

**BRENNAN CENTER FOR JUSTICE
CITIZENS UNION
COMMON CAUSE/NY
LEAGUE OF WOMEN VOTERS/N.Y.S.
NEW YORK PUBLIC INTEREST RESEARCH GROUP**

SUPPORT S.5679/A.8301

IN SENATE, INTRODUCED BY SENATORS: SKELOS, ALESİ, BALL, BONACIC, DEFRANCISCO, FARLEY, FLANAGAN, FUSCHILLO, GALLIVAN, GOLDEN, GRIFFO, GRISANTI, HANNON, JOHNSON, LANZA, LARKIN, LAVALLE, LIBOUS, LITTLE, MARCELLINO, MARTINS, MAZIARZ, MCDONALD, NOZZOLIO, O'MARA, RANZENHOFER, RITCHIE, ROBACH, SALAND, SEWARD, YOUNG & ZELDIN.

IN ASSEMBLY, INTRODUCED BY M. OF A.: SILVER, KOLB, O'DONNELL, MILLMAN, ENGLEBRIGHT, CANESTRARI, FARRELL, JORDAN, SMARDZ, BRONSON, CAHILL, GABRYSZAK, GIGLIO, MAGNARELLI, OAKS, RAMOS, REILLY, ROBERTS, RUSSELL, SPANO, WEISENBERG & ZEBROWSKI.

AN ACT to amend the public officers law, the executive law, the legislative law, the retirement and social security law, the criminal procedure law, and the election law to improve the enforcement and expand the reach of public ethics and certain election laws in New York State.

SUMMARY:

This bill would establish a new Joint Commission on Public Ethics to oversee and investigate compliance with financial disclosure and ethics requirements by elected officials and employees in the executive and legislative branches, and oversee the conduct of registered lobbyists; expand and enhance financial and client disclosures required of executive and legislative employees and elected officials, including disclosure of outside clients and customers; establish a new public database to collect information concerning all firms and individuals that appear in a representative capacity before any state agency, public authority, board or commission; require mandatory ethics training of public officials and lobbyists; increase penalties for violations of certain provisions of the code of ethics contained in the Public Officer Law §74; require the reduction or forfeiture of a public officer's pension under certain circumstances where he or she has been convicted of a felony related to his or her office; expand the definition of "lobbying" to include advocacy related to the "introduction" of legislation and resolutions; amend provisions of the Election Law to enhance penalties for violations of the campaign finance laws and require the State Board of Elections to enforce requirements that entities and individuals disclose independent expenditures on advocacy identifying a candidate or ballot proposal.

STATEMENT OF SUPPORT:

Our groups urge support for the *Public Integrity Reform Act of 2011*, which contains key elements of reform we have long supported. This bill overhauls our state's bifurcated system of ethical oversight by establishing a unitary investigatory commission; offers unprecedented disclosure by public officials and employees, lobbyists, and those with business interests before the state; creates a new public database of business interests represented before state entities; expands the definition of lobbying; boosts available penalties for violations, including adding loss of pension; and strengthens elements of the state's lax campaign finance laws.

To be sure, this is not our vision of an ideal bill; many of the elements are the product of compromise that occurred in closed-door negotiations without public hearings on the bill. Nevertheless, this legislation represents a significant improvement over the current system and we urge that it be adopted. The major reform areas of the bill are described below.

Creation of a Joint Commission on Public Ethics

- For the first time ever, a single body will have jurisdiction over investigations of the legislative branch, the executive branch, and lobbyists. The Joint Commission on Public Ethics (JCOPE) will include both gubernatorial and legislative appointees, with no one leader having a majority of the Commission's appointments. This is the first time a single entity would have investigatory powers over both branches of government to determine if there is there is a substantial basis of a violation of law by a public official or employee.
- New commissioners will serve fixed five-year terms, and may only be removed for cause: we hope that this degree of independence, coupled with a broader mandate and penalties for leaks about proceedings, will enable members to have thoughtful deliberations and vote their consciences.
- JCOPE will conduct random reviews of financial disclosure statements to help ensure compliance with the new disclosure requirements.
- JCOPE will be subject to strict confidentiality restrictions regarding its investigations. A violation of these restrictions will be punishable as a Class A misdemeanor.

Increased Disclosure

- For the first time, officials will be required to provide un-redacted financial information, including sources and amounts of outside income, such as the identity of clients for whom they perform state business, even clients of a law practice.
- Amounts of income will be reported in much narrower dollar-value ranges—108 bands from “none” to “\$10,000,000 or over” —than is currently required.
- Lobbyists will be required to disclose business relationships with officials.

Creation of a Public Database

- A new Project Sunlight II database will identify all firms representing everyone with state business, and since officials must disclose their business partners on their financial disclosure forms, the public will be able to also evaluate these relationships.

Expansion of the Definition of Lobbying

- The definition of lobbying will be expanded to include attempts to introduce a bill or resolution or prevent the introduction of a bill or resolution.

Increased Penalties for Violation of Campaign Finance Laws and Greater Disclosure of Independent Expenditures

- The State Board of Elections will be required to issue regulations for the disclosure of independent expenditures made by corporations, individuals, and political committees that identify a political candidate or ballot proposal.
- Penalties for violations of campaign contribution limits and failure to file disclosure reports are increased.

A Review Commission Ensures that the New Systems and Rules Created by this Bill will be reviewed in three years

- Since no legislation can fully anticipate the technical, legal and political changes occurring in government at an ever-increasing pace, this legislation builds in a review process. The new system created by this bill, including the structure and operations of JCOPE, will be subject to an assessment of what is and is not working through an outside review commission. The review commission will look at the law's efficacy in 2015, after the new system has been up and running for a full two years.

This legislation represents a welcome and needed improvement over the *status quo*. We pledge to aggressively monitor the new law's implementation, and urge adjustments or further reforms where they are necessary.

Our groups urge support for this legislation.