

# **Voter**

*The League of Women Voters  
Of Fremont, Newark and  
Union City*



Happy Easter



## **POPULAR VOTE FOR PRESIDENT?**

### **CONSENSUS MEETING**

**April 20**

**At Carolyn Hedgecock's home**

**4677 Sterling Ct.**

**Fremont**

**7:00 PM**

**Is the electoral college provided for in the U.S. Constitution?  
Would the Constitution have to be amended to do away with the  
electoral college?**

**Would the weight of votes be changed if the electoral college  
were eliminated?**

**Come get answers to these questions and much, much more.  
Please bring your February, March and April Voters to this meeting.**

**These four men won the presidency with fewer popular votes than their opponents.**



**John Q. Adams**



**Rutherford B. Hayes**



**Benjamin Harrison**



**George W. Bush**

Dear Fellow Leaguers:

Our March program on the pros/cons of the death penalty was one of the best that we have had. LWVUS has taken a position opposing the death penalty, however, we, in true league-like fashion heard from both sides. The forum started out with an excellent pro/con presentation by two of the James Logan High School's Forensic team members, Justin Chan and Patrick Berger of James Logan High School forensic team. The audience members were very impressed by the articulate and confident presentation by these young movers and shakers of tomorrow. Afterwards, we heard from Natasha Minsker, Death Penalty Policy Director of the ACLU of Northern California and Angela C. Backers Senior Deputy District Attorney. We had the opportunity to utilize our newly purchased projector.

The April program will be a consensus meeting on the National Popular Vote Compact study. We hope you have been reading the articles related to this topic so that you can be prepared to provide your informed input towards arriving at a possible consensus. We do plan to hold a forum in very early May related to the upcoming May elections. Do let us know if you want to work at the polls. We have been invited by various organizations to make presentations related to the May elections. If you know of any group that would like to have us speak on this or other related topics- please contact us.

LWV of California will be holding its biennial convention in May in Long Beach, if you want to attend, do let us know. Meanwhile, we continue with our civic engagement and have read testimony for housing as well as sent in letters of support for a bill in the State senate related to water issues. You can find out more about our advocacy by attending the Action committee meetings which are held at 12:30 on the first Thursday of the month.

And Spring is here! The sunshine and lovely flowers help to take our mind off of the economic woes and worries and instill hope, optimism and new ideas to face all of these daunting challenges.

—Syeda R Yunus, President

*The League of Women Voters is where hands-on work to safeguard democracy leads to civic improvement. Join LWV and be directly involved in shaping the issues that keep our community fair, vibrant and strong.*

#### **BOARD BRIEFS**

- At the March 19, 2009 Board Meeting, the Board:
- Discussed the Board's email voting process – the plus's and the minus's.
- Listened to Sandi Pantages, Fundraising chair, outline a fund development plan.
- Learned that we had been awarded another Homeowners elections job.
- Voted to accept proposed revision on our non-partisan policy.
- Appointed Syeda Yunus to the Environmental Services Commission, formerly filled by Muriel Nolan.
- Finalized a date for additional training of Parliamentary procedures – to be held in May.



**Marilyn Singer**

**Honored by Niles Rotary**

**with the Paul Harris Fellowship Award**

A long time member of the League of Women Voters of Fremont, Newark & Union City, Marilyn Singer was honored with the Paul Harris Fellowship Award, at the Niles Rotary meeting on March 19, 2009. Ms. Singer was given the award for her long time committed community involvement in Fremont.

Named after Paul Harris, founder of Rotary in 1905, the award along with a plaque, pen and citation was presented to Ms. Singer. The award is only given when there is a \$1,000 donation to The Rotary Foundation. In this case, Don Dillon, former Mayor of Fremont and long time Rotary member donated \$1,000 to The Rotary Foundation in honor of Marilyn.

The Rotary Foundation, run by Rotary International, funds an expansive variety of human service projects all over the world. The projects range from providing clean water to villages, to eradicating polio, to hundreds of very specific projects in health and humanities that save lives. The Rotary Foundation funds the most extensive scholarship program in the world.

As we all know in the League, Marilyn is a committed community member. It's nice to know that others in the community recognize it too!

