

## **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.

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#### **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.**

**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.**

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.

Since 1989, the League in cooperation with other good government groups has been lobbying for internal reform of legislative operations. LWNYS 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 needs to be done to improve the legislative process.

Among other reforms, the following still should 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; we have worked and will continue to work 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 21<sup>st</sup> 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 made to enable connection to satellite for transmission. A representative of the Assembly leadership said that due to September 11<sup>th</sup> 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.