



*The Kitsap*

# *Voter*

*The League of Women Voters of Kitsap*

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*We are trying to collect all of our  
league's historical records to inventory*

*March 2009*

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## **Public Meeting on Water Issues**

**March 18, 2009 – 12:00 Noon**

at

**The Silverdale Beach Hotel**

**3073 NW Bucklin Hill Road, Silverdale**

**Water: Where does it come from  
and Where does it go?**

**A Panel Discussion Featuring**

**Bob Hunter, Kitsap Public Utility District**

**Theresa Thurlow, Surface & Stormwater Management**

**Morgan Johnson, Silverdale Water District**

**The luncheon price of \$23.00 includes a choice of  
Chef's Salad or Caesar Salad with Blackened Chicken  
and Caramel Apple Torte for dessert**

Send your reservation & choice, payable to LWV-Kitsap, P.O. Box 564, Kingston, WA 98346.

**Reservations and Salad Choice must be received by Friday, March 13.**



For more information: 360-830-4154



## League Contacts

*Have a question to ask, or knowledge to share? Need more information? Here's who to call...*



<i>Community Outreach</i>	<i>Ellen Fisher</i>	<i>(206) 842-3548</i>
<i>Program issues</i>	<i>Pam Hamon</i>	<i>(360) 598-3508</i>
<i>Voter Education</i>	<i>Catherine Ahl</i>	<i>(360) 697-7924</i>
<i>Policies &amp; Procedures</i>	<i>Margaret Colony</i>	<i>(360) 598-3073</i>
<i>The Voter Editor</i>	<i>Peggy Drew</i>	<i>(206) 780-2914</i>
<i>Action</i>	<i>Luella Wells</i>	<i>(360) 598-3267</i>
<i>Civics</i>	<i>Pam Hamon</i>	<i>(360) 598-3508</i>
<i>International Relations</i>	<i>Helen Hoover</i>	<i>(360) 297-5727</i>
<i>Membership</i>	<i>Annamarie Lavieri</i>	<i>(360) 638-1088</i>
<i>Membership Renewal</i>	<i>Myra Howrey</i>	<i>(360) 621-2752</i>
<i>Natural Resources</i>	<i>Judy Matchett</i>	<i>(360) 830-4154</i>
<i>Transportation</i>	<i>Luella Wells</i>	<i>(360) 598-3267</i>
<i>Treasurer</i>	<i>Pat Anderson</i>	<i>(360) 638-1821</i>
<i>Unit Coordinator</i>	<i>Pam Hamon</i>	<i>(360) 598-3508</i>
<b>Unit Leaders:</b>		
<i>Bainbridge Island</i>	<i>Madelyn Fox</i>	<i>(206) 842-5360</i>
<i>North Kitsap</i>	<i>Annamarie Lavieri</i>	<i>(360) 638-1088</i>
<i>Central &amp; South Kitsap</i>	<i>Ann Smith</i>	<i>(360) 871-3993</i>

## Upcoming Events

- March 4**      **Board Meeting, 9:30 a. m.,**  
Poulsbo Library Lower Level Meeting Room
- March 12**      **Lobby Day in Olympia:**  
See Page 4 for agenda and Registration Form  
(Registration required; due by March 9)
- March 15 - 21**      **Sunshine Week (Open Government)**
- March 18**      **General Meeting on Water Issues:**  
Noon at The Silverdale Beach Hotel  
See Page 1 for details and luncheon choices.  
**Registration and payment must be received by March 13.**
- March 25**      **Combined Unit Meeting:**  
**Consensus on National Popular Vote Compact**  
9:30 Coffee, 10:00 – Noon meeting at the  
United Way Office, Cascade Building, 647 4th Street, Bremerton  
See Pages 5 – 12 (blue) for related materials;  
Bring this blue section to the meeting.  
More detailed materials are on the website: [www.lwvus.org](http://www.lwvus.org)

# President's

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The article “**Examining ‘Redistribution of Wealth’**” in the latest *National Voter* is interesting and informative reading. Learning more about the ways income can be redistributed made me think more deeply about our nation’s history, and I am now more aware of whether income was redistributed upward or downward under particular recent presidents. I strongly recommend reading it.

The first general meeting in January considered proposals for program planning for the Kitsap League; the second considered what recommendations we will send to the state board for state program. The Kitsap board will be discussing each set of proposals, recommending what Kitsap Leaguers will consider at our annual meeting in May, and making Kitsap’s recommendation for state program to the state board, which will decide what to recommend delegates consider at the state convention in Tacoma this June. Thank you to everyone who came to one or both of the meetings to help with the program planning process!

The nominating committee has begun meeting to select the slate for next year’s board. There are many different roles available. I urge you to consider taking one on, whether to learn

more about government and the League, to take your turn or just to get involved in doing important work. **Myra Howrey** is the nominating committee chair; her e-mail is **mhowrey@hotmail.com**, her phone is **360-621-2752**.

