

CITIZENS UNION OF THE CITY OF NEW YORK
LEAGUE OF WOMEN VOTERS/N.Y.S.
NEW YORK PUBLIC INTEREST RESEARCH GROUP

SUPPORT S.6457/A.9544

IN SENATE, INTRODUCED BY SENATORS SCHNEIDERMAN, SQUADRON, SAMPSON
IN ASSEMBLY, INTRODUCED BY MEMBERS OF ASSEMBLY SILVER, KOLB, MAGNARELLI, DESTITO, MILLMAN,
BARCLAY, FARRELL, CANESTRARI, MOLINARO, DUPREY

AN ACT to amend the executive law, in relation to establishing the executive ethics and compliance commission; to amend the legislative law in relation to the creation of the New York state commission on lobbying ethics and compliance; to amend the legislative law in relation to establishing the legislative office of ethics investigation and the joint legislative commission on ethics standards

SUMMARY OF PROVISIONS:

This bill would amend the Executive law by creating the Executive Ethics and Compliance Commission to replace the flawed Commission on Public Integrity; amend the Legislative Law to create the Commission on Lobbying Ethics and Compliance; amend the Legislative Law to create the Legislative Office of Ethics Investigation and the Joint Legislative Commission on Ethics Standards to replace the Legislative Ethics Commission; amend the Public Officers Law to mandate the Committee on Open Government to issue annual reports on the reporting of the new commissions; amend the Legislative Law and the Public Officers Law to increase the financial disclosure requirements of public officers and lobbyists who have business relationships with state officials; and provide a term of office for the State Board of Elections enforcement counsel as well as expand enforcement powers, transparency, and disclosure requirements. The new law would sunset in four years.

STATEMENT OF SUPPORT:

Our groups have offered different responses to the current failures of ethics oversight in New York State. We preferred the creation of a single, independent oversight entity with the power to oversee government officials in the executive and legislative branches, lobbyists, and contributors to and candidates for public office. We would have preferred more independence in campaign finance enforcement as well as significantly enhanced disclosure requirements beyond what are in this bill.

However, on the whole this bill deserves your support, despite its differences with our recommended approach. We believe that the legislative leadership has offered a good-faith effort to meaningfully overhaul ethics oversight and recognizes that there is more work to be done. The major reform areas of the bill are described below.

Critical changes to executive branch ethics

- Unlike previous executive branch ethics agencies, the legislation proposes that no one elected official chooses a majority of the appointments to the commission. In addition to restrictions on those who can serve on the commission (such as lobbyists), the legislation grants the executive director a three-year term, with removal only for cause. The legislation grants to the commission the crucial power to randomly review ethics filings to ensure honesty and accuracy.

Critical changes to lobbying oversight

- With regard to lobbying, the bill “turns back the clock” and essentially restores the structure of the well-regarded lobbying commission that was eliminated in 2007. Unlike the earlier lobbying commission, the legislation grants the executive director a three-year term, with removal for cause only.
- All state and municipal lobbyists and their clients must report business relationships with state public officials.
- Expands the definition of lobbying to include lobbying for resolutions.

Critical changes to legislative branch ethics

- The legislation would make few changes with regard to the structure of the legislative ethics commission. One key addition is that the executive director, who currently serves at the pleasure of the commission, will now have a three-year term, with removal only for cause. Significantly, the commission is granted the power to randomly review filings to ensure honesty and accuracy.

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- The most important change is that the legislation creates an office of legislative ethics investigation. This new entity would have a board that contains no lawmakers and no lobbyists, among other restrictions. The office will have an executive director with a three-year term who could only be removed for cause. In addition, the new office has the powers necessary to fully investigate complaints.

Critical changes to campaign finance enforcement

- As proposed in the legislation, the State Board of Elections (SBOE) enforcement counsel and special counsel would have three-year terms with removal only for cause. The enforcement counsel would have power to initiate investigations. The legislation requires a majority vote of the in order to *stop* an investigation from going forward. Determination of violation and issuance of penalties would still rest with the Board.
- Requests for investigation and recommendations for sanctions would be discussed at open meetings of the SBOE. Thus, for the first time, the public would have access to the nature of complaints and their dispositions.

Critical changes to disclosure requirements

- Currently, public officials are required to disclose the sources of outside income and the value of that income within ranges established in law. However, those dollar-figure ranges are redacted from public view. Under the legislation those dollar-figure ranges would become public and a new range is added from \$250,000 to \$1,000,000.
- Those required to report under the lobbying law would now have to report business relationships they may have with public officials. Such relationships are not currently disclosed.
- Candidates would be required, for the first time, to file disclosure with the State Board of Elections in a uniform format that would be made available to the public on-line.
- Expenditures by individuals or groups that are independent of the candidate, and thus were not subject to campaign finance disclosure, would be required to file disclosure that would, for the most part, mirror the disclosure of candidates. Thus, the public will know the names of those who contribute \$100 or more to these groups.

Lastly, by mandating stable funding for each of the entities, the potential for political interference through the budgetary process will be limited.

While there is much good in this legislation, we are concerned in particular about legislative ethics oversight. While the investigations arm appears to be structured to be independent, the ultimate authority to sanction violators still rests with the relevant legislative standing committees and the joint legislative ethics commission. While an improvement over the current system, this is a weakness in the proposal. We also have concerns about the independence of the Board of Elections enforcement unit and whether it will be proactive and willing to pursue evidence of violations regardless of any political consequences.

This bill does not follow the approach that we have endorsed to ethics oversight and enforcement: it does not create a unified independent ethics system. However, it offers substantial changes that would improve ethics oversight and enforcement in New York State government. And while this bill does provide some needed ethics disclosure reform through its requirements that currently-redacted financial information be disclosed, puts legislators' disclosure forms online, and requires that lobbyists and clients report business relationships with officials, it does not require the type of detailed disclosures that we have supported.

Nevertheless, we cannot deny that this legislation represents a welcomed and needed improvement over the *status quo*. New York cannot afford the continuation of a fatally flawed ethics oversight system. We believe that this bill represents a substantial step forward on ethics and campaign finance enforcement reform in New York state government. We appreciate the hard work and responsiveness of the legislative leadership in developing this plan. We pledge to aggressively monitor the new law's implementation, including appointments to the commissions and selection of executive directors, and investigations within the Board of Elections. We will judge the impacts of this legislation and advocate for enhancements as needed and when the law sunsets in four years.

Our groups urge support of this bill.