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THE LEAGUE OF WOMEN VOTERS *of New York State*

JOINT LEGISLATIVE PUBLIC HEARING ON 2014-2015 EXECUTIVE BUDGET PROPOSAL PUBLIC PROTECTION NEW YORK STATE BOARD OF ELECTIONS

TESTIMONY SUBMITTED TO THE JOINT FISCAL COMMITTEES OF THE NEW YORK STATE SENATE AND NEW YORK STATE ASSEMBLY

FEBRUARY 5, 2014

Hearing Room B, Legislative Office Building, Albany, New York

Introduction

Good day. I am Barbara Bartoletti, Legislative Director of the League of Women Voters of New York State (League). I am joined by Aimee Allaud, the League's Elections Specialist. The League is a non-partisan 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. Advocacy has also been an important facet of League activity since our founding as an outgrowth of the women's suffrage movement. While we have both a 501(c)(3) Education Foundation and a 501(c)(4) organization, we do not endorse candidates or intervene in any manner in candidate campaigns. On behalf of the League, we thank the Legislature for this opportunity to provide recommendations about the 2014-2015 proposed public protection budget as set forth in Appropriations bill S.6350/A.8550 and the related Public Protection and General Government Article VII legislation (12670-01-04).

Campaign Finance Reform

For many years, New Yorkers have been frustrated by the deplorable condition of our state's campaign finance system and the outsized power of wealthy interests in Albany. The recent scandals in the legislature underscore the pervading corruptive influence of money in our political system, an influence that alienates everyday citizens from their government. We need to change a system that allows nearly \$100,000 in legal "hard money" campaign contributions to parties; that allows unlimited giving to soft money accounts; that allows virtually unfettered use of such campaign contributions for personal spending by incumbents; that prevents people from running for office because they cannot finance campaigns against entrenched incumbents; and

which provides little to no means of addressing violations. Comprehensive campaign finance reform is the change New Yorkers so desperately need. For decades the League has tirelessly advocated for public financing of elections, lowering of contribution limits, closing of loopholes, restrictions on use of campaign funds; and improved disclosure of contributions and independent expenditures. To our great pleasure, these reforms have been included in the proposed 2014-2015 public protection budget and, through passage of this budget, this legislature now has before it a historic opportunity 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.

Specifically, the League has repeatedly advocated for the following reforms and strongly supports 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.

I. Public Financing

The League has supported public financing in New York state elections for many years. The New York City League was an early and strong proponent 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 built upon a firm structure of stronger enforcement and other needed reforms.

II. Enforcement

Strong enforcement is critical to reform. Even with public financing, extensive private campaign funds will remain to be regulated. Whether it is an entirely new entity or a separate entity within the Board of Elections, the League supports the following characteristics in an enforcement body for all candidates: (1) independent and nonpartisan, (2) adequately funded, (3) power and obligation to conduct independent audits, (4) subpoena power, (5) penalties substantially increased to further deter noncompliance, and (6) automatic enforcement and collection of civil penalties by administrative action, as opposed to court action. We also support the Attorney General having concurrent jurisdiction to prosecute criminal violations of campaign finance laws.

The proposed budget includes many of these reforms with the creation of an independent campaign finance enforcement unit – The Division of Election Law Enforcement – within the New York State Board of Elections (NYSBOE) and the allocation of \$5.3 million to support the unit. Importantly, also included is the provision that monies from penalties and fines from violations of election law are allocated to the new enforcement

unit. While we are supportive of the powers the legislation gives to the Chief Enforcement Officer heading the new unit, we still believe in the importance of the Attorney General having concurrent jurisdiction to prosecute criminal violations of campaign finance laws. In addition, we urge that a steady stream of funding be provided for the new enforcement unit to ensure its effectiveness in years to come.

We must also note that without an independent enforcement unit it would be entirely irresponsible to allocate more funding for enforcement to the SBOE. From the Ferrick Commission to the recent Moreland Commission, it has been shown time and time again that the current gridlocked structure of the SBOE does not produce effective enforcement. To provide that broken structure with more funding is a waste of taxpayer money.

III. Contribution Limits, Restrictions, Loopholes and Reporting

We need to reduce all contribution limits to levels more consistent with federal limits, including contributions to party committees and party transfers to candidates, and further reduce contributions by lobbyists and contractors doing business with the state. We must close loopholes, particularly the LLC and subsidiary loophole, and place appropriate limits on corporations and unions. In addition, we need to place reasonable limits on party housekeeping accounts and clarify the ban on personal use of campaign funds, including a ban on the use of contributions to pay expenses related to holding office, fines and attorney fees.

New York should also require increased and more immediate reporting of campaign contributions, especially those made immediately prior to an election. There should be new reporting requirements for bundlers of contributions 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.

Again, the proposed budget includes nearly all of these provisions, including the lowering of limits on campaign contributions (including housekeeping accounts); lowering of limits on corporate contributions; elimination of the LLC loophole; enhanced restrictions on the personal use of campaign funds; and increased disclosure requirements on contributions.

