

Updating the LWVWV Position on Elections and Voting: Review and Recommendation

LWVWV adopted its formal position on *Election Procedures* (below) in 1970. The position itself, its accompanying guidelines, (and, apparently, the study on which it was based¹) focused primarily on improving election procedures through enforcement and fraud prevention.

CONSENSUS POSITION ON ELECTION PROCEDURES **(Adopted 11/17/70)**

The League of Women Voters of West Virginia:

Supports measures to encourage effective administration and vigorous enforcement of the West Virginia Code. Election laws should serve the voter with maximum convenience, simplicity, clarity, and impartiality; include adequate voter education; promote an equitable and uniform election process and continuous efforts to minimize opportunities for fraud.

Background

Based on the documentation available, both the 1970 position on *Election Procedures* and its underlying study reflect West Virginia's storied history of malfeasance and outright fraud in elections. Today, such actions remain worthy of prevention, but there is no evidence that systemic or significant threats to elections continue in our state. Regardless, the League's position has never changed with the passage of time or altered circumstances in the intervening 50+ years.

The history, as recorded in multiple editions of *LWVWV Impact on Issues*,² is summarized succinctly:

Concern over election fraud prompted the League to include a study of election laws in its program in 1969 [emphasis added]. *Between 1969 and 1974, three studies were produced. The first was a review of laws relating to election procedures with emphasis on provisions relating to administration and enforcement. The second reviewed campaign practices with particular emphasis on campaign financing provisions. The third examined West Virginia's Primary Election process.*

Impact on Issues also documented the conclusion of the *Election Procedures* study as it related to voters and voting:

¹ The study on Election Procedures appears to be summarized in the *LWVWV Impact on Issues* document with no explicit citation. Despite an extensive archival search, a copy of the original study could not be located. A copy may reside in the state archives in Charleston, but the pandemic precluded an in-person visit to retrieve it.

² The summary and position statement, including guidelines, is reproduced in Appendix A at the end of this document.

The law relating to election procedures was found to be basically quite satisfactory. Voters had satisfactory access to information and the election process [emphasis added]. *The major problem areas centered upon administration and enforcement of the West Virginia Code.*

In today's polarized political climate, threats to voter access, voting rights, and democracy itself are multiplying. Consequently, the League has different priorities – ease of voting, access to the ballot, and voting rights. Of these, none was considered problematic 50+ years ago, so none was addressed in the LWVWV position at that time. Today, we know that West Virginia (when compared with other states) has barriers to discourage or prevent voters from exercising their franchise, and these barriers are likely a source of the state's persistent low voter turnout.

Outdated language and priorities of the 1970 position prompted this review. At the May 2021 Annual Meeting, members considered a proposal to examine the *Election Procedures* position and pursue an update to better reflect current conditions and priorities. The proposal was voted on and approved. Judy Ball, Elections Chair of the LWVWV Board, made the proposal, volunteered for the task, and produced this report.

Methods

The first step was to determine the approach to take for a position update: conduct a new study or update by concurrence. Considering these alternatives, the most practical solution was to update by concurrence.

The project began with an archival search to unearth the original studies on which the 1970 position is based. The rationale for going back to the original studies was that those original reports might contain detail absent in published summaries. As noted, the search was less than successful. Therefore, this work has relied on the *Electoral Procedures* summary reproduced in each edition of *LWVWV Impact on Issues*.³

The next step involved a review of positions from LWVUS and numerous state Leagues, covering positions on election topics and voting broadly defined. Sources included:

- LWVUS.⁴
- All the states and localities referenced in the LWVUS concurrence (2021) on *Voter Representation* – CA, CO, OR, FL, ME, MA, MN, NC, OK, SC, VT, WA, Santa Monica.⁵
- All the states referenced in the LWVUS concurrence (2021) on *Electoral Systems* – AZ, CA, OR, SC, WA.⁶
- Other nearby states – MD, PA, VA.

³ Only a few years' summaries could be located. However, comparisons of the text from each available summary revealed no substantive differences. It appears that the summary was written once and never revisited.

