

Government Administration and Elections Committee
JOINT FAVORABLE REPORT

Bill No.: HB-5421

AN ACT ADOPTING THE INTERSTATE COMPACT TO ELECT THE

Title: PRESIDENT OF THE UNITED STATES BY NATIONAL POPULAR VOTE.

Vote Date: 3/23/2018

Vote Action: Joint Favorable

PH Date: 3/19/2018

File No.: 415

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REASONS FOR BILL:

To allow the citizens of Connecticut to commit the state's Electoral College votes to the presidential candidate that wins the national popular vote.

RESPONSE FROM ADMINISTRATION/AGENCY:

Denise W. Merrill, Secretary of the State

Secretary Merrill testified to the fact for the second time in five presidential races, the candidate that lost the election, won the popular vote. She believes that this discourages citizens from voting and undermines their faith in the election process. She supports the national popular vote because it is fundamental to the democratic principle of one person, one vote.

NATURE AND SOURCES OF SUPPORT:

Martin Looney, President Pro Tempore, State Senator, 11th District

The bill has broad and diverse support. Polls show that nationally more than 70% of people support a nationwide popular vote for president. In Connecticut, 2 recent polls show that 73 and 74% support the NPV. Additionally, it is supported by 80% of Democrats, and 67% of Republicans and 71% among other voters.

Senator Looney argues that the Founding Fathers did not debate the winner-take-all method of giving electoral votes to the president during the Constitutional Convention, nor was it discussed in the Federalist Papers. There were no political parties back then, so it was assumed that electors were better suited to choose a president. Sen. Looney vehemently disagrees that the citizens cannot be trusted to directly elect the President.

The individual states have the power to affect this change. Under the U.S. Constitution, states have “*exclusive*” and “*plenary*” power to choose the method of awarding their electoral

votes. The U.S. Constitution Article II, Section 1 gives the states exclusive control over awarding their electoral votes.

Additionally, he argues that there are some practical and fiscal considerations why the national popular vote is important to pass. He asserts that that winner-take-all statutes adversely affect governance in a way that puts states like Connecticut at a disadvantage because it is not a swing state. He cites an analysis of “battleground” states that shows that they receive 7% more federal grants than “spectator” states, twice as many presidential disaster declaration, more Superfund enforcement exemptions and more No Child Left Behind laws exemptions.

James M. Albis, State Representative

This bill ensures that *every* vote, in *every* state, will matter in every presidential election. He believes that the bill is about equality and is concerned about the effects of winner-take-all statutes. Reform is needed now and we can join our neighbors, Massachusetts and New Jersey who have already adopted the bill.

Rep. Albis explains that, “this bill would exercise Connecticut’s rights to determine how our electoral votes should be awarded, replacing our own winner-take-all statute. State winner-take-all statutes have permitted candidates to win the Presidency without winning the most popular votes nationwide in 4 of our 57 elections – 1 in 14 times. A shift of 59,93 votes in Ohio in 2004 would have elected John Kerry despite President Bush’s nationwide lead of over 3,000,000 votes. A shift of 214,390 votes in 2012 would have elected Mitt Romney despite President Obama’s nationwide lead of almost 5,000,000 votes.”

Finally, he says to opponents that states decide to administer their elections – from how the ballots look like to how votes happen, and procedures for recounts – this bill doesn’t change that.

Brandon L. McGee, Jr. State Representative

Supports the national popular vote because it would ensure that the principle of, “one person, one vote” is upheld. He was elected during his first run for state office by winning the State’s first “second” primary. As an underdog he won because in Connecticut, the person with the most votes wins and now he is serving his third term as State Representative. Additionally, as Vice Chair of the Black and Puerto Rican caucus, he believes he has a duty to advocate for equity and believes the national popular vote system is one way to achieve that goal.

He argues that communities of color are disproportionately on the wrong side of the “battleground” state equation. And that they represent more of the population in states that are ignored in presidential elections, thereby making them less influential nationwide.

He asks the legislature to consider, “why do we want to continue to participate in an outdated process that makes my vote in the North End of Hartford count less than an Brandon McGee who lives in the suburbs of Columbus, Ohio?”

League of Women Voters of Connecticut, Inc., (LWV)

The League believes that in order to fairly represent and give equal weight to each individual vote this bill is necessary and should be adopted by the Legislature. In our existing electoral system the votes in many states have been diminished and become inconsequential. The determinative votes have been concentrated in approximately 10 identified battleground states. The majority of resources and campaigning takes place in these battleground states rendering the votes in remaining states insignificant. The adoption of the National Popular Vote will restore the weight and importance of every single vote regardless of geographical location, resulting in a more equitable and ultimately more democratic process.

Cheri Quickmire, Executive Director, Common Cause of Connecticut

The current system of “winner take all” is flawed and a barrier to an active electorate. The National Popular Vote would put Connecticut and other states on level playing ground with other states, like swing states. National popular vote plan has benefits: accountability, finality and accuracy and security.