At our March general meeting we will hear a panel discussing water issues locally - a very important topic! We are meeting for lunch at the Silverdale Hotel. Don’t miss this chance to become better informed on an important topic.

We will be having a Combined Unit Meeting again this month in order to consider the **National Popular Vote Compact** and vote on the Consensus Questions. You will find the brief Background, Supporting and Opposing Views, and the Consensus Questions in this **Voter**, pages 6 – 13. The full Background Paper is available on the national League website, [www.lwvus.org](http://www.lwvus.org).

Ellen Fisher,  
President

Concerned about Ferry issues  
and the State Budget?  
[www.citizenswriteplanc.com](http://www.citizenswriteplanc.com)

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- **Check out our website:** •
- [www.lwvwa.org/kitsap](http://www.lwvwa.org/kitsap) •
- **Our Voter is now posted on the website.** •
- **The 2009 version of They Represent You** •
- **is also posted on the website.** •
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☆☆☆MAKE PLANS FOR LOBBY DAY☆☆☆

Thursday, March 12, 8:30 A.M.  
Columbian Room of the Legislative Building

Circle the date on your calendar, add a couple of stars and a few exclamation points.  
We need to be in Olympia in force that day to make ourselves heard  
on important League legislative priorities.

PROGRAM

8:30 – 9:30 Registration and Coffee and Conversation with Legislators

9:30 – 11:30 Remarks by Legislative Leaders and our own Lobby Team

11:30 – 12:30 LUNCH

Rest of the Day: Appointments with representatives, senators and staff

We'll have plenty of Legislative Priority cards for your visits, as well as  
talking points papers on the key issues.

It's not too early to make the appointments with your legislators,  
and to invite them to drop by the Columbia Room to join us for  
Coffee and Conversation any time between 8:30 and 9:30 that morning.



LOBBY DAY REGISTRATION

Thursday, March 12, 2009

NAME: \_\_\_\_\_

Email: \_\_\_\_\_

Make check for \$20 (includes lunch) payable to LWVWA. Mail check with this form to:

LWVWA, 4730 University Way NE, # 720, Seattle, WA 98105.

REGISTRATION DEADLINE MARCH 9

REGISTRATION REQUIRED

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## Program Planning Results

Whew! Program planning meetings are over, and many good recommendations came out of them. So what happens now?

First we are sending recommendations to LWVWA to insert the word “safe” and add a section by concurrence with LWV Tacoma-Pierce County to the Transportation position; to have a program of civic education on the state budget; and to take action on Conservation District elections using our Representative Government/Voting Rights positions. The state Board will decide which of these, if any, will be taken to the State Convention for a vote.

Your local Board is reviewing the recommendations to do local studies on Transportation and Health Care, to drop the Bainbridge Island Municipal Government position, and to take action on Sustainability. These will be voted on at the Annual Meeting on May 20.

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## Background for the National Popular Vote Compact

The League has a long-standing position in support of the direct election of the president by popular vote. Now, League members have the opportunity to consider whether to support the National Popular Vote Compact (NPV Compact) as a viable process to achieve that result. The NPV Compact would avoid the need for a constitutional amendment abolishing the Electoral College (EC), and would assure that the individual receiving the most votes would become president.

The NPV Compact proposal uses the mechanism of the EC. States that legislatively enact the NPV Compact would agree that their state electors would vote for the individual that received the most votes nationwide. Thus, the popular vote count from all 50 states and the District of Columbia would be added together. State elections officials in all states participating would award their electoral votes to the presidential candidate who receives the largest number of popular votes.

This alternative method of assigning a state’s EC votes would take effect only when enacted by states collectively possessing a majority of the electoral votes. This 270-vote threshold also corresponds essentially to states representing a majority of the people of the United States.

The plan includes procedural provisions to help assure smooth functioning of the agreement – conditions that deal with states deciding to withdraw from the Compact at the last moment, enforcement issues and recounts.

Currently four states have passed legislation to enact the NPV Compact.

There are pros and cons to this plan, which are discussed in full in papers found on the LWVUS Web site. Summaries of these papers are also available. League members can learn more about the plan from these sources and consider its ramifications at consensus meetings across the country. Be sure to participate! Who better than the League to be ready to speak to this good-government issue?

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

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## National Popular Vote Compact Consensus Questions

**Amending the Constitution:****1. Which statement best reflects the consensus of the group? Select one.**

1. Action to alter a basic element of the Constitutional framework, which is achievable by amendment to the Constitution, should be accomplished by amendment to the Constitution.
2. Action by states through a compact process is an acceptable way to alter the method for electing the President and Vice-President.
3. The group could not reach consensus.