⁴ League of Women Voters, [Impact on Issues, 2020-2022](#).

⁵ See Appendix B.

⁶ Also Appendix B.

The LWVUS adopted a position on *Voting Rights* in 1982.⁷ A new position on *Voter Representation/Electoral Systems* was proposed and adopted by concurrence at the LWVUS Annual Convention in 2021.⁸

The review of the various sources revealed that the LWVWV position on *Election Procedures* overlaps with positions on *Voting Rights* and *Voter Representation* as defined by other Leagues.⁹

The review of positions from the various states also revealed that they take almost as many approaches to election topics and voting as there are states. This prompted a new question: How to construct a concurrence position, given the multitude of state models available?

Following LWVUS and LWVWV guidance for development of a concurrence position, three approaches were considered for identifying a concurrence position for LWVWV:

- Pick a state to be the model.
- Assemble a selection of positions chosen from multiple states.
- Rely on the LWVUS position on *Voting Rights* (1982) and/or *Voter Representation/Electoral Systems* (2021).

Conclusion

The conclusion is to recommend adoption (concurrence with) LWV-Maine's simple but elegant position on *Voting Rights*.¹⁰ For LWVWV, it should be established as a new position, not a modification of any existing position.

The League of Women Voters of Maine:

All LWVME work in this area is based on the LWVUS position on Citizen's Right to Vote, announced by the National Board in March 1982:

The League of Women Voters of the United States believes that voting is a fundamental citizen right that must be guaranteed.

Voting is the most fundamental expression of citizenship in our democracy. The expansion of voting rights to include all Americans, regardless of race, ethnicity, or gender, and the breaking down of barriers to citizens' voter participation — from literacy tests to poll taxes — has been one of the great successes in the evolution of American democracy. However, this expansion of the franchise has been under

⁷ League of Women Voters, [Impact on Issues, 2020-2022](#).

⁸ See Appendix B.

⁹ The other related topic was *Electoral Systems*. LWVWV added a position in favor of ranked choice voting to the *Electoral Systems* topic in 2021. Ultimately, the latter was excluded from further consideration because it was outside the scope of this review.

¹⁰ League of Women Voters of Maine, [Impact on Issues](#), November 2020.

assault since 2010, with many states and the courts instituting new barriers and rolling back prior protections.

LWVME's Advocacy Committee reviews all proposed legislation that bears on voting, supporting bills that would enhance voter rights or improve the voting process, and opposing any bill that would restrict voting rights.

Rationale

After reviewing and comparing the many sources, the recommendation to follow Maine's model emerged spontaneously and unexpectedly.

As noted, the many states offer a plethora of choices. A few, like Maine, are simple and straightforward. Others – Virginia and Pennsylvania are examples -- contain extraordinary detail. But with detail comes the potential for unintended consequences. Specifically, excessive detail has the potential for:

- leaving out critical components,
- emphasizing minutiae over big-picture priorities,
- being too restrictive or too broad (or sometimes both, simultaneously), or
- not aging well (as with the LWVWV's current position).

The idea of assembling a concurrence position from extracts of states' positions proved too unwieldy. However, that does appear to be the approach used to construct the LWVUS position on *Voter Representation/Electoral Systems* adopted in 2021.

The Maine position has none of these shortcomings.

One might argue that adoption of the LWVUS position as the core of a state position is redundant because a state League (LWVWV included) follows LWVUS anyway in the absence of a state position. So, isn't that enough? Assessment of the current LWVWV positions on election-related matters and the Maine position suggest no, that is not enough. If anything, Maine's reliance on the LWVUS position, combined with its approach for applying that position, strengthens the state position.

Also, concurrence with the LWV-Maine position will fill a gap for LWVWV. Nowhere in the current LWVWV position on *Election Procedures* (or elsewhere, in any other position) is there any explicit support for voting rights and against barriers to exercising those rights. Instead, the positions "on the books" from the 1970s easily can be interpreted to do the opposite, if necessary, in the interests of election security, fraud prevention, and enforcement of WV Code. Those goals — election security, fraud prevention, and enforcement of WV Code — are the *raison d'être* for the current position.

