

CHAPTER 208

PRESIDENTIAL ELECTORS

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208.01 MS 1957 [Repealed, 1959 c 675 art 13 s 1]

208.01 DEFINITIONS.

The words used in this chapter have the meanings prescribed to them in chapter 200.

History: 1959 c 675 art 9 s 1

208.02 MS 1957 [Repealed, 1959 c 675 art 13 s 1]

208.02 ELECTION OF PRESIDENTIAL ELECTORS AND ALTERNATES.

Presidential electors and alternates shall be chosen at the state general election held in the year preceding the expiration of the term of the president of the United States.

History: 1959 c 675 art 9 s 2; 1981 c 29 art 7 s 38; 2015 c 70 art 2 s 2

208.03 MS 1957 [Repealed, 1959 c 675 art 13 s 1]

208.03 NOMINATION OF PRESIDENTIAL ELECTORS AND ALTERNATES.

Presidential electors and alternates for the major political parties of this state shall be nominated by delegate conventions called and held under the supervision of the respective state central committees of the parties of this state. At least 71 days before the general election day the chair of the major political party shall certify to the secretary of state the names of the persons nominated as presidential electors, the names of persons nominated as alternate presidential electors, and the names of the party candidates for president and vice president. The chair shall also certify that the party candidates for president and vice president have no affidavit on file as a candidate for any office in this state at the ensuing general election.

History: 1959 c 675 art 9 s 3; 1979 c 251 s 2; 1981 c 29 art 7 s 38; 1981 c 217 s 1; 1986 c 444; 1986 c 475 s 20; 2005 c 156 art 6 s 57; 2010 c 184 s 41; 2010 c 201 s 77; 2012 c 250 s 2; 2015 c 70 art 2 s 3

208.04 MS 1957 [Repealed, 1959 c 675 art 13 s 1]

208.04 PREPARATION OF BALLOTS.

Subdivision 1. **Form of presidential ballots.** When presidential electors and alternates are to be voted for, a vote cast for the party candidates for president and vice president shall be deemed a vote for that party's electors and alternates as filed with the secretary of state. The secretary of state shall certify the names of all duly nominated presidential and vice presidential candidates to the county auditors of the counties of the state. Each county auditor, subject to the rules of the secretary of state, shall cause the names of the candidates of each major political party and the candidates nominated by petition to be set in type of the same size and style as for candidates on the state general election ballot, before the party designation. To the left of, and on the same line with the names of the candidates for president and vice president, near the margin, shall be placed an oval or similar target shape, in which the voters may indicate their choice.

The form for the presidential ballot and the relative position of the several candidates shall be determined by the rules applicable to other state officers. The state ballot, with the required heading, shall be printed on the same piece of paper and shall be below the presidential ballot with a blank space between one inch in width.

Subd. 2. **Applicable rules.** The rules for preparation, state contribution to the cost of printing, and delivery of presidential ballots are the same as the rules for state general election ballots under section 204D.11, subdivision 1.

History: 1959 c 675 art 9 s 4; 1961 c 606 s 2; 1976 c 224 s 7; 1979 c 251 s 3; 1981 c 29 art 7 s 23,24; 1984 c 560 s 25; 1999 c 132 s 39; 2005 c 156 art 6 s 58; 2013 c 131 art 2 s 72,73; 2017 c 92 art 1 s 26

208.05 MS 1957 [Repealed, 1959 c 675 art 13 s 1]

208.05 STATE CANVASSING BOARD.

The State Canvassing Board at its meeting on the date provided in section 204C.33 shall open and canvass the returns made to the secretary of state for presidential electors and alternates, prepare a statement of the number of votes cast for the persons receiving votes for these offices, and declare the person or persons receiving the highest number of votes for each office duly elected, except that if the Agreement Among the States to Elect the President by National Popular Vote governs the appointment of presidential electors, the State Canvassing Board shall declare duly elected the candidates for presidential electors and alternates identified in accordance with the provisions of that agreement. When it appears that more than the number of persons to be elected as presidential electors or alternates have the highest and an equal number of votes, the secretary of state, in the presence of the board shall decide by lot which of the persons shall be declared elected, except that if the Agreement Among the States to Elect the President by National Popular Vote governs the appointment of presidential electors, no such drawing of lots shall be conducted. The governor shall transmit to each person declared elected a certificate of election, signed by the governor, sealed with the state seal, and countersigned by the secretary of state.

