

# Senate Election Law and Municipal Affairs Committee

## *Tricia Melillo 271-3077*

**SB 43**, relative to the allocation of electoral college votes.

**Hearing Date:** January 21, 2021

**Time Opened:** 10:13 a.m.

**Time Closed:** 10:30 a.m.

**Members of the Committee Present:** Senators Gray, Birdsell, Ward, Soucy and Perkins Kwoka

**Members of the Committee Absent :** None

**Bill Analysis:** This bill apportions the state's presidential electors so that 2 at-large presidential electors shall cast their ballots for the presidential and vice-presidential candidates who received the highest number of votes in the state, and congressional district presidential electors shall cast their ballots for the presidential and vice-presidential candidates who received the highest number of votes in their respective congressional districts.

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**Sponsors:**

Sen. Gannon  
Sen. Ricciardi  
Rep. Baldasaro

Sen. Avar  
Sen. Giuda  
Rep. Welch

Sen. Bradley  
Rep. Piemonte

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**Who supports the bill:** Senator Bill Gannon, Senator Denise Ricciardi

**Who opposes the bill:** Representative Max Abramson, Representative Dianne Schuett, Brian Beihl, Judith Ackerson, Kenneth Ackerson, William Yacopucci, Pat Rosenstiel, Liz Tentarelli, Susan Richman, Nicole Fordey, Ruth Heath

**Summary of testimony presented in support:**

**Senator Bob Gannon**

- One of his constituents came to him to discuss being a disenfranchised voter.
- He would like all voters to be fairly represented in the electoral system.
- In the 2016 election, President Trump did not get any delegates from NH.
- In the 2000 election, Al Gore would have picked up another vote and brought the margin to victory down to one vote.
- Every vote does count, and he wants people to feel like they are part of the system.
- Looking at divided America today, voters do not feel like what they are doing is counting.
- In the winner take all system that we have now, he feels like we are in the Roman Forum.

- If you give two votes to the winner and then split the other two by Congressional District, citizens of NH would feel represented.
- The winner of the state will always take three votes.
- In the beginning he was looking at it in a partisan manner but as he has examined the issue, both sides are equally affected.
- They have adopted this system in Maine and Nebraska.
- He is submitting an amendment to the Committee which turns the bill into a bi-partisan study committee so both sides can examine the best way to make sure every vote counts.
- He would like a majority of legislators to come away from the study agreeing that this is what is good for NH and its voters.
- This has nothing to do with re-districting and everything to do with what is fair for the voters.
- He has put in calls to the Secretary of State in Maine and in Nebraska to see if both sides in their states think it is a fair distribution.
- Senator Perkins Kwoka asked if Senator Gannon had considered putting in the language of the bill that both parties should be represented on the Study Committee.
  - Senator Gannon replied that is a good idea and he supports the Committee adding that language in an amendment.

### **Summary of testimony presented in opposition:**

#### **Representative Max Abramson**

- He disagrees with the bill as written using Congressional Districts as the split.
- They have a House version of this bill that has been re-worked.
- He does not think there is a need for a study committee and suggested that the Committee wait for the House version to work its way through the House Election Law Committee.
- The founding fathers, John Jay, James Madison, and Alexander Hamilton, when they talked about the Electoral College in the Federalist Papers, 61-68, it looks like they were talking about proportional allocation.
- State Legislatures have a lot of different options, but most states use Winner Take All.
- Other options are Congressional District Popular, Congressional District Majority, which is what Maine and Nebraska use, Proportional Popular Vote, Popular Vote by State, or what is in the Belanger Bill.
- States are given broad authority on how they want to split up their Electors.
- His suggestion, instead of a study committee, would be to let the House Election Law Committee go over it first and then decide if they want to go with the House version or modify it.

#### **Patrick Rosenstiel – Senior Consultant, National Popular Vote – Chairman, Institute for Research on Presidential Elections**

- He agrees that there needs to be Electoral College reform as the current system, is in many ways unsustainable.
- There has been many examples of this resulting in chaos and controversy.
- It is appropriate that Electoral College reform be discussed at the state Legislative level because the United States Constitution leaves it to the various Legislatures how they want to award their electors.

- He cautioned that there have been unintended consequences and shortcomings in the Congressional District systems.
- He believes having a National Popular Vote System is the only way to have one person one vote and make sure that every voter in NH is politically relevant in Presidential Elections.
- There is a plan in place called the National Popular Vote Interstate Compact which has passed in 16 states with 196 Electoral Votes and will take effect when states with 74 or more Votes join them.
- It states that when states with 270 Electoral Votes have the bill in place, those states will award their Electors to the candidates who win the most popular vote in all 50 states and D.C.
- As this bill relates to Congressional Districts, it will create battleground Congressional Districts and it is unknown whether any of those districts will be in NH.
- There are other options, and he hopes the Legislature in NH will consider them.

### **Liz Tentarelli – League of Women Voters**

- She supports the popular vote for the President and getting rid of the Electoral College system that is in place now.
- They oppose this bill.
- One negative effect of a number of states using proportional voting, of which there are only two right now, is that it will be far more likely that elections for president would be thrown into the House of Representatives to decide.
- If this bill were to be passed the outcome would be a diminution of the individual voters rights.
- The votes for President would move from the Electoral College to the House of Representatives, where each state has one vote.
- She asked that the Committee take a look at the written testimony she submitted which shows what would have happened if that had been in place in 2016. It would have been a very different outcome.

### **Representative Max Abramson**

- This legislation is not a proportional allocation, there are several different proportional allocation options, but this is breakdown by Congressional Districts.

TJM

Date Hearing Report completed: January 24, 2021