

# New York Coalition



## For Open Government, Inc.

*Advocating for timely access to information & meaningful citizen participation*

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August 2, 2021

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Submitted to the New York State Senate Committee on Elections "To Review Elections Administration and Voting Rights in New York State."

The following are County Board of Election reforms that can be accomplished through legislation by the New York State Legislature.

### **Prohibit Political Party Chairs From Serving as County Election Commissioners**

New York State Law does not allow a Commissioner of the NY State Board of Elections to have other public employment or to serve as a political party officer. This same law is not in effect for County Board of Election Commissioners.

It is a tremendous conflict of interest for a political party chair to simultaneously serve as an Election Commissioner. Party Chairs support getting candidates of their party elected and then have a vote regarding objections to their candidates or to the opponents of their candidates.

14 County Board of Election Commissioners simultaneously serve as a political party chair. This dual role has occurred in Erie, Westchester, Brooklyn and Chautauqua, just to name a few.

Legislation has been proposed in the past that County Election Commissioners may not currently be , or within the previous five years have been, an officer of a political party or political committee as defined in the election law.

## **Require County Election Commissioners to Deliberate in Public, When Deciding Election Matters**

Judicial or quasi-judicial proceedings are exempt from the Open Meetings Law. A 1996 opinion from the NYS Committee on Open Government stated that hearings or oral arguments must be conducted in public but election board deliberations may occur in private as they are a quasi-judicial proceeding. The act of voting on an election issue must occur in public.

The way County Board of Elections handle election objections varies by county. In Erie County public hearings are held. In Niagara County public hearings do not occur, instead a written “administrative determination” is made.

In 1983, a very interesting amendment was made to the Open Meetings Law. An exception to the quasi-judicial secret deliberation was made for local Zoning Board of Appeals and the state Public Service Commission.

The Open Meetings Law should be amended to require County Board of Elections to conduct their deliberations regarding objections to petitions, etc. to occur in public. If we can exempt Zoning Boards from deliberating behind closed doors, we should also be able to also exempt Election Boards.

## **Require County Election Commissioners to Conduct Business In Public**

The Open Meetings Law requires public bodies such as County Board of Elections to provide public notice of their Commissioner meetings; to post meeting documents online prior to the meeting and to maintain meeting minutes.

The problem is that County Election Commissioners rarely hold meetings. State law requires that the two election commissioners must agree in order for any action to be taken. Instead of holding meetings to conduct business such as political patronage hiring, the two commissioners typically sign off in writing instead of voting in a public meeting.

There have been several lawsuits alleging that an individual was improperly hired or fired because the action was not approved by the Election Commissioners in a meeting. Court decisions have determined that Election Commissioners are not required to hold meetings to conduct ministerial decisions such as hiring; that meetings are only required to carry out statutory duties of the Board of Elections.

When a Town Board or City Council hires to fill positions they do so by casting votes in a public meeting. Legislation should be adopted to address the bad court decisions made 30 years ago to require County Board of Elections to conduct their business through public meetings. Let's bring the patronage hiring and other business occurring behind closed doors out into the sunlight for everyone to see.