

CITIZENS UNION OF THE CITY OF NEW YORK
299 Broadway, Suite 700 ■ New York, NY 10007 ■ 212 227-0342
LEAGUE OF WOMEN VOTERS/N.Y.S.
62 Grand Street ■ Albany, NY 12207 ■ 518 465-4162
NEW YORK PUBLIC INTEREST RESEARCH GROUP
107 Washington Avenue, 2nd Floor ■ Albany, NY 12210 ■ 518 436-0876

January 22, 2010

Mr. Peter Kiernan, Esq.
Counsel to the Governor
Executive Chamber
Albany, NY 12224

Re: Recommend approval of S.6457/A.9544.

Dear Mr. Kiernan:

We write to urge that the Governor approve Senate bill 6457/Assembly bill 9544, which would improve ethics disclosures and oversight in New York State.

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

However, on the whole we believe that this bill deserves the Governor's support, despite its differences with our recommended approach. We believe that the legislative leadership has offered a good-faith effort to meaningfully overhaul ethics oversight and recognizes that there is more work to be done. Moreover, the bill contains critical and needed changes in executive, legislative, lobbying and campaign oversight that we believe merit your support. The major reform areas of the bill are described below.

Critical changes to executive branch ethics

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

Critical changes to lobbying oversight

- The bill "turns back the clock" and essentially restores the structure of the well-regarded lobbying commission that was eliminated in 2007. Unlike the earlier lobbying commission, the legislation grants the executive director a three-year term, with removal for cause only.

Citizens Union of the City of New York/League of Women Voters, N.Y.S./NYPIRG
Support S.6457/A.9544, Page 2

- All state and municipal lobbyists and their clients must report business relationships with state public officials.
- The legislation also expands the definition of lobbying to include lobbying for resolutions.

Critical changes to legislative branch ethics

- The legislation would provide the executive director, who currently serves at the pleasure of the commission, with a three-year term, with removal only for cause. Significantly, the commission is granted the power to randomly review filings to ensure honesty and accuracy.
- The most important change is that the legislation creates an office of legislative ethics investigation. This new entity would have a board that contains no lawmakers and no lobbyists, among other restrictions. In addition, the new office has the powers necessary to fully investigate complaints.

Critical changes to campaign finance enforcement

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

Critical changes to disclosure requirements

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

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

While there is much good in this legislation, we are concerned in particular about legislative ethics oversight. While the investigations arm appears to be structured to be independent, the ultimate authority to sanction violators still rests with the relevant legislative standing committees and the joint legislative ethics commission. While an improvement over the current system, this is a weakness in the proposal. We

**Citizens Union of the City of New York/League of Women Voters, N.Y.S./NYPIRG
Support S.6457/A.9544, Page 3**

also have concerns about the independence of the Board of Elections enforcement unit and whether it will be proactive and willing to pursue evidence of violations regardless of any political consequences.

We recognize that this bill does not follow the approach that we have endorsed to ethics oversight and enforcement: it does not create a unified independent ethics system. However, we believe that the legislation overall represents a welcome and needed improvement over the *status quo*. New York cannot afford the continuation of a fatally flawed ethics oversight system. We believe that this bill represents a substantial step forward on ethics and campaign finance enforcement reform in New York State government and appreciate the hard work and responsiveness of the legislative leadership in developing this plan. We pledge to aggressively monitor the new law's implementation, including appointments to the commissions and selection of executive directors, and investigations within the Board of Elections. Our groups will judge the results of this legislation and advocate for enhancements as needed and when the law sunsets in four years.

We urge that the Governor approve this legislation.

Sincerely,

Dick Dadey
Citizens Union of the City of New York

Barbara Bartoletti
League of Women Voters/N.Y.S.

Blair Horner
NYPIRG