The current position also includes guidelines that are contradictory.¹¹ Surely, such contradictions would be clarified — superseded, in fact — by adoption (via concurrence) of the position from Maine. The reason? The Maine position has the LWVUS position as its core.

In conclusion, concurrence with the LWV-Maine model would provide LWVWV with a strong position on *Voting Rights*, which it currently lacks. A final benefit of the Maine model is its built-in implementation strategy, which provides that every piece of legislation related to elections or voting be evaluated against the position. In effect, the position, if adopted, will codify a procedure that is conducted informally at this time. That more formal procedure can result in better guidance for League education and advocacy, if the subject legislation passes the explicit two-part test:

- Does the bill enhance voter rights or improve the voting process?
 - If yes, support it.
- Does the bill restrict voting rights?
 - If yes, oppose it.

Recommendation for New LWVWV Position on Voting Rights:

The League of Women Voters of West Virginia:

Concurs with the position on Voting Rights from LWV-Maine.

All work in this area is based on the LWVUS position on Citizen's Right to Vote, announced by the National Board in March 1982:

The League of Women Voters of the United States believes that voting is a fundamental citizen right that must be guaranteed.

Voting is the most fundamental expression of citizenship in our democracy. The expansion of voting rights to include all Americans, regardless of race, ethnicity, or gender, and the breaking down of barriers to citizens' voter participation — from literacy tests to poll taxes — has been one of the great successes in the evolution of American democracy. However, this expansion of the franchise has been under assault since 2010, with many states and the courts instituting new barriers and rolling back prior protections.

LWVWV's Advocacy Committee reviews all proposed legislation that bears on voting, supporting bills that would enhance voter rights or improve the voting process, and opposing any bill that would restrict voting rights.

¹¹ An obvious example: One guideline says enforcement of election code should be a priority at all levels. Another guideline says responsibility for enforcement of elections laws should be at the state level.

APPENDIX A

LWVWV Election Procedures – 1970¹²

The law relating to election procedures was found to be basically quite satisfactory. Voters had satisfactory access to information and the election process. The major problem areas centered upon administration and enforcement of the West Virginia Code. Since failure to adhere to provisions of the Code created many of the election problems, the League decided that better training of personnel conducting elections and voter education would improve the election process. The League questioned the desirability of county commissioners serving as the Board of Canvassers, since they would be sitting in judgment on their own elections and would not necessarily represent both parties. The League was concerned that the secrecy of the ballot be protected and objected to the provision requiring that voters needing assistance receive it from party officials. League support was given to measures which would protect the integrity of the vote, promote accuracy in recording, and minimize opportunities for irregularities.

The principal problem in the area of enforcement is that the local officials responsible for enforcement are sometimes involved in the irregularities or politically allied with the lawbreakers. To overcome this difficulty, the League decided that there should be supervisory and enforcement powers at the state level.

There has been a sustained effort to secure strict observance of provisions in the West Virginia Code. The League has supported measures to improve training of election personnel, including production of election procedures films, and has conducted postelection surveys related to the effectiveness of the training. It supported legislation making the Secretary of State the chief election official with power to investigate election irregularities, but has been unsuccessful in efforts to create a power of prosecution at the state level.

Because the absentee ballot had been used as a vote-buying device, the League supported legislation to increase voter responsibility in the absentee ballot process.

Assistance of voters by election officials provided an opportunity to exert undue influence upon the voter. The League supported 1985 changes to allow voters needing assistance to receive that assistance from persons of their own choice but to restrict the number of opportunities to provide assistance.

In 1982, the League reviewed the provisions relating to electronic voting machines and made recommendations for changes that would provide better protection for the integrity of the ballot and decrease opportunities for fraud. Most were adopted by the Legislature.

