GOVERNMENT

ACTION TAKEN UNDER LWVUS POSITIONS

The League of Women Voters of the United States defines the fundamental goals of the government program and action to:

> Promote an open governmental system that is representative, accountable, and responsive. **(LWVUS *Impact On Issues*, 2014-2016, p.14.)**

The League works at all levels of government to improve legislative procedures, assure equitable representation, and protect the rights of all Citizens. LWVNYS action on Citizen Rights, Ethics and Lobbying, and Reproductive Choices is guided by National positions. LWVNYS action is taken in accordance with State positions on Apportionment (Redistricting) Legislative Procedures, Constitutional Convention and Consolidation of Governmental Units and Sharing of Major Governmental Services.

CITIZEN RIGHTS

> The League of Women Voters of the United States believes that democratic government depends upon the informed and active participation of its citizens at all levels of government. The League further believes that governmental bodies must protect the citizen's right to know by giving adequate notice of proposed actions, holding open meetings and making public records accessible. **(LWVUS *Impact On Issues*, 2014-2016, p. 22.)**

As part of its citizen's rights concerns, the League has long worked for the citizen's right to know and for broad citizen participation in government. While initial activities focused on making materials available and meetings open to citizens, current activity has focused more on second-generation issues, including:

- Making legislative processes, including the budgeting process, more open and transparent;
- Opening up enforcement proceedings for violation of a number of good government measures, including ethics and lobbying violations against legislators, other public officers, and lobbyists, campaign finance enforcement proceedings, including proceedings brought for failure to disclose information, and proceedings for judicial misconduct;
- Making materials available electronically on-line in a searchable format and filming open meetings;
- Using all technology and social media tools to ensure that the activities of government are transparent to its citizens and that those citizens have the ability to interact with the governmental bodies which make decisions.

Recent League Activity

For activity with respect to the budget process in New York, see the **State Budget Process** in the **State Finances** section of this document. See also **Legislative Procedures** below.

In 2008 the League successfully advocated for amendment of the Public Officers Law to create a cause of action against governing bodies for violations of the Open Meetings Law and to allow successful litigants to recover attorney's fees (A.1033A; S.1599A).

In 2008, the League unsuccessfully lobbied the Commission on Public Integrity to open its adjudicatory hearings into alleged lobbying violations.

In coalition with other good government groups, the League issued in March of 2012 specific recommendations to the leaders of New York State Government on how to harness the explosion in information technology to realize a new level of transparency for state government and, later in 2012, the League and coalition partners urged the state government to use all available forms of internet and other information technology tools to ensure that the work of the commissions reviewing the response to Superstorm Sandy is transparent and fosters public discussion, participation and accountability.

Past League Activity

League support for open meetings was first made explicit in 1972; in 1973, Leagues were empowered to apply that position at the state and local levels. In 1974, the National Convention added the requisite that government bodies protect the citizen's right to know by giving adequate notice of proposed actions, holding open meetings and making public records accessible. The League continues to support the NYS Sunshine Law, enacted in 1976, to enhance citizens' access to information.

In 1976, the LWVNYS worked vigorously for the enactment of open meetings and freedom of information laws in New York State. Following the adoption of these laws, the Committee on Public Access to Records (COPAR) was established to oversee them. Throughout the state, local Leagues monitored the governments' implementation of the laws.

In 1980 and 1981 the League supported legislation that would provide the option for legal fees to be awarded to successful plaintiffs in "freedom of information" suits by the agency that had been judged to have wrongly withheld requested information. Both years the measure passed the legislature but was vetoed by the governor. The legislation passed again in 1982 and this time was signed into law.

In 1983, another League-sponsored bill, one that opened zoning boards of appeal to the public, became law. This bill also changed the name of COPAR to the Committee on Open Government.

In the closing days of the 1985 legislative session, the League and other good government organizations learned that the legislature had hastily passed an amendment to the Open Meetings

Law that all but destroyed its original purpose. Just as hastily, the governor signed the bill. The amendment changed the law to allow any business to be discussed in the private political caucuses and extended this provision to local governing bodies as well as the state legislature. Several court decisions over the years have decreed that the intent of the law was such that only political business could be discussed in these private meetings. Any business that was to come before the public was not to be considered behind closed doors. Efforts to reverse this serious infringement on open meetings have been defeated to date; however, the League and other good government groups continuously lobby for proposed legislation that would restore the original intent of the Open Meetings Law.

In December 1996 after being barred from entering the NYS Assembly gallery during a special session while debate and voting were taking place on a controversial bill, the League was able to force the gallery to be open to the public. Subsequently, we met with the Executive Director of the Committee on Open Government to clarify the parameters of the Public Officers Law, Article 7, which states:

> *It is essential to the maintenance of a democratic society that the public business be performed in an open and public manner and that the citizens of the state be fully aware and able to observe the performance of public officials and attend and listen to the deliberations and decisions that go into the making of public policy. The people must be able to remain informed if they are to retain control over those who are their public servants. It is the only climate under which the commonwealth will prosper and enable the governmental process to operate for the benefit of those who created it.*

We were assured that Article 7 cites no exceptions except for executive sessions. A meeting was then held with Assembly Program and Counsel staff, and the League received a draft policy on March 31, 1997. The draft left many questions unanswered. This issue continues to be problematic and has extended to the Senate. During the active lobbying on the issue of rent control, in June 1997 the Senate galleries were empty, although the State Police maintained that they were full; in addition, even though the Senate was in session, the general public was not allowed above the Capitol lobby without identification and appointments. The League strenuously objected to the Sergeant-at-Arms in the Senate, and the matter was resolved. Citizens were again allowed in the galleries. These issues continue to be pursued.

Following the terrorist attacks on the World Trade Center and the Pentagon the NYS Senate used the fear of terrorism to introduce legislation to seriously weaken the Freedom of Information Law (FOIL). The League with its good government colleagues, NYPIRG and Common Cause, were successful in educating the State Assembly and the bill was never introduced in that house. During the 2003 session the State Senate took no further action on the legislation, however the League continues to be vigilant on this issue.

In 2005, recognizing that electronic communication impacts the processes of state government, the League and other organizations advocated for expanding the Freedom of Information Law to require that "foil-able" documents be available on the internet. Legislation to strengthen and modernize this 25-year-old law needed to be made. The reforms were based on the recommendations of the Department of State's Committee on Open Government. In May 2005,

FOIL was amended to require government agencies to abide by reasonable deadlines in responding to requests for information. FOIL now requires that agencies respond to requests for records within five business days by exercising one of several options. They can grant access, or deny access in whole or in part within that time, and in any instance in which a request is denied, the person denied access has the right to appeal to the head or governing body of the agency of that person or body's designee. If more than five business days is needed the agency must acknowledge the receipt of the request within five business days and, in most cases, provide an approximate date within twenty business days indicating when it believes, it will grant a request in whole or in part. So long as the approximate date is reasonable, the agency is complying with law. If a request is unusually voluminous and complex, and more than twenty business days will be needed, an agency in its acknowledgement must include an explanation of the delay and a "date certain" by which it guarantees that it will grant the request in whole or in part.

When those deadlines are not met – when an agency fails to respond to a request within five business days, when twenty business days pass without a response, or when the guaranteed date is missed – the law now states that those failures constitute denials of access that may be appealed.

When an appeal is made, the agency has ten business days to grant access to the records of "fully explain in writing" the reasons for further denial. If an agency fails to determine the appeal within that time, the appeal may be deemed denied, and the person denied access may seek judicial review of the denial.

Broadening the current allowance for attorney's fees when a citizen brings a successful FOIL action against a stonewalling agency was another reform of the Freedom of Information Law that advocates pressed for. The single biggest complaint heard about New York's FOIL is the difficulty citizens have in obtaining government records. There is a widespread belief that agencies make it unnecessarily difficult for the public to access records. The new provision (see below) will help knock down unnecessary barriers to public access.

Awarding Attorney's Fees as an Incentive for Compliance

For many years, FOIL permitted the courts to award attorney's fees to those denied access only in rare circumstances. To make an award, a court was required to find first that the applicant substantially prevailed; second, that the agency had no reasonable basis for denying access; and third, that the records were of "clearly significant interest to the general public." There have been many cases in which agencies clearly failed to comply with law, but where the records were of significance only to the person requesting them. Moreover, when records individually were not of significant interest to the public, even if the event to which they related was of substantial public interest, the Court of Appeals found that attorney's fees could not be awarded [see Beechwood Restorative Care Center v. Signor, 5 NY2d 345 (2005). Despite an agency's recalcitrance, the courts had no authority to award attorney's fees or impose a penalty.

In August 2006, an amendment passed broadening courts' authority to award attorney's fees when agencies engage in stonewalling or foot dragging. A court now may award attorney's fees when an applicant substantially prevails and the agency had no reasonable basis for denying

access or when the agency failed to comply with the new provisions requiring timely responses to requests.

As part of its citizen's rights concerns, the League supports lobbying disclosure reform to provide information on the pressures exerted on the policy-making process while at the same time guarantees citizen access to influencing the process. (See **Legislative Procedures**.)

ETHICS AND LOBBYING

The League has long felt that the laws of New York State inadequately define, monitor or discipline unethical behavior in the public sector, both on the part of public officials and lobbyists, those who seek to influence the behavior of public officials.

Recent League Activity

2016

Even after the indictment and conviction of the Assembly Speaker and Senate Majority Leader, the legislature once again failed to pass meaningful ethics and campaign finance reforms during the 2016 legislative session. Although the Governor had stated he planned to institute new ethics reforms, no legislation was proposed until the final days of session. The Senate and Assembly had both created independent ethics bills which they passed during the budget. The two packages were completely different with the Assembly focusing on outside income and lobbying practices while the Senate only passed a bill to limit term limits for leaders. The Senate also restated their support of a pension forfeiture bill they had advanced in 2015. The League issued a memo calling on the two houses to work together and pass a single ethics package to address all of these reforms as well as reforms to campaign financing, restructuring of JCOPE, and strengthening financial reporting.

