

SENATE BILL 1723

By Lowe

AN ACT to amend Tennessee Code Annotated, Title 2,
relative to the Uniform Faithful Presidential
Electors Act.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 2, Chapter 15, is amended by adding the following as a new part:

2-15-201. Short title.

This part shall be known and may be cited as the "Uniform Faithful Presidential Electors Act."

2-15-202. Part definitions.

As used in this part:

(1) "Cast" means accepted by the secretary of state in accordance with § 2-15-207(b);

(2) "Elector" means an individual selected as a presidential elector under part 1 of this chapter and this part;

(3) "President" means president of the United States;

(4) "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; and

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

2-15-203. 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 (2) qualified individuals. One (1) of the individuals must be designated "elector nominee" and the other "alternate elector nominee." Except as otherwise provided in §§ 2-15-205 and 2-15-208, this state's electors are the winning elector nominees under the laws of this state.

2-15-204. Pledge.

(a) 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."

(b) 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."

(c) The executed pledges must accompany the submission of the corresponding names to the secretary of state.

2-15-205. Certification of electors.

In submitting this state's certificate of ascertainment as required by 3 U.S.C. § 5, 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.

2-15-206. Presiding officer; elector vacancy.

(a) The secretary of state shall preside at the meeting of electors described in § 2-15-207.

(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 but other alternate electors who were nominated by the same political party or unaffiliated presidential candidate are present, by appointing an elector chosen by lot from among those alternate electors of the same political party or of the same unaffiliated presidential candidate;

(3) If the vacant position is that of an unpledged elector and the alternate elector for that vacant position is not present to vote, or if there otherwise are no alternate electors eligible for the vacant position under subdivisions (b)(1) and (2), by appointing any immediately available individual who is qualified to serve as an elector and has been chosen through nomination by and 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 (2) nominees for substitute elector in a vote conducted under subdivision (b)(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 subdivisions (b)(1)-(4), by appointing a single presidential elector, with remaining vacant positions to be filled under subdivision (b)(3) and, if necessary, subdivision (b)(4).

(c) To qualify as a substitute elector for a vacant position associated with an elector who had executed a pledge, an individual who has not executed the pledge required under § 2-15-204, 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."

2-15-207. Elector voting.

(a) At the time designated for elector voting and after all vacant positions have been filled under § 2-15-206, 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 part, 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 § 2-15-204 or § 2-15-206(c). Except as otherwise provided by law of this state other than this part, the secretary of state shall not accept and shall 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 § 2-15-204 or § 2-15-206(c) vacates the office of elector, creating a vacant position to be filled under § 2-15-206.

(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.

2-15-208. 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 3 U.S.C. § 5, 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 3 U.S.C. §§ 9, 10, and 11.

2-15-209. Uniformity of application and construction.

In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

2-15-210. Controlling provisions when conflict exists.

If a conflict exists between this part and another law, then this part controls.

SECTION 2. Tennessee Code Annotated, Section 2-15-105, is amended by deleting the section.

SECTION 3. The headings in this act are for reference purposes only and do not constitute a part of the law enacted by this act. However, the Tennessee Code Commission is requested to include the headings in any compilation or publication containing this act.

SECTION 4. This act takes effect upon becoming a law, the public welfare requiring it.