History: 1959 c 675 art 9 s 5; 1961 c 606 s 3; 1979 c 251 s 4; 1981 c 29 art 7 s 38; 1981 c 217 s 2; 2005 c 156 art 6 s 59; 2010 c 194 s 26; 2023 c 62 art 4 s 123

208.051 AGREEMENT AMONG THE STATES TO ELECT THE PRESIDENT BY NATIONAL POPULAR VOTE.

The Agreement Among the States to Elect the President by National Popular Vote is enacted into law and entered into with all other states legally joining in it in substantially the following form:

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 presidential slate receiving the largest number of popular votes within that official's own state. If, for any reason, the number of presidential electors nominated in a member state in association with the national popular vote winner is less than or greater than that state's number of electoral votes, the presidential candidate on the presidential slate that has been designated as the national popular vote winner shall have the power to nominate the presidential electors for that state and that state's presidential elector certifying official shall certify the appointment of such nominees. The chief election official of each member state shall immediately release to the public all vote counts or statements of votes as they are determined or obtained. This article shall govern the appointment of presidential electors in each member state in any year in which this agreement is, on July 20, in effect in states cumulatively possessing a majority of the electoral votes.

Article IV - Other Provisions

This agreement shall take effect when states cumulatively possessing a majority of the electoral votes have enacted this agreement in substantially the same form and the enactments by such states have taken effect in each state. Any member state may withdraw from this agreement, except that a withdrawal occurring six months or less before the end of a president's term shall not become effective until a president or vice president shall have been qualified to serve the next term. The chief executive of each member state shall promptly notify the chief executive of all other states of when this agreement has been enacted and has taken effect in that official's state, when the state has withdrawn from this agreement, and when this agreement takes effect generally. This agreement shall terminate if the electoral college is abolished. If any provision of this agreement is held invalid, the remaining provisions shall not be affected.

Article V - Definitions

For purposes of this agreement:

(1) "chief election official" means the state official or body that is authorized to certify the total number of popular votes for each presidential slate;

(2) "chief executive" means the governor of a state of the United States or the mayor of the District of Columbia;

(3) "elector slate" means a slate of candidates who have been nominated in a state for the position of presidential elector in association with a presidential slate;

(4) "presidential elector" means an elector for president and vice president of the United States;

(5) "presidential elector certifying official" means the state official or body that is authorized to certify the appointment of the state's presidential electors;

(6) "presidential slate" means a slate of two persons, the first of whom has been nominated as a candidate for president of the United States and the second of whom has been nominated as a candidate for vice president of the United States, or any legal successors to such persons, regardless of whether both names appear on the ballot presented to the voter in a particular state;

(7) "state" means a state of the United States and the District of Columbia; and

(8) "statewide popular election" means a general election in which votes are cast for presidential slates by individual voters and counted on a statewide basis.

History: 2023 c 62 art 4 s 124

208.052 CONFLICT OF LAWS.

When the Agreement Among the States to Elect the President by National Popular Vote governs the appointment of presidential electors, the provisions of that agreement shall take precedence over any conflicting law of this state.

History: 2023 c 62 art 4 s 125

208.06 MS 1957 [Repealed, 1959 c 675 art 13 s 1]

208.06 ELECTORS AND ALTERNATES TO MEET AT STATE CAPITOL.

The presidential electors and alternate presidential electors, before 12:00 M. on the day before that fixed by Congress for the electors to vote for president and vice president of the United States, shall notify the governor that they are at the State Capitol and ready at the proper time to fulfill their duties as electors. The governor shall deliver to the electors present a certificate of the names of all the electors. The electors shall meet at 12:00 p.m. in the executive chamber of the State Capitol and shall perform all the duties imposed upon them as electors by the Constitution and laws of the United States and this state in the manner provided in section 208.46.

