

This month's unit discussions will be considering whether to support or not support the proposed concurrence for open primary elections. The concurrence proposal is being presented to the League of Women Voters of Oregon Board to be voted on at the State Convention in May 2023.

Concurrence is an agreement among a substantial number of members, reached after study, leading to acceptance or rejection of a previously formulated statement of position. Leagues may concur with a statement or position arrived at by another League, a position stated by a study committee based on its research or reflecting widely-held views. The statement is judged exactly as it is presented and may not be amplified or made subject to conditions.

Concurrence Proposal on the Oregon Primary System (2023)

Proposed by Interested members:

Rick Bennett	Margaret Noel
Donna Cohen	Sally Smith
Barbara Klein	Norman Turrill

Proposed Language – based on Concurrence with the [LWV Maryland position](#) LWVOR supports:

1. More open primary elections, either through:
 - a. Party primary elections in which unaffiliated voters as well as party members would be permitted to vote in a primary election to choose the nominees of the parties; or
 - b. Individual candidate-based primary elections in which all voters choose among all candidates from all parties on the same ballot with the candidates' party affiliations listed. The subsequent general election ballot would include either
 - i. predetermined number of candidates without regard to partisan affiliation; or
 - ii. those candidates receiving a predetermined percentage of the total primary votes

Note: one parenthetical phrase was removed from the Maryland position, namely (e.g., the top two, three, or four under b. i.) for reasons that will become clear through the background and information to follow.

Background Sections

Why would the League establish a position regarding primaries through “concurrence”?

Political realities in Oregon are currently rife with interest in the primary system. Many of our own members are involved with groups exploring a change to the Oregon primary system, whether through the legislature or by ballot initiative.

LWVOR has endorsed one bill related to primaries for the 2023 legislative session. It did so not by using a position specifically on primaries but by citing principles or positions related to it. Specifically:

From the LWVUS principles:

“The League of Women Voters believes every citizen should be protected in the right to vote; ... and no person or group should suffer legal, economic, or administrative discrimination.”

From the LWVOR Elections Method Position (Adopted 2009, expanded and Revised 2017): “We support systems that promote stable government, but we do not support systems that protect the two-party system.”

Action may be justified by those two statements. Still, we would like the LWVOR to be able to rely on a more specific primary elections position if possible. It is a crucial time for us to consider the primary structure, due to possible governmental action, voter ballot initiative efforts, or simply for voter education. If a concurrence is based on reasonable materials and language, it may be acceptable to the membership. In that case, the concurrence process is much quicker, and less demanding of members, than a study.

Relatively little funding would be needed for this activity, as the concurrence proposal is borrowing both from the work of other Leagues and the work from the latest LWVOR Election Methods update study/report.

Allies

The efforts in Oregon to consider changes to the primary system need *not* be led by the League. As an example, there are already two groups in place working on similar concepts, that of open primaries and the related alternative electoral system of Final Five Voting (which includes open primaries).

The League is in a position to influence and have a unique impact. Both of these add to the League’s credibility. Our NONPARTISANSHIP or party-neutral approach is vital to exploring the primary structure without a ‘horse in the race.’

Situation in Oregon

In Oregon, the median age of Non-Affiliated Voters (NAVs) is 40, much younger than the median age of Democrats and Republicans, which is 53 and 56, respectively. Combining the NAVs and Minor party groups, these voters represent **41.52%** of the registered voters unable to vote in primaries for which they help pay. This may signify another type of inequitable process in our society, both to younger voters and those paying for administration of elections that do not include them.

2023 voter registrations (source: Elections Division) as of January 2023

Voter registrations as of Jan 2023		
Dems 1,012,206 33.95%		
Reps	731,273	24.53%
NAVs	1,036,844	34.78%
Minor/Other	200,849	6.74%
Total	2,981,172	100.00%

From LWVOR Election Methods UPDATE report:

PRIMARY ELECTION REFORMS

There are two major reasons why we hold primary elections:

1. For nonpartisan elections (e.g., local positions), holding a primary election is one way to limit the number of candidates to be voted on in the general election. When a large number of candidates are running for the same office, a primary can select a manageable number of candidates who are most appealing to the largest share of the public.

2. For partisan elections (e.g., state legislators, governor), primaries are one way for political parties to choose the candidates who will represent them in the general election. Until the early 20th Century, political party leaders usually chose each party's candidates. In the "Progressive Era," primary elections were created to more fully involve the parties' voters in choosing the parties' nominees.

