

Senator Myrie:

Thank you for the opportunity to submit testimony concerning reform of the New York State and City Boards of Election.

I am a retired attorney who worked for more than 39 years in New York City government. I worked for three elected City Comptrollers and am familiar with the NYS and NYC Boards of Elections from my 17 years as General Counsel to the New York City Campaign Finance Board.

The Campaign Finance Board works closely with the NYC BOE, which requires both cooperation at the top levels of the two agencies and good relationships among the staffers. There is no comparison between the culture and work ethic at the two agencies, which I believe emanates from the structure at the top: the Board of Elections, with a bipartisan board, is a bastion of political patronage, and the Campaign Finance Board, with a nonpartisan board, is professionally run.

New York City is the laughingstock of our country because of the Board of Elections' repeated bungling. Well-publicized examples include the thousands of incorrect absentee ballots sent to Brooklyn voters last year and the inclusion of test ballots in the preliminary ranked choice count in the June primary. There is a solution to the problem: amend the New York State Constitution Art. 2, § 8, so that State and City elections are no longer run by bipartisan Boards of Elections. Right now, Democratic and Republican Party chairs choose an equal number of State and local commissioners, and virtually all staff jobs are duplicated, because these Democratic and Republican Party bosses choose an equal number of staffers. According to the New York Times, New York is the only state in the country with a structure like this.

The current system is all about power and patronage: New York State's political parties and the elected officials supported by them don't want to give up their power and the patronage jobs they control. We should not have political parties running our elections and we should not have staffers who owe their jobs to political patronage supervising our elections. New Yorkers deserve better.

To keep the Constitutional change simple, I recommend having an elected or appointed Secretary of State supervise elections at the State level and a Mayoral agency head appointment for the City. This has worked well in other states and will provide for the accountability which is sorely lacking with the current Boards of Election. It is important, too, that the staff supervising elections be civil servants free from any political pressure and that hiring be based on "what you know," not on "who you know." There are plenty of people with expertise in election administration in our country and they can be recruited to these non-partisan jobs. Qualifications can be set forth in the legislation enacted by the State Legislature.

Some say that agencies that are headed by appointees of an elected official would be just as problematic as the current Boards of Election, but in fact, we saw from the 2020 federal

elections that most states, no matter whether the election process was supervised by Republican officials, Democratic officials, or nonpartisan boards, conducted fair and timely elections. And in New York City, we have seen mayors appoint excellent commissioners of, for example, Health, Housing, or Investigation, agencies which require substantial expertise. Administering elections demands an equal level of expertise and fairness.

An alternative would be to emulate the structure of the New York City Campaign Finance Board, a non-partisan board where two board members are appointed by the Mayor, two are appointed by the Council Speaker, and the chair is appointed by the Mayor with the approval of the Council Speaker. Or you could look at the structure of nominating commissions that recommend judicial appointments to the Governor or Mayor. But however the Legislature chooses to amend the Constitution, it is critical that the boards of election not remain bipartisan patronage entities.

I recognize that amending the State Constitution to eliminate the dysfunctional bipartisan Boards of Elections will take some time: the State Legislature needs to pass the amendment in 2022 and 2023 and then have the amendment placed on the ballot for voter approval. But, as we reflect on the state of our democracy, threatened as it is on so many fronts, is there anything more important than fair elections?

I look forward to your leadership on reform of the Boards of Election.

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