



## **Testimony on Public Protection and General Government (PPGG) Joint Legislative Hearing**

**January 25, 2022**

Reinvent Albany advocates for transparent and accountable government. Like most New Yorkers, we want taxpayer dollars spent efficiently and where they do the most good.

Below are Reinvent Albany's recommendations for the legislative response to the Governor's PPGG Article VII and State Operations bill.

### **Reaction to Governor Hochul's Budget**

**1. \$10 billion in unaccountable slush funds is a huge corruption risk.**

Exempting the \$2B COVID Public Health Response Fund and two pots of \$2B and \$6B each in Special Public Health Emergency Funds (among others) from Comptroller pre-audit review invites corruption and waste. (These three pots are in [pages 694-698 of the State Operations Bill](#), and there are more items which are exempt from Comptroller review in the Aid to Localities bill). [The Comptroller's pre-audit process takes on average less than six days](#). Contracts that take longer for the Comptroller to approve have incomplete paperwork or problems.

At least \$8 billion of these funds seem to have no restriction on what they can be spent on. The authorizing legislation uses the term "including, but not limited to" for two of these pots, meaning they can be spent on just about anything.

Reinvent Albany request to legislature to include in one-house responses:

- Require pre-audit review under Sections 112 and 163 of the State Finance Law for *all* state expenditures in the State Operations, Aid to Localities and Capital appropriations bills.
- Be far more specific about what lump sum funds can be spent on, and if decisions are made outside of the budget process, require final project lists to be published online in an open data format. These enormous pots of

discretionary funds should be limited. Please strike the “including, but not limited to” language.

- The [Division of the Budget](#) and [Executive Chamber’s](#) October 2021 Transparency Plans requested by Governor Hochul state that they intend to “publish all plans approved by the Budget Director that allocate legislative and executive discretionary lump sum appropriations and capital appropriations contained in the Enacted Budget.” This transparency will be helpful for past lump sums, and we encourage the Legislature to follow up to make sure this happens. All lump sums going forward should explicitly require final project lists to be published online in the authorizing language.
- Put the MOU restoring some of the Comptroller’s Pre-Audit Power in Law as proposed by [S6809/A7925 \(Reichlin-Melnick/Zebrowski\)](#).
- Also in the State Operations Bill, the Legislature should increase the budget of the Authorities Budget Office to \$5 million. The Governor’s proposal sets their budget at \$2,859,000 (page 563). The Authorities Budget Office conducts important oversight of the state’s 600+ public authorities.

**2. We completely agree with Governor Hochul that the Joint Committee on Public Ethics must be replaced by an independent, new state ethics commission that is not directly appointed by elected officials** (Part Z of the PPGG Article VII bill). We believe the governor’s proposal to use law school deans to appoint ethics commissioners is a vast improvement over the direct appointment of commissioners by elected leaders and is far more independent in *appointment* than anything the legislature has proposed so far. (We believe the deans are more independent than appointed or elected judges.) This said, we think New York State could also do much better than the status quo by using some combination of a trusted group and the “diluted” appointment processes used to select ethics and redistricting commissions in California, and localities like Los Angeles, San Francisco and Austin, Texas. For example, involving the Comptroller and Attorney General and/or using joint appointments could reduce influence. Additionally, many “citizens commission” models allow members of the public to serve as commissioners or selectors.

Reinvent Albany request to Legislature to include in one-house responses:

- **Independent Ethics Commission** - The Legislature should support the governor’s law school dean proposal or propose another appointment process that eliminates or sharply reduces the influence of the appointing

authority on the commissioners. Ideally, a unified state commission would replace the Legislative Ethics Commission, but we understand this requires constitutional amendment. Beyond the selection mechanism, additional measures must be taken to increase independence by barring those with conflicts of interest from serving on the selection committee and ethics commission:

- Prohibitions should bar commissioners or selection committee members from serving if they or their spouses, domestic partners and unemancipated children have for the last three years been:
    - lobbyists;
    - state vendors or contractors;
    - major campaign contributors;
    - party officials;
    - state and local elected officials; and
    - state and legislative officers and employees.
  - The Executive Director should be subject to the same prohibitions as commissioners.
  - The Governor's proposal that commissioners cannot make campaign contributions to candidates should be expanded to party committees, and state independent expenditure committees/PACs.
  - Duties of any selection committee/appointers should be expanded to be clear about their mission and requirements to appoint an independent, diverse commission.
- **Expand the State Ethics Code** - The state's ethics code is the basis by which the ethics commission determines if state officials and employees are conducting themselves in an ethical manner. As part of any ethics package, the Ethics Code should be substantially improved by:
    - Including a duty to report and duty to respect dignity of all persons and not engage in sexual or other discriminatory harassment, specifically linking the code with the NYS Human Rights Law.
    - Adding penalties for additional sections of the State's Code of Ethics. Some sections are currently without penalties attached.
  - **Ensure Transparency of Ethics Commission and Selection Process** - The process for selecting commissioners should be transparent, as well as the operations of the commission. We note that Senator Krueger and Assemblymember Carroll's constitutional amendment provides detailed, clear procedures for how the ethics commission would operate.
    - The Governor's proposal should be amended to allow the public to be able to comment on proposed procedures for the selection