In total the League held 5 press conferences on ethics and issued both memos and letters to the legislature and Governor. We requested several meetings with Governor Cuomo but did not get to speak with him until the last two weeks of session. During that time he created a bill to reform independent expenditures but did not address any of the other ethics reforms we had been asking for all session. On the final day of session the legislature announced that they had reached a deal on ethics and in the dead of the night passed their package without public review. The reforms included tightening the coordination rules determining what is or is not an independent expenditure, disclosure of political consultants who also act as lobbyists, lowering the threshold for source of funding disclosures for (c)(4) organizations that lobby and (c)(3)s who receive support from (c)(4)s, and pension forfeiture. The package did not address any of the larger issues we had advocated for all session. Besides being relatively weak reforms, the League was extremely displeased that the bill was passed with such little transparency. In short, very little was accomplished this session with regard to ethics.

2015

Good government groups proposed strong reforms similar to their past efforts, but made little advances. New York's leading reform groups asked Cuomo and the legislators to work together and fix Albany's broken ethics system. NYPIRG, Common Cause, Citizens Union, and Reinvent Albany sent letters to the governor and assembly and senate leaders asking for a complete ethics

overhaul. The groups suggested several alterations including ethics reforms to JCOPE, better ethics disclosures, stricter oversight of lobbyists, and changes to the campaign finance system.

The groups asked that lawmakers merge the Legislative Ethics Commission into the Joint Commission on Public Ethics (JCOPE). They asked that changes be made to the new JCOPE board, including reducing the number of members, banning elected officials from becoming members, and prohibiting executive or legislative staff from becoming JCOPE staff until after a certain period of time. The groups asked that JCOPE comply with FOIL and Open Meetings Law, and enact a strict requirement that board members are sworn to protect the interests of the public – not the interests of their appointing authorities.

Attention was also focused on lawmaker's financial disclosures and their relationships with lobbyists. The groups said that full disclosure of outside business clients for all lawmakers, including lawyers, should be accounted for. Stricter oversight of lobbyists was proposed by broadening the definition of lobbying to include public relations efforts in support of government actions. Finally, the groups suggested much lower campaign contributions from lobbyists and those receiving government contracts as well as enhanced disclosures of such contributions.

The League agreed with nearly all suggestions put forward by the groups except a ban on outside income for legislators. Instead the League advocated for stricter disclosure requirements for members and increasing transparency when submitting these disclosures.

In April, the governor announced that he would be creating an ethics review panel to evaluate the performance of the Joint Commission on Public Ethics and the Legislative Ethics Commission. The groups asked that the panel be chosen on a nonpartisan basis and that they conduct their review openly and independently. They urged the new panel to comply with FOIL and open meeting laws, maintain a public website, and supply webcasts or archived videos and materials from its meetings. They asked that the panel hold public hearings across the state and identify the best ethics practices nationwide and apply them to the evaluation. The panel's report is expected to be released November 1st 2015.

In 2015, Governor Cuomo came under fire after a report regarding his office's email retention policy was leaked by a state employee. The email procedure would permanently deleted unsaved emails after only 90 days. Instead of immediately addressing the issue, the Governor defended the nearly decade old policy that had been instituted during Governor Eliot Spitzer's administration. Cuomo had expanded the procedure to cover most other state agencies, which previously operated under different guidelines. After severe backlash from the public, Cuomo called for a joint meeting with legislators, the comptroller, and attorney general but most elected officials chose to skip the meeting and little was accomplished.

The League along with NYPIRG, Citizen Union, and eleven other good government groups wrote a letter to the Governor imploring him to issue an executive order requiring state agencies to keep emails for 7 years; a policy that has already been implemented by most federal government agencies. Cuomo's 90 day policy had the potential to inadvertently delete emails containing public records that would be subject to disclosure under the Freedom of Information law.

Eventually the Governor agreed to change the policy but would not follow the model put forward by the federal government. Instead the staff will delete emails on their own accord and are only required to keep certain important records for a longer period of time; however no official retention time has been established. The League believes that a more formal retention policy needs to be enacted in order to prevent government documents subject to FOIL rules from being deleted.

Watchdog groups also pushed to see the passage of the "Faster FOIL" bill. This legislation would reduce the total time government agencies in New York State have to appeal a judge's decision ordering the release of public records to three months from ten, to improve agency compliance. The bill passed both houses and is awaiting Governor Cuomo's signature.

Past League Activity on Ethics

The League has lobbied since 1954 for legislation regarding conflict of interest, financial disclosure, revolving-door prohibitions and related areas of conduct for state employees and office holders.

The 1987 Ethics in Government Act, which took effect January 1, 1989, attempted to change the ethical environment in New York State significantly by providing the public with closer scrutiny of the financial activities of elected and appointed New York State officials and certain of their employees.

The conflict of interest prohibitions and financial disclosure measures of the act were strongly advocated by the League and came after many false starts and long months of negotiations between the houses of the legislature and the governor. However, its passage was followed almost immediately by proposed revisions that would lessen its impact.

In 1991, legislation was introduced as a result of a Governor's Temporary State Commission on Local Municipal Ethics, which contained regulations concerning financial disclosure, conflicts of interest, involvement in political campaigning and campaign contributions. No action was taken by the legislature.

The League continued to advocate for a tightening of ethics legislation during the remainder of the 1990's. Much advocacy during this period was done with the media and editorial boards, however, Governor Pataki and the legislature continued to ignore us.

In 2004, prison convictions, scandals, and other complaints of ethical misconduct appeared on the front pages of New York State's newspapers. As a result, how New York State regulates political ethics again became a front burner issue in the legislature. Because New York's ethics laws are loophole-riddled and poorly-if at-all enforced, the need for legislative reform became ever more clear to everyone but legislative leaders.

During the 2005 legislative session, little was accomplished. However, one weakness in the law was strengthened. New York State's ethics law previously limited enforcement only to those who were still working for government. Once a government employee left public service, the

short arm of the ethics law could not reach them. In order to ensure that government officials do not flaunt the public's trust, the League and other civic groups, argued that New York State's ethics law should be enforceable even after public employment. A limited version of reform was approved that closed this egregious loophole.

Because only modest reforms to the state's ethics laws were done in 2005, there was increasing demand for further reforms to the ethics law in the 2006. The good government groups, led by the League, NYPIRG, and Common Cause advocated for the following reforms:

- Restrict gifts from lobbyist to lawmakers and other top policy makers.
- Ban on lawmakers accepting honoraria.
- Create a new, independent ethics oversight agency for both the executive and legislative branches.
- Establish a full one-year "cooling off" period for all legislative staffers and top party officials to prohibit them from lobbying immediately after leaving their government jobs.
- Restrict campaign contributions from lobbyists and those receiving government contracts.
- Strengthen ban on use of campaign contributions for personal use.
- Require disclosures of and recusal for potential conflicts of interest.

(For further information see A Work in Progress, January 2006 Blair Horner, NYPIRG)

The 2nd Annual Reform Lobby Day was held in May 2006, where citizens including many members of local Leagues, came to Albany to press for the above reforms. Although legislator's rhetoric in this election year was: "I'm a true reformer", no legislative action was taken during the 2006 session.

In 2007, which marked the 20th anniversary of the original Ethics in Government Act, both houses of the legislature unanimously passed and Governor Spitzer signed into law legislation that reformed the state's ethics and lobbying laws and created a "Commission on Public Integrity."

Because this agreement between the three leaders was done primarily behind closed doors, the good government groups, expressed concerns about the process, the groups and sought legislative hearings to review key elements of the proposed legislation. The groups were particularly concerned with the proposed "Commission on Public Integrity" and urged further public deliberation on the proposal before a vote was taken in the legislature. Unfortunately, the Governor and the legislative leadership did not hold the hearings as requested, and on February 14, 2007, the both houses of the legislature unanimously passed and the Governor signed this legislation into law.

This legislation:

- Banned all gifts of more than a nominal value from registered lobbyists to public officials;

- Strictly limited lobbyists from paying or reimbursing travel and accommodation expenses of a public official;
- Strengthened the "revolving-door" provisions that applied to legislative employees for a "cooling off" period that prohibited lobbying before the Legislature for two years after leaving their position;
- Banned lawmakers from accepting honoraria;
- Forbid elected officials and candidates for elected local, state or federal office from appearing in taxpayer-funded advertisements;
- Toughened penalties for ethics and lobbying law violations;
- Created a permanent executive branch watchdog, the Commission on Public Integrity (CPI) with 13 members, seven appointed by the governor, and one each appointed by: the comptroller, the attorney general, and each legislative leader.
- Reconstituted the Joint Legislative Ethics committee as a nine-member commission with five legislators and four non-legislators appointed by legislative leaders.

Also under the bill, both the Commission on Public Integrity and the Joint Legislative Ethics Commission would be required to maintain Web sites and make publicly available notices of reasonable cause to initiate an investigation, disposition agreements, settlement agreements and summaries of advice.

While the ethics changes of 2007 included important reforms, major items were ignored and remain unresolved. The Commission on Public Integrity and the Joint Legislative Ethics Commission continued the tradition of splitting ethics oversight between the executive and legislative branches. Furthermore, the ethics oversight commissioners have limited independence because they monitor the ethics of the officials who appoint them.

In 2009 the Inspector General issued a scathing report of the Commission on Public Integrity (CPI) investigation of *Troopergate*, in which he found the Commission had repeatedly failed to investigate clear allegations that the Public Officers Law had been violated. The report called for the resignation of Executive Director Herbert Teitelbaum, whose testimony about the matter it found unbelievable. During the course of the investigation, Chairman John Feerick resigned.

In 2009, the League supported a Senate bill, which adopted the League-supported approach of placing enforcement in the hands of a nonpartisan commission. This bill failed to win support of the Assembly, which supported a weaker bill.