—John Smith

### **BOARD MEMBERS SOUGHT FOR REWARDING JOBS**

Are you interested in becoming a board member? There are jobs available for people interested in either Board or off Board service. If you are interested, please contact Nominating Committee Chair, Sam Neeman. samneeman@comcast.net

### **CONGRATULATIONS**

**Congratulations** to Pauline Weaver who did an excellent job of moderating a red button topic at our March meeting. **Congratulations** to the James Logan Students, Justin Chan and Patrick Berger, members of James Logan High School's Forensic team.

—Syeda Yunus

### **Register now for EdSource's April 17 Forum in Irvine and save \$10** ***What's Next? Big Issues for California and for Education***

The budget that passed will shake up school funding in many ways. EdSource has assembled some of the most knowledgeable and influential California educators, policymakers, and analysts to discuss the big questions about what to expect next. [Register now online](#), by phone (650-917-9481), fax (650-917-9482, use the registration form on the Forum page), or email (edsources@edsources.org). Register before March 20 and save \$10! Check our [Forum page](#) for session topics and speaker bios.

### **Your Online Shortcut to School Finance Resources**

The green "School Finance" box on our [homepage](#) is your shortcut to EdSource updates and online resources for understanding and explaining the impact of the state budget on California schools and districts.

**ACTION COMMITTEE**

At the March Action Committee meeting the committee decided that the President will screen all requests for speaking engagements and pass them along to the appropriate person. Syeda will fill a request for a speaker for the Kiwanis Club received from Tom Blalock. They would like a pro/con on the May ballot propositions on March 21 at the Marriott. She will do it with perhaps another League member with a working title "Have You Been Propositioned Lately?"

Community Resources for Independent Living (CRIL) would like a joint forum on the propositions. We will offer them a CD of Voting Matters program.

**Reports from Specialists:**

Jean Holmes noted that shifting State funds is not a good way to balance the budget. We will need to inform Voters that all propositions on the May ballot will need to pass so the budget will pass. The State needs to get rid of a 2/3 vote on financial issues.

Alex Starr and Sets Amman noted that we do not yet know if here is

stimulus money for any rail projects. Andrea will track any stimulus money that may be allocated locally.

Syeda testified to the Fremont Council on 3/3 on housing and will put the testimony on the website. The Housing Element was passed and sent to the State. Fremont Council has approved a 2 year 10% reduction in impact fees to lure developers. There is a 25% decrease for the CBD. Jobs/Linkage fees were not accepted. Andrea will forward us a piece on Becaro and mobile home parks. We will continue to monitor this and advocate for all possible affordable housing. We should watch for opportunities to testify on this issue.

Observers report that the audio for Ohlone board meetings is poor and that the background materials are incomplete. Meetings may be reduced to once a month.

SB810 is the new version of SB840 and League will support it.

We are still trying to find and possibly re-assign observers.

Sam is working on Facts for Voters and the revision of the observer re-

port. All job descriptions should be reviewed and sent to Sam.

Miriam is getting sign-ups for interviews. She will send out copies of old questions. We have questions for state interviews.

Kay lined up the following Voting Matters topics for programs:  
March 11th- double tape with State Propositions (Alex, Sam, Andrea) and CRIL  
(Sam)- Ohlone runs.  
April- Propositions run  
May- BART runs  
June- CRIL runs

Andrea will get "One Stop" info to Kay for a possible program.

We should watch the Masonic Home project in Union City.

David Kears, Steve Waterhouse and Carl Guardino will be our recommendations to the Board for Annual Meeting speakers.

Next meeting: April 2 at 12:30 at Kay's house. —Alex Starr

**MAY 19 ELECTION  
LWVC POSITIONS**

Proposition 1A is touted by its proponents as the way to bring stability to the budget process.  
OPPOSE

Proposition 1B would restore cuts to our schools and community colleges.  
NEUTRAL

Proposition 1C attempts to raise money for the short term by selling bonds that would be paid off by future lottery revenue.  
OPPOSE

Propositions 1D and 1E would temporarily take funds from early childhood and mental health programs.  
OPPOSE

Propositions 1F would prevent pay raises for legislators and state-wide constitutional officers during budget deficit years.  
NEUTRAL

For more complete information, visit the LWVC website.



**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

## LWVUS National Popular Vote Compact Paper Opposing the NPV Compact

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 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.

## LWVUS National Popular Vote Compact Paper Opposing the NPV Compact

**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

LWVUS National Popular Vote Compact Paper Supporting the NPV Compact

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 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 20<sup>th</sup> until January 20<sup>th</sup> 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.



