

## Bill SB17-099 Analysis

Bill SB17-099 is apart of the National Popular Vote Interstate Compact (*Colorado* 2017).

This bill would change the way Colorado awards its electoral votes. Currently, Colorado awards its electoral votes to the winner of the Colorado popular vote. Under this bill, Colorado would award its electoral votes to the winner of the national popular vote. This bill would only be binding once there were enough states in the compact to make up more than 270 electoral votes. Until then, Colorado would continue to cast its electoral votes to the winner of the Colorado popular vote. This bill is being brought up in multiple states such as Florida, Pennsylvania, and Ohio and has been passed in states such as California, New York, and Illinois (*Agreement Among the States to Elect the President by National Popular Vote*).

This bill is appropriate for government discussion since it is about a public good. The voting system is a public good because the use of the voting system by one person does not prevent the use by another person and nobody can be excluded from using it. The voting system is also a public good because it creates the government, of which nobody can opt out. The electoral system should be a public good because it creates a democratic system, and because it ensures that people get a say in the public good of government that they are forced to be in.

This bill has been proposed as a clever attempt to remove the Electoral College. In the US election history, there have been five instances when the Electoral College winner did not coincide with the national popular vote winner (*Historical Election Results* 2016). Proponents of the bill, such as Hawaii State Representative Tom Brower, argue that a national popular vote would better reflect the “will of the people” (Brower 2008). They argue that “the shortcomings of the current system of electing the President stem from *state* winner-take-all statutes” (*Agreement Among the States to Elect the President by National Popular Vote*).

While these proponents of the bill claim a national popular vote superior to the current system, this bill would actually maintain the same weaknesses as the Electoral College because the weaknesses of both of these systems lie in the underlying first-past-the-post voting method.

### **First-Past-The-Post**

The first-past-the-post method (also called a plurality vote) is a voting method that elects the candidate with the most first place votes (*Voting Methods* 2011).

Both the a national popular vote, as proposed by the bill, and the Electoral College use the first-past-the-post method. The proposed system uses a first-past-the-post method because it wants to elect the candidate that wins the most first place votes. The Electoral College utilizes the first-past-the-post voting method at two different points in the election. Initially, a state chooses its electoral representatives based on its state first-past-the-post popular vote (*What is the Electoral College? 2016*). Then the electoral representatives vote for their candidate choice with first-past-the-post method (*What is the Electoral College? 2016*).

There are two main weaknesses to the first-past-the-post voting method. The first weakness is that it does not require an actual majority. The other weakness is that it does not necessarily elect the most preferred candidate.

### **Plurality Requirement**

One faulty assumption is that a national popular vote would produce a candidate that the majority of voters want. However, the first-past-the-post voting method does not require a majority when there are more than two candidates, only a plurality.

Nations that use a first-past-the-post national popular vote exemplify this. The UK, one of the few developed nations that still uses first-past-the-post voting method, has not had a prime

minister win the majority of the votes since before 1945 (*How British Elections Work; Electoral Systems around the World*; McGuinness 2012). In fact, the 2005 election resulted in a three way split between the Conservative Party (thirty-two percent of the votes), the Labour Party (thirty-five percent of the votes), and Liberal Democrats (twenty-two percent of the votes (Rallings & Thrasher). This system did not encourage a representation of the majority of the UK voting population. Instead it represented thirty-five percent of the population.

It cannot be assumed that the US would elect candidates who represent a majority voting bloc. In fact, one proponent of the bill, State Representative Tom Brower, argues that a first-past-the-post national popular vote would encourage more third-party candidates to run (Brower 2008). If more people began voting for third-party candidates, the largest voting blocs would reduce in size. The candidate winning the largest voting bloc would then represent an even smaller proportion of the population.

### **Condorcet Inconsistent**

While voting systems based on first-past-the-post do not necessarily represent the majority of voters, first-past-the-post voting systems do not always elect the most preferred candidate either. This voting inconsistency, called a Condorcet inconsistency, occurs when the candidate that is favored by the largest voting bloc is not actually the most preferred candidate (*Voting Methods* 2011). This can then result in a candidate who most of the society deems unfit to be president.

Consider a scenario where the largest voting bloc (thirty-five percent of the population) chooses candidate A as its most preferred candidate. Meanwhile, the remaining voting blocs are split between multiple other candidates. These remaining voting blocs really dislike candidate A, though, and would have preferred any other candidate before candidate A.

In this scenario, candidate A would win under the bill. However, the majority of the population does not prefer candidate A. In fact, the majority of the population (sixty-five percent) would have elected any other candidate over candidate A.

While this scenario shows that the winning candidate need not be the most preferred candidate, this bill relies on a faulty assumption that a direct first-past-the-post is more favorable than the current system because it would better represent the “will of the people” (Brower 2008). However, the previous scenario exemplifies how a plurality vote is not a perfect indicator of societal well-being, whether it is done through the Electoral College or through the bill. Realistically both systems are not accurate representations of societal well-being because they both rely on the faulty first-past-the-post voting methods.

Despite this bill being being an inaccurate representations of societal well-being, similar bills within this compact propose a national popular vote would be better because then “each vote should matter equally” (*California*). However, this assumes that everybody’s first vote is all that should matter. This emphasizes somebody’s first preference and not their second, third, or last preference. The reality is that a first-past-the-post national popular vote would not ensure that each vote counts, but would instead continue to maintain a system that only valued each individual’s first preference.

## **Conclusion**

Both the Electoral College and the national popular vote proposed by the bill do not always elect the majority winner and can elect the least preferred candidate. Imagine a scenario with three candidates (A, B, C) running for the US presidency, where the Electoral College winner (A with forty-five percent of the votes) does not coincide with the national popular vote

winner (B with forty-six percent of the votes). Considering the previously discussed Condorcet inconsistency, assume candidate C was actually the most preferred candidate.

Under the current system, candidate A would win. Under the bill, candidate B would win. However, neither candidate won the majority of the votes. On top of that, neither candidate was the most preferred candidate. Both voting methods fall victim to these weaknesses since both of these voting methods stem out of first-past-the-post methods.

Since the bill proposes a system similar to the current system, this bill would neither benefit nor hinder Colorado. The Electoral College is no flawed because it uses first-past-the-post vote at the state level, but because it uses first-past-the-post vote at any level. This bill would not be moving Colorado towards a system that values all votes; it would be moving Colorado to a different system that still only values first choice votes. The bill would merely be exchanging one first-past-the-post voting method for another.

Since this bill would not benefit or hinder Colorado, it is not worth the additional time that it would take to implement. Extra time spent discussing a bill that would not change the system is valuable time that could be focused elsewhere.

While the proposed voting system should not be passed, it would be beneficial for Colorado to discuss other voting methods that take into account various levels of preferences. Potential voting systems that should be further considered are approval voting, the Borda count voting method, the Condorcet voting method, and cumulative voting (Brams & Fishburn). Each of these voting systems take all voters preferences into consideration. This would ensure the election of the most preferred candidate, which would maximize social well-being.

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