**2. Which statement best reflects the consensus of the group? Select one.**

1. Because a compact has never before been used to address a fundamental constitutional issue such as voting, the chance that it might set a precedent for the future leads to the conclusion that it is better that the League continue to work for an amendment to the Constitution to establish the direct popular election of the President and the abolition of the Electoral College.
2. Despite the novelty of the use of the compact approach to address a fundamental constitutional issue such as voting, the League should support the NPV Compact as a way of achieving an important goal.
3. The group could not reach consensus.

**Congressional Consent:****3. Which statement best reflects the consensus of the group? Select one.**

1. The possibility that the NPV Compact will require congressional consent is not of sufficient concern to block the implementation of the plan.
2. The possibility that the NPV Compact will require congressional consent is sufficient to conclude that the plan should not be implemented without obtaining such consent.
3. The group could not reach consensus.

**Enforcement:****4. Which statement best reflects the consensus of the group? Select one.**

1. The NPV Compact contains sufficient enforcement provisions to assure smooth operation of the plan.
2. Although it is not possible to determine whether the enforcement provisions will be sufficient to assure smooth operation of the plan, the plan should be passed anyway.
3. Enforcement of the plan is likely to add uncertainty and bring the courts into the presidential election in ways that raise substantial concerns.
4. The lack of adequate enforcement provisions is sufficient to conclude that the NPV is not a viable plan.
5. The group could not reach consensus.

**Uniformity:****5. Which statement best reflects the consensus of the group? Select one.**

1. The uniformity of voting systems is more important to American democracy than the possibility that the NPV Compact can be adopted.
2. The NPV Compact is more important than uniformity of voting systems because it would succeed in achieving the popular election of the President.
3. The group could not reach consensus.

**Popular Election of the President:****6. Which statement best reflects the consensus of the group? Select one.**

1. It is more important to achieve the goal of national popular election of the President than it is to achieve the goal of abolition of the electoral college.
2. It is more important to amend the Constitution to abolish the Electoral College than it is to achieve the goal of popular election of the President by alternative methods, such as the NPV Compact.
3. The group could not reach consensus.

**Achievability:****7. Which statements reflect the views of the group?**

1. The NPV Compact will have problems being passed because of the need for congressional consideration and the need for action by so many states.      **Agree**                      **Disagree**                      **No Consensus**
2. A constitutional amendment to establish the direct popular election of the President and the abolition of the Electoral College will continue to have problems being passed.      **Agree**                      **Disagree**                      **No Consensus**

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## LWVUS National Popular Vote Compact Study, Supporting Arguments

by Gail Dryden (CA), Barbara Klein (AZ), Sue Lederman (NJ), Carol Mellor (NY), and Jack Sullivan (CA)

The National Popular Vote (NPV) Compact provides a way to choose the President of the United States by popular vote without amending the Constitution. These are the arguments in favor of the NPV Compact.

The League of Women Voters of the United States (LWVUS) already has a position in favor of abolition of the Electoral College and adoption of the “direct-popular-vote” method for electing the president and the vice president. The NPV Compact proposes a way to accomplish the goal of using the direct popular vote for presidential elections.

Given that the LWVUS is already on record favoring abolishing the Electoral College, we do not here directly address the shortcomings of the Electoral College except to the extent necessary to present the arguments.

### CONSTITUTIONAL ISSUES

**Difficulty of Amending the Constitution.** Amendment of the Constitution to eliminate the Electoral College would accomplish the goal of election of the president by popular vote, but that is a very long process with uncertain results. People want to believe that their votes count but the current system suggests to many that this is not the case. Most of the electorate is also in favor of a system in which the candidate who receives the most votes wins – over 70 percent in some polls favor a direct election for president. Thus, a more rapid, direct path to the national popular vote would be in the interests of the electorate.

**Amendment Necessary or Not.** No constitutional amendment is needed to implement the NPV Compact. Under the U.S. Constitution, the states already have the right and power to implement the change. Primary constitutional authority for the Compact is found in Article II, section 1, clause 2.

Supreme Court cases have established that this wording gives exclusive and complete power of appointment and mode of appointment of electors to the states and that it is up to each state to decide how to exercise the power as they deem fit (as long as no other provisions are violated).

**Interstate Compacts are Legitimate.** The crux of the NPV Compact proposal is an interstate compact in which states would commit to cast their votes for the winner of the national popular vote. Interstate compacts, involving a myriad of topics, have long been a part of U. S. history and are, in fact, sanctioned by the Constitution. The courts over the years have upheld such compacts and ruled that they are contracts that bind the parties to the terms of the agreement.