committee to follow. The selection process should also be public, through publishing a list of final candidates and at minimum a public vote of the selection committee, if not public interviews.

- Additional mechanisms should be included in any proposal:
  - The commission must be subject to Freedom of Information Law requests, Open Meetings Law and the State Administrative Procedures Act (in Governor's proposal)
  - Breaches of confidentiality should be able to be referred to the Attorney General, not just Inspector General (in Governor's proposal).
  - Due process hearings of commission should be public.
  - Ex parte communications should be banned.
  - Commission votes should not be confidential.
  - Substantial basis reports should be released quickly (5 days rather than current 45).
  - The commission should hold an annual public hearing (in Governor's proposal).
- **Ensure Transparency of Disclosure Reports** - As part of any ethics package, lobbying and financial disclosures reviewed by the ethics commission should be improved to increase transparency and the ability of the commission and public to vet these disclosures for accuracy and conflicts of interest:
  - Require lobbyists to specify whether lobbying is in support or opposition to legislation or other governmental action.
  - Lobbyists should report political contributions and fundraising activity, as done in NYC.
  - Political parties should be made explicitly subject to the Lobbying Law.
  - Financial disclosure filers should be expanded to include economic development entities.
  - Financial disclosures should be required to be made electronically, with full public disclosures in machine-readable format on the commission's website.
  - Financial disclosure forms should be streamlined and require more specificity in reporting, including information about domestic partners (in Governor's proposal).

### **3. Term Limits on Statewide Elected Officials - Article VII**

Reinvent Albany supports term limits for elected office because the power of incumbency in New York State is so enormous. We also believe no person should

have lifetime incumbency. We see the NYC experience with term limits as a huge success that has led to a far more diverse and representative city government and note that 37 states term-limit their governors.

Reinvent Albany request to legislature to include in one-house responses.

- Support passage of a constitutional amendment enacting term limits.

#### **4. Ethics Requirements for Local Officials (Part Q of PPGG Article VII)**

Reinvent Albany supports increasing disclosure requirements for local officials, and standardizing them with state requirements. The Governor’s proposal expands the definition of “interest” from including a public official’s spouse, minor children and dependents to anyone living in the same household (domestic partners) and/or descending from the public official’s grandparents for the purposes of financial disclosure. It also bans gifts of more than a “nominal value” for municipal officials, reducing the threshold from the current \$75.

Reinvent Albany request to legislature to include in one-house responses.

- Support inclusion of Part Q in the PPGG Article VII.

#### **5. Fair Elections and Voting**

Reinvent Albany supports all reasonable measures to increase access to voting. We applaud the legislature for working swiftly these past few sessions to pass so much important voting rights legislation, and we encourage you to keep going. Accordingly, we support the governor’s voting rights initiatives in the budget.

We ask the legislature to support the following in their one house budgets.

- **Part N - 10 Day Voter Registration Deadline**
- **Part O - Require Polling Sites on College Campuses** - Reinvent Albany supports this proposal but ask that it be expanded to include early voting, as in the original bill, [S4658 \(Parker\) / A454-A \(Rozić\)](#).
- **Full funding for the NYS public campaign finance program** – The executive budget includes \$10.53 million for administering the new public campaign finance program, and \$10 million in Aid to Localities for matching funds. We ask that the total amount be increased to \$67 million, as [the Brennan Center, Reinvent Albany and over 60 other groups requested in a December letter](#).
- **Board of Elections reform** – Reinvent Albany is part of the Let NY Vote coalition and supports replacing the New York State and City Boards of Elections with an independent, professional agency.

**6. State Encouragement of Local Government Consolidation (Part W)**

Broadly, Reinvent Albany supports consolidating local government services to promote efficiency in operations, compliance and contracting, reduce expensive executive level positions and increase transparency. (It is vastly easier for the press and public to keep an eye on one agency instead of five.) This said, we have not had time to fully analyze the details in Part W and do not know if the process it describes is the most workable for local governments seeking to consolidate.