In Oregon, the major political parties (those with greater than 5% of all registered voters) now hold state funded primary elections on the third Tuesday in May in even-numbered years. Voters registered with the major parties elect one candidate for each partisan office to advance to the November general election.

Oregon primary elections also include nonpartisan candidates running for local and state offices. The two nonpartisan candidates for each local or state office who receive the most votes in the primary advance to a run-off in the general election. If a nonpartisan candidate receives more than 50% of the vote in the primary, that candidate is elected and doesn't have to run again in the general election, although candidates for sheriff, county clerk or county treasurer who have won will appear on the general election ballot without opposition. Every voter, whether registered with a party or not, is eligible to vote for nonpartisan candidates.

Problems with Closed Partisan Primary Elections

In Oregon major political parties can decide whether their primary will be open to non-affiliated voters. However, most primaries recently have been closed – open only to registered party members. Although primaries were designed to give ordinary voters the power to select the candidates who will run in the general election, there are several significant problems with Oregon's closed partisan primary elections.

1. Over time, many citizens have chosen not to register in any party because they feel alienated from the only two parties consistently capable of winning general elections under our current plurality voting system. Fully a third of registered voters in Oregon are not affiliated with a political party. As a result, they usually are excluded from the partisan primary election process.
2. The turnout for primary elections is low because unaffiliated voters are less likely to make the effort to vote twice, even for nonpartisan candidates and ballot measures. As a result, those who vote in a partisan primary election are a minority of a minority of voters – those who have a strong attachment to a party and make the extra effort to vote twice in one year for elected positions.
3. There is a concern that candidates who win partisan primary elections are more extreme. This has not been definitively shown. Yet, there is some evidence that incumbents who fear competition from a more extreme candidate in a party primary are less willing to compromise in their governing posture.¹

There is now a lively national debate as to how the candidates appearing on any general election ballot should arrive there. Should it be:

1. via the current partisan primary elections which are "closed," so only registered members of the party are allowed to vote, or

¹ [Pildes, Richard H., More Places Should Do What Alaska Did to Its Elections. New York Times. Feb. 15, 2022.](#)

2. via partisan primary elections which are “open” to any voter, although a voter may only vote on their choice of one of the partisan ballots, or
3. via “Top-2” primary elections, or
4. via “Final-4” or “Final-5” primary elections which are open to all voters, in which all candidates are on one ballot.
5. There is also an effort to put an initiative on the ballot requiring an “open primary” with all candidates on one ballot without specifying an election method.

The last two of these are being considered for adoption in Oregon. Before describing the open primaries under consideration, we give a brief description of Top Two, which has been adopted elsewhere.

Open Primary Using Top Two

The Top-Two approach, which is used in Washington and California, among other places, was covered in our 2016 study (p. 38), and is not being discussed in detail here. Most experts agree that it has not had a meaningful effect on the major reason for its implementation, that of moderating the candidates’ ideological positions. In order to achieve a mitigation of extremes ideologically, it is now presumed that voters should have more candidates to choose among in the general election.

Top-Two can fail to elect a candidate who is preferred by a majority of voters. For instance, a contest in CA Congressional District 31 had 5 Democrats and 2 Republicans. Voters in that district strongly favored Democrats but were divided over which candidate to support. The two Republicans won and ran in the general election. Democratic candidates were shut out of the general election, although supported by a strong majority.

[Note about Concurrence. We eliminated Top-Two as is listed in the Maryland state position for the propose of this concurrence. This was done based on previous opposition from LWVOR and numerous problems documented with the system.]

Pro/Con Considerations

These points are taken in part from the recent LWVOR Election Methods UPDATE study as well as other state studies.

Comparing Open Primaries with Closed Primaries

When comparing open primary alternatives with our current closed primary elections, it is important to consider that closed (partisan) primaries provide advantages that open primaries do not provide.

