

Opposition to the National Popular Vote Compact

There is little respect for the Electoral College (EC). The League opposes it and most voters want a direct popular vote. But is the National Popular Vote Compact (NPV Compact) an appropriate way to achieve that result?

Evaluating Fairness Voters supporting the candidate who receives the majority of votes in their state want their state's electors to support their choice. Adoption of the NPV Compact may require a state elections official to direct its state's electors to cast their ballots in support of a candidate who was not favored by the voters of that state.

Passage of the NPV Compact will result in the emphasis of presidential campaigns shifting from the battleground states to areas of large concentrations of population. So, while some voters are disenfranchised by the EC, others might be disenfranchised by the NPV Compact. Because the Compact requires entry into a contract with other states which binds state elections officials to direct electors to vote in a certain way, regardless of the outcome of the election in their state, states' rights are diminished.

In addition, one can question the advisability of a method that bypasses the normal constitutional amendment process in this manner.

Constitutional Issues Many constitutional scholars argue that this plan will lead to extensive litigation involving challenges to the NVP Compact on issues such as the scope of constitutional powers, the Compact itself, the need for congressional approval, the concerns of non-compacting states, and constitutional protections of state interests and their role in elections.

Mechanical Issues/Flaws The methods for enforcement of this plan are unclear. Opponents question the power and timing to withdraw from the Compact and the power to enforce compliance.

Others express concern about an onslaught of lawsuits between compacting and non-compacting states, as well as procedures in close elections.

The plan, allowing the election of a president by a plurality of votes, does not improve on the current system; neither the present system nor the NPV Compact requires that the president be elected by a majority.

Other Issues The Voting Rights Act requires pre-clearance for legislative changes. This, too, has the capacity to engender lawsuits to ensure compliance.

League Issues This proposal does nothing to achieve the goal of uniform standards of voting. The NPV Compact is effective when passed by states representing 270 electoral votes, effectively negating the impact on presidential elections of the voters in states which represent the other half of electoral votes. A system which assures no voter disenfranchisement is a better way to assure that every person's vote counts.

The League has long supported the abolition of the EC. Although the NPV Compact purports to foster the same result, it creates additional concerns. Amending the U.S. Constitution is a difficult process, and we should seriously consider supporting the normal amendment procedures to abolish the EC versus this specific "work-around."

To prepare for the consensus meeting, please read the complete version of this paper (available at www.lwv.org) by the LWVUS National Popular Voter Compact Study Committee.