**Congressional Consent.** The constitutional provision which permits interstate compacts between states says: “No state shall, without the consent of Congress,...enter into any agreement or compact with another state...” U. S. Constitution. Article 1, Section 10. Supreme Court rulings have established that most compacts do not, in fact, require congressional approval. However, to avoid time-consuming litigation on this procedural issue, backers have decided to seek congressional consent. In deference to the exclusive power of the states to decide the manner of awarding electoral votes, the question might be presented to Congress in the form of a bill to grant consent to the Compact on behalf of the District of Columbia. Proponents believe that positive action on this legislation would imply tacit congressional consent to the Compact as a whole.

### EVALUATING FAIRNESS

**President of the Minority.** Voters assume that the candidate who wins an election will be the candidate that received the most votes—either a majority or a plurality (in multi-candidate elections). When the “victor” actually receives fewer votes than another candidate, people are led to question the nature of our electoral system. It is unnerving to the electorate when a country supposedly based on majority rule ends up with a “minority” president. This problem is eliminated under the NPV Compact. Furthermore, presidents elected by a popular majority via the NPV Compact would be “stronger” presidents because they would have a greater, more democratic legitimacy.

**Few Battleground States.** Under the current Electoral College system, presidential campaigns focus on a few key states which are the determinants of an Electoral College victory or loss. The electoral votes of these battleground states are viewed as the linchpins of the election, and most media and candidate attention are focused on the few “competitive” states whose Electoral College votes are believed to be at stake. Voters in other states become observers of the process watching as the voters in a very few of the fifty states are courted intensely by the presidential candidates. Under this system, some votes are worth much more than other votes. A large portion of the country is ignored by the major candidates, except to the extent that the candidates visit “safe” states in search of campaign funds to fuel their activities

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## Supporting Arguments continued

candidates, except to the extent that the candidates visit “safe” states in search of campaign funds to fuel their activities in the toss-up states.

Under the NPV Compact, candidates would have to be sensitive to the trend of opinion in all states and to develop campaign strategies that appeal to a very broad spectrum of the electorate. In this way, the NPV Compact would bring many more voters directly into the electoral process and take them out of the “spectator from afar” role. Equally important, with the outcome depending on the NPV, voters across the country would have a sense that their vote would indeed count in a meaningful way and this would provide stimulus for greater attention to the campaign and greater participation in the electoral process. The NPV Compact would make it worthwhile for candidates to campaign throughout the country, thereby increasing interest in the election nationwide.

**State Identity.** States’ rights advocates argue that it is an affront to state sovereignty to award a state’s electoral votes to a candidate who did not carry that state. This assumes that the voters within that state care more about their state identity than their own personal vote. The question is whether it is more important for the winner in a particular state to receive the state’s electoral votes or for the winner of the entire country to be selected as president. Polls indicate that only about 20 per cent of the public support the current system of awarding all the electors of that state on a winner-take-all basis instead of a popular vote. Seventy per cent oppose the current system, 10 per cent are undecided, suggesting that most voters might opt for the national popular vote over states’ rights.

**Influencing the Winner.** Critics of the NPV Compact claimed that “11 colluding states” (as they term them) could theoretically impose their will on the country because those states contain the majority of the population and account for the 270 electoral votes needed for the Compact to take effect. While these 11 largest states do contain 56 per cent of the population, the real likelihood of such “collusion” is extremely small as they have little in common politically. Of the 11 states, recently five tended to vote Republican (Texas, Florida, Ohio, North Carolina, and Georgia) and six tended to vote Democratic (California, New York, Illinois, Pennsylvania, Michigan and New Jersey). Furthermore, the NPV Compact has so far been enacted by four states: Hawaii (a small state), Maryland (an average-sized state), and New Jersey and Illinois (large states). Although passed by the Maine Senate and both houses in Vermont, California and Rhode Island, the Compact has not been signed into law by the governors of those states. Support for the NPV Compact has been across the board so far and in no way limited to the largest states.

**Questioning the Approach.** Opponents have portrayed the interstate compact approach as inappropriately disregarding the U.S. Constitution. This argument ignores the fact that many amendments to the Constitution have begun as state actions to change practices which could have been (and eventually were) changed by constitutional amendment.

The very right to vote for president was begun through enactment of laws by state legislatures - on a state-by-state basis. In 1789 only five states permitted a direct vote for electors. By 1824 three-quarters of the states had such a right, but it was not until 1880 that a direct vote of the people was fully enacted.

Other fundamental voting changes have been accomplished through state-by-state changes in law. Among such changes in voting initiated by state action were the abolition of the requirement that voters be property holders and the extension of the franchise to women, blacks and persons under 21. All of these changes were begun by legislation in individual states, followed by constitutional amendment, and few, if any, questioned supporters’ motives. No one criticized the approach as an end run around the Constitution. Many citizens benefited from this process, including women who were able to vote in some states before passage of the 19th amendment.

**Small States.** The political power of small states would be increased under the NPV Compact. Currently, political power generally resides in the closely divided battleground states. Few of the 22 least populous states are battlegrounds. With the NPV Compact each vote becomes important regardless of the state; state size and closeness of the race within a state would be less relevant.

