



**JOINT LEGISLATIVE PUBLIC HEARING**
**ON 2015-2016 EXECUTIVE BUDGET PROPOSAL**
**PUBLIC PROTECTION**

**TESTIMONY TO THE JOINT FISCAL COMMITTEES OF THE**
**NEW YORK STATE SENATE AND NEW YORK STATE ASSEMBLY**
***FEBRUARY 26, 2015***
***Hearing Room B, Legislative Office Building, Albany, New York***

## Introduction

My name is Barbara Bartoletti and I am Legislative Director of the League of Women Voters of New York State. On behalf of the League and Citizens Union, I want to thank the Legislature for this opportunity to provide recommendations about the 2015-2016 proposed public protection budget as set forth in the Appropriations bill and the related Public Protection and General Government Article VII legislation.

The League is a nonpartisan political organization working to promote civic responsibility through informed and active participation of citizens in government. We have 50 local leagues throughout the state registering and educating voters, on local and state issues. The League does not support or oppose political candidates. Citizens Union is a nonpartisan good government group dedicated to making democracy work for all New Yorkers. It serves as a civic watchdog, combating corruption and fighting for political reform.

This testimony is divided into three parts:

Part I addresses (1) the mission of the State Board of Elections and the proposed budget for it to fulfill its responsibilities and (2) policy recommendations with budgetary implications that should be seriously considered in order to bring our state into the national mainstream of election administration. The latter are important in light of the fact that New York State has one of the lowest voter participation rates in the country.

Part II addresses the Governor's ethics provisions and our additional concerns over the current state of ethics oversight and enforcement and the resources devoted to this purpose. While we understand the imperative that has brought these important ethics reforms into the budget negotiations, we feel that these reforms should be seen as only a piece of what should be a serious and considered public debate on overhauling our ethics laws and oversight. We do not want to reach a point in this state where all or virtually all policy issues are inevitably thrown into the budget mix.

The Governor and the Legislature should promptly appoint the long-delayed committee to review the work of the Joint Commission on Public Ethics ("JCOPE") and the Legislative Ethics Commission required under the Public Integrity Act of 2011. In addition, joint public hearings should be held on any comprehensive reforms to ethics laws and oversight.

Part III addresses the Governor's campaign finance reform proposals, including additional measures that we feel are imperative to strengthen enforcement and constrain the personal use of campaign contributions. The "how" to reform our state's deplorable campaign finance laws is something that everyone interested in good government has long agreed upon; what has been missing is the will to accomplish this goal. We hope that this is finally the year it happens.

## I. Election Administration

The League's mission is to promote the informed and active participation of voters in government by providing non-partisan information on the voting process and is closely allied to that of the State Board of Elections. Therefore, we are regular observers at the meetings of the State Board of Elections commissioners in Albany, and at the New York City Board of Elections. Our local leagues throughout the State work collaboratively with local boards of elections in implementing our similar missions as well.

The Agency has responsibility for oversight of the county boards of elections' compliance with the NYS Election Law and federal laws such as the National Voter Registration Act (NVRA, 1993), the Help America Vote Act (HAVA, 2002), and the Military and Overseas Voter Empowerment Act (MOVE, 2009). With the passage of these three federal acts, the State Board of Elections responsibilities have increased dramatically since 1974 when the agency was established.

### *NYSVoter*

One of the main components of HAVA was to require all states to create a statewide interactive database of voters. In New York, the statewide database is called NYSVoter and it is an integrated list of each of the county boards' voter registration data, which serves as the single, official voter registration list.

NYS Voter hardware and software were installed in 2007 and the components will soon be obsolete. The hardware and software are approaching their end-of-life and the hardware maintenance is no longer available or requires expensive maintenance contracts:

- The NYS Board of Elections has undertaken a two-year project that will update the system and allow it to continue to function. The project should be done by December of 2015 in order to have the system in place for the 2016 election.

- The accuracy and usability of the database as a necessary and vital part of a statewide interactive voter registration system depends on having adequate tools. When voters go to the polls, they have a right to expect that voter registration records are well maintained, accurate and up to date.

- **The League recommends full funding in the 2015-2016 budget to enable a timely and complete upgrading of NYSVoter**

The State Board has additional responsibilities under state statutes for recordkeeping of accessibility surveys for all 7,000 poll sites in the State. This information has also been integrated into the NYS Voter system and needs to be supported.