In 2010, the League supported an ethics and campaign finance reform bill, S.6457/A.9544 that passed both houses. While the bill fell far short of the League ideal, it moved forward by requiring disclosure of independent third party expenditures. It also expanded the powers of the enforcement arm of the State Board of Elections, appointed the Executive Director for a fixed

term, removable only for cause, and made the enforcement process more transparent to the public. However, in February 2010, Governor Patterson vetoed the bill, stating it failed to go far enough.

Following the election of Governor Cuomo in the fall of 2010 on a platform that included ethics reform, efforts to reform the ethics system continued. In June of 2011, a three-way agreement was reached between Governor Cuomo, Majority Leader Skelos and Speaker Silver on an ethics reform package, the Public Integrity Reform Act of 2011. The Act established an independent Joint Commission on Public Ethics (JCOPE) to oversee violations of law by both the executive and legislative branches, oversee financial disclosure and lobbying rules. Disclosure requirements were significantly expanded and made fully available to the public for the first time. The League, along with our good government colleagues, supported this bill as a significant improvement over the status quo, particularly with respect to strengthening disclosure and unifying oversight of the executive and legislative branches, although we will continue to monitor how JCOPE works in practice.

In June 2012, the League testified before JCOPE on developing guidelines and regulations for new reporting requirements for lobbyists and clients of lobbyists.

In January 2013, the League testified before the NYS Office of the Attorney General on proposed regulations related to disclosure requirements for nonprofits that engage in electioneering. The League commended Attorney General Schneiderman and his staff for taking an important step in providing transparency in political spending and provided suggestions for the improvement and implementation of the regulations. The disclosure requirements, which went into effect in June 2013, require nonprofits to disclose in annual reports to the Attorney General their political spending, donors, and expenditures related to New York.

Past League Activity - Lobbying

In 1995 the League, Common Cause, and NYPIRG supported draft legislation, which would reform the lobbying regulations in NYS. The proposal called for an outright prohibition on lobbyists from direct campaign contributions to state lawmakers, a prohibition on lobbyists from offering gifts of any size to lawmakers or top policy makers, and a requirement that lobbyists' clients annually disclose the amount of campaign contributions they gave to state legislatures' re-election efforts. In addition, it would create a permanent Lobby Commission, which has been operating since 1977 on a temporary basis and has required an extension every two years. Giving the Commission permanent status and strengthening its investigative powers would constitute a major reform in improving the climate in which legislation is enacted in NYS.

In 1996, United We Stand America/NYS joined with the League, Common Cause, and NYPIRG to form the Take Back Democracy Coalition, and continued to call for lobbying reform. In 1997, with the "Temporary" State Commission on Lobbying due to expire on December 31, the opportunity to reform the lobbying laws in New York State took on a new urgency. The Integrity in Government legislation was introduced by Assembly members Grannis and Galef. This legislation built on the 1995 draft legislation, also supported by the League. Different in the

1997 legislation was the extension of lobbying regulations to localities. Local Leagues across the state held press conferences and lobbied county legislatures to pass resolutions calling on their state representatives to pass this legislation. After a session-long media blitz and much lobbying of all legislators and leadership, including the governor's office, both houses of the legislature, in the final hours of the 1997 session, passed another two-year extension, until March of 2000, of the "Temporary" State Commission on Lobbying, now 20 years old.

After intensive lobbying by the League and its coalition partners AND a major lobbying scandal involving tobacco giant Phillip Morris, limited lobby reform was passed in December 1999. This "reform" provides greater disclosure of lobbying activity and extends the law to include local government lobbying. The League wanted much more. We lobbied for an extension of the regulations to include state agencies and a ban on gifts from lobbyists to legislators. We also wanted a restriction on campaign fundraising during the legislative session. This deal was struck between Governor Pataki and Assembly Speaker Silver to protect their own constituents.

Following much media pressure, the Senate voluntarily pledged not to accept gifts and expensive dinners from lobbyists. The Assembly refused to do the same.

During the 2000 session the League attempted to secure the inclusion of procurement lobbying disclosure of State Agencies into the procurement law which was about to expire; instead the legislature merely extended the procurement law for another 14 months.

No action was taken on lobbying reform of State Agency procurement during the 2001-2002 session; however, because of several "government scandals" procurement lobbying became a visible issue in the Legislative Session 2003. Early in 2003, the League, NYPIRG, and Common Cause secured majority Senate sponsorship to expand the definition of lobbying to include contract procurement by State Agencies. The session was spent lobbying both houses to pass "same as" legislation. Following much media work and editorial support throughout the state, it appeared that legislation to include State Agency procurement lobbying would actually pass. Very late the last night of the 2003 session, the assembly did pass its bill and we moved our efforts to the State Senate. Four hours later, in the early morning hours of the last day of session, the State Senate introduced legislation under new sponsorship. This legislation advanced much weaker legislation and removed the existing members of the Lobbying Commission.

Cloaked, as a "reform" measure the legislation would seriously undermine the work of the Lobbying Commission. It would "vacate" the current members of the Lobbying Commission. The bill also sets a much higher standard for the Commissions' investigators to punish lobbying violations. It does this by requiring the lobbyist " intentionally" violated the law, instead of the current "willfully" violated the law.

The League and NYPIRG tried for the rest of the night to stop the legislation in the senate, however, it did pass. The Assembly, however, went home the next day without addressing the Senate version of the bill. The status quo in procurement lobbying continues. It is speculated that Governor Pataki put pressure on the State Senate to halt any disclosure of procurement lobbying of his state agencies.

During the summer of 2003 the League, NYPIRG and Common Cause mounted a media campaign to address procurement lobbying when they returned for the fall session. However, the Assembly never returned for a fall session and the Senate in its one-day fall session did not address the issue.

The 2004 legislative session saw agreement by the Governor and the Senate leadership on legislation that was narrow and weak compared to the Assembly lobbying reform legislation which expanded the definition of lobbying by any public official relating to the procurement of goods or services, it also covered executive orders and tribal-state compacts. The Senate bill, which was supported by the Governor, expanded lobbying oversight only. However, these bills could not be reconciled in Conference Committee and no action was taken.

In 2005 legislative session, New York State lobbyists and their clients reported spending well over $149 million persuading and cajoling state officials to grant favors or block policies that may affect them. The common Albany practice of holding political fundraisers that are attending by professional lobbyists exacerbates the public perception that lobbyists are "buying" access to elected official. In a typical session, lawmakers are schedule to be in Albany for 60 days, including 40 nights. During that time, as many as 200 Albany-based fundraisers can occur.

The League and its good government colleagues put forward the following reform measures to restore the public's confidence in their government:

- End Albany's "pay to play" culture. Lobbyists in Albany curry favor with public officials with large campaign contributions to their campaign committees and to the legislative leadership committees known as "housekeeping" accounts. Through such contributions, lobbyists create an uneven playing field that allows them or their clients to have greater access to officials than members of the public.

- A ban on gifts from lobbyists to lawmakers and other top policymakers. Allowing lobbyists to offer gifts to lawmakers is inappropriate. It was, in fact, at the heart of the Philip Morris/lobbying scandal. Some states have a "zero tolerance" standard for gift giving. Massachusetts, South Carolina, and Wisconsin are such states. New York State should adopt this standard.

- A ban on lawmakers accepting honoraria. Giving speeches and being available to the public are part of a legislator's official duties. Allowing groups to offer state lawmakers honoraria allows special interests to subsidize the income of these officials. In doing so, the practice creates an obvious conflict-of-interest. Twenty-three states prohibit honoraria if they are offered in connection with a legislator's official duties. New York State is one of the remainder that does not. It should.

- Create a new, independent ethics oversight agency for both the executive and legislative branches. Thirty-nine states provide external oversight of state government through an ethics commission. New York is one of six of those states (the others are Illinois, Michigan, North Carolina and Ohio) whose commissions do not have authority over the legislature. New York State should create a new, independent ethics watchdog for both the executive and legislative branches.

- The establishment of a full one year "cooling off" period for all legislative staffers and top party officials. New York State currently places such limits on state legislators, elected officials in the executive branch and staff of the executive branch to begin lobbying immediately after leaving their government jobs. However, legislative staff and party officials enjoy far weaker restrictions. A minimum one-year "cooling off" period would ensure that no one could immediately cash in on political contacts by lobbying their former colleagues.

- The elimination of the loophole that prohibits prosecutors from investigating ethical misconduct. If either the state attorney general or local prosecutors wish to investigate political corruption, there should be no legal barrier to such activities.

- Ensure that the public knows the fate of prosecutorial actions. The enforcing agency must be required to announce the outcome of any publicly filed complaint as well as other information that will allow the public to know of the agency's decisions.

The legislation session of 2005 did see agreement on legislation that ended the five-year fight over the expansion of the lobbying law. The new law went into effect on January 1, 2006. This was a hard fought for and won League victory.

Key elements in the new law include:

- Definition of lobbying was expanded to cover lobbying to influence executive orders, state-tribal compacts, and procurement decision of governmental agencies. The old monitored lobbying efforts that targeted state and local government legislation, utility rates, agency rules and regulations.

- Procurement lobbying; monitoring. The new law addresses procurement lobbying differently than any other type of advocacy. Contracts worth less than $15,000, contracts relative to procurements for "preferred sources" (typically entities whose workers have handicaps), intergovernmental agreements, certain railroad and utility accounts, eminent domain transaction and grants are all exempt.

INDIVIDUAL LIBERTIES

The League of Women Voters of the United States believes in the individual liberties guaranteed by the Constitution of the United States. The League is convinced that individual rights now protected by the Constitution should not be weakened or abridged. Statement of Position on Individual Liberties, as Announced by National Board, March 1982. **(LWVUS *Impact on Issues*, 2014-2016, p. 24)**

Individual liberties are a long-standing League principle that became an integral part of national program positions in the mid-1970s. This basic League concept has been periodically at the center of the League's attention, especially during times of national tension.