**Electing the REAL Winner.** Out of our nation’s 55 presidential elections, there have been four “wrong winners,” that is, elections in which the candidate elected to the presidency is not the person who won the most votes. This is a failure rate of 1 in 14, which does not instill confidence in the procedures for electing the President of the United States.

When an election is a landslide, there is less chance of a “wrong winner,” but the more divided the country and the closer the elections, the greater the chance of erroneous results. We now appear to be in an era where many elections are close. The NPV Compact would eliminate the possibility of a “wrong winner.”

## MECHANICAL CONSIDERATIONS

**Enforcements: Post-Election Protection of Rules.** Some critics warn that a state legislature might, for partisan reasons

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## Supporting Arguments continued

and after signing onto the Compact, change the rules for awarding electoral votes—after the people have voted, but before the Electoral College meets.

The drafters of the NPV Compact have anticipated such a problem and have included a mechanism which permits a state to withdraw from the Compact, but only according to a timetable which prevents deleterious effect upon a particular election.

There is a black-out period from July 20th until January 20th of presidential election years during which time a compacting state cannot withdraw or repeal its law. This time frame was chosen because it includes six major events relating to the presidential election (the national conventions, the campaign period, Election Day, Meeting of the Electoral College, counting of the electoral votes, and Inauguration Day).

Case law supports the enforcement of such a provision holding that interstate compacts are contracts that bind the parties to the agreement. Further, Americans are committed to the notion of fairplay and would react strongly to efforts by one state to “break the rules.”

Winning Levels. The winner-take-all rule (currently used by 48 of the 50 states) is not required by the U.S. Constitution. It is entirely a product of state law. Accordingly, changing the winner-take-all rule does not require an amendment to the Constitution but may be changed in the same way that it was originally adopted, namely by the enactment of state laws by state legislatures on a state-by-state basis.

Recounts. It is anticipated that the need for recounts will diminish under the NPV Compact because, although the vote count can be extremely close in battleground states, the numbers are not close on a nationwide basis. Should a recount be necessary, the plans and resources to conduct a recount would still be the responsibility of the state experiencing the close vote. However, due to the larger pool of voters, it is more likely that the national results would not be close and, as a result, fewer statewide recounts would be necessary.

Election Fraud. The adoption of the NPV Compact would diminish the danger of both voter fraud and election fraud/voter suppression. Under the current system, with only a few battleground states in play, the temptation to engage in election fraud or voter suppression is increased by the skewed weight of votes in battleground states. In the Electoral College system, with most states using a winner-take-all process, one fraudulent vote could affect the entire state’s electoral votes. Under a direct popular vote system nationwide, one fraudulent vote has far less effect on the outcome.

### **OTHER ISSUES-**

Voting Rights Act. The NPV Compact is in total harmony with both the terms and purpose of the Voting Rights Act, which was enacted to guarantee equality of the vote throughout the United States, particularly in relation to racial minorities. The NPV Compact’s goal is to create an equal vote for all voters throughout the United States.

Faithless Electors. The faithless elector issue is not a practical concern. States already have constitutional authority to address problems as they come up. The NPV Compact, awarding the nationwide winner the majority of electoral votes as a base, makes the possibility of a faithless elector having any effect on the election unlikely. Considering the support the winner would need to garner a nationwide win, the candidate would probably earn at least another half of the remaining votes in non-compacting states as well – a strong support that would discourage faithless electors. Additionally, the state electors casting their votes for president will be from the party that won nationwide. The NPV Compact is more likely to protect against faithless electors than does the current system.

### **LEAGUE ISSUES**

Uniform Standards. The LWVUS supports uniform national voting standards. The NPV Compact aims for having all the states become members of the compact, and thus shares the goal of a uniform and universal method of electing the President. The fact that the Compact will become effective at a time when states representing 270 electoral votes have joined does not change the ultimate goal that all states adopt the Compact. Further, the NPV Compact creates uniform standards because every national vote would be counted equally if it were to go into effect.

### **CONCLUDING ARGUMENTS SUPPORTING THE NPV COMPACT**

One of the most compelling arguments in support of the NPV Compact is that this method ensures that the candidate who receives the most votes in the national election is elected President, and does so by using the Electoral College system of electing the President of the United States. Amending the U.S. Constitution in order to eliminate the Electoral College and, instead, establish the direct election of the president is much more cumbersome and much less likely to succeed. Above all, the most appealing argument in support of the NPV Compact is that every vote, of every party and of every voter is counted fairly and equally.