History: 1959 c 675 art 9 s 6; 1979 c 251 s 5; 2005 c 156 art 6 s 60; 2015 c 70 art 2 s 4

208.07 MS 1957 [Repealed, 1959 c 675 art 13 s 1]

208.07 [Repealed, 2015 c 70 art 2 s 15]

208.08 MS 1957 [Repealed, 1959 c 675 art 13 s 1]

208.08 [Repealed, 2015 c 70 art 2 s 15]

208.09 [Repealed, 1959 c 675 art 13 s 1]

208.10 [Repealed, 1959 c 675 art 13 s 1]

208.11 [Repealed, 1959 c 675 art 13 s 1]

208.21 [Repealed, 1976 c 224 s 10]

208.22 [Repealed, 1976 c 224 s 10]

208.23 [Repealed, 1976 c 224 s 10]

208.24 [Repealed, 1976 c 224 s 10]

208.25 [Repealed, 1976 c 224 s 10]

208.26 [Repealed, 1976 c 224 s 10]

208.27 [Repealed, 1976 c 224 s 10]

208.28 [Repealed, 1976 c 224 s 10]

208.29 [Repealed, 1976 c 224 s 10]

208.30 [Repealed, 1976 c 224 s 10]

208.31 [Repealed, 1976 c 224 s 10]

208.32 [Repealed, 1976 c 224 s 10]

208.33 [Repealed, 1976 c 224 s 10]

208.34 [Repealed, 1976 c 224 s 10]

208.35 [Repealed, 1976 c 224 s 10]

UNIFORM FAITHFUL PRESIDENTIAL ELECTORS ACT

208.40 SHORT TITLE.

Sections 208.40 to 208.48 may be cited as the "Uniform Faithful Presidential Electors Act."

History: *2015 c 70 art 2 s 5*

208.41 DEFINITIONS.

- (a) The definitions in this section apply to sections 208.40 to 208.48.
- (b) "Cast" means accepted by the secretary of state in accordance with section 208.46, paragraph (b).
- (c) "Elector" means an individual selected as a presidential elector under this chapter.
- (d) "President" means the president of the United States.

(e) "Unaffiliated presidential candidate" means a candidate for president who qualifies for the general election ballot in this state by means other than nomination by a political party.

(f) "Vice president" means the vice president of the United States.

History: 2015 c 70 art 2 s 6

208.42 DESIGNATION OF STATE'S ELECTORS.

For each elector position in this state, a political party contesting the position, or an unaffiliated presidential candidate, shall submit to the secretary of state the names of two qualified individuals. One of the individuals must be designated "elector nominee" and the other "alternate elector nominee."

Except as otherwise provided in sections 208.44 to 208.47, this state's electors are the winning elector nominees under the laws of this state.

History: 2015 c 70 art 2 s 7

208.43 PLEDGE.

Each elector nominee and alternate elector nominee of a political party shall execute the following pledge: "If selected for the position of elector, I agree to serve and to mark my ballots for president and vice president for the nominees for those offices of the party that nominated me." Each elector nominee and alternate elector nominee of an unaffiliated presidential candidate shall execute the following pledge: "If selected for the position of elector as a nominee of an unaffiliated presidential candidate, I agree to serve and to mark my ballots for that candidate and for that candidate's vice-presidential running mate." The executed pledges must accompany the submission of the corresponding names to the secretary of state.

History: 2015 c 70 art 2 s 8

208.44 CERTIFICATION OF ELECTORS.

In submitting this state's certificate of ascertainment as required by United States Code, title 3, section 6, the governor shall certify this state's electors and state in the certificate that:

(1) the electors will serve as electors unless a vacancy occurs in the office of elector before the end of the meeting at which elector votes are cast, in which case a substitute elector will fill the vacancy; and

(2) if a substitute elector is appointed to fill a vacancy, the governor will submit an amended certificate of ascertainment stating the names on the final list of this state's electors.

History: 2015 c 70 art 2 s 9

208.45 PRESIDING OFFICER; ELECTOR VACANCY.

(a) The secretary of state shall preside at the meeting of electors described in section 208.06.

