

Pennsylvania State Senate Government Committee, October 4, 2011

Testimony

G. Terry Madonna

I am delighted to have this opportunity to testify today before the State Senate Government Committee relative to the proposal to change the way in which candidates to be presidential electors are selected by the voters in Pennsylvania. The proposal before the committee would change the method from the current winner-take-all method for choosing electors to electing them out of congressional districts--a method used currently in Maine and Nebraska, and last used before that in Michigan in late 1890s. I want to thank Chairman McIlhinney for the kind invitation. Below are some thoughts relative to the subject before the committee.

Historical look at the effect of choosing electors out of congressional districts:

1) Beginning in 1960, if one elector had been chosen out of each congressional district in every state, two election outcomes would have been different. In 1960, Nixon would have defeated Kennedy by 28 electors (Kennedy won by 84) and in 1976 Ford and Carter would have tied, 269 to 269. Carter won by 57. (The Rhodes Cook Letter)

2) Beginning in 1960, if no change had taken place in any other state with the exception of Pennsylvania choosing its electors out of congressional districts, no presidential outcome would have been different. In 2000, Bush defeated Gore by five electoral votes, 271 to 266. Pennsylvania would have split its electoral vote 13 for Gore, 10 for Bush, and the final electoral vote count would have been, Bush, 281 to 253.

Moving Forward:

It is easy to draw electoral vote maps using the ten or twelve swing states and project scenarios in which Pennsylvania's congressional district proposal could make the state's electoral votes pivotal in determining the outcome of the 2012 election for either President Obama or his Republican opponent. There is no doubt that the state's electoral vote would be divided in some configuration, with the Republican candidate winning 9-11 EV's at least in the near future. Arguably, the proposed change could hurt Republicans more than Democrats long term in Pennsylvania because the state has been slightly more Democratic in recent presidential elections and because scenarios using swing states would seem to favor the Democrats, according to Nate Silver on the FiveThirtyEight Blog. Still, notwithstanding, Obama's 10 point victory in 2008, the Bush elections were decided by fewer than five points, and the state overall remains competitive. Currently, President Obama's job performance is at or below the national average--again indicating the likelihood of a competitive statewide presidential election. In the final analysis, it still seems unlikely that split electoral vote in Pennsylvania will matter in the outcome of the nation's electoral vote. Here history might rule.

Competition in the state

Not up for debate is the fact that the state has been one of the most frequently visited states by the presidential candidates, among the top five in the last three presidential elections. It's important because it is competitive and because of the large number of EVs at stake--next year 20 of them. Pennsylvania will have the 5th largest number of EVs, tied with non competitive Illinois. Among the competitive states, Pennsylvania will have the second largest pool of EVs, second only to Florida with 29. There can be little doubt that if the stakes were 7/8 electoral votes, the two at large and 5/6 in the competitive electoral districts, the state's influence would be more like New Mexico or Iowa. Visits by the presidential candidates and campaign spending will be reduced; how much can only be speculated upon, but there is a strong possibility that presidential candidates will focus on competitive states--those having a larger number of electoral votes. But some campaigning would continue focusing on the most competitive congressional districts.

Competitive Congressional Districts:

	2004	CD	2006 CD	2008	CD	2010 CD
3 rd CD	Bush 53%-Kerry 47%	R	R	McCain 49%-Obama 49%	D	R
6 th CD	Bush 48%-Kerry 51%	R	R	McCain 41%-Obama 58%	R	R
7 th CD	Bush 47%-Kerry 53%	R	D	McCain 43%-Obama 56%	D	R
8 th CD	Bush 48%-Kerry 51%	R	D	McCain 45%-Obama 54%	D	R
11 th CD	Bush 47%-Kerry 53%	D	D	McCain 42%-Obama 57%	D	R
12 th CD	Bush 49%-Kerry 51%	D	D	McCain 49%-Obama 49%	D	D
5 th CD	Bush 50%-Kerry 50%	R	R	McCain 43%-Obama 56%	R	R

Turnout Considerations:

Political scientists have long observed the relationship between turnout and electoral competition. Certainly other factors drive turnout, such as candidate voter choice, voting practices (early voting, for example), along with education and socio-economic factors. But in presidential elections, the largest turnout percentages have occurred in the swing states, though not all of them. In 2008, turnout generally was higher in the swing states. The rankings follow: Minnesota (1), Wisconsin (3), New

Hampshire (4), Iowa (5), Ohio (7) and Missouri (12). Not far behind are Virginia (14), Pennsylvania (14) and Colorado (15). In 2004, Pennsylvania's turnout ranking was 18. (David Leip's Election Atlas, VAP)

One can speculate that decreased interest by the presidential candidates will only serve to reduce turnout in the state. When the Committee for the Study of the American Electorate examined turnout in 2004 compared to 2000, they found that turnout in competitive states rose by 6.3 percent compared to an increase of only 3.8 percent in states without much competition.