	Advantages	Disadvantages
Closed Partisan Primary	<ul style="list-style-type: none"> • Allows parties to choose candidates for general election • Winners give the party clues to what the party platform should be • Party affiliation provides useful information to voters 	<ul style="list-style-type: none"> • Many voters don't affiliate with a political party, so are excluded from voting on partisan races • Turnout is low because non-affiliated voters see less reason to vote • Many registered, but unaffiliated, voters also pay taxes. Yet they are restricted from voting in primaries which they help pay for without being forced to register with a party • Candidates may fear being "primaried" by a more extreme party candidate and so govern in a less compromising manner • In some parts of the state, the party nomination may be tantamount to election because there is no opposition or only token opposition in the general election.
Open Primaries	<ul style="list-style-type: none"> • All voters vote for the full slate of candidates • Turnout expected to be higher • Limits number of candidates for general election • Final-Four/Final-Five anticipated to allow room for centrist candidates to run/win* 	<ul style="list-style-type: none"> • Voters will have less information about candidates who may not choose to list party affiliation** • With more candidates on the ballot, voters will need to digest more candidate information • Voters may be confused with the change to the primary system. • Party members can be deprived of the sole rights (voice) in selecting their party's candidates.

* Combining Ranked Choice Voting with Final-Four/Final-Five, as is being done in Alaska, may further encourage candidates to moderate their ideological approaches. Since second or third choices on the ballot may have a major impact on who wins, candidates will want to appeal to a broader sector of the electorate.

Writing about the first general ranked choice voting election in Alaska, the Sightline Institute made this observation: "The pairing of the open primary with ranked choice voting yielded a group of winning candidates that, collectively, is moderate and independent, [just like Alaska's electorate](#). The [system also helped](#) to check extremist candidates; was easy for voters to understand; reduced the power of political parties and hyperpartisan primary voters; and ensured no candidate won without a majority in the final round."²

** Various open primaries have different rules for whether a candidate may list a party affiliation.

2 Lee, Jeannette. Sightline Institute Research. Alaska's Midterm Elections Yield Mixed Results (But In A Good Way): In the state's first full ranked choice election, the same pool of voters elected candidates from across the political spectrum, November 23, 2022, https://www.sightline.org/2022/11/23/alaskas-midterm-elections-yeild-mixed-results-but-in-a-good-way/?fbclid=IwAR1uTH7duz8wFSxvB2xUNiIk_fpZ924ay7Swa-9OOAMVZFuRMG0HW5J6Bc, accessed 11.23.2022.

References and more information

Florida League [Election Reform - League of Women Voters of Florida \(lwvfl.org\)](https://www.lwvfl.org) “Florida’s 2018 Election provided evidence that Florida election systems need reform through additional legislation. League priorities for election law include process changes to avoid existing vote-by-mail ballot problems, to allow same-day voter registration, to standardize ballot design, and to support an **open primary** election system.” They have supported an open primary system and continue to state that support, but have openly opposed a Top Two system.

in a 2018 controversy, the state League reported “Please note that the Study & Action language we voted in at our 2017 State Convention has not been disregarded. That language reads as follows: “The local Leagues also achieved consensus recommending statewide use of a form of Open Primary election systems that would allow for the broadest possible voter participation, including NPA and minor party affiliated voters. Open Primaries also provide access to a broader slate of candidates that would increase voter participation.” The statement went on to say that the LWVFL “is very much in support of Open Primaries and would wholeheartedly support this measure **if it were not tied to Top Two.**”

Kight, Stef, W. Younger Voters Declare Independence. Axios. January 15, 2023 [Younger voters declare independence \(axios.com\)](https://www.axios.com)

Maine League: Primary election study guide: [LWVME Primary Study.pdf - Google Drive](#)

Maryland League references: LWVMD did a study on Primary Elections. Below are the related links 2017:

- https://d3n8a8pro7vhmx.cloudfront.net/lwvmaryland/pages/127/attachments/original/1505415787/Primary_Election_Fact_Sheet.pdf?1505415787
- https://d3n8a8pro7vhmx.cloudfront.net/lwvmaryland/pages/127/attachments/original/1505509988/Primary_Study_Background_Materials.pdf?1505509988
- [2017 - Primary Election Resources](#)

NCSL chart: Primaries around the nation [NCSL Primary-Types-Table_2021.pdf](#)

South Carolina League. Position can be seen at: [Electoral Democracy Issues | MyLO \(lwv.org\)](#) They amended their position to include the words “open primaries”. LWVSC “supports policies that ensure fair and open elections through unbiased and equitable redistricting, encouraging voter registration and access to voting, open primaries, and use of voting equipment that ensures that voters can participate without any undue obstacle and produces election results that can be verified as accurately reflecting the intent of voters.” Their original proposed concurrence with Florida on Open primaries can be seen here. [Proposed Concurrence on Open Primaries \(lwv.or\)](#)