PUBLIC POLICY ON REPRODUCTIVE CHOICES

The League of Women Voters of the United States believes that public policy in a pluralistic society must affirm the constitutional right of privacy of the individual to make reproductive choices. Statement of Position on Public Policy on Reproductive Choices, as Announced by National Board, January 1983. **(LWVUS *Impact on Issues*, 2014-2016, p.25)**

Using this position, LWVNYS has vigorously opposed:

- Attempts to encroach upon a woman's (including a minor) right to control her reproductive health
- Measures that would make reproductive health services more difficult to obtain
- Measures that would defund reproductive health programs or that would exclude reproductive health coverage from medical insurance.

Recent League Activity

The League has supported the Reproductive Health Care Act since it was introduced in 2011. Refer to page 50 of Impact on Issues for additional details. League activity in the 2014 legislative session was centered on passage of Women's Equality Agenda. The Senate Leadership Coalition, following the elections of 2014, will determine significantly action on the Women's Equality Agenda.

In 2011 the League supported passage of the Reproductive Health Act, (S.2844/A.6112) developed to update New York's law with respect to reproductive health by enshrining the woman's right to choose articulated in *Rove v. Wade* in state law. It would:

- Guarantee a woman's right to control her reproductive health
- Ensure that a woman will be able to have an abortion if her health is endangered
- Takes abortion out of the penal code, and regulates it as a matter of public health and medical practice
- Protect the fundamental right of a woman and her doctor to make private medical decisions
- Guarantees everyone the right to use or refuse contraception.

In his 2013 State of the State address, Governor Cuomo included passage of the Reproductive Health Act as part of his 10 point Women's Equality Agenda (later the Women's Equality Act)t. As the 2013 legislative session continued, the reproductive health provision in the Women's Equality Act (WEA), morphed slightly from the RHA. The Women's Equality Act would ensure that a woman can access abortion care in New York State when her health is at risk by:

- Codifying in New York State law the 1973 Supreme Court decision in Roe v. Wade;
- Ensuring that a woman in New York can get an abortion within 24 weeks of pregnancy, or when necessary to protect her life or health;

- Ensuring that physicians operating within their scope of practice cannot be criminally prosecuted in New York for providing such care; and
- Retaining those provisions in state law that allow the state to prosecute those who harm pregnant women.

The League lobbied extensively for passage of the WEA, but it did not pass during the 2013 legislative session. For a complete narrative on the League's advocacy on WEA, please see the *Women's Issues* section

The League has also supported passage of the "public university emergency contraception act"; which requires every college and university of the state university of New York and the city university of New York to provide emergency contraception to any student requesting it. This bill has been introduced in the legislature numerous times since 2007, the latest being 2011.

In addition, the League has supported the passage of the "unintended pregnancy prevention act"; which would increase access to emergency contraception by allowing women direct and immediate access to emergency contraception from a pharmacist, registered nurse or licensed midwife, using a non-patient specific order written by a licensed medical provider.

Past League Activity

In support of this position, the League of Women Voters of New York State has vigorously lobbied to assure that the right to privacy continues to extend to minors by opposing legislation before the New York State Legislature requiring parental consent/notification for minors under the age of 18 seeking to obtain an abortion. In late June of 1995, the Senate passed a parental notification bill, which lowered the age for notification to two parents of those minors who have not yet attained the age of 16. The vote was 32-20, thus putting on record Senators who had never previously voted on this issue. These minor's bills have consistently been held (no action) in the Assembly Health Committee.

The League has also worked to prevent further erosion of a woman's right to reproductive choice in opposing a bill, first introduced in the 1994 legislative session, which would require a 24-hour waiting period after the first visit before an abortion and require "informed consent." Informed consent is currently done as standard medical procedure, and as such, bills requiring further information are viewed by the League as tantamount to biased counseling. Requiring women to delay exercising their reproductive choice option, absent any legitimate health concern, is not justified. Particularly for many rural women who must travel to a facility, the 24-hour provision would create significant obstacles and increase the potential for harassment. The delay may also cause more women to have second trimester abortions that are much riskier than ones performed earlier in a pregnancy. In 1994, the League successfully lobbied to hold this bill in the Assembly Health committee. In the 1995 session, this bill did not come before the Health committee in either house.

Medicaid Funding of Abortions

The League believes that low-income women should have the same access to legal medical procedures for which income-independent women are able to pay. From 1978 through 1997, the League lobbied against attempts to withdraw this funding in New York State. The 1995 budget negotiations included language that would mandate family planning counseling before a Medicaid funded abortion. The League opposed this budget language and, as a result of vigorous lobbying, it was not included as part of the budget. The League has and will continue to monitor this very important right for low-income women. (During every budget vote, anti-abortion legislators have unsuccessfully attempted to delete Medicaid funding from the state's budget.

Medicaid funding for women of low income was included in the "bare-bones" budget passed in August 2001.

Medicaid funding for women of low income has not been an issue during 2002 or 2003 budget mainly due to the large state budget deficits and the need by legislators not to provide any other issue for holding up the agreed to budget. Of particular note, during the 2005 legislative session the Senate took up the issue of Medicaid funding fully two-months after the budget was passed. The debate on this issue was extremely anti-woman and done primarily to appease the Conservative party and the Catholic conference. The Assembly did not address any abortion related legislation. Medicaid funding for low-income abortions was not addressed during the budget in late March 2007. However, the Senate introduced it in late May 2007. It passed the Senate only and was judged non-germane in the Assembly. No action on any other reproductive choice legislation was taken in the 2006 or 2007 session.

LWVNYS a Plaintiff in Hope v. Perales

In September 1990, the LWVNYS joined as a lead plaintiff with the New York Civil Liberties Union, family planning clinics, religious organizations, and others in a lawsuit against the New York State Department of Social Services and the Department of Health. The suit challenged abortion discrimination in prenatal care legislation enacted by New York State in 1989. The state League supported the original intent of the legislation that provides prenatal services to poor women but argued that the New York State Constitution does not permit the state to condition the funding of pregnancy related health care to the waiver of the right of reproductive choice. A June 1991 New York State Supreme Court ruling in the case recognized a New York State constitutional right to abortion and to the funding of abortion services under the expanded Medicaid program. The plaintiffs had hoped for an immediate appeal to the Court of Appeals (the highest court in the state); however, the Court of Appeals decided in September 1991 that the case should first proceed through the lower appellate process, based on the premise that a positive outcome of this slower process would result in a firmer legal footing for a final appeal to the Court of Appeals. In April 1993, the Appellate Court ruled 4-1 to uphold the lower court decision in Hope v. Perales. *(See Medicaid Funding of Abortion under Social Policy section.)*

In May 1994, the NYS Court of Appeals in a narrowly drawn decision ruled that abortion services do not have to be funded under the expanded Medicaid prenatal care program. Although this decision was not the outcome the League had hoped for, the judges did not rule on the constitutionality of a right to privacy in reproductive choices in NYS. As a test case on the

right to privacy in the NYS constitution, Hope v. Perales was perhaps not the most appropriate vehicle. In the future, another case may arise which will establish this important right in the state constitution.

In 1996, legislation was introduced to ban catastrophic late-stage abortion procedures in New York State (also called "partial birth abortion"). A physician performing this procedure could be subject to Class E felony charges, fines and imprisonment for a minimum of two years. In New York State, an abortion is legal if done within the first 20 weeks of pregnancy; however, under Supreme Court ruling, Roe vs. Wade, there is a compelling state interest in the third trimester, which begins after 24 weeks. After that a termination of pregnancy is allowed only to save the life or health of the mother, or if the fetus is incapable of sustaining life outside the womb. This legislation passed the Senate but was not addressed in the Assembly during the regular session. In December 1996, a special session was held; "partial birth abortion" legislation, in the form of a hostile amendment, was attached to a League-supported ballot access extender bill. The Assembly Speaker allowed Assembly member Eric Vitaliano of Staten Island to attach this amendment. The amendment was defeated on the issue of germaneness with debate on the floor tightly controlled by the Speaker.

In the 1997 session, this legislation again passed in the Senate but was held in the Assembly Health Committee. This extremely emotional issue promises to resurface next year, in one form or another. Medical experts note the procedure should be only performed to save the health of the mother, to assure her continued fertility, and when the fetus has such severe abnormalities that it is incompatible with life outside the womb. Women with healthy fetuses are not considered by the medical community to be eligible for this procedure.

All other barriers to reproductive choice were defeated in the Assembly Health Committee. Medicaid funding for abortion for low-income women continues to be funded. (See Access to Health Care, in this publication for more information on clinic access and Medicaid funding for abortion.)

The 1998 session saw the Senate again pass the so called "partial birth abortion" legislation in the same form as 1997. The vote remained the same, however, the debate was shorter and less emotional, because every state in the nation that has passed similar legislation has had it ruled unconstitutional, this bill has become little more than a political necessity by the Senate Republicans for the continued support of the State Conservative Party. The legislation was held in the Assembly Health Committee.

Again, in the 1999 legislative session, the Senate passed "partial birth abortion" legislation early in the session. Late in the session, the Assembly Republican Minority Leader, under pressure from the Conservation Party, used a Motion to Discharge to bring the Senate bill to the floor of the Assembly for a vote. The motion was ruled out of order by the chair (President Protem of Assembly) and the vote taken was a vote to sustain the ruling of the chair. This issue has become a very political issue having to do with election politics and nothing to do with the merits of the bill. A woman's health, future fertility, or even her life has long since been swallowed up in political maneuverings. The League will continue to lobby against this harmful

legislation. No other anti-abortion legislation was passed through committee by either the Senate or Assembly.

During the 2000 legislative session, an election year, the Senate passed the so-called "partial-birth" abortion bill yet again. However, it was not addressed in the Assembly. No other legislation eroding a woman's access to reproductive health was addressed in that session.

However, in the 2001 session, new legislation was introduced known as the "unborn victims" bill. This measure would establish criminal penalties for "death" of a fetus during an attack on a pregnant woman. Although this bill may sound reasonable, it is in reality a back door way of creating personhood for a fetus. This legislation did not move in either house.

