

2008-09 LWVUS Study—National Popular Vote

	Opponents	Supporters	Notes
1. <u>Constitutional Issues</u>			
Constitutional Power	There could be constitutional challenges to a compact.	Although over 70% of the population favors direct election of the president, it hasn't happened yet—in part because amending the Constitution is long and difficult.	The US League already supports elimination of the Electoral College. The question is about method.
Political Compacts	A political compact may function differently from other types of interstate compacts.	Such compacts are constitutional and long-standing. Compact states do not gain over non-compact states.	The Compact will be dissolved in the case of a constitutional amendment establishing a national popular vote for president.
Congressional Approval	Political compacts require congressional approval. It otherwise may not be enforceable.	Supreme Court rulings established that compacts do not require congressional sanction. It will be sought to avoid litigation.	
States not in the Compact	Electors from states outside the Compact would have little influence in selecting the president	Under this Compact all votes will be equal, because the winner is whoever wins the national popular vote.	
Constitutional Protections	The Compact could shift political power between states.	States already have the power to change. Who joins is irrelevant since all votes are equal wherever they are cast.	
2. <u>Evaluating Fairness</u>			
Support for the Winner	Voters supporting the winner in their state want their electors to support that choice.	Voters question the system when the “victor” gets fewer actual votes. This problem is eliminated with the Compact, and makes the process more legitimate	
States Identity & Rights	The Compact could disenfranchise		

	<p>the majority of a state's voters—the national winner is not always the one who wins the state</p> <p>The compact would reduce the rights of the state itself and increase the rights of individuals</p>	<p>Voters care more about who is elected president nationally than who wins their state.</p>	
Battleground States	<p>Under the Compact, candidates would campaign where there's the most population. Rural areas would be ignored.</p>	<p>Currently, campaigns focus intensely on a few key states. This makes some votes worth more than others—the Compact makes candidates sensitive to all states. More voters would have a sense that their vote counts.</p>	<p>In 2008, 98% of campaign spending and visits were concentrated in 15 states.</p>
Influence of Winner	<p>The 11 largest states have the needed 270 electoral votes for the Compact. They could decide on the electoral system over the objections of the remaining 39.</p>	<p>These states have little in common politically and are unlikely to “collude.”</p>	
The Approach	<p>It's unfair to “work-around” the Constitution.</p>	<p>There have been many in history, including suffrage for women, 18-20 year-olds, African Americans.</p>	<p>The current system of electing a president does not go back to the country's founding</p>
Small States	<p>The Electoral College protects small states, which would be ignored under the Compact.</p>	<p>Few of the least populous states are battlegrounds. Each vote is important regardless of state.</p>	
3. Mechanical Issues			
Enforcement	<p>Could be a lawsuit against non-compact states, or disruption of the Electoral College procedures. States might try to pull out of compact after the vote and before the Electoral College meets.</p>	<p>Such problems are anticipated by the drafters of the Compact. Case law supports enforcement of the provisions in the compact. Americans are committed to a notion of fair play.</p>	<p>Black Out time, when states cannot change status, includes conventions, campaign period, Election Day, the meeting of the Electoral College, counting of electoral votes and Inauguration.</p>
Close Elections	<p>The Electoral College helps</p>	<p>We appear to be in a period</p>	<p>“Wrong Winners” have been</p>

<p>“Real vs. Wrong” winners</p> <p>Winning Levels Plurality</p>	<p>establish legitimacy for a president in a very close election</p> <p>The Compact does not improve on the current system by requiring a majority win.</p>	<p>where many elections are close. The Compact would eliminate the possibility of a “wrong” winner. The compact gives the nation a president elected with the most votes nationwide. It does not address a plurality.</p>	<p>elected 4 times in US History.</p>
<p>Recounts</p>	<p>The Compact does not have authority to carry out a recount in a close election; that is left to states. This could delay a final result.</p>	<p>There should be less need for recount since numbers are not that close nationwide as they are in battleground states.</p>	
<p>Electoral Fraud/Voter Suppression</p>	<p>Fraud investigations would be more difficult.</p>	<p>Because now only a few battleground states are in play, the temptation to fraud is increased. Under direct vote, single vote fraud is less effective, and massive fraud is more difficult.</p>	
<p>4. <u>Other Issues</u></p>			
<p>Pre-Clearance Voting Rights Act</p>	<p>For states under regulation by the Voting Rights Act, any voting changes must be approved ahead of adoption; compact could therefore be challenged.</p>	<p>The Compact, like the Voting Rights Act, has the goal of creating an equal vote for all voters.</p>	
<p>Faithless Electors</p>	<p>Opponents fear Electors might be tempted to vote against the national winner in violation of the Compact.</p>	<p>The Compact is a better protection against “faithless” electors.</p>	<p>From 1789-2004 only 11 of more than 21,000 electoral votes were surprises. Only one of those (1796) was cast in hopes of changing the outcome.</p>
<p>5. <u>League Issues</u></p>			
<p>Uniform Standards</p>	<ul style="list-style-type: none"> • The LWVUS supports uniform standards for all elections. The compact is 	<ul style="list-style-type: none"> • The NPB creates uniform standards—every national vote would be counted 	

	<p>no more uniform than the current system.</p> <ul style="list-style-type: none">• Nationwide change by constitutional amendment is better than a state-by-state change.• The method of abolishing the Electoral College needs to be considered carefully.• This plan is not perfect.	<p>equally.</p> <ul style="list-style-type: none">• LWVUS supports direct election of the president, and has for over 30 years. This is the most practical and possible method.	
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