At the time of the League's study, the State Code required a quadrennial door-to-door canvass to register voters, a provision which the League supported because it gave citizens easy access to the election process. County officials sought to remove this provision from the law, however, because of the expense and inconvenience of conducting the canvass. The League opposed this measure and secured compromise legislation which, while it made the canvass discretionary rather than mandatory, did require that temporary registration offices be established in each magisterial district prior to elections during nonworking hours. It also required canvasses to be made in institutions and home registration upon request. Since elimination of the door-to-door canvass, the League has supported efforts to ease voter registration. In 1983, postcard

¹² Excerpt from League of Women Voters of West Virginia, *League Issues in West Virginia*, May 2021.

registration was enacted, and in 1991, a provision to allow qualified persons the opportunity to register to vote when they apply for a driver's license was adopted.

In 1985, the League supported a comprehensive bill strengthening election procedures, including drawing by lot for multi-candidate offices for placement on electronic voting ballots and voter assistance provisions.

There will be continuous need for monitoring the election process to determine the need for further revision and evaluate the quality of enforcement.

CONSENSUS POSITION – 1970

The League of Women Voters of West Virginia:

1. Supports measures to encourage effective administration and vigorous enforcement of the West Virginia Code. Election laws should serve the voter with maximum convenience, simplicity, clarity, and impartiality; include adequate voter education; promote an equitable and uniform election process and continuous efforts to minimize opportunities for fraud. (11/17/70)

Further Guidelines

- The first step in obtaining an effective election system is adequate training of personnel and election workers.
- The Board of Canvass must be as impartial as possible.
- Responsibility for voter education should be designated to a specific official or board.
- Enforcement of the Election Code should be a priority at all levels.
- Modernization of the departments, centralization at both county and state levels, or changes in materials are desirable, but are of low priority.
- The League would support higher salaries or budgets only if better training were included.
- Election Day procedures should guarantee secrecy, minimize fraud, and encourage a simple, convenient, impartial system. Vote counting methods, voter assistance regulations, security of poll books, and qualifications for election workers should be developed to achieve these objectives.
- The responsibility for enforcement of election laws should be at the state level.
- Increasing penalties is not the solution to preventing fraud, but the penalty for buying votes should be severe.
- The League does not oppose allowing authorized observers at the polls but believes it is impractical.

APPENDIX B

Voter Representation/Electoral Systems Position

Adopted 2021

LWVUS

Voter Representation/ Electoral Systems Position

FINAL VERSION

Proposed for Adoption via Concurrence

LWVUS Convention 2020

Position in Brief:

Support electoral systems at each level of government that encourage participation, are verifiable and auditable and enhance representation for all voters.

Position in Full:

LWVUS promotes an open governmental system that is representative, accountable and responsive. We encourage electoral methods that provide the broadest voter representation possible and are expressive of voter choices.

Whether for single or multiple winner contests, the League supports electoral methods that:

- Encourage voter participation and voter engagement
- Encourage those with minority opinions to participate, including under-represented communities
- Are verifiable and auditable
- Promote access to voting
- Maximize effective votes/minimize wasted votes
- Promote sincere voting over strategic voting
- Implement alternatives to plurality voting
- Are compatible with acceptable ballot-casting methods, including vote-by-mail

(LWVUS, CO, ME, OR, CA, MN, MA, FL, NC, OK, SC, VT, WA, Santa Monica) *

The LWVUS believes in representative government. The League supports electoral systems that elect policy-making bodies—legislatures, councils, commissions, and boards—that proportionally reflect the people they represent. We support systems that inhibit political manipulation (e.g. gerrymandering).

The LWVUS supports enabling legislation to allow local jurisdictions to explore alternative electoral methods, as well as supporting state election laws allowing for more options at both the state and local levels. With the adoption of any electoral system, the League believes that education of the voting public is important and funding for startup and voter education should be available. We encourage a concerted voter education process.

(LWVUS, AZ, CA, OR, SC, WA) *

End of Statement

* All language from LWVUS Principles and multiple State positions