During the legislative sessions of 2002 and 2003, the Senate again passed the "partial birth abortion" bill but in 2003 session, the bill passed with fewer votes. In 2003, the Senate also passed its version of the "unborn victims" bill. However, no action has been taken on either pieces of this legislation in the New York State Assembly. 2004-2005 session saw no legislative action from either Senate or Assembly on "partial birth abortion" legislation or "unborn victims" legislation.

The good news for the 2003 session was the passage of legislation to provide emergency contraception to rape victims. This legislation signed by Governor George Pataki requires hospitals to counsel rape survivors about the use of emergency contraception to prevent pregnancy and offer the medication on-site. Emergency contraception, also known as the "morning after pill," is not the same as RU-486 and does not disrupt or harm an established pregnancy. Emergency contraception is not needed if a woman was already pregnant prior to being raped, so the new law does not require hospitals to dispense emergence contraception in such circumstances.

In 2004, the League successfully opposed measures which would have encroached on a woman's right to choose, including parental notification bills, a bill requiring a 24-hour waiting period before a woman could obtain an abortion. These bills were both held in the Assembly Health Committee although they passed in the state Senate.

In 2005, the League successfully lobbied for the Unintended Pregnancy Prevention Act, passed in both the Assembly and Senate, only to be vetoed by Governor Pataki, who was believed to have been pandering to the Religious right in an attempt to burnish his credentials for a Presidential bid. The measure would enable a physician to write a standing non-patient specific prescription to a pharmacy for emergency contraception allowing women to obtain this type of contraception within 72-hours of intercourse without the need for a prior doctor's appointment. In 2007, the League again lobbied for this legislation, the bill did pass the Assembly, but saw no action in the Senate.

In both 2006 and 2007 the League lobbied vigorously with Family Planning Advocates in support of the Healthy Teens Act, introduced in the Assembly by Gottfried and in the Senate in 2007 by Winner. It would have established a grant program through the Department of Health to

fund age-appropriate sex education. In 2007, this bill passed the Assembly and was referred to the Senate Health Committee.

January 2007 saw a new administration come into Albany. Governor Eliot Spitzer had campaigned on the right to privacy and full access for women to reproductive health. In late March, Governor Eliot Spitzer spoke at the annual Family Planning Advocates Conference and reaffirmed his commitment to safe, legal abortion and to making privacy in reproductive choices a guaranteed right in New York State. The Governor introduced a program bill which the League supported which would have established a fundamental statutory right to privacy in making personal reproductive decisions, decriminalized abortion and updated New York law to embody Roe v. Wade protections in state legislation. Unfortunately, neither the Senate nor the Assembly introduced this legislation indicating that this would become a bill for political haymaking in the election year of 2008.

In mid April 2007 the United State Supreme Court upheld by a 5-4 decision on an abortion ban which had been passed by Congress and signed into law by President Bush in 2003. This law also known as "partial birth abortion" bans a medical procedure found necessary and proper in certain situations by the American College of Obstetricians and Gynecologists. This ruling affects a method that doctors use to terminate pregnancy – and makes no exceptions for a woman's health or fetal anomalies. This dangerous law was opposed by major medical associations including the American College of Obstetricians and Gynecologists (ACOG), the American Nurses Association and the American Public Health Association.

VOTING RIGHTS

> The League of Women Voters of the United States believes that voting is a fundamental citizen right that must be guaranteed. Statement of Position on Citizen's Right to Vote, as Announced by National Board, March 1982. **(LWVUS *Impact on Issues*, 2014-2016, p. 9)**

Although the right of every citizen to vote has been a basic League principle since its inception, this tenet was made a position following the conscious effort of the League to emphasize the extension of voting rights under the Voting Rights Act of 1965 and its subsequent amendments. (See Voting Rights in the Apportionment section below.)

APPORTIONMENT

> The League of Women Voters of the United States believes that congressional districts and government legislative bodies should be apportioned substantially on population. The League is convinced that this standard, established by the Supreme Court, should be maintained and that the U.S. Constitution should not be amended to allow for consideration of factors other than population in apportionment. Statement of Position on Apportionment, as announced by the National Board, January 1966 and Revised March 1982. **(LWVUS *Impact on Issues*, 2014-2016, p. 15)**

The apportionment of election districts was a state issue until the 1962 and 1964 Supreme Court rulings, requiring that both houses of state legislatures must be apportioned substantially on population transferred the issue to the national arena. These rulings, which spelled out the basic constitutional right to equal representation, prompted introduction in Congress of constitutional amendments and laws to subvert the Supreme Court's 1954 one-person, one-vote decision. Leagues in 33 states already had positions on the issue when, in 1965, the LWVUS council adopted a study on apportionment. By January 1966, the League had reached national member agreement on a position that both houses of state legislatures must be apportioned substantially on population. The 1972 convention extended the position to cover all voting districts.

In New York, provisions of the state constitution for allocating representation to the people and areas of the state were already being challenged in the federal courts when delegates to the 1963 LWVNYS convention added Apportionment to the program.

By January 1965 the League Membership had agreed on standards for establishing legislative districts and announced the following position:

APPORTIONMENT
Statement of Position
As announced by the State Board, January 1965

The League of Women Voters of New York State supports the following standards for establishing legislative districts that conform to federal constitutional requirements for equality:

1) **Districts should follow existing political subdivisional boundaries, especially county lines, as far as practicable. Counties are recognizable political units that define some communities of interest. As a unit of party organization, they also affect representation through their function in nominating candidates.**
2) **Districts should be of contiguous territory with the smallest perimeter possible. Compactness limits opportunities for gerrymandering within political subdivisions, particularly cities.**
3) **The constitution should prescribe the limits within which the size of the legislature can vary at each redistricting. The size should be flexible enough to allow the other standards to be used in conjunction with population equity.**
4) **Each Senate and Assembly district should be represented by one legislator with a single vote. Single member districts improve the quality of representation by fixing responsibility. Weighted voting is opposed because it distorts representation.**
5) **Districts should be based on current census statistics.**
6) **Districting standards should be established in the state constitution.**

An extra year of study found Leagues unable to agree on what governmental institution should draw the lines; i.e., the legislature, a commission, the governor, etc. Consensus was reached, however, in two additional areas regarding the procedures for redistricting:

APPORTIONMENT
Statement of Position
As announced by the State Board, 1966

The constitution should provide for an alternative districting procedure if the responsible agency fails to draw the lines within the limits specified.

Whoever is responsible for districting should utilize an impartial commission for drawing the lines.

Recent League Activity

In 2010, in addition to testifying at LATFOR hearings statewide, the League participated in a broad campaign, ReShapeNY, calling for a better redistricting process for New York. Many Leagues held public forums highlighting the need for reform using the materials the state League provided in the fall of 2010. This followed years of the League advocating for a constitutional amendment setting forth permanent and fair guidelines and establishing an independent commission to draw lines free of partisan gerrymandering. We have long felt that the pen that draws legislative lines needs to be removed from the hands of the legislators, but understandably this was an uphill fight given the inherently political nature of the redistricting process.

The first set of state legislative lines for the 2012 election was released by the Legislature in January 2012 and we criticized those lines as partisan and gerrymandered, as did our good government colleagues and many others, and we called for both improving the lines and implementing lasting structural reform to a fundamentally flawed process. It became obvious that the redistricting process in New York was broken. The courts again stepped in as they had in past decades of Congressional redistricting.

The League called for the Governor to use his veto threat, and the power it gives him to negotiate with the Legislature, to not only improve the 2012 lines but also to achieve certain and permanent structural reform to the redistricting process. Permanent structural reform can only be achieved through a constitutional amendment but momentum for this has typically diminished greatly in the years following each redistricting battle. The League felt that 2012 was a unique opportunity for reform in light of the unprecedented campaign that has been waged by many different groups, including those allied with us in ReShapeNY, to hold legislators to their pledge to enact redistricting reform and Governor Cuomo's insistence that the status quo could not stand. The League supported the successful first passage of a constitutional amendment in 2012 and an accompanying statute, creating structural reform that permanently takes the redistricting pen away from the legislature and provides the voter with the power to choose their elective representatives. While not perfect, we felt that the constitutional amendment would provide a significant improvement on the LATFOR status quo. Certainty was added to the process by coupling first passage of a constitutional amendment with an accompanying statute, ensuring reform even if the amendment does not achieve the second legislative passage necessary to go on the ballot.

Past League Activity

Since 1966 the League has worked for adoption of a constitutional amendment to set specified, permanent guidelines for the redistricting process.

In 1979, the League as a leading member of the Committee for Fair Representation developed an expanded list of guidelines for redistricting. These guidelines are as follows:

Guidelines for Redistricting 1979

The League's redistricting guidelines are based on four principles - equal population, contiguity, integrity of existing political sub-divisions (to the extent possible) and, finally, geographic compactness. Adherence to the guidelines in their prescribed order would inhibit the temptation to indulge in the practice of equal population gerrymandering.

