and the governor.<sup>3</sup> (In the case of a tie for the largest NPV total among multiple presidential slates, the BSC would certify that there is a tie for the NPV winner.)

As soon as practicable after the BSC's certification, the governor would have to certify the appointment of the elector slate associated with the NPV winner as Michigan's presidential electors. In the case of a tie for the NPV winner, the governor would instead certify the appointment of the slate associated with the statewide winner.

---

<sup>1</sup> The compact becomes effective when states possessing a majority of the total electoral votes have joined. The National Popular Vote organization offers more information on the agreement, which can be found here: <https://www.nationalpopularvote.com/bill-text>.

<sup>2</sup> The Michigan Election Law requires the canvass to be completed by the 20th day after an election.

<sup>3</sup> The outcome would have to be determined solely by the vote totals.

The governor would then have to issue a certificate of ascertainment of the appointment of electors that documents the BSC's certification and immediately transmit the certificate to the Archivist of the United States by the most expeditious delivery method available.

The certificate of ascertainment would have to include:

- The names of the electors of the state who are certified and appointed as Michigan's electors for President and Vice President of the United States.
- If there is not a tie for the NPV winner, an indication that the electors are associated with the presidential slate certified as the NPV winner and the total number of popular votes for that slate.
- If there is a tie, an indication that the electors are associated with the presidential slate determined to have received the most votes statewide and the total number of popular votes for that slate.
- The names of the candidates for electors associated with each other presidential slate and the NPV and state totals for each of those presidential slates.
- The Great Seal.
- At least one security feature to verify the authenticity of the certificate, as determined by the governor.

The process would have to be completed at least six days before the presidential electors convene.<sup>4</sup> As soon as practicable, but no later than the date that the electors convene, the governor would have to transmit six duplicate-originals of the certificate of ascertainment to Michigan's certified electors and one duplicate-original to the secretary of state.

The bill is tie-barred to House Bill 4156, a bill that would enter Michigan into the National Popular Vote Compact, meaning that House Bill 4440 would not go into effect unless HB 4156 were also enacted.<sup>5</sup>

MCL 168.42

#### **FISCAL IMPACT:**

The bill would have no fiscal impact on the state or local units of government.

#### **POSITIONS:**

A representative of Pride at Work Michigan testified in support of the bill (6-6-23).

The following entities indicated support for the bill (6-6-23):

- Common Cause Michigan
- Michigan Democratic Party
- Michigan League of Conservation Voters

---

<sup>4</sup> This is the "safe harbor" deadline required by federal law for states to have resolved any controversies over the appointment of electors before those electors meet in their respective states:

<https://www.govinfo.gov/content/pkg/USCODE-2021-title3/pdf/USCODE-2021-title3-chap1-sec5.pdf>.

Electors meet on the first Monday after the second Wednesday in December.

<sup>5</sup> A summary of House Bill 4156 can be found here: <https://www.legislature.mi.gov/documents/2023-2024/billanalysis/House/pdf/2023-HLA-4156-F26D6D00.pdf>

- NextGen America
- Voters Not Politicians

The following entities indicated opposition to the bill (6-6-23):

- Democrats for the Electoral College
- Heritage Action for America
- Keep Our 50 States
- Pure Integrity for Michigan Elections
- Save Our States

Legislative Analyst: Holly Kuhn  
Fiscal Analyst: Michael Clossen

---

■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations and does not constitute an official statement of legislative intent.