Although the proposed contribution limits are certainly an improvement from the current sky-high limits, they are still much higher than federal limits and average limits in other states and should be even further reduced. In addition, while the proposed provisions do require increased disclosure of legislators' outside clients doing business with the state, it needs to go further in addressing Albany's pay-to-play culture. New York needs strict limits on the amounts of money that can be contributed to campaigns by lobbyists and persons doing business with the state.

IV. Independent Expenditure Disclosure

The League is deeply committed to reforming our campaign finance system to ensure the public's right to know who is funding the outside group election spending that has increased significantly in recent elections. The League believes that voters deserve to know the sources of funding for election advertising so they can make informed decisions. We believe that campaign finance laws need to regulate disclosure of the source of funding of entities making political expenditures, and require attribution of the source of funding on the political communication itself.

The League believes that New York should provide for disclosure of independent political spending to the full extent constitutionally possible. Financial disclosure reports should specify the name of the candidate and whether the independent spending was in support of or in opposition. New York should also change its campaign finance laws to require all outside groups (including nonprofits that do not raise money in New York) who spend money on independent expenditures for New York elections to report these expenditures. We also support putting in place rules to disclose major donors to organizations (with respect to donations that have been earmarked for political purposes) that engage in political spending.

In 2012, the Corporate Reform Coalition released an analysis of states' independent expenditures disclosure legislation after the Supreme Court's *Citizens United* ruling.¹ The report graded each state on the extent to which it requires disclosure of corporate political expenditures, with states receiving a score between 0 and 100. New York received a ten, ranking second to last among all 50 states. The proposed budget provisions present an opportunity to address New York's dismal score.

Administration of Elections and Serving Voters

In addition to the dire need for campaign finance reform, the League recognizes the need for funding to meet the NYSBOE's mandated responsibilities in administering elections and serving voters. Since 1973 the New York State League of Women Voters has recognized the state's responsibility for the uniform and efficient administration of elections through a single state elections office to oversee and administer elections and advocated for the establishment of the NYSBOE. Since its creation, the duties of the NYSBOE have included:

- Reviewing the practices of all 62 county boards of elections
- Regulating access to the ballot for state offices
- Approving voting systems for use within the state
- Maintaining the statewide voter registration database, disclosure and enforcement of campaign financing and practice

¹ Corporate Reform Coalition. "Sunlight State By State After Citizens United: How State Legislation has responded to Citizens United," June, 2012. Available: <http://www.citizen.org/documents/sunlight-state-by-state-report.pdf>

- Disclosure and enforcement of campaign financing and practices
- Implementation of various federal voting programs
- And the promotion and maintenance of citizen confidence and full participation in the political process of the State

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 fifty 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. Continued fiscal support is needed in the following areas:

I. HAVA

The Help America Vote Act of 2002 (HAVA) required significant changes to the way New Yorkers cast their ballots and impacts all aspects of election administration, and places new responsibilities on the State Board in assisting and advising county boards of elections in the following ways:

- The certification, acquisition, acceptance testing, deployment and use of optical scan voting systems throughout New York on an ongoing basis
- Monitoring and support of over 17,500 pieces of voting equipment at local boards of elections
- Creating and implementing corresponding procedures and policies for their use

HAVA provided initial federal funds for the acquisition of new voting equipment, creation of the statewide centralized voter registration system, and increased voter education and poll worker training. New York was required to provide matching funds for these purposes also. As these funds are depleted, additional and new responsibilities continue to be required to ensure that the goals of HAVA and MOVE can be met.

State monies will need to be appropriated in order to meet an increase in personnel levels and the acquisition of technological tools that will provide an accurate, reliable, professional voting system that will instill confidence in all voters. The League of Women Voters of New York State supports the budget request of the agency for funding during the 2014-15 fiscal year in order to fully meet the federal

mandates.

II. NYSVoter

HAVA also required NYS to create a statewide interactive voter registration list (NYSVoter). The statewide database is an integrated list of each of the county boards' voter registration data which serves as the single, official voter registration list. NYSVoter is administered by the State Board of Elections.

NYSVoter hardware and software were installed in 2007. The components will all be seven years old in 2014 and 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 is estimated to require \$4.5 million to complete.
- 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 additional funding in the 2014-15 budget to enable upgrading of the system. 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.

III. General Administration of the Election Law

The State Board is responsible for overseeing the access to the ballot for all statewide offices as well as other state and federal offices. Additionally, the Board is responsible for the certification, translation, distribution and publication of any statewide ballot proposals.

- In 2014, there will be two ballot proposals on the ballot that will require temporary staff hires to ensure that regular duties of agency personnel and the additional responsibilities of ballot access can be accomplished.
- An additional (federal) primary cycle in 2014, required in order to comply with the federal court order on the MOVE Act, will also require funding for providing information on voting processes and balloting for this class of voters.

The League supports the budget request of the State Board of Elections in order that the mission of the Agency can be fully realized.

Conclusion

We again thank the Legislature for the opportunity to share the League's recommendations. We 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, the League urges you to seize this opportunity to pass comprehensive 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.