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## LWVUS National Popular Vote Compact Study, Opposing Arguments

by Gail Dryden and Barbara Klein

There is clearly a lack of respect for the Electoral College. The League of Women Voters of the United States (LWVUS) opposes it. In Gallup surveys support for its abolition in favor of direct popular vote has never fallen below 58 per cent. Nonetheless, the Electoral College has weathered the passage of time even with more than 700 Constitutional amendments proposed to abolish or substantially alter it. All have failed.

Enter the National Popular Vote Compact (NPV Compact)—a way to change the way the President is elected without having to amend the Constitution. There is intense political and citizen interest in any change to the presidential electoral system, so this new way of making change is garnering much attention. Opponents of the NPV Compact indicate a need to look carefully at this particular plan for its limitations and problems as well as at problems with the Electoral College that are not addressed by the NPV Compact.

Constitutional Issues

**Constitutional Power.** Because the U.S. Constitution gives a state legislature the power to determine how a state's electors are chosen, there could be legal challenges to a compact between several states on selection of electors.

**Political Compacts.** According to opponents a political compact - one that tends to enlarge the political power of compacting states at the expense of either the federal government or non-conforming sister states - may function differently from other types of interstate compacts that cover subjects such as boundaries or economics issues.

Constitutionally, political compacts are permitted between states, but all require congressional approval. Under the Constitution's Compact Clause any changes that create a shift in political power require congressional consent. Therefore, without congressional consent the NPV Compact may not be enforceable. Congressional approval has not always been sought for previous state compacts, and the four states that have adopted the NPV Compact have not sought Congressional approval.

The NPV Compact is perceived as a way to circumvent a national stalemate on election reform but the impasse could continue if congressional approval is necessary and difficult to obtain. Senators, who are elected statewide, could be as reluctant as some governors have been to support the NPV Compact if they perceive it as disenfranchising a significant portion of their own state constituency.

The U.S. Supreme Court declined to hear a case about the impact of one state's method of appointing its presidential electors on another state (1966). However, the current Court might decide to hear a case on the NPV Compact, and could decide against a group of state legislatures introducing a new system of electing a president without an amendment to the Constitution.

**Non-Compacting States.** States not endorsing the Compact could become a fundamental concern constitutionally because the interests of states which have not signed the Compact could be greatly diminished. Opponents say that the electors from states not part of the Compact would have little influence on selection of the President.

**Constitutional Protections.** The U.S. Constitution is written to protect the interests of the states in order that all states will play a role in the electoral process. The NPV Compact allows as few as 11 states to determine a presidential election and could shift political power between states that are and are not party to the Compact. There is good reason to believe that effective governance would benefit from a broad geographic basis of support. Whether there is a broad geographic base for the Compact won't be known until we know which states enter the compact.

Evaluating Fairness

**Support for a State's Winning Candidate.** Voters supporting the candidate who wins their state would want their state's electors to support their choice. If a state's legislature has adopted the NPV Compact, that state's secretary of state would be required to certify electors representing the candidate who is the winner of the national popular vote- not necessarily the candidate who wins the popular vote within the state. Despite the legitimacy of the argument for one person, one vote that the NPV Compact offers nationwide, voters in states which traditionally support one party might be particularly troubled if their state's electors cast their votes for the candidate of an opposing party.

**State Identity and Disenfranchisement.** While the Electoral College now disenfranchises voters, the NPV Compact could disenfranchise the majority of a state's voters. Disenfranchisement of majorities within states could occur despite the state compact's goal to reflect the majority nationwide. This could happen specifically where state electors

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**Opposing Arguments continued**

had to support the nationwide choice over their own state's choice. For example, if the NPV Compact were adopted within a state and the voters in that state cast a majority of votes for candidate 'A', the state's Electoral College votes would not be cast for that candidate IF candidate 'B' won the most votes from individuals in the 50 states and the District of Columbia combined.

**Battleground States.** Those supporting the NPV Compact argue that in the current system the election is fought in a few battleground states where the Electoral College votes are at stake. The NPV Compact creates a different scenario, but not necessarily a better one. The majority of the population of the United States resides in concentrated urban areas. In order to gain the most popular votes, a candidate will tend to campaign primarily in areas of dense population, ignoring sparsely populated rural areas. The concerns of many rural areas could be overlooked as candidates speak to issues resonating with urban populations.

**State's Rights.** The NPV Compact asserts state's rights and the ability to enter into a compact with other states to achieve a goal. However, the Compact would reduce the rights of the state itself and increase rights of individuals in all states. Each state would relinquish an independent role in the selection of the president and vice president by mandating that each state that is party to the Compact vote in a certain manner.

**Influencing the Winner.** The NPV Compact takes effect if enough states have 'signed on' to represent 270 electoral votes. The 11 largest states together have the 270 electoral votes that would be needed for the Compact to take effect and, if they were the only states to join the compact, could determine the outcome of the election even if 39 other states did not participate in the Compact. The first four states that have signed on to the Compact vary in size, so it is likely that it would take more than 11 states to reach the threshold for the Compact to take effect. The popular vote from all states would be used to determine the winner of the national popular vote, but it would be a dangerous precedent to allow a small number of states to have undue influence over selection of the president.