The State Board is responsible for overseeing the access to the ballot for all statewide offices as well as other state and federal offices. We support increased funding for the State Board of Elections in order that the mission of the Agency can be fully realized. We believe that the exercise of the voting franchise is fundamental in a democracy, and a well-funded State Board of Elections will be better able to perform its mission to enforce the election law and educate voters. In addition to these two mandates, it is important that the Governor, the Legislature and the State Board of Elections consider 1) how to modernize our voter registration system and 2) how to help county boards of elections encourage voter participation and satisfaction both through changes in law and through increased state funding.

***Election Registration Modernization and Electronic Poll Books***

Attached to this testimony is a joint policy statement on how to increase voter participation developed by the League, Citizens Union, Common Cause and the Brennan Center for Justice, for the Election Commissioners Association meeting in January. Many of the recommendations will require legislative changes and may also have a significant budgetary impact. In today's testimony, we would like to focus on two of these recommendations, the modernization of voter registration and the switch to electronic poll books and recommend that they be funded through the state budget.

Voter registration modernization has been proven across the country to both save money and increase accuracy in voter rolls. Paper registration is inefficient and unnecessarily costly. The state budget should provide funding for modernizing voter registration, including Internet registration (for all voters, not just those registering through the DMV) and electronic transmission by all state agencies, in the state budget. New York's ranking at almost the bottom of the country in terms of registration rate needs to be addressed immediately.

While it is clear that there are significant upfront costs with implementing electronic poll books, they would eliminate the substantial time and resources necessary to produce printed poll books and update voter information. Electronic poll books should also help speed up the processing of voters on election days and facilitate shortening the deadline for registration to 10 days before an election. They could play also potentially play an important role in implementing early voting in pilot programs or throughout the state. We believe that the implementation of electronic poll books should be guided by findings of the 2014 electronic

poll book pilot projects in Chautauqua, Orange and Onondaga counties.

## II. Ethics

We believe that now, after years of scandals involving state legislators of both parties, is the time to strengthen our state's existing ethics laws and in particular to reform and empower the agency that enforces them. We urged the creation of a single unified organization to administer and enforce ethics laws for the Legislature, the Executive and lobbyists. However, we supported the establishment of JCOPE in 2011 as an improvement to the status quo. With the benefit of several years experience with JCOPE, it is clear that significant improvements to JCOPE's structure and powers are necessary to restore public faith in the commitment of the Governor and the Legislature to true ethics reform.

### *Ethics Enforcement*

We believe that the Governor and the Legislature should act immediately to strengthen JCOPE in order to show their real commitment to ethics reform. JCOPE just released a report proposing regulatory and legislative changes to strengthen its investigatory and enforcement powers. The Report by the New York City Bar Association and Common Cause/New York, "Hope for JCOPE" included recommendations for increasing JCOPE's independence, as did a Citizens Union's report in May 2013 regarding JCOPE voting procedures and disclosure. [1] The Governor should also immediately appoint the overdue outside review panel mandated by law to review the effectiveness and independence of JCOPE and the Legislative Ethics Commission ("LEC").

With the significant increase in proposed disclosure required of outside income, more resources should be devoted to the agencies interpreting, reviewing and enforcing the new statutory requirements. Resources should also be allocated to make all disclosure filings fully electronic and available to the public in easily accessible form on the Internet as well as in downloadable format.

### *Disclosure of Outside Income of Legislators*

We have long urged that all outside income of state legislators be subject to stricter disclosure requirements. The Governor's proposal, which increases the level of disclosure required for services performed and referrals, including by practicing attorneys, is a long overdue reform. All clients and services should be disclosed if the matter involves business before the state, whether or not the legislator personally performed services or referred the client.

We also support the proposed ban on legislators and legislative employees receiving income in connection with services or referrals for legislative matters.

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[1] www2.nycbar.org/pdf/report/uploads/**Hope-for-JCOPE**-Report.pdf; ://www.citizensunion.org/www/cu/site/hosting/Reports/CU_JCOPE_Recommendations_May_2013.pdf

### *Per Diem Reform*

Receipts should be required for travel expenses of legislators as they are for other state employees. The Governor's proposal requires receipts and only reimburses reasonable and necessary travel expenses that are actually incurred while in the performance of their duties at the same rate as otherwise allowed state employees.

### *Pension Forfeiture*

The League and Citizens Union feel that the forfeiture of any public official's right to a pension should be subject to judicial discretion and other measures to ensure fairness.