1. Population Equality - In compliance with the U.S. Supreme court's "one man-one-vote" requirement, population must be apportioned equally among districts. Deviations from this ideal were sharply limited by the Supreme Court in the case of congressional districts; however, the court found deviations of 10% or less in the "overall range" to be acceptable for legislative districts if based on legitimate state policy. The Court found maintaining the integrity of political subdivisions such a policy.
2. Contiguity - Districts should be of contiguous territory with the smallest perimeter possible. They should consist of land parcels adjacent to one another. Areas divided by water should not be included in the same district unless connected by means of a bridge or tunnel with both termini in the district. This provision assures that the land parcels in a district have some physical relationship to each other. No city block shall be sub-divided, since a city block is the smallest parcel for which census data are available.
3. Integrity of political subdivisions - The guidelines are designed to minimize the fractionalization of political subdivisions where fragmentation is necessary to comply with the equal population requirement. Maintaining counties, towns, cities and villages intact, is an important element of redistricting because these subdivisions have reasonably permanent boundaries which are more unlikely to be tampered with for political advantage i.e. gerrymandering, and their populations often have commonality of interests that merit representation by the same member of congress or legislator. Political party machinery is structured along county, town and city lines and its functioning is impaired when these units are periodically divided and recombined. The following guidelines delineate which counties, cities and towns should be divided first when choices must be made and in what manner. These particular provisions limit discretion and the opportunity for manipulation. The most heavily populated units are divided more easily to obtain population equality and can be expected to retain significant political power even when apportioned to two or more districts:

a. The number of counties, towns, and cities divided among more than one district shall be as small as possible. If these subdivisions must be divided, they shall be divided among as few districts as possible.

b. Counties that are more populous shall be subdivided in preference to less populous counties. Within counties that are divided among districts, more populous cities and towns shall be divided in preference to less populous cities and towns.

c. In dividing a county, city or town, as populous as possible a portion of such county, city or town shall be placed in a district or districts wholly within that subdivision and only as small as possible a portion of the subdivision's population shall be separated from the rest.

d. Within towns that are divided among districts, no village shall be divided unless necessary to meet equal population requirements.

e. Within cities that are divided into wards or similar subdivisions, whose boundaries have remained substantially unaltered for 15 years, the number of such wards or subdivisions divided into more than one district shall be as small as possible.

4. Compactness - Compactness is achieved by comparing the aggregate length of all the district lines in the plan with those of any other proposed plan, which complies as well with the other guidelines. Districts will not be exactly regular in shape because of the requirements for population equality, for preserving counties, etc. But the compactness rule will prevent the arbitrary pushing of a particular boundary line a few blocks in one direction or another to achieve political advantage.

In 2001, the legislature was charged with redistricting state legislative and Congressional districts. The League testified at all The Task Force on Demographic research and reapportionment hearings statewide. In all testimony we stressed the need for ensuring a process that better allows for citizen input and for legislative districts that give all voters a fair and equal voice in our representative democracy. We also lobbied in the legislature for a nonpartisan commission to draw the lines based on the League's criteria; however, because this is the most partisan process undertaken by the legislature and determines the districts in which the legislators will run for the next decade, this was indeed a heavy lift. In the end not even members of the Task Force had input into the process, as it was done entirely by the majority leadership in each house.

The League continues to advocate for the following to insure that all voters have a fair and equal voice in our representative democracy:

1. A "Transparent" Process - Allow the public to participate in the redistricting process.

2. A non-partisan redistricting system for drawing lines - The League believes that lines should be drawn by a non-partisan advisory commission and then submitted to the legislature for their vote. We believe that the NYS Constitution would permit such a body to be appointed to oversee the process. The League looked to other states for examples and found that Iowa has utilized such a plan since 1980 and Arizona has recently adopted this method. Lines should be drawn by utilizing the criteria previously outlined. The use of incumbent's home addresses or the party affiliation of voters should not be factors in this process.

Competitive elections are the lifeblood of democracy. Only through the clash of ideas can voters intelligently understand complex public policies and think through the implications of policy alternatives. Competitive elections stimulate voter interest in elections and increase voter turnout.

Historically, New York's redistricting process has been extremely partisan, done to maintain incumbency protection. The Democrats in the State Assembly and the Republicans in the State Senate each control the district lines in their respective houses. Both houses agree to the other's plans and the legislation is then sent to the Governor for his signature. By using techniques like "packing," whereby lines are drawn to concentrate many supporters of political opponents into a few districts, and "cracking," whereby opponents' supporters are split among several districts, they dramatically increase their party's chances of incumbency for the next decade. These "designer districts" literally allow for legislators to choose the voters before the voters have a chance to choose them.

In all of its 80+ years of history, the League has stood for fair and equitable representation for the people of our state. We believe that the overriding concern in drawing new districts is to assure that all New York resident are assured of fair representation in Congress and the Legislature. The League believes it imperative that our guidelines and process be applied so that people, not parties, are protected.

The Voting Rights Act of 1965 and its Amendments

The right to vote is basic to American citizenship. Who possesses that right and the extent to which that right is guaranteed has long been the focus of congressional action and judicial interpretation. In 1870 with the ratification of the Fifteenth Amendment to the Constitution, citizens were promised that the right to vote would not be abridged by the United States or any state because of race, color or previous condition of servitude. In the years following the ratification of the Fifteenth Amendment, states and local governments found ways to circumvent the intent of the law. It was almost a century after the passage and ratification of the Fifteenth Amendment; Congress passed the Voting Rights Act of 1965. Primarily the Act protected the right to vote as guaranteed by the Fifteenth Amendment.

Since 1965, Congress has reconsidered the Act, passing amendments to it in 1970, 1975, and 1982. The 1970 amendments expanded who is covered by the act and the length of time they are covered. Additionally, the 1970 amendments mandate a nationwide five-year ban on the use of tests and devices as prerequisites to voting.

In 1975 the Act was amended again, extending for the second time the length of time jurisdictions were covered and again expanding who was covered by the provisions of the Act. The scope of Section 5 was expanded beyond race and color to members of language minority groups by requiring pre-clearance procedures in jurisdictions in which more than 5% of the voting age citizens were members of a single language minority and in which printed election materials were available only in the English language. Native Americans, Asian Americans, Alaskan natives, and Hispanics are members of language minority groups.

In 1982, Congress again amended the Voting Rights Act. Two sections that were amended, Sections 2 and 5, affect the redistricting process. Section 2 applies to all jurisdictions. It prohibits any state or political subdivision from imposing a voting practice that results in the denial of the right to vote. Section 5 does not apply to all jurisdictions. It applies only to "covered" jurisdictions; that is, jurisdictions subject to pre-clearance as a result of meeting certain criteria established in the test of Section 5. In New York State, only Manhattan, Queens, and Brooklyn are subject to Section 5. Covered jurisdictions are required to pre-clear all changes in their electoral laws with either the Department of Justice or the U. S. District Court for the District of Columbia. Section 5 also creates a legal cause of action giving citizens the right to turn to the federal courts for protection when a "covered" jurisdiction institutes electoral changes without pre-clearance.

Once a jurisdiction becomes subject to pre-clearance, any change in its electoral process must meet Section 5 pre-clearance requirements. Such changes include, but are not limited to: (1) any change in qualification or eligibility for voting; (2) changes concerning registration; (3) changes involving the use of a language other than English in any aspect of the electoral process; (4) changes in the boundaries of voting precincts or in the location of polling places; (5) changes in the boundaries of a voting unit through redistricting, annexation, de-annexation, incorporation, reapportionment, changing to at-large elections from district elections or changing to district elections from at-large elections; (6) changes in the method of determining the outcome of an election; (7) changes affecting the eligibility of persons to become or remain a candidate; and (8) changes in the eligibility and qualification for independent candidates.

Although the Section 5 pre-clearance procedures were originally temporary in nature, they have been repeatedly extended by Congress. Under the 1982 amendments, pre-clearance procedures will automatically expire in 2007 unless extended by Congress.

The 1982 Voting Rights Act Amendment Impact on Redistricting

In the period following the enactment of the 1965 Voting Rights Act (VRA), officials responsible for reapportionment focused on creating districts of substantially equal population, deciding how much deviation was permissible and for what purposes. The problem was not in creating equally populated districts but in choosing a plan from the infinite number of ways to draw the district lines. The League and other good government groups devised neutral principles for guiding legislators in drawing boundaries, principles which would go beyond the equal population requirement, principles designed to prevent the practice of equal population gerrymandering (the drawing of district boundaries of equal population but drawn in strange shapes for partisan advantage). However, legislators chose to draw more creative district boundaries, which would serve partisan advantages.

The two sections of the Voting Rights Act amended in 1982 directly affect states in their redistricting efforts. The amendments, designed both to prevent dilution of minority strength and to enhance minority access to the governing process had been given the first consideration in the redistricting process. These amendments and ongoing court decisions interpreting their implementation took precedence over all previous guidelines. However, the Supreme Court decisions of June 1993, June 1995, and subsequent decisions have cast some doubt on the constitutionality of this interpretation enhancing majority minority districts in the redistricting process.

In the 1995 Georgia case, the court struck down Georgia's majority-black 11th District and cast doubt on all such districts, on the grounds that race played a predominant role in the district's creation. Georgia's district was not "bizarrely" shaped to incorporate blacks, like the North Carolina one the courts struck down in 1993. In three cases, the court has upheld the position that race should not be the predominant determining factor in redistricting.

At the heart of the public's discontent over the state of New York's democracy is a feeling that state lawmakers rig the system for their own political gain. Nowhere is this more apparent than in the legislative district lines are drawn.

Currently, the State Senate Republicans and the State Assembly Democrats are allowed to draw the lines for their respective house—ensuring their re-election in the process. This has created a body of legislators that are not responsive to their constituents' concerns. The only check on this system is whether the Governor chooses to allow this practice to continue or use his veto powers to force changes. As in so many areas of reform, this Governor has shown no leadership on this important issue.

We believe that creation of an independent redistricting commission must be a top priority for those interested in reform. Lawmakers should support legislation ensuring that the drawing of legislative district lines is not done by those who stand to directly benefit from how they are drawn.

Following the census of 2000, the LWVNYS and several local Leagues were very active on redistricting issues. The state League testified at the Redistricting Task Force Hearing in Albany on March 19, 2002. The Buffalo and Rochester Leagues paved the way for the Albany hearing by putting pressure on the Task Force during the hearings in both Buffalo and Rochester. Complaints by the League and other good government groups about no Task Force hearing between Rochester and the Bronx finally forced legislators to add an additional hearing date in Albany.

