

National Popular Vote Compact Study

In response to the adoption of a new study at the 2008 League Convention, a committee has begun work researching and preparing a presentation for our chapter. The subject of the study, and our committee's work, is "The Advisability of Using the National Popular Vote Compact among the States as a Method for Electing the President".

The League's current position on the presidential election process was set in 1970. In relevant part, the position is: "The League of Women Voters of the United States believes that the direct-popular-vote method for electing the President and Vice-President is essential to representative government. The League of Women Voters believes, therefore, that the Electoral College should be abolished. The League also supports uniform voting qualifications and procedures for presidential elections." (For the full position statement, see the League's web site, www.lwv.org.)

The Electoral College, which the League wishes to see abolished, is the constitutionally mandated body that actually elects our president and vice-president. It was the result of a compromise between direct election by the people, and election by the Congress, and assuaged the fears of some that the people were not capable of deciding independently on these offices. Each state is entitled to a number of presidential electors equal to the total of its Senators and Representatives. The District of Columbia has a number of electors equal to that of the least populous state. Currently, all but two of the states require all the electors of the state to cast all their electoral votes for the presidential candidate who wins the majority of the votes cast in that state. (In Maine and Nebraska the winner of the popular vote in each congressional district wins an elector, and the remaining two electors are chosen based on the statewide vote. This was the method in use immediately after the adoption of the Constitution, but was subsequently changed in most states.) The candidate who wins at least 270 electoral votes is then elected to the presidency. Four times in our history, this has resulted in the candidate who won the most popular votes losing the presidency, the latest being in 2000 when Al Gore won more popular votes than George Bush, but lost in the Electoral College.

This indirect method of presidential election is consistently shown in polls to be unpopular, with up to 70% of the population in favor of eliminating the Electoral College. There have been numerous attempts to get a Constitutional amendment through Congress to effect this, but none of them has been able to even get out of the Congress and have never been presented to the State Legislatures.

The National Popular Vote Compact (NPVC) movement was begun in 1996 in response to these facts. The NPVC would have all the adopting states agree that each of them would bind their Electors to vote for the Presidential and Vice Presidential slate which wins the majority of the national popular vote. It would become effective when states which have at least 270 electoral votes among themselves have adopted the Compact. That would assure that these states would have sufficient electoral votes to elect the president, no matter what the other states did. And these states would have contracted that their electors would vote for the winner of the popular vote, no matter what the vote in their particular state happened to be. The result would be that the winner of the popular vote would still be chosen by the Electoral College.

The legal basis for the NPVC is in the portion of the Constitution which defines the Electoral College and says "Each state shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors..." (Article II, Section 1, Clause 2) and the Compact Clause (Article I, Section 10, Clause 3) which permits states to enter into legally binding contracts with other states to take joint action. The argument is that these clauses allow any state to decide how its electors will be chosen and will act, and to agree with other states to bind themselves to a certain course of action for the electors.

So far, four states have adopted this Compact by legislative action (Hawaii, Maryland, New Jersey and Illinois); California's legislature adopted it, but Gov. Schwarzenegger vetoed it; and it has been introduced in 15 other states where it is in various stages of consideration.

Local leagues across the country are considering whether the League should support the NPVC as a means to implement its position that election of the winner of the presidential popular vote is essential to our representative government, even though it would not abolish the Electoral College. The committee studying this position locally is Marilyn Sandstrom, Ann Flatten, Grace Deltscheff, Julie Ward, Trish Pegram, Mary Barter, Marilyn Brown, Sally Bellerue, Suzanne Becker, and Bev Wells.

The national League has asked that we respond by May 1 to several consensus questions relative to this issue, and we plan to have our April meeting dedicated to discussing and reaching consensus among ourselves on this issue. There are a number of materials at the League web site, www.lwv.org, on this topic, which will give you much more information. Please be thinking, talking and reading about this issue between now and then and let any of the Committee know of any questions you have.

-Trish Pegram