**Questioning the approach.** Clearly, some opponents simply think it inappropriate or unfair to have an approach like the NPV Compact that by avoiding the amendment process, is a 'work-around' to the Constitution.

**Mechanical Issues and Possible Flaws**

**Mechanisms for Enforcement of the NPV Compact.** Methods for enforcing the Compact, if it were broken, are unclear. For instance, it may be necessary for a state or states to bring a lawsuit against noncomplying states as part of the enforcement process. The Compact might be deemed unenforceable with the potential to disrupt procedures of the Electoral College. The Constitution gives each state the power to determine how that state's electors shall be appointed. However, it is not at all clear that the power to change the appointment process could be limited.

**Timing.** There are questions of timing as well. If a state pulls out of the compact during the Compact's 'blackout period', it is unclear what authority, if any, could force it to return or how long this might take. Given constitutional requirements regarding when the Electoral College casts its votes and when a president is inaugurated, this could be serious indeed. Other NPV Compact provisions suspend the rules of the Compact and return to the Electoral College if another state pulls out of the compact too close to the election. This, too, could cause disruption .

**Close Elections.** Some opponents of the NPV Compact are concerned that the Compact does not address electing a president with less than majority support, which is also possible under the current Electoral College system. They point out that in really close races a popular majority may not exist. This can be true in our current system as well, although some believe that the requirement for a majority of votes in the Electoral College helps establish the legitimacy for the president. While many voters were distressed at the outcome during the 2000 presidential election, most accepted the legitimacy of the system. Some opponents to direct elections and the NPV Compact think that the Electoral College adds this legitimacy in close elections.

**Winning Levels.** The NPV Compact proposal does not improve on the current system by demanding the president be elected by an actual 'majority' (50 per cent plus 1 vote) of the people. The NPV Compact may come no closer than the current system to electing a nationwide majority winner, as it still allows a candidate with only the 'plurality' of the vote to be selected President.

**Plurality.** A plurality is the standard of the NPV Compact. Some proposals for direct election of the president include provisions for a minimum level of 40 per cent. A majority of the popular vote might be preferable, but it is unfortunate that the NPV Compact doesn't require at least 40 per cent for a candidate to become president. Election reforms could have been included in the proposal that would have guaranteed majority winners, but in the end were not.

As noted above "Close Elections" some argue that in the Electoral College even when the President receives less than

a majority of the vote there is at least the legitimacy of a majority in the Electoral College because all but two states award electors on a winner-take-all basis. In the end the winner has at least an illusion of a majority mandate after winning 270 electoral votes.

**Recounts.** Were a recount to be necessary within a state, the national outcome might be uncertain, thereby potentially disrupting the timely meeting of the Electoral College. In a close race there would be no single national standard governing the recount process, as indeed there is not now. Each state has its own statutory recount criteria. The variations in rules governing recounts could raise issues of equal protection among the states. There is nothing in the NPV Compact that gives the compacting states authority to conduct the recount were a state to refuse. A state in the NPV Compact is circumventing the Constitution. It is clear that changing the Constitution is extremely difficult; it was so designed. It is important for the League to consider whether changes in the election of the president should be accomplished through normal constitutional amendment procedures or the 'work around' proposed in the NPV Compact.

**Election Fraud/Voter Suppression.** This argument addresses the difference between direct elections and the current system as opposed to the NPV Compact in particular. It is unlikely that fraud will occur in states where the votes indicate a clear choice and the election is not close, because a large number of fraudulent votes or a large amount of voter suppression would be needed to alter the election results. In the current system, fraud is generally limited to a few areas, and especially suspected in 'battleground' states. Election observers and federal law enforcement can concentrate resources there. Fraud investigations at the national level, however, would be much more difficult when an election is to be decided by national popular vote totals.

Other Issues

**Pre-clearance States and the Voting Rights Act.** Alabama, Alaska, Arizona, Georgia, Louisiana, Mississippi, South Carolina, Texas and portions of Virginia, California, Florida, Michigan, New Hampshire, New York, North Carolina and South Dakota are obligated under the Voting Rights Act (VRA) to seek approval of the United States Attorney General or a three-judge panel for the District of Columbia before adopting "any voting qualification or prerequisite to voting, or standard practice, or procedure with respect to voting." The VRA is often cited in state redistricting plans and might be a basis for challenging the NPV Compact if prior approval is not secured.

