



League of Women Voters of NYS 2011 Legislative Session Summary

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Director

Dear League Members and Friends:

I have been walking the halls of Albany for the past 3 plus decades and this certainly was one of the strangest sessions that I have been a part of. It doesn't quite rank up there with the bombshell of former Governor Spitzer's resignation (2007) or the democratic Senate coup of 2009. However, it was certainly a strange 6 months.

After Governor Cuomo's election where he promised a new day in Albany with new openness (which he immediately demonstrated by opening the Governor's hall in the 2nd floor of the Capitol and removing the barriers beneath his State Street office), Albany became a very closed and secretive place. Shortly after the session started, the Legislative Office Building ("LOB") was closed to the outside so you could not access it from State Street. It became very difficult to maneuver your way around the legislature, especially once people descended on Albany during the budget deliberations. Legislative staff complained about their inability to get to their workplace in a timely manner or as the weather got nicer the difficulty of going to the food vendors or farmer's market, one of the highlights of spring in Albany. As the session wore on, openness of government became a real issue for the League and its good government colleagues, not just an annoyance.

If we were to try and count the number of open leaders' meetings, we could stop at one, and that included negotiations on the budget as well as all legislative issues. The Governor has held almost no open press conferences. There were press availabilities where only the press was allowed in unless you were directly participating in the press conference. This Governor's mode of operation appears to be negotiating behind closed doors and using the force of his high approval ratings and his personality to accomplish his goals on both the budget and legislative issues. The major issues on his agenda included an on-time budget, ethics reform, a 2% tax cap, and marriage equality. All of these issues were accomplished thereby fulfilling his goals for the first 6 months of his administration.

Below you will find a summary of the major issues from this session, including some on the League's agenda that we can count as major accomplishments for the 2011 session. Work still needs to be done on other issues important to the League, notably redistricting reform and campaign finance reform, which were not addressed in this session.

Budget

The budget was an on-time budget done behind closed doors, again "three men in a room," with one early open leaders' meeting. The first time the public saw a completed budget was when legislators began voting on it. The budget reduces state aid to school districts by \$698 million which includes \$608 million of federal spending cuts. Overall school aid was

decreased by \$1.3 billion to \$19.6 billion and municipalities had their aid reduced by 2%. This state budget does not include new taxes and does close the \$10 billion deficit. Notably this budget also merges agencies and public authorities to generate \$50 million of savings and cuts the state workforce expenditures by \$450 million. Savings will also be generated by eliminating 3,700 prison beds.

Ethics

Since ethics reform was one of the agenda items for the Governor, he spent a good deal of political capital across the state setting the stage for negotiations on this issue. However, the negotiations were done behind closed doors with the Speaker and Majority Leader - classic "three men in a room." What was different about this was the amount of energy, time and money the Governor extended in bringing the issue of ethics to the top of voter awareness and interest. The Governor also had Albany's recent, rather sorted, ethical scandals to back up his call for ethics reform. The good government advocates who have long championed ethics reform were brought in during the last week of the negotiations to give input and participate in the final language sign-off.

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 supported it. 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.

During the negotiations we repeatedly urged the Governor to affirm his commitment to campaign finance reform early in the 2012 legislative session. The league will continue to push the Governor to fulfill his commitment to this important issue.

Tax Caps

A 2% tax cap was a Governor's campaign pledge and an ongoing campaign throughout the 6 months of his first administration. Much money was spent by both proponents and opponents on the tax cap issue. Lobbying filings will be interesting to see exactly how much money was spent on this issue. It became clear as the session was winding down that the tax cap and NYC rent regulations would become linked what, by the end of session was called, "the Big Ugly." Closed door negotiations around the tax cap and mandate relief became an end of session sticking point that took days to resolve. New York City Assembly Democrats were adamant about extending rent regulations and Upstate Republican Senators were equally adamant about the 2% tax cap which the Senate had long since passed in January. Mandate relief was deemed not to be sufficient by many of the stakeholders particularly by municipal governments. Eventually the "Big Ugly" included about \$100 million in mandate relief, most of which dealt with relief concerning school districts.

Because of the Governor's high poll ratings and the extensive political advertisements on this issue, there was never a doubt that the Governor would prevail on this issue. The "Big Ugly" passed on the last day of session at about 8:00 pm with little debate in either the Senate or the Assembly. Several upstate Democrats did not vote for this legislation because they felt it would be devastating to their local governments and school districts. Downstate Democrats and many rent advocates were also not happy with the rent regulation in the bill; however, after 2 rent extensions, they felt that they had no choice but to vote for it. Senate Republicans, however, wanted the 2% tax cap badly, as did Senate downstate Democrats; that combination of votes assured its passage.

