

Restoring Public Trust

Overview

The Executive Budget supports structural changes to reform campaign finance laws, police the ethics of State officials, and help restore public trust.

New York's reformation of ethics enforcement began in 2011 with passage of the Public Integrity Reform Act (PIRA). PIRA created the Joint Commission on Public Ethics (JCOPE), which provides a single investigative body with jurisdiction over both the Governor and the Legislature, and increased penalties for certain campaign finance violations.

In 2012, the Legislature passed a Constitutional amendment to reform the way in which State Legislative and Congressional District lines are drawn every decade. If passed by the voters in November 2014, this amendment will expressly prohibit partisan gerrymandering and create a new commission to draw the district lines that will require approval by appointees of both the majority and the minority party leaders.

In 2013, Governor Cuomo established a Moreland Act Commission to investigate corruption in government and propose reforms to address weaknesses in the law. The Commission has undertaken a number of investigations to determine the role money plays in the political system and identify any weaknesses in the structure of the State Board of Elections. The Commission has also examined weaknesses in existing laws, regulations and procedures relating to public corruption, conflicts of interest, and ethics in State government, and made a number of recommendations with the Executive has put forward.

The 2014-15 Executive Budget includes further reforms to ensure New Yorkers have confidence that their elected officials are serving them faithfully. These proposals include new anti-bribery and corruption laws, public financing of elections, campaign finance reform, independent enforcement and oversight at the Board of Elections, and disclosure of outside clients of State Legislators conducting business before the State.

Campaign Finance Reform and Public Financing of Elections

The Executive Budget includes comprehensive campaign finance reform and publicly financed elections reform to amplify the impact of smaller campaign donations and help enable a diverse pool of candidates.

- **Implement a Public Financing System.** The Executive Budget puts in place a public financing system modeled on New York City's, where contributions up to \$175 are matched \$6 to \$1. Strict limits will be in place to protect taxpayers. Currently, New York ranks last in the nation for percentage of population that contributes to a political campaign, meaning political candidates rely far more upon large donors than do candidates in other states. Candidates for the Senate and Assembly will be eligible for this voluntary program in 2016, followed by all candidates for State office in 2018.
- **Establish Limits on Campaign Contributions.** The Executive Budget reduces the annual limit on aggregate contributions from a contributor to a party or constituted committee. Specifically, contributions to party "housekeeping accounts" will be limited to \$25,000 per year, party committee transfers to candidates will be limited to only small donations (less than \$500 per

contributor), corporate contributions will be limited to \$1,000 per year, and the LLC loophole will be closed so that LLCs will be treated as corporations rather than individual contributors. Candidates who receive the benefits of public matching financing will have to adhere to lower limits. Large contributions to and transfers from political party committee accounts are currently unlimited.

- **Establish Campaign Finance Reform Financing.** The Executive Budget contains provisions that will allow resident taxpayers to make a donation to a new Campaign Finance Fund through a check off box on their State income tax return.
- **Enhance Restrictions on the Personal Use of Campaign Funds.** The Executive Budget limits the use of contributions to expenses that are directly related to elections or public duties. Expenditures for the exclusive personal benefit of the candidate or office-holder will be prohibited and a long list of expressly prohibited expenditures will be memorialized in statute.
- **Increase Disclosure Requirements.** The Executive Budget will mandate the disclosure of the names and addresses of significant donors to organizations that engage in independent spending, improve access to public access reports, and broaden the definition of electioneering activity that triggers the duty to disclose.

Strengthen Election Law Enforcement

Create an Independent Division of Election Law Enforcement within the State Board of Elections (SBOE). This new, fully independent division, to be headed by a Chief Enforcement Officer appointed by the Governor, will ensure vigorous enforcement of our election laws. The Executive Budget provides \$5.3 million and adds 11 new staff reporting directly to the Chief Enforcement Officer, increasing staffing from the current 18 to a total of 29.

Restore Trust in Public Officials

The Executive Budget includes a series of reforms designed to strengthen the State's tepid anti-bribery laws.

- **Protect Against Bribery of a Public Servant.** Under current State law, a prosecutor has to prove there was a corrupt agreement or understanding between the person paying the bribe and the person receiving the bribe, a standard not required under Federal law. Language included with the Budget would require that a prosecutor need only prove the person paying the bribe "intended" to influence the public official or the person receiving the bribe intended to be so influenced, bringing State law in line with the Federal standard.
- **Curb Corruption of Government.** Under this proposal, anyone, whether acting in concert with a public servant or not, who engages in a course of conduct to defraud the State or a local government would be guilty of the crime of "Corrupting the Government."
- **Require Reporting of Public Corruption.** For the first time, it will be a misdemeanor for any public official or employee to fail to report bribery.

- **Strengthen Penalties for Public Corruption.** New penalties are established for offenses such as fraud, theft, or money laundering involving State or local government property. Under this proposal, an offender would face a higher penalty if the illegal act was committed against the government. The sentence would be one level higher than for the underlying offense.
- **Increase Penalties for Official Misconduct.** Under current law, Official Misconduct is a misdemeanor. Three new degrees of Official Misconduct are established: a Class E felony (maximum penalty 4 years), a Class D felony (maximum penalty 7 years) and a Class C felony (maximum penalty 15 years).
- **Impose a Lifetime Ban from Government.** The new class of felony public corruption crimes will impose additional penalties, apart from jail sentences, criminal fines and the imposition of treble damages, including permanently barring all those convicted of public corruption felonies from holding any elected or civil office, serving as a registered lobbyist, receiving certain tax benefits, or doing business with the State, including through any organization they run.
- **Provide Additional Tools to Prosecutors.** Under this proposal, a witness who testifies before a grand jury investigating fraud on the government or official misconduct will receive only “use” immunity, not “transactional” immunity, for statements the witness may give under oath. This means the witness, who may or may not also be part of the criminal transaction under investigation, may still be prosecuted for his or her role if the prosecutor develops evidence other than, and independent of, the evidence given by the witness. This important tool in fighting crime conforms New York practice to Federal practice in this area.
- **Provide More Disclosure of Outside Clients with Business Before the State.** PIRA substantially improved New Yorkers’ ability to assess legislators’ potential conflicts of interest. But greater disclosure of potential conflicts is needed. Legislators will now be required to disclose the names of all of their firm’s clients who have business before the State. Reporting individuals will also be required to disclose what services they actually provide, so the public can more clearly understand their outside employment activity. Finally, legislators will be required to disclose all direct referrals of business to their firms by lobbyists or clients of lobbyists to avoid even the appearance of a conflict of interest.