**Faithless Electors.** The issue of an elector or group of electors casting their votes in an unexpected manner is acknowledged but listed under "Other Issues" for two reasons. (1) Under the Compact it is expected that the electors of the "winning candidate" side will be those to cast the votes nationally. (2) There is little practical reason to believe that this is a major issue. Of the 21,915 electoral votes cast for the president in 55 elections between 1789 and 2004, only 11 were a surprise. One was accidentally cast, nine were considered 'grand-standing' after the election when the electors knew their votes would make no difference. Only one (for Thomas Jefferson in 1796) was cast with the hope of changing the election. Opponents fear that with the NPV Compact some electors might feel an injustice would occur to their home state if they cast their vote for the national winner and thus may be tempted to violate the Compact.

League Issues

**Uniform Standards.** THE LWVUS supports uniform standards for all elections. The NPV Compact is not uniform in that it can be enacted by some states and not others. Uniform national voting standards is already the League's position. While the current Electoral College system is also not uniform (as with Maine and Nebraska), neither is the NPV Compact. National level changes to the process that are consistent across the states would engender a better balance of issues and concerns of the body politic rather than any measure adopted on a state-by-state basis.

Concluding Arguments Against the NPV Compact

While the United States is a Republic and not a direct democracy, the LWVUS supports direct election of the president. One person - one vote - for one seat. The League rejects arguments for federalism over those for individual voters' rights in this matter. This is why the LWVUS supports abolishing the Electoral College. However, any question of abolishing the Electoral College must, by necessity, consider the replacement.

**Not Perfect.** From a functional standpoint the case for the NPV Compact appears to be that it is an imperfect system replacing a system that is also not perfect- the Electoral College. This proposal seems to be gaining interest based on its novelty and the public's enthusiasm for eliminating the Electoral College. However, a new plan should present more compelling reasons than these to support such major change.

**Uniform Procedures.** The LWVUS supports uniform procedures for presidential elections, changes in the candidate selection process and actions that ensure achievement of these goals. The League seeks to replace the Electoral College with direct election of the President. But enthusiasm for replacing the Electoral College may not be sufficient reason to support the NPV Compact given the potential constitutional problems.

Circumventing the Constitution. It is clear that changing the Constitution is extremely difficult; it was so designed. It is important for the League to consider whether changes in the election of the president should be accomplished through normal constitutional amendment procedures or the 'work around' proposed in the NPV Compact.

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# Personalia

Annamarie Lavieri.  
Membership Chair

## New Member Profile

**Jeanette Franks** is a new member of Kitsap League, but she has been a member of National League for years. She has belonged to the League of Women Voters for all those years because she knows the work of the League is very important.

Jeanette is a gerontologist whose specialty is long term care, particularly alternatives to nursing home care. She teaches at the University of Washington and has the honor of working with the Suquamish Elders on an exercise program. Jeanette also serves on the Kitsap County Advisory Council on Aging and Long Term Care.

A dedicated leader of the Bainbridge Island Weed Warriors, Jeanette organizes and leads the ongoing program to eradicate invasive plants such as ivy.

She and her husband Dick Baker volunteer with Earth Watch on research projects and with Sierra Club and Bainbridge-Ometepe Sister Island Association providing volunteer service.



### ALERT ALERT ALERT

May 20 is the date of our  
**SILENT AUCTION**

It is never too early to begin  
thinking of how and what  
you will contribute.

Margee Lynch,  
Silent Auction Chair

Clip & Mail

**The League of Women Voters  
of Kitsap County invites you  
to join us.**

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are tax-deductible.

Look inside for —  
 Background Materials for  
 The National Popular Vote Compact  
 Personalia  
 President's Corner  
 Program Planning Results  
 Upcoming Events

## March 2009 Voter

FORWARDING & RETURN POSTAGE GUARANTEED  
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# March

# 2009

<i>Sunday</i>	<i>Monday</i>	<i>Tuesday</i>	<i>Wednesday</i>	<i>Thursday</i>	<i>Friday</i>	<i>Saturday</i>
<b>1</b>	<b>2</b>	<b>3</b>	Board Meeting 9:30 a.m. at Poulsbo Library Meeting Room <b>4</b>	<b>5</b>	<b>6</b>	<b>7</b>
<b>8</b>	<b>9</b>	<b>10</b>	<b>11</b>	Lobby Dsy <b>12</b> in Olympia - See Page 4 for Registration	<b>13</b>	<b>14</b>
Sunshine Week (Open Government) - March 15 - 21 <b>15</b>	<b>16</b>	<b>17</b>	General Mtg. Luncheon on Water Issues - See Page 1 <b>18</b>	<b>19</b>	<b>20</b>	<b>21</b>
<b>22</b>	<b>23</b>	<b>24</b>	9:30 a. m.- Combined Unit Mtg. on Nat'l Popular Vote Con- sensus - See Page 2 <b>25</b>	<b>26</b>	<b>27</b>	<b>28</b>
<b>29</b>	<b>30</b>	<b>31</b>				