The League opposed the tax cap, preferring a circuit breaker system instead. We attended many press conferences on this issue and encouraged members to communicate with their legislators.

Marriage Equality

During the last two weeks of session, advocates on both sides of this issue took over the capitol building. The third floor was impassable because the Sergeant-At-Arms shut down the lobby behind the Senate Chambers. It was extraordinarily difficult for working lobbyists to move around the third floor housing the legislative Chambers. State Troopers were everywhere and the noise level by the advocates was deafening with Hasidic rabbis and pro-marriage equality advocates screaming and waving signs in each others' faces. There were religious hymns sung hour after hour until it became unbearable enough that most lobbyists left the building. What was remarkable about this last week in particular was that the Senate Republicans spent hours and hours in closed door conference debating this issue; this went on for 5 days culminating on Friday with a marathon 8 hour session. The legislative press corps occupied some of their time trying to guess which Republican Senators would vote for marriage equality.

By Friday, outside the Capitol were satellite trucks from all over the state, as well as CNN and MSNBC news media. About 5:30pm on Friday, rumors abounded that there had actually been a Republican coup in the Senate but then rumors abounded all day long particularly in this age of social media. The Senate galleries and the million dollar staircase were overflowing with hundreds of advocates in favor of the marriage equality legislation. When the 32nd vote (Stephen Saland of Columbia and Dutchess Counties) was cast, cheering erupted from the galleries. Social media quickly spread the word and the advocates outside of the Senate Chambers exploded with cheers and emotions which quickly spilled out of the Capitol building and into the streets. The four Republican Senators who eventually supported the marriage equality legislation included Senators Alesi, Saland, McDonald and Grisanti; the only Democrat to vote in the negative was Senator Diaz.

As expected, the vote on marriage equality was the last vote taken before the session ended. The amendments to the marriage equality bill negotiated all week by the Governor's office and the religious communities had to be passed before the actual full bill. Generally, these exemptions provided that religious and affiliated groups were protected from lawsuits for refusing to provide marriage services to same-sex couples. Finally, the legislation contained an inseverability clause which provided that if a court found any part of the marriage equality act to be invalid, the entire legislation would also be invalid; this provision is important to Republicans because it means that the marriage legislation would be at risk if the religious exemptions were successfully challenged in court.

Redistricting

Redistricting reform was one of the major items left incomplete at the end of this regular session despite continued pressure from the good government groups and the Governor. Legislation creating a new and more independent process was introduced early in the session by Governor Cuomo and Speaker Silver S.3419/A.5388 and co-sponsored by 96 members of the Assembly, both Republicans and Democrats, but did not pass either house. On March 14 the Senate did pass a one-house hastily drawn flawed Constitutional amendment, which could not be effective before 2022, in response to criticism by Reshape NY that they had gone back on their pledge to support independent redistricting.

So the Legislative Task Force on Demographic Research and Reapportionment ("LATFOR") will continue its work as it has for several decades and hold its first public meeting in Albany on July 6. The Governor has pledged to veto any legislature-drawn lines which must pass both houses as legislation. In the meantime, editorial boards are calling for the legislature to return in special session to deal with redistricting reform when it deals with other unfinished business. The League and Reshape NY will continue our advocacy for an independent commission through the summer.

Two recent editorials on this past legislative session and the redistricting issue are:

<http://www.nytimes.com/2011/07/02/opinion/02sat2.html?scp=2&sq=redistricting&st=Search>

<http://www.democratandchronicle.com/article/20110629/OPINION04/106290301/Cuomo-must-make-good-redistricting-promise>

Other Issues

Issues left undone this regular legislative session included medical exchange legislation implementing the federal Affordable Care Act, which if not enacted by July 1 will cause New York State to lose \$100 million in federal funding. The League distributed a memo in support of this legislation which passed the Assembly but was not considered by the Senate.

Another important unfinished issue of the League is implementation by New York State of the federal Military and Overseas Voter Empowerment Act (MOVE); this act would lengthen the process for absentee ballots giving our military men and women and citizens working abroad 45 days to complete and return their absentee ballots. This implementation would force a change in the New York primary election date from September to an earlier date. The Legislature will have to act on legislation in 2011 to implement MOVE to be compliant with the federal elections in 2012 or will have to receive a waiver from the US Department of Justice and US Department of Defense.

Also, during the legislative session, the League continued to support a moratorium on hydrofracking in New York State until the results of the United States Environmental Protection Agency (EPA) study of the effects of hydraulic fracturing on water quality and public health are completed. The League distributed a memo in support of the moratorium, as well as letters to the Governor, Attorney General and the Commissioner of NYS DEC.