After the statewide Redistricting Task Force Hearings, legislation was crafted by the Democratic controlled Assembly and the Republican controlled Senate to insure that their majority members would be re-elected. Although the League had lobbied vigorously for an independent redistricting commission the legislation was sent to the Governor for his signature. We lobbied the Governor to hold this legislation hostage to accomplish some reform in the area of campaign financing of elections. But, like Governor Cuomo before him, Governor Pataki signed this incumbency protection legislation into law. Senate Democrats sued New York State under the

Federal Voting Rights Law, but lost the case in the Federal District Court.

This issue has taken on national importance and will continue to be a state League priority to bring about real reform and elections that are more competitive. This issue will again be of prime importance following the 2010 census.

Following the election of Governor Eliot Spitzer in November 2006, our legislative director, Barbara Bartoletti was asked by Governor-elect Spitzer to sit on the Government Reform Committee of his transition team. Redistricting was an issue prominently discussed by the transition team and recommendations from the Government Reform Committee were made to the Governor-elect.

Once in office Governor Spitzer introduced a program bill with a bi-partisan Redistricting Commission instead of the League supported non-partisan commission. The League was party to several of the Governor's office negotiations on this proposal. At the end of session 2007, the Senate or the Assembly had taken no action on this program bill.

LEGISLATIVE PROCEDURES

A study of state legislative procedures was adopted in 1975. The two-year study convinced members that certain procedural changes would result in a more effective, efficient legislature, which would be more responsive to the public.

LEGISLATIVE PROCEDURES
Statement of Position
As announced by the State Board, April 1977

Members of the state legislature should have a greater impact on legislative proceedings, with the aid of better and more equitable staffing, and a stronger role for committee.

The legislature should continue to serve as a part-time body. Terms for legislators should be longer, and possibly staggered.

Legislative staff should be full-time professionals, independent of partisan control, and more equitably distributed among freshmen and more senior members, majority and minority, Senate and Assembly. Information about staff salaries and assignments should be more readily available.

LEGISLATIVE PROCEDURES
Statement of Position
As announced by the State Board, April 1977 (Continued)

A variety of approaches is needed to reduce the number of bills submitted each year: reducing the number of "home rule" bills on which the legislature must act, consolidating or eliminating individual sponsorship of bills, and requiring active support by sponsors for their own bills.

Lobbying regulation should require reporting by all groups and agents who expend significant funds for lobbying. With regard to ethics, there is need for: a commission or board of ethics with citizen participation, disclosure by legislators of sources of income and financial holdings, a more specific code of ethics or formal guidelines for ethical behavior.

Recent League Activity

Before the start of the newly elected Legislature began sessions in 2010 and 2012, the League joined with our good government colleagues to send a letter calling for four main changes:

- Increase the strength and efficiency of committees so they function fully and effectively
- Provide greater opportunity for rank and file members to bring legislation with majority support to the floor, even over the objection of leadership
- Eliminate the unfair allocation of resources between the majority and minority parties
- Increase transparency in the chamber.

During the 2013 legislative session, the League joined with NYPIRG and Common Cause in supporting legislation (A.7103/S.3412) that would prohibit votes in either house of the legislature on everything but procedural matters between the hours of 9:00 PM and 9:00 AM. The bill was not voted on in either house.

Past League Activity

Legislative Terms

There has been minimum activity within the legislature regarding the legislative term of office, except for a serious attempt in the 1984 and 1985 sessions to support a constitutional amendment for four-year terms for all legislators. First passage was unexpectedly achieved in the 1989 session, but there was no further action.

Legislative Operations

Since 1989, the League in cooperation with other good government groups has been lobbying for internal reform of legislative operations. LWVNYS activities have included giving testimony, writing letters to key officials, issuing press releases and giving media interviews calling for government reform, as well as working together with organizations such as Common Cause and NYPIRG to call on the legislature to police itself. Key points of our agenda are:

- Creating a C-SPAN for New York State;
- Ending abuse of publicly funded legislative mailings;
- Vigorously supporting open meetings;
- Ending all night legislative sessions;
- Recommending that Senate committees be required to act on any piece of legislation if requested to do so by the sponsor;
- Requiring quarterly reporting of legislative expenditures;
- Improving Freedom of Information; and
- Adopting guidelines on political campaign activities of legislative employees as recommended by the Commission on Government Integrity and the Wilson Commission.

Reform seemed promising with the Court of Appeals decision in December 1994 (the Siris decision), upholding application of the Freedom of Information Law to operations of the state legislature. The leaders of both houses opened the 1995 legislative session by unveiling a series of reforms aimed at making the legislature more accountable and responsive to the people of the state: increased disclosure of spending, limits on taxpayer funded mailings, banning all-night legislative sessions, and limiting the number of bills that can be introduced. Many of the proposed changes were accomplished administratively with simple "rule" changes in the houses or by resolution. A resolution, however, is not binding and does not have the "teeth" that a law does.

On January 30, 1996, both houses passed a joint resolution "authorizing a joint committee on conference to consider and report upon substantially similar but not identical legislation that has passed each house." Only one piece of legislation was conferenced: the 65-mile per hour speed limit. After one try at joint conference of the budget, this process was dropped and negotiations were returned to the leadership. (See Budget Process under State Finances section.)

The 2005 Legislative Session was a banner year for government reform. Following citizen outcry and the loss of three incumbent legislative seats, the leadership in both the Assembly and Senate was spurred to show the electorate that they had gotten the message on reform. Subsequently, at the beginning of the 2005 session both houses of the legislature made changes to their respective operating rules. To a modest extent, the Assembly's changes improved the

way it operated. The Senate's changes arguably made the situation in that house worse.

While several of those changes constituted critical first steps toward comprehensive reform, much still needed to be done to improve the legislative process.

Among other reforms, we argued for the following to be codified:

- Committees: (1) Committee chairpersons should have independent control over hiring/firing of committee policy and legal staff; (2) committees should hold a public hearing upon the request of one fourth or more of the committee's members; (3) proxy voting of any kind should be prohibited in committees; (4) all committee meetings should be recorded and the tapes made available to the public and aired, where appropriate, on the newly established "NY-SPAN" programming; (5) all bills favorably reported by a committee should be accompanied by a full committee report with section-by-section analysis, etc.; and (6) committee chairpersons should hold a vote on any bill, upon the sponsor's request, no later than the earlier of the end of the calendar year and the end of the session.

- Bringing Bills to the Floor. (1) A mechanism should be established for rank-and-file legislators in the Senate and Assembly to bring bills that have been voted favorably out of committee, or have the support of a majority of members, to the floor for debate and a vote (even over the objection of the Majority Leader or Speaker); and (2) limits on discharge motions should be further relaxed and the individual members' votes on such motions recorded.

- Voting procedures: Messages of Necessity should not be requested by the Speaker or Majority Leader, and should not be approved by the Governor, except upon a vote of 2/3 of the elected members of the chamber.

- Conference Committees: Conference committees should be convened automatically upon the request of either the prime sponsors of the bills from each chamber or the Speaker and Majority Leader.

The 2006/2007 legislative sessions saw no rules changes although the League worked with the minority in both houses to secure equal funding for minority party legislators.

C-SPAN for New York

Since 1992 when NY-SCAN (New York State Community Access Network) was shut down after seven years of operation, the League, Common Cause, and NYPIRG have worked with the legislature to propose legislation to create an acceptable alternative. This new channel would televise, with editing, the sessions of the state legislature, committee meetings and hearings, Court of Appeals sessions and other state government meetings. It would be a joint public-private partnership and would air statewide.

Following intensive media scrutiny and attention on the issues, the State Senate and Assembly were forced to consider bringing the legislature into the 21st Century by using current technology. Neither house appears to be able to agree to do this independent of their own house operations, which is what the League has advocated for.

In the 2002 Legislative session the Assembly began with live, gavel-to-gavel coverage of legislative sessions. However, they are only available on the Internet and by a closed circuit TV system available in the Capitol and Empire State Plaza! Although preparations for a digital broadcasting system had been made to the Assembly Chamber, no appropriation was been made to enable connection to satellite for transmission. A representative of the Assembly leadership said that due to September 11th WTC disaster the money was not available. As recently as 2001, the Assembly had promised to provide this service statewide. The Senate also has put their gavel-to-gavel coverage on the web, available at http://www.senate.state.ny.us/. The problem that League has with this new arrangement is that it depends on a citizen having a computer and the ability to use real time.

No action on a C-SPAN for New York was taken in the 2003 session. The League will continue to advocate for a true New York State C-SPAN in the future.

A true League victory occurred at the end of the reform session of 2005, when both Senate and Assembly leadership agreed to full public cable access for statewide gavel-to-gavel sessions. We will continue to lobby for cable access to legislative committee meetings and other important legislative hearings.

In January 2007, newly elected Governor Eliot Spitzer issued Executive Order number three requiring all State agencies and public authorities to develop plans for broadcasting on the Internet all meetings subject to the Open Meetings Law by July 1, 2007. Anyone with computer access may now follow the board meetings of such agencies as the State Board of Elections, Public Authority Control Board, and any of the many public authorities in New York.

Executive Order No. 20

In November 1995, the Governor issued Executive Order No. 20 (E.O. #20), which among other things requires all state agency heads to submit proposed rules to the regulatory reform office for approval. The order also requires that all new regulations be reviewed and approved by the secretary to the governor, the governor's counsel, the director of state operations, and the budget director.

The League of Women Voters of New York State joined with nine other organizations and one individual as plaintiffs in a suit against the Governor; the Governor's Office of Regulatory Reform; Robert King, Director of Regulatory Reform; Bradford Race, Secretary to the Governor; Michael Finnegan, Counsel to the Governor; James Natoli, Director of State Operations; and Patricia Woodworth, Director of the NYS Division of Budget, as defendants charging that the Governor's Executive Order No. 20 is unlawful, unconstitutional, null and void, and unenforceable. The plaintiffs also sought a permanent injunction prohibiting defendants from enforcing or implementing E.O. #20 or from interfering in the statutory rule making or permit issuing process.