LWVUS National Popular Vote Compact Paper Supporting the NPV Compact

**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.





## **National Popular Vote Consensus Questions**

### **Amending the Constitution**

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

- a. 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.
- b. Action by states through a compact process is an acceptable way to alter the method for electing the President and Vice-President.
- c. The group could not reach consensus.

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

- a. 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.
- b. 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.
- c. The group could not reach consensus.

### **Congressional Consent**

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

- a. The possibility that the NPV Compact will require congressional consent is not of sufficient concern to block the implementation of the plan.
- b. 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.
- c. The group could not reach consensus.

It's easy to JOIN the **LEAGUE OF WOMEN VOTERS**

**Any person, man or woman, who subscribes to the purpose and policy of the League may join. To be a voting member, one must be at least 18 years of age and a U.S. citizen.**

Annual dues includes membership in Local, Bay Area, California and National Leagues.

Make your check payable to: LEAGUE OF WOMEN VOTERS and mail it with this form to:

**LWVFNUC—MEMBERSHIP, P.O. Box 3218, Fremont, CA, 94539**



\_\_\_\_\_ Individual Membership - \$60 \_\_\_\_\_ Household - \$90 \_\_\_\_\_  
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Dues and contributions to the League are not tax deductible. Contributions to L.W.V. Ed Fund are deductible to the extent allowed by law. For more information, or for confidential financial dues assistance, please contact: Sarabjit Cheema—  
 sarabjitkaurcheema@yahoo.com

### Mission Statement

The League of Women Voters of Fremont, Newark, and Union City, a nonpartisan political organization, encourages the informed and active participation in government, works to increase understanding of major public policy issues, and influences public policy through education and advocacy.

### Diversity Policy

LWVFNUC affirms its commitment to reflect the diversity of our communities in our membership and actions. We believe diverse views are important for responsible decision making and seek to work with all people and groups who reflect our community diversity.

### LWVFNUC Voter

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 Fremont, CA

Materials are available 7:30 AM to 5:00 PM with permission of a board member.

### NOTABLE WOMEN IN HISTORY

#### PHILLIS WHEATLEY



**Phillis Wheatley (1753 – December 5, 1784)** was the second published [African American](#) poet whose writings helped create the genre of [African American literature](#). She was born in [Gambia, Africa](#), and became a slave at age seven. She was purchased by the Boston Wheatley family, who taught her to read and write, and helped encourage her poetry. The 1773 publication of Wheatley's *Poems on Various Subjects, Religious and Moral*, brought her fame, with dignitaries such as [George Washington](#) praising her work. Wheatley also toured [England](#) and was praised in a poem by fellow African American poet [Jupiter Hammon](#). Wheatley was [emancipated](#) by her owners after her poetic success, but stayed with the Wheatley family until the death of her former master and the breakup of his family. She then married a free black man, who soon left her. She died in poverty in 1784 while working on a second book of poetry, which has now been lost.

*Twas was mercy brought me from my Pagan land,  
 Taught my benighted soul to understand  
 That there's a God, that there's a Saviour too.  
 Once I redemption neither sought nor knew.  
 Some view our sable race with scornful eye,  
 Their colour is a diabolic dye.  
 Remember, Christians, Negroes, black as Cain  
 May be refin'd and join th' angelic train"*

—Phillis Wheatley



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### WATCH VOTING MATTERS

Tune in to watch LWVFNUC League Members Alex Starr and Andrea Schacter discuss the May 19th Special Election.

**Fremont**, Channel 29, every Wednesday at 7:30 PM

**Newark**, Channel 6, every Thursday at 7 PM

**Union City**, Channel 15, every Thursday at 9:30 PM

**Hayward**, Channel 28, every Monday at 9:30 PM

**Visit our website:**  
<http://www.lwvfnc.org>

## CALENDAR

Thurs., April 2	Action Committee	12:30—2:00 PM	Kay Emanuele's home
Fri., April 10	Education Committee	9:30—11 PM	Ann Crosbie's home
Thurs., April 16	LWVFNUC Board Meeting	7:15 PM	Cultural Arts Center
Mon., April 20	Voter deadline		
Mon., April 20	General Meeting— Consensus Meeting	7:00 PM	Carolyn Hedgecock's home
May 15—17	LWVC Convention		Long Beach