

**NEW YORK STATE ASSEMBLY
MEMORANDUM IN SUPPORT OF LEGISLATION
submitted in accordance with Assembly Rule III, Sec 1(f)**

BILL NUMBER:

SPONSOR: Byrne

TITLE OF BILL:

An Act to amend the public officers law, in relation to prohibiting statewide elected officers and certain appointed officers from receiving compensation for any book or other published work written during the course of their term of service.

PURPOSE OR GENERAL IDEA OF BILL:

Any officer elected to a statewide office within the state or state salaried positions filled by direct appointment by the governor and confirmed by the Senate is prohibited from selling or receiving compensation for any book or other published work written during their term of public service in such position.

SUMMARY OF PROVISIONS:

Section 1: Establishes which statewide elected officials and appointed officials are prohibited from profiting from a book or other published work written while serving in that position.

It is clarified that selling or receiving compensation for a book or published work written before or after such term is not prohibited.

Section 2: Provides the effective date, which is the one hundred eightieth day after becoming law.

JUSTIFICATION:

Governor Cuomo's laundry list of scandals have cast a dark cloud over his administration and its ability to continue leading New York during this challenging time. One of the scandals which has received considerably more media attention in recent weeks relates to the Governor's decision to write and sell the book in the middle of an ongoing pandemic that has plagued our nation and our state.

The Governor's book, *American Crisis: Leadership Lessons from the COVID-19 Pandemic* has become subject to significant scrutiny that goes beyond the obvious criticism of publishing and promoting a book as COVID-19 continued to negatively impact so many of our fellow New Yorkers.

An article from the *Democrat & Chronicle* shined a light on a potential conflict of interest when a firm with a lucrative state contract hosted a private webinar in 2020 with the Governor and purchased large quantities of his book to provide to their employees (Campbell, 2020). The article consequently exposed a flaw in our state's ethics laws concerning potential conflicts that can arise from publishing a book while in office. This is not the first occurrence of such issues arising from an elected official's book deal. According to an *LA Times* story from 1989, former U.S. House Speaker James Wright (D) of Texas found himself embroiled in scandal, in part due to an Ethic Committee's finding charging:

"Wright with 69 violations of House rules, including \$145,000 in improper gifts from Ft. Worth developer George A. Mallick Jr. and attempts to evade House limits on honorariums by selling copies of his book to trade associations and other groups in lieu of accepting speaking fees"(Jackson, 1989).

Criticism of Governor Cuomo's book deal and further research into former Speaker Wright's scandal prompted the sponsor to solicit feedback in an unscientific 24 hour poll on social media where of 1,917 votes cast, 94.9% agreed with prohibiting full-time state elected officials from writing and selling a book during the term of their elected office (@Byrne4NY, 2021; Whalen, 2021) .

After drafting this legislation which prohibits certain state-wide public officials from writing and selling a book during their term of office, the list of compelling reasons to support such a prohibition has only lengthened. Recent news reports from March 2021 in the *NY Times* and *Buffalo News* have alleged the Governor's book deal exceeded \$4 million dollars and that state employees and aides had assisted the Governor with his personal project in writing and/or editing the book (McKinley, Hakin & Alter; Precious).

Shortly after the March 2021 *NY Times* article, the Governor's office responded to a FOIL request (initiated back in August 2020) and released additional details pertaining to the book deal which confirmed some of the information previously reported on by the *NY Times*. Reviewing the *Buffalo News* report, it seems likely that the Governor may have violated part of the terms set forth by the Joint Commission on Public Ethics. In July Governor Cuomo was reportedly given permission to write the book by the state ethics agency, as long as the subject matter of the book was "unrelated to the governor's duties" in office. The title of the book alone seems to violate that condition.

The reported use of government employees to assist the Governor in his book also raises added concerns about potential violations of New York State's Public Officers Law S § 74 part e.

"No officer or employee of a state agency, member of the legislature or legislative employee should engage in any transaction as representative or agent of the state with any business entity in which he or she has a direct or indirect financial interest that might reasonably tend to conflict with the proper discharge of his or her official duties."

More recently it was reported the Citizens for Responsibility and Ethics in Washington (CREW), a public sector watchdog, has filed a formal complaint with the New York State Board of Elections against Governor Cuomo for violating the law (2021). In their complaint CREW provided specific evidence detailing how the Governor used his campaign's resources to promote and sell his book for personal profit. One of the most blatant examples is a copy of an email from the Governor's campaign directing supporters to an Amazon page to order his book. At the bottom of the email, it clearly stated it was "Paid for by Andrew Cuomo for New York, Inc."

As a matter of public policy, we should strengthen our ethics laws and prevent state-wide officials from engaging in book deals during the term of their public office. In no way would this infringe on anyone's first amendment right. Officials remain welcome to write and provide their opinions for free, but so long as they are compensated by taxpayers this added restriction should be considered a condition of their employment with the state.

SOURCES

Campbell, J. (2020, Oct. 2) Andrew Cuomo holds webinar with firm that promised his book to employees. *Democrat & Chronicle*. Retrieved April 1, 2021 from <https://www.democratandchronicle.com/story/news/politics/albany/2020/10/02/andrew-cuomo-skadden-videoconference-book/5884655002/>

Jackson, R. (1989, June 1) The Resignation of Jim Wright: Speaker's Downfall. *LA Times*. Retrieved April 1, 2021 from <https://www.latimes.com/archives/la-xpm-1989-06-01-mn-1334-story.html>

@Byrne4NY (2021, March 24). Twitter Poll. Retrieved April 1, 2021 from <https://twitter.com/byrne4ny/status/1374888364265066499?s=21>

Whalen, R. (2021, March 25) Assemblyman Proposes Prohibiting Profits for Statewide Elected Officials. *Spectrum News*. Retrieved April 1, 2021 from <https://spectrumlocalnews.com/nys/central-ny/politics/2021/03/25/assemblyman-proposes-prohibiting-publishing-profits-for-statewide-elected-officials>

McKinley, J., Hakim, D. & Alter, A. (2021, March 31) As Cuomo Sought \$4 Million Book Deal, Aides Hid Damaging Death Toll. *NY Times*. Retrieved April 1, 2021 from https://www.nytimes.com/2021/03/31/nyregion/cuomo-book-nursing-homes.html?fbclid=IwAR0wJJNCAfy_b4u2Ev42Toq3ZS0n_mMaPa7iX09w08NT0t0pAdgbSpanS

Precious, T. (2021, March 31) Seven months later, Cuomo administration divulges details about his Covid-19 book deal. *Buffalo News*. Retrieved March 31, 2021 from https://buffalonews.com/news/state-and-regional/sevenmonths-later-cuomo-administration-divulges-details-about-his-covid-19-book-deal/article_e2ba30ba-9275-11eb9642-83fedbd461fc.html

Citizens for Responsibility and Ethics in Washington (2021, April 1). *CREW files complaint against Andrew Cuomo* [Press Release]. Retrieved April 1, 2021 from <https://www.citizensforethics.org/legal-action/legalcomplaints/crew-files-complaint-against-andrew-cuomo/?fbclid=IwAR2wuTt7BybQZxCP4MFzTgNWUSsL2MwARj73xIyY3Zvo0KFZTseR4VrWu>

PRIOR LEGISLATIVE HISTORY:

New Bill

FISCAL IMPLICATIONS FOR STATE AND LOCAL GOVERNMENTS:

None

EFFECTIVE DATE:

One hundred eightieth day after becoming law.