On April 18, 1997, Justice J. C. Teresi of the Albany County Supreme Court found that the plaintiffs had standing to pursue their claim and that the action was properly brought as a declaratory judgment but rejected the argument that the executive order was unconstitutional, finding that it was "a constitutional exercise of the Governor's executive authority in creating an executive office that performs regulatory review functions". The League, along with other plaintiffs, appealed this process.

On May 7, 1999, the Court of Appeals handed down its ruling unanimously affirming the Third Department decision thus dismissing our lawsuit on E.O. #20. In affirming the decision of the Appellate Division majority, the Court of Appeals ruled that the harm suffered by the various organizations (and their members) was too speculative or remote to afford them standing to maintain the action. Although disappointed in the decision, the League felt strongly that our participation in this type of suit serves to maintain the government watchdog mission of our organization.

CONSTITUTIONAL CONVENTION

At the recommendation of the Board of the League of Women Voters of New York State, a brief study of the New York state constitutional convention process was undertaken during the 1992 program year. It was recognized that under Article XIX of the New York State constitution, a concise definition was established for ways in which the constitution might be amended. The method used most often requires passage by two consecutively elected legislatures; the other is by constitutional convention. In either case, a proposed amendment does not become effective until the voters of New York State, by referendum, approve it.

There are two ways to call a constitutional convention. Article XIX provides that every 20 years, there shall be submitted to referendum the question, "Shall there be a convention to revise the constitution and amend the same?" That provision required the question to appear on the ballot in 1997. But the amendment article also authorized the Legislature to put the convention question to referendum at other times.

Without a position, the LWVNYS could not adequately respond to questions raised by the timing of the calling of a convention, the pre-convention preparation, or the processes under which a convention functioned. A basis for action is provided in the following consensus statement.

CONSTITUTIONAL CONVENTION
Statement of Position
As announced by the State Board, February 1993, revised June 2015

The League of Women Voters of New York State does not support or oppose the holding of a constitutional convention.

The League of Women Voters of New York State recognizes that a constitutional convention is an acceptable (legal) method of amending the New York State Constitution and that the provision requiring periodic mandatory submission of the question of calling a convention is a proper procedure.

The impetus for a convention between the mandated twenty-year referenda should come from the public. However we feel that certain principles are essential throughout the process:

- **Education and involvement of the public must be an integral part of each phase of the process.**
- **Planning should be given adequate time and sufficient funding.**
- **Nonpartisanship is essential.**

The League believes that specific conditions should be incorporated in the policies and procedures established for constitutional conventions:

- **Pre-Convention Commission: A preparatory commission should be appointed with adequate time to study the issues, establish the agenda and procedures and prepare position papers for the convention. Such a commission should provide ongoing information to the public and solicit its participation.**
    - **Convention delegates: The League supports the following reforms as positive factors in deciding on support for a constitutional convention. Delegates should be elected by a fair nonpartisan process that complies with federal voting rights provisions and eases ballot access to encourage participation by racial and other minorities. Public financing should be provided for candidates and their positions on issues and convention goals should be widely publicized to enable voters to cast informed votes at their election. Statewide office holders, state or federal legislators, and state judges should not serve as delegates. Revised June 2015.**
- **Convention process: Procedures must be put in place to reduce partisanship, by assuring that committees and committee chairmanship are beyond party control.**

Reasonable time limits must be placed on the length of the convention and its costs.

CONSTITUTIONAL CONVENTION
Statement of Position
<u>As announced by the State Board, February 1993, revised June 1993</u>
(continued)

The issues to be considered must be determined in advance by the pre-convention commission and researched by position papers, which are complete and available at the time of the convention. Meetings of the delegates should be open, held at acceptable convenient hours, with full media coverage.

- **<u>Ballot Issues</u>: Widespread public hearings and adequate voter education are necessary prior to the placement of referenda on the ballot. Constitutional amendments recommended by a convention should be submitted to the voters as separate issues.**

Following his intent to press for the calling of a constitutional convention before 1997, Governor Cuomo appointed a Pre-Convention Commission during the spring of 1993 to begin deliberations on the convention agenda. The president of the LWVNYS, Shirley Eberly, was a member of the Commission that was chaired by Peter Goldmark, president of the Rockefeller Foundation.

The Temporary State Commission on Constitutional Revision issued its final report in February 1995. The report does not support the call for a Constitutional Convention in 1998 but instead advocates the creation of four action panels. The action panels would be created in the following areas: education, public safety, state finance, and state-local government relations, their purpose being to reform NYS government.

These panels would report to the governor and the legislature, which would make a prior commitment to take action on the recommendations by a certain date. If these action panels were not created, or fail to make recommendations, then the majority of the Commission would call for a Constitutional Convention in 1999.

While we endorse the concept of the action panels, it is the League's position that the question of whether or not to call for a constitutional convention is linked to the openness and fairness of the delegate selection process. We are committed to working for reform in this area. The League decided that it would evaluate any reforms that have been made in the delegate selection process as well as possible gains or losses in other areas of League program should a convention be held, before deciding whether or not to take a position on the ballot question itself.

The State League became a member of the Steering Committee for the Coalition for Effective Government. This Commission's original mission statement was to educate the public to the problems and solutions available to the present delegate selection process. At that time, the Coalition did not support or oppose the calling of a Constitutional Convention.

In December 1996, the LWVNYS board of directors voted unanimously to oppose the November 1997 ballot question regarding the convening of a constitutional convention in 1999. The board's decision was based on the state legislature's failure to reform the delegate selection process and concern that valued provisions of the constitution might therefore be jeopardized.

In the late summer and early fall of 1997 League became the lead spokesperson in opposition to the ballot question on a constitutional convention. The League opposed holding a convention because the Legislature had failed to reform the delegate selection process sufficiently to ensure New Yorkers would be equitably and fairly represented in convention deliberations. League leaders fanned out across the state from Long Island to Buffalo speaking to various groups, including colleges and the media. Although a coalition was formed involving several special interest groups, the League remained outside any coalition trusting that our organizational credibility was our greatest asset. We spoke loudly and New York's voters heard us; the ballot question was defeated on Election Day by a 2-1 margin.

The League will continue to work whenever appropriate for the Legislature to reform the delegate selection process so that a future constitutional convention reflects the consensus of all its citizens.

FILLING OF VACANCIES IN THE STATE LEGISLATURE

Support of improved measures to provide representation for legislative districts in case of a vacancy. In 1980 League members concurred in a position advocating a change in the Public Officers Law to permit a special election to be held if a legislative vacancy should occur prior to July 1 of the last year of the term of office. This extension from April 1 is necessary because of the increased length of legislative sessions. While working for a change in the law, the League continues to monitor the response of the governor in calling promptly for special elections as needed. The League also called for a mechanism to be established whereby constituent services are maintained at state expense for a district until a successor takes office.

INDIRECT INITIATIVE

LWVNYS does not have a position on indirect initiative.
The position supporting indirect initiative, adopted June 1978 by the state board, was dropped in 1985 by delegates to the state convention. At the time the position was adopted, the League believed the initiative to be a much-needed system by which citizens could initiate and pass legislation. Over the years, as the League observed the evolution of this system in other states, it concluded that what had once been a public benefit was fast becoming a benefit to well-funded special interest groups which had the power to affect the outcome of initiated proposals.

CONSOLIDATION OF GOVERNMENTAL UNITS AND SHARING OF MAJOR GOVERNMENTAL SERVICES

The Commission on Local Government Efficiency and Competitiveness (Lundine Commission) was established in April 2007 to examine ways to strengthen and streamline local government, reduce costs and improve effectiveness, maximize informed participation in local elections, and

facilitate shared services, consolidation and regional governance. It noted in its 2008 final report that, "The vast majority of our municipalities were established and their boundaries set during the horse-and-buggy era. There are also outdated laws and offices for which no modern rationale exists. Over the years we have added to this outdated system, but rarely simplified, and today we have nearly 5,000 local government entities." The Commission went on to recommend the possibility of considerable taxpayer savings through the consolidation of governmental units and the sharing of major governmental services. In 2009 legislation was introduced and passed at the state level to streamline and facilitate the consolidation process.

Because the LWVNY had no position in this area, the delegates at the 2009 State Convention authorized a study of up to two years. The study committee decided to devote the first portion of the study to the development of standards with which to evaluate proposed changes to state law and proposals for local consolidation /sharing of services. After a study of approximately ten months, the board adopted the following position on consolidation/shared services.

CONSOLIDATION OF GOVERNMENTAL UNITS AND
SHARING OF MAJOR GOVERNMENTAL SERVICES
Statement of Position
Adopted July 15, 2010

The League of Women Voters of New York State (League) supports the efficient and effective operation of government. Consolidation[1] of governmental units and the sharing of major governmental services may be a way of promoting the efficient and effective operation of government. In achieving this goal, the League supports a cooperative and transparent process, in which citizens have sufficient and timely information with which to make informed decisions about proposed actions, and well-defined channels for citizen input and review. Administrative and fiscal efficiency should be included in the criteria by which local governments consider whether to consolidate or share major services.

The League supports a system of state-funded grants to local governments to study the feasibility of the consolidation of governmental units or sharing of governmental services.
In determining whether to support a consolidation/shared services proposal at the local level, as a way of making government more efficient and effective, local Leagues must consider both the adequacy of the process and the likely effects of the proposal's implementation.

In determining whether to support a consolidation/ shared services proposal as a way of making government more efficient and effective, local Leagues should apply the following criteria. While it is not necessary that each standard be met, the League recognizes that these standards represent potential benefits of consolidation, leading to more efficient and effective government:

- **Will the proposal result in projected cost savings and a positive effect on taxes over the long term;**
- **Will the proposal either result in an increased quality and/or efficiency of services or, at a minimum, maintain services at existing levels;**
- **Will the proposal fairly address disparities in employee contracts;**
- **Will the proposal result in increased social and economic justice;**
- **Will the proposal result in a reduction in the number of governmental entities?**

[1] As used in this position, consolidation refers to both the process of consolidation and the process of dissolution.