Special Considerations:

- 1) What role should the voters play in the decision to alter the way they directly pick electors? Does public opinion matter?
- 2) Are there national implications in any decision to alter the method of picking electors? Will the decision start a rush in other states to adopt the plan or perhaps to join the National Popular Vote Project?
- 3) What effect will adoption of the congressional plan have on congressional redistricting?
- 4) Will, as currently speculated, presidential candidates concentrate their campaigns and resources in a handful of competitive CDs at the expense of pushing aggregate turnout?
- 5) Is it possible that choosing electors out of CDs will produce elections with the popular vote winner not being the electoral vote winner?

Electoral College

Winner-Take-All

- 1) Gives huge electoral vote advantage to big states, especially big swing states.
- 2) Gives no voice to a large number of voters that vote for a candidate that does not win the popular vote of a state.
- 3) Possible to win a dozen states or so, completely eliminating the votes in the remaining states.
- 4) Distorts the popular vote by substantially increasing the electoral vote total.
- 5) Campaigning takes place in competitive states--time and money spent there--notably the larger ones.

Congressional District Selection

- 1) End power of large states.
- 2) More campaigning in states with the most competitive CDs.
- 3) Lead to more gerrymandering of CD's.
- 4) Encourage third parties--better opportunities to win electors in districts than statewide.
- 5) Closer to the view of the Founding Fathers.

Should Popular Vote Be Decisive

By G. Terry Madonna

Recently I was a guest on Bob Durgin's Harrisburg-based WHP radio talk show. I was asked to talk about the survey I had just released in which Pennsylvanian's by a more than two-to-one margin---64% to 31%--favored electing the presidential candidate with the most popular votes instead of maintaining the Electoral College (EC). Other polls in recent years have produced similar results--overwhelming support for popular election. I was somewhat surprised then because almost all of the callers ripped the popular vote suggestion, favoring the retention of current system.

The discussion was in the context of an effort known as the National Vote Project (NVP). The project's purpose is to ensure that the popular vote winner is the actual winner of the presidential election. Its genesis comes in the wake of Al Gore's 500,000 popular vote victory but electoral vote loss to George Bush in 2000. It would work by having state legislatures cast their state electoral votes to the national popular vote winner regardless whether the popular vote winner actually carried the state. At the moment, nine states have joined the compact--California being the last to do so--representing 139 electoral votes, just shy of 50 percent of the total.

There are other considerations in the NVP, but my debate with Durgin's callers centered on the EC itself. What the drafters of the Constitution in 1787 thought and did has been always instructive. First was their aversion to electing the president directly, the demonstrable fear of the masses and democracy stood out starkly here. A second consideration was their desire to ensure that the chief executive not be dominated by Congress--something the delegates at one point agreed to when they put the selection into the hands of Congress but then reversed themselves by giving the job to state legislatures. The language in Article two is unambiguous: "Each state shall appoint, in such a manner as the legislature may direct, a number of electors, equal to the whole number of Senators and Representatives to which the state may be entitled...."

For the most part, state legislatures picked the electors in the first three presidential elections and thereafter electors in the states were chosen by both the winner-take-all method and in congressional districts in the popular vote until the district method was abandoned in most states by the outbreak of the Civil War. Of course, today Maine and Nebraska choose electors out of congressional districts, but with the exception of the contest in Nebraska's 2nd CD in 2008, the electoral vote of those states had not been divided.

Not much remarked upon in any discussion of the EC these days is the fact that some Founders believed that because the big states would put up sufficient presidential candidates and because political parties did not exist and electors would be chosen by state legislatures, no candidate would secure a majority of the EC, forcing the actual selection of a president into the House of Representatives. In the House, each state--regardless of size-- has one vote in the selection process, which naturally would enhance the influence of small states in the selection of a president.

But Durgin and his callers made a different argument--one that focused on how popular vote would change the nature of presidential campaigns, leading to the practice of candidates avoiding small states in favor of large urban centers. My point was, however, that the determinative factor was not so much the big state, small state distinction but which states are competitive. That list stretches to 12/15 irrespective of size at the moment, though certainly the states with the larger electoral count are more important to the candidates. But one thing is certain, no candidate will make the pledge that Nixon made in 1960 to visit every state in the union, which found him in some not so helpful places while Kennedy campaign in the vote-rich industrial states as the 1960 campaign came to a conclusion.

(Updated from an original entry on the blog, The Political Express.)

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