(b) The position of an elector not present to vote is vacant. The secretary of state shall appoint an individual as a substitute elector to fill a vacancy as follows:

(1) if the alternate elector is present to vote, by appointing the alternate elector for the vacant position;

(2) if the alternate elector for the vacant position is not present to vote, by appointing an elector chosen by lot from among the alternate electors present to vote who were nominated by the same political party or unaffiliated presidential candidate;

(3) if the number of alternate electors present to vote is insufficient to fill any vacant position pursuant to clauses (1) and (2), by appointing any immediately available individual who is qualified to serve as an elector and chosen through nomination by a plurality vote of the remaining electors, including nomination and vote by a single elector if only one remains;

(4) if there is a tie between at least two nominees for substitute elector in a vote conducted under clause (3), by appointing an elector chosen by lot from among those nominees; or

(5) if all elector positions are vacant and cannot be filled pursuant to clauses (1) to (4), by appointing a single presidential elector, with remaining vacant positions to be filled under clause (3) and, if necessary, clause (4).

(c) To qualify as a substitute elector under paragraph (b), an individual who has not executed the pledge required under section 208.43 shall execute the following pledge: "I agree to serve and to mark my ballots for president and vice president consistent with the pledge of the individual to whose elector position I have succeeded."

History: 2015 c 70 art 2 s 10

208.46 ELECTOR VOTING.

(a) At the time designated for elector voting in section 208.06, and after all vacant positions have been filled under section 208.45, the secretary of state shall provide each elector with a presidential and a vice-presidential ballot. The elector shall mark the elector's presidential and vice-presidential ballots with the elector's votes for the offices of president and vice president, respectively, along with the elector's signature and the elector's legibly printed name.

(b) Except as otherwise provided by law of this state other than this chapter, each elector shall present both completed ballots to the secretary of state, who shall examine the ballots and accept as cast all ballots of electors whose votes are consistent with their pledges executed under section 208.43 or 208.45, paragraph (c). Except as otherwise provided by law of this state other than this chapter, the secretary of state may not accept and may not count either an elector's presidential or vice-presidential ballot if the elector has not marked both ballots or has marked a ballot in violation of the elector's pledge.

(c) An elector who refuses to present a ballot, presents an unmarked ballot, or presents a ballot marked in violation of the elector's pledge executed under section 208.43 or 208.45, paragraph (c), vacates the office of elector, creating a vacant position to be filled under section 208.45.

(d) The secretary of state shall distribute ballots to and collect ballots from a substitute elector and repeat the process under this section of examining ballots, declaring and filling vacant positions as required, and recording appropriately completed ballots from the substituted electors, until all of this state's electoral votes have been cast and recorded.

History: 2015 c 70 art 2 s 11

208.47 ELECTOR REPLACEMENT; ASSOCIATED CERTIFICATES.

(a) After the vote of this state's electors is completed, if the final list of electors differs from any list that the governor previously included on a certificate of ascertainment prepared and transmitted under United States Code, title 3, section 6, the secretary of state immediately shall prepare an amended certificate of ascertainment and transmit it to the governor for the governor's signature.

(b) The governor immediately shall deliver the signed amended certificate of ascertainment to the secretary of state and a signed duplicate original of the amended certificate of ascertainment to all individuals entitled to receive this state's certificate of ascertainment, indicating that the amended certificate of ascertainment is to be substituted for the certificate of ascertainment previously submitted.

(c) The secretary of state shall prepare a certificate of vote. The electors on the final list shall sign the certificate. The secretary of state shall process and transmit the signed certificate with the amended certificate of ascertainment under United States Code, title 3, sections 9, 10, and 11.

History: *2015 c 70 art 2 s 12*

208.48 UNIFORMITY OF APPLICATION AND CONSTRUCTION.

In applying and construing sections 208.40 to 208.48, consideration must be given to the need to promote uniformity of the law with respect to their subject matter among states that enact the Uniform Faithful Presidential Electors Act or similar law.

History: *2015 c 70 art 2 s 13*