



**State of Connecticut**  
**HOUSE OF REPRESENTATIVES**  
STATE CAPITOL  
HARTFORD, CONNECTICUT 06106-1591

**REPRESENTATIVE BRIAN BECKER**  
**19TH ASSEMBLY DISTRICT**

LEGISLATIVE OFFICE BUILDING  
ROOM 4009  
HARTFORD, CT 06106-1591

CAPITOL: 860-240-8585  
FAX: 860-240-0206  
E-MAIL: Brian.Becker@cga.ct.gov

**VICE CHAIR**  
**COMMERCE COMMITTEE**

**MEMBER**  
ENERGY AND TECHNOLOGY COMMITTEE  
FINANCE, REVENUE & BONDING COMMITTEE  
PROGRAM REVIEW AND INVESTIGATIONS COMMITTEE

**Statement of Brian S. Becker**  
**State Representative for the 19<sup>th</sup> Assembly District**  
**before the**  
**Committee on Government Administration and Elections**  
**of the**  
**Connecticut General Assembly**  
**February 24, 2014**  
**in opposition to**  
**HB 5126**

**An Act Concerning An Agreement Among the States to Elect the President of the United States by  
National Popular Vote**

Chairman Musto, Chairman Jutila, Ranking Member McLachlan, Ranking Member Hwang, and the other distinguished members of the Government Administration and Elections Committee, thank you for taking the time to read my testimony in opposition to HB 5126, An Act Concerning An Agreement Among the States to Elect the President of the United States by National Popular Vote.

I oppose this bill because I believe it is procedurally flawed. The procedural flaws could create great uncertainty for the chief elected officials of member states who are charged with certifying the results of the presidential election. Even more troubling, the bill's defects could disenfranchise the voters in those states who join the compact. Allow me to explain.

The first flaw can be found in Article III of the bill, which states in relevant part:

The chief election official of each member state shall designate the presidential slate with the largest national popular vote total as the "national popular vote winner"...

*At least six days before the day fixed by law for the meeting and voting by the presidential electors, each member state shall make a final determination of the number of popular votes cast in the state for each presidential slate and shall communicate an official statement of such determination within twenty-four hours to the chief election official of each other member state.*

Federal law (3 U.S.C. §5) also provides that each state must make a final determination of its electors *at least six days before* the day fixed for the meeting of the electors (the "Safe Harbor Deadline").

Here is the problem: How is a state's chief election official supposed to make a final determination of her state's electors by the Safe Harbor Deadline when she may not have all of the election results she needs to determine the national popular vote until twenty-four hours later (per the procedural rules set forth in Article III of the compact)? Advocates for the National Popular Vote have said that this situation could not happen because all states determine their popular vote well in advance of the Safe Harbor Deadline. Even if we were to assume for purposes of discussion that such determinations have always been made in advance of the Safe Harbor Deadline (which I doubt), it does not guaranty that they always will be. Under current law, this is not a problem as each state's chief election official only has to determine the results in her own state to certify the electors for her state. I certainly would not want to put our Secretary of State into an ambiguous legal position by passing the National Popular Vote as it is currently drafted.

Assuming that each compact state's chief election official would face the same situation, it is quite possible that no compact state will be able to designate its electors. If that were to happen, no candidate would receive a majority of the electoral votes and the election would be decided by the U.S. House of Representatives. This would effectively disenfranchise millions of people.

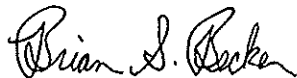
The second flaw is in Article IV of the bill. Article IV states, in part, that "[t]his agreement shall take effect when states cumulatively possessing a majority of the electoral votes have enacted this agreement in substantially the same form and the enactments by such states have taken effect in each state." Article IV also permits a state to withdraw from the compact. The bill fails, however, to state what would happen should one or more states withdraw and bring the total number of electoral votes of the states remaining in the compact to fewer than a majority of electoral votes. Many claim that the compact would cease to exist. This is not expressly stated. It should be. In the alternative, a provision could be added that would allow the remaining states to stay part of the agreement, but not be bound by its provisions until such time as states cumulatively possessing a majority of the electoral votes have once again joined the compact. Having this latter provision would avoid the need for advocates to start the process from scratch.

Advocates for the National Popular Vote have told me that we cannot change the bill because 9 or 10 states have already passed it "as is" and it would be too hard to get them to change it. I say we should pass it in a form that corrects the issues I have identified and then seek to have the 9 or 10 states that have already passed it tweak their statutes to match Connecticut's law rather than having us pass an inherently flawed bill.

Those same advocates also have told me that the courts would have to resolve the issues set forth herein. I think that is a bad approach to legislation. I do not think we should pass legislation that we know in advance is defective in the hopes that a court will later be able to solve a problem that we could not.

Please do not vote this bill out of committee. Thank you.

Sincerely,

A handwritten signature in black ink that reads "Brian S. Becker". The signature is written in a cursive, flowing style.

Brian Becker  
State Representative