Additionally it would:

- The National Popular Vote would make all votes equal.
- It would ensure that the candidate with the most votes wins the election, just as in any other election in the country.
- It would bring candidates to every state and make them listen to everyone’s concerns.
- It would give voters in all states, regardless of party affiliation, an incentive to vote in presidential elections and would help build GOTV efforts in all states.
- It would rid the nation of falsely polarized red and blue election night maps.

The NPV doesn't eliminate the Electoral College and is not unconstitutional. Common Cause supports the proposal because the winner of the most votes in the election should actually win the office, like every other elected official in our country.

Barry Fadem, President, National Popular Vote

Offers testimony to provide answers to Hans von Spakovsky’s incorrect claims that a nationwide popular vote for President would

- (1) enable the 11 biggest states to control the outcome of presidential elections;
- (2) diminish the influence of rural areas;
- (3) elevate the importance of big urban centers;
- (4) diminish the influence of smaller states;
- (5) lead to contentious fights over provisional ballots;
- (6) lead to more recounts;
- (7) encourage voter fraud;
- (8) lead to presidents being elected with small vote percentages;
- (9) radicalize American politics;
- (10) violate the Constitution; and
- (11) require congressional consent to take effect.

The NPV bill is law in 11 states, comprising of 16 electoral votes, including small states (RI, VT, HI, DC) and medium sized states (MD, MA, WA), and large states (NJ, IL, NY, CA).

In 12 closely divided “battleground” states within 3% of the national outcome received 110% of the general-election campaign events in 2012. Two-thirds of the events were in just 4 states and 38 states were completely ignored.

The winner-take-all method was not debated at the Constitutional Convention and not used by a majority of states until the 11th presidential election (1828). Furthermore, the U.S. Constitution gives states exclusive control over awarding their electoral votes in Article II, Section I.

Tom Swan, Executive Director, Connecticut Citizen Action Group (CCAG)

CCAG supports the National Popular Vote compact so that the principle of one person one vote is ensured. A recent example in Connecticut is the enactment of a direct primary system and the passage of the Citizens Election Program. CCAG also argues that the Constitution state should lead the way in protecting the integrity of our citizen's votes in Connecticut and throughout the country.

Luther Weeks, Executive Director, CTVotersCount

Supports the National Popular Vote amendment only if it provides for uniform franchise, requires sufficient voting systems, audits and recounts nationwide.

Additionally, over 170 Connecticut residents wrote in support of Connecticut joining the interstate compact to elect the President of the United States by national popular vote because they believe the current system is archaic and the will of the people should be heard.

NATURE AND SOURCES OF OPPOSITION:

Michael Ferguson, State Representative, 138th District

Rep. Ferguson has co-authored an article with Dr. Patricia Crouse and a Michael French, a student from Western Connecticut State University, *The National Popular Vote Compact: Undermining States' Rights*. The article argues that the NPV Compact violates the interstate compact clause of the Constitution. While supporters of the NPV have argued if they introduce a bill in Congress which grants consent to the compact on behalf of the District of Columbia, that is would then “imply consent” to the overall compact. Rep. Ferguson states that this argument is flawed since the District of Columbia is not a state and that the Congress would need to give explicit consent, rather than implicit.

Rep. Ferguson also argues that the NPV Compact would give the federal government too much power over the states in the election process. He cites that recounts may be an issue whereas states have their own rules, but if federal recount standards were made, that it would usurp the state's power.

Robert C. Sampson, State Representative, 80th District

Rep. Sampson asserts that being in favor of one person; one vote is in effect, ignoring the will of an entire state. Additionally, he argues that our country is a representative republic, based on the principle of individual liberty. Each state joined voluntarily with the understanding that they have sovereignty over state issues. He strongly believes that the NPV would nullify votes and eliminate state sovereignty.

Tara Ross, Author, Lawyer

Ms. Ross notes that there are some modern benefits of an electoral college:

- The benefits of Federalism. The process discourages presidential candidates from focusing on one region, state or special interest group.
- Moderation and Compromise. The Electoral College has encouraged Americans to work together and otherwise we would have no incentive to build coalitions.
- Stability and Certainty in Elections. The Electoral College typically produces quick and undisputed outcomes.

Furthermore, she notes that there would be many problems created by the National Popular Vote Compact:

- Differing State Laws. NPV attempts to combine 51 different state (and D.C.) election processes together to obtain one national outcome. One of the three original constitutional lawyers who proposed an NPV system, has now acknowledged the difficulties this would create.
- Disenfranchised Voters. Additionally, she asserts that voters would be disenfranchised because their votes would be counted differently, based upon different ways states would count votes.
- Legal Issues. Finally she also believes the NPV circumvents the constitutional amendment process, and as a result would bring many legal problems and much litigation.

Reported by: Susan Tufts

Date: 4/16/18