



## Will popular vote work? Not by a landslide

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By



Forty states have held hearings on a National Popular Vote bill intended to guarantee that the U.S. presidency goes to the candidate who receives the most popular votes from the 50 states and the District of Columbia.

There is widespread support for this bill, and it has already become law in Hawaii, Illinois, Maryland, New Jersey and Washington state while in five other states, including Massachusetts, it has passed both houses.

The bill is explained in great detail on the National Popular Vote website and in a 700-page book.

Unfortunately, the bill will make the electoral uncertainty worse in our country by encouraging widespread electoral fraud and increasing the number of vote recounts.

States should not support the National Popular Vote bill.

During the last 150 years, three men have become president despite failing to win more popular votes than their competitor.

Benjamin Harrison in 1888, Rutherford B. Hayes in 1876 and President George W. Bush in the 2000 election, all benefited from the winner-take-all rule that is used by 48 states.

According to this rule, the candidate who receives the most popular votes is awarded all that state's electoral votes. Therefore, a candidate can lose the presidency while winning the popular vote.

This is what happened to Al Gore, who lost to Bush in the Electoral College by 266 to 271, while winning the

popular vote by more than 500,000 votes.

The National Popular Vote bill seeks to correct this serious problem by forming an interstate compact of states that have at least 270 votes in the Electoral College — enough to elect a president. Each of the member states in the compact would commit to award its electoral votes to the candidate who in the end receives the most popular votes nationwide.

Potentially, voters in Illinois could all vote for the Democratic presidential candidate, but if the Republican candidate wins more votes nationwide, then Illinois' 21 Electoral College votes would go to the Republican.

Unfortunately, under this bill, the likelihood of fraud is increased as is the likelihood it will go undetected.

If one is a Democratic or Republican politician, where is it easier to steal votes? In a state that is completely dominated by your party and where most or all elected officials and judges are members of your party? Or, in a state where the major parties share power at all levels of government and keep a cynical eye on one other?

All things being equal, if one party is dominant, then electoral fraud is easier.

Under current winner-take-all rules, politicians who are tempted to steal votes for their party are forced to do so where it is most difficult, in states that are almost evenly divided between the major parties because the stakes are highest there. The fight for extra votes occurs in states such as Florida where in 2000 voters were almost evenly divided between the parties. The voter split makes it much more difficult for either party to commit electoral fraud.

However, if enough states pass the National Popular Vote bill, politicians would no longer have to focus their efforts on gaining votes in the tough environment of competitive states.

Instead they could turn their creativity to increasing their party's vote total in states where they already dominate the process. Instead of a half-dozen states being sharply contested, there will be 30 or more states in play and at risk of severe electoral fraud.

The fraud will probably include intimidation, limiting access to voting sites, double voting, vote buying, voting by ineligible persons, confusing ballots, misrecording of votes, misuse of proxy votes and new techniques of fraud that haven't made it into the papers yet.

This impacts the way the media will cover elections.

In recent years, the media have been able to focus their resources on monitoring the voting in the few competitive states. One thinks of the media invasion of Florida in November 2008. But if this bill is adopted by a sufficient number of states, the media will be forced to stretch their limited resources in an attempt to cover 30 or more states.

One also can expect a sharp increase in the number of recount requests and lawsuits.

Despite the drama of 2000, recount requests have been rare in electoral history because in most states the margin of victory is so large that it is unlikely that a recount will change the state's Electoral College votes.

But under this bill, demands for recounts will become common because an extra thousand Democratic votes in California (or Republican votes in Texas) are just as valuable as an extra thousand votes in a competitive state such as Florida.

This bill is a lawyers' employment act because it will lead to a flood of election-related lawsuits in almost every state.

A large number of requests for recounts could delay a final determination of who won the presidency.

And if the recount process and the accompanying state and federal lawsuits are not resolved by Jan. 20, Inauguration Day, then the 20th Amendment to the Constitution comes into play: Congress will declare who will temporarily act as president.

The National Popular Vote bill attempts to ensure that the presidency goes to the candidate who receives the most popular votes.

But it will foster electoral fraud where it is least likely to be uncovered and encourage multiple recounts and lawsuits. The bill will distort the popular vote and further undermine the public's confidence in the fairness of national elections.

This bill might be popular among political theorists and professional politicians but it makes a bad situation worse.

Massachusetts and the other states with winner-take-all voting should not change.

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