## III. Campaign Finance

Reforms have been included in the proposed 2015-2016 Public Protection budget and, through passage of this budget, this legislature now has another opportunity before it to make sweeping improvements to our dismally broken campaign finance system, a system which has for far too long undermined democracy and sown public distrust in government.

We have repeatedly advocated for the following reforms and strongly support their inclusion in this budget. We believe that effective, independent and adequately funded enforcement of the campaign finance system and reasonable limits on contributions, including contributions to parties, and increased disclosure, are fundamental to reforming New York's broken campaign finance laws. They are not reforms that should be viewed as mere additions to implementing a public financing system. New York cannot build a public financing system on top of the existing weak enforcement structure and sky-high contribution limits. Robust, independent, adequately funded enforcement, greater campaign finance restrictions, and public financing must all go hand in hand.

Again, the Governor's proposed budget includes nearly all of these provisions, lowering limits on campaign contributions (including housekeeping accounts); partially eliminating the LLC loophole; lowering limits on corporate contributions, and enhanced and clear restrictions on the personal use of campaign funds; and increased disclosure of contributions. However there are several areas in which we think they can be strengthened.

### *Enforcement*

Strong enforcement is critical to reform. While we support the powers given last year to the Chief Enforcement counsel heading the new enforcement unit, we still believe in the importance of the Attorney General having concurrent jurisdiction to prosecute criminal violations of campaign finance laws. We urge that a steady stream of funding be provided for the new enforcement unit to ensure its effectiveness in years to come as well. However, the effectiveness of the enforcement unit will only be as good as the political will in Albany.

***Stricter Contribution Limits***

Although the proposed contribution limits are certainly an improvement from the current sky-high limits (highest in the country for any state that has limits), they are still much higher than federal limits and average limits in other states. They should be even further reduced. In addition, we believe we need to go further in addressing Albany's pay-to-play culture with strict limits on the amounts of money that can be contributed to campaigns by lobbyists as is done in a number of other states. We need to place reasonable limits on party housekeeping accounts, the $25,000 in the Governor's proposal is too high, and further limit contributions to party committees and party transfers to candidates.

***Closing the LLC Loophole Completely***

In addition to eliminating the treatment of LLCs as individuals as proposed in the Governor's budget, LLCs and corporations, and their affiliates and subsidiaries, should be subject to one limit.

***Personal Use of Campaign Contributions and Campaign Committees***

Abuse by legislators of campaign contributions is one of the most pervasive and long-standing scandals in Albany. As a clear "fix" to this problem, the League has urged that the state adopt the federal rules on personal use. Any rules that are adopted should clearly prohibit the use of campaign funds for legal fees that are not associated with campaign activity.

All candidates should be limited to one campaign committee and committees should be closed after an election.

***Enhanced Disclosure of Contributions and Expenditures***

New York should also require increased and more immediate reporting of campaign contributions, especially those made immediately prior to an election. We support the Governor's proposal for new reporting requirements for intermediaries as well as reporting of a contributor's occupation and employer. In addition, there should be immediate disclosure of alleged violations of campaign finance laws and dispositions of enforcement actions

At the national level, the League has been one of the strongest supporters of increased public transparency for independent expenditures. We support the expansion of the definition of independent expenditures to include communications 60 days before a general or special election or 30 days before a primary that include or reference a clearly identified candidate.

***Public Financing***

Both the League and Citizens Union have supported public financing in New York state elections for many years. The New York City League and Citizens Union were early and strong proponents of public financing for city elections. Among the many well-documented benefits of public financing are a greater diversity of candidates elected to office and an increase in the number of overall contributors, especially the number of small donors. The

proposed budget implements a public financing system modeled on New York City's system and this system should be built upon a firm structure of stronger enforcement and other needed reforms.

**Conclusion**

I again thank the Legislature for the opportunity to share our recommendations. I urge you to heed our call for the changes and supports needed to ensure a thriving and robust democracy in New York State. In particular, we urge you to seize this opportunity to pass comprehensive ethics and campaign finance reform and give New Yorkers the transparent, responsive, and ethical state government they deserve and overwhelming want. Anything less will represent continued systemic failure to address Albany's culture of corruption.

BRENNAN CENTER FOR JUSTICE

CITIZENS UNION OF THE CITY OF NEW YORK

New York COMMON CAUSE Holding Power Accountable

LWV

NYPIRG NEW YORK PUBLIC INTEREST RESEARCH GROUP

# Voter Participation: How to Turn Up the Volume

New York has one of the lowest voter participation rates in the country. There are many potential solutions, some of which are described below, that can help turn this around in New York. On the occasion of the 100th Anniversary of the New York State Election Commissioners Association, we urge the Association to support these solutions in formulating the Association's 2015 Legislative Agenda, ensuring that the county boards of elections are positioned to implement 21st century policies to promote greater voter participation.

