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THE LEAGUE OF WOMEN VOTERS *of New York State*

PUBLIC HEARING: TO REVIEW ELECTIONS ADMINISTRATION AND VOTING RIGHTS IN NEW YORK STATE

TESTIMONY TO THE NEW YORK STATE SENATE STANDING COMMITTEE ON ELECTIONS

September 21, 2021

Van Buren Hearing Room A, Legislative Office Building, 2nd Floor

Introduction

Thank you for the opportunity to testify. My name is Jennifer Wilson and I am the Deputy Director of the League of Women Voters of NYS. The League's primary mission is to encourage active and informed participation of citizens in government, and advocate for greater voter accessibility. Over the last three years we have been fortunate to work with the Legislature on passing many voting reforms including early voting, automatic voter registration, and pre-registration of 16 and 17-year olds. These election modernizations measures have effectively increased voter access and improved voter turnout in New York State.

As New York State continues to actively work to improve our elections, there is one area of reform that has yet to be tackled – restructuring the New York State and county boards of elections. The League has long advocated to fully fund both the state and county boards of election and has often highlighted low funding levels as a reason for problem-prone elections; but money is not the sole driver of our state's constant election administration problems.

New York State's election administration issues cannot be fixed in a single day with a single policy reform. These persistent glitches are deep-seated and stem from decades of boards of election having complete independence to run their elections and the statutory extension of equal representation for the two major political parties in hiring beyond the constitutional requirement of registering voters, distributing ballots, and processing votes. In our decades of work helping voters navigate New York's elections landscape we have identified a persistent problem that effects all county boards of election – a lack of consistency in administering elections and staffing. A voter in Livingston county and a voter in Bronx county may not have much in common, but surely both should have equal access to the ballot. Unfortunately, because our county boards of election have few required standards, are constrained in hiring by the bipartisan requirement giving the two major parties an excessive role, and are often free to interpret new election law how they see fit, voters' experiences across the state can be starkly different.

Based on the principle of consistency the League has identified four immediate areas of improvement for our state and county boards of elections: implementing uniform standards and practices for staffing and salaries, increasing transparency and accountability, and restricting the statutory requirement for bipartisanship in election administration to roles that are constitutionally required.

I. *Uniform Standards and Practices*

Uniform standards and practices must be instituted on all county boards of election, whether in the processing and challenging of absentee ballots, or the inputting and collection of voter registration forms. Maintaining uniform standards and practices will require additional oversight to ensure mandates are being fulfilled. The State Board of Elections should be empowered to serve as an oversight authority to safeguard compliance with any procedures mandated by the legislature or Governor.

In the 2020 primary election, the Nassau County Board of Elections ignored an Executive Order by Governor Cuomo to allow voters to request an absentee ballot by phone or email. Although organizations like the League intervened, the board resisted following the law until the deadline to apply for an absentee ballot had nearly passed. More recently, it took a successful lawsuit filed by the state Attorney General this summer on behalf of voters to force the Rensselaer County Board of Elections to provide all voters in Rensselaer County, particularly minorities and low income voters who reside in the most densely populated part of the county, many of whom rely on public transportation, with adequate and equitable access to early voting. Despite efforts over two years led by the League of Women Voters of Rensselaer County urging the Board to select a site that adhered to all the standards in the law for selecting early voting sites, the Board refused and instead designated a poll site on the outskirts of the City of Troy not easily accessible by public transit.¹

Ignoring election law and regulations and disobeying the Governor is not a new practice for county boards. The State Board of Elections has long complained of certain noncompliant counties who fail to obey new regulations and statutes. The only option is to send the offender a strongly worded letter. Allowing the State Board of Elections to serve as an oversight authority will ensure uniform statewide rules on voter registration, election administration and ballot access are followed.

II. *Staffing and Salary Standards*

Staffing and salary standards that include mandating Commissioners serve as full time employees will help alleviate some of the inconsistencies in our election administration. While some counties boast large staffs of election workers, others rely on a small part-time annual staff with temporary employees filling in during election season. Counties should provide adequate funds to their boards of election so that experienced staff can be hired at competitive salaries. All vacancies should be publicly advertised and hiring should be transparent and merit based. Commissioners and all staff should have standardized training requirements.

III. *Transparency and Accountability*

Although many consider the New York City Board Elections to be one of the worst boards in the state, it's one of only a few election boards that holds open meetings and publishes annual reports. Transparency and accountability should be the cornerstone of all board of election decision making. A truly transparent and accountable election process would include regularly scheduled open meetings, transparency in election results reporting, and a directive to maintain accurate and up to date public information on each board of elections' website and social media.

A prime example of the lack of transparency took place during the 2020 election. Leading up to the primary, the League created a database of information regarding the options to apply for an absentee

¹ That it required a lawsuit to achieve an early voting site in the City of Troy that adhered to all the standards in the law demonstrates how difficult it is to hold local Boards accountable for their decisions not to follow the election law. In their defense the Commissioners claimed that oversight of local boards resides with the State Board of Elections not with the Attorney General. However, it is apparent that the State Board has no such authority.

ballot in each county. What this exercise revealed was a shocking discrepancy in what information was being offered by each county board of election. While some counties went above and beyond to provide real time information on changes to the primary election, others provided the bare minimum of information or no information at all on how voters could request an absentee ballot, when the primary date had been moved to, or what Executive Orders had been passed to mandate these changes.

While the League recognizes that not all counties have the same budget to provide public information through their website, we believe that it is critical to provide the same level of information to all voters regardless of what county they call home. Social media is a free and fast way to easily share information with the public. Boards of elections should consider creating and using social media in addition to their websites when sharing time sensitive information.

IV. Bipartisanship in Election Administration

The constitution imposes a bipartisan requirement only for qualifying voters, distributing ballots and processing votes. This requirement has been extended by statute deep into the staffing of local boards giving the two major political parties an over-sized and inappropriate role in hiring. Although we recognize that many employees are hard-working and conscientious, this practice has inevitably harmed the professional competence and accountability of election administration in New York. The legislature can and should immediately change the law and restrict the involvement of the two major parties to the minimum required by the constitution.

Conclusion

Inconsistency of county boards of election in the carrying out of their prescribed duties has created a distrust among New York State voters. The State Legislature cannot quickly amend our state constitution, but it can prescribe simple reforms to ensure greater uniformity around the state. Clear standards and practices for all county boards including a minimum mandate of transparency, accountability and professional staffing will begin to restore the public's trust in its election administration agency.