## Modernize Voter Registration

**We recommend that New York State modernize voter registration to make it more economical and efficient for clerks processing the information and more convenient for eligible voters to register and stay registered. Paper-based registration is inefficient, outdated and costly. We believe that reform measures should include the following:**

- **Electronically register consenting and eligible voters at designated government agencies.**
- **Make registration portable so voters** who submit required information to government officials **stay on the rolls** when they move within the state or change their names.
- **Create an Election Day fail-safe** to allow a voter who registers at a government agency but whose name does not appear on the voter registration list to cast a ballot that counts.
- **Shorten the deadline** for registration **to ten days before an election.**
- Allow pre-registration of **16 and 17 year-olds to vote**; research indicates that this reform can help to create life-long voters.
- **Expand the current DMV program to permit all eligible voters** to **register over the Internet.**
- **Provide funding** for modernizing voter registration, including internet registration and electronic transmission by agencies, in the state budget.

We urge the New York State Election Commissioners Association to support bills that feature these reforms such as the **2013 Voter Empowerment Act, S.618-B/A.187-B.**

## Bring Early Voting to New York State

New York is one of only fourteen states that does not allow early or no-excuse absentee voting, despite this having become a national trend. Our groups strongly support **in-person early voting legislation along the following lines:**

- Early voting **should occur for two weeks** inclusive of two weekends, with at least some weekday voting hours scheduled before and after typical business hours.
- In advance of the first day of the early voting period, **each county should provide public notice** of the days, hours and locations for early voting in that county.
- **Revisions of election procedures** should be implemented **to limit costs** of early voting, and mechanisms should be implemented to ease administrative burdens, such as the **use of electronic poll books.**
- **State funding** for early voting should be considered.

- A **uniform standard** incorporating the variables below should be used **to determine the minimum number of voting sites** for each county. **Counties should have flexibility** to add sites beyond the minimum and should consider the following factors in creating any additional sites:
    - The type of election (primary, general and special as well as the year in which the election is taking place)
    - The voting population or the number of active voters
    - The number of assembly districts, in part or whole, in a county
    - Population density, geography, and the methods and distance of travel for voters to reach potential locations

## Switch to Electronic Poll Books

**Our groups strongly support replacing printed poll books with electronic poll books** to eliminate time and resources spent producing paper poll books and updating voter information, and to **speed up** processing voters at the polls on Election Day. In a recent poll, as relayed in the Presidential Commission on Election Administration, of all the election reforms, clerks and administrators identify electronic poll books as at the top of their priority lists. State and county boards of elections should be guided by findings of the 2014 electronic poll book **pilot projects in Chautauqua and Onondaga counties**. This initiative would also facilitate implementation of early voting. Our groups support designated state-funding for the necessary equipment purchase.

## Revise New York's Laws to Make Ballots More Voter-Friendly

**New York's arcane ballot design rules should be revised so that New York voters can be assured of ballots that are easy to read and understand.** New York's rules are largely intended for old, retired, lever voting machines and are unduly complicated. Design standards will assist counties in designing ballots that deliver **clear instructions**, demarcate races and candidates effectively, and eliminate "split contests" where candidates for a single office spill over onto more than one row, increasing the risk of inadvertent overvotes. Absent changes to state law, counties should explore redesigning the ballot to increase font size to the extent possible and other administrative changes.

We urge the New York State Election Commissioners Association to support bills that feature these reforms such as the **Voter Friendly Ballot Act, A.7492-D.**

## Upgrade Poll Workers Recruitment/Training and Websites

**The most common challenge facing all boards of elections is the recruitment and training of poll workers. We strongly urge the state and county boards of elections to work together to develop ways to increase the number of poll workers and improve their training.** We urge county boards of elections to take advantage of the 2010 election law amendment allowing split shifts for poll workers. Urban county boards of election should develop programs for recruiting municipal workers – and high school and college students - to serve as poll workers. We recommend that poll workers should be trained to assist voters with ballot marking devices so all voters can vote privately and independently.

We believe that all New York county boards of elections should have websites that are maintained all year and offer access to election information for county residents. We support budget lines to provide such online information.