

ISSUE: LEGISLATIVE RULES REFORM/TRANSPARENCY ISSUES

LEGISLATIVE RULES REFORM

Improve the transparency, accountability and rules of the legislature

The Problem: The dysfunctional New York State Legislature has had three years since the 2004 Brennan Center Report to make vital changes to the respective operating procedures for the Assembly and Senate, but has failed to make real changes that could lead to substantive legislative reform. A few important steps have been taken, but the major causes of our broken Legislature were not addressed.

Action:

The Senate and Assembly must build upon the initial steps they took in 2005. Reforms must be based on greater openness, transparency and accountability. Rank-and-file members must be allowed a greater role in committees and the ability to get a vote on bills, even over the objection of committee chairs and chamber leadership.

Perspective:

A determined statewide army of reformers will need to continually advocate, strategize and petition for a clear list of legislative reform changes. The desired result? A legislature that is more transparent, accountable and deliberative, where rank-and-file members and the public play a significant public role in the legislative process. While there was little change in the legislative rules in 2005, the good news is that the issue remains very much alive in Albany, and we now have the necessary tools to make real change happen. Here's a bit of advice and encouragement from the past: "All the ills of democracy can be cured by more democracy." -- NYS Governor Al Smith, 1920's

Which Rules Still Need To Be Changed?

The Brennan Center re-analyzed the NYS legislative process and in 2006 issued the report, "Unfinished Business," which declared that the Legislature is still broken. This report also detailed the most important rules changes that need to be made now:

Strengthen the Committee Process – In contrast to other states, hearings devoted to specific legislation are still a rarity in Albany. And rank and file members have little or no power to force a hearing or vote on popular bills over the objection of majority party committee chairs and leadership. Rules must be to changed as follows:

- A minority of committee members must be able to force a public hearing on a bill unless a majority of the committee publicly votes to reject the request.
- Committee members must be able to force a timely and public committee vote on a particular bill, even if the committee chairperson objects.

End the Stranglehold That Leadership Has Over Bills Getting to the Floor – The NYS Senate Majority Leader and the Assembly Speaker have exceptional power to prevent bills from reaching their respective chambers for debate and a vote, even when a majority of members have expressed their support. Thus the leadership has *de facto* veto power over the calendar, floor debate and voting process unheard of in most states. New York must:

- Provide a mechanism for rank and file legislators in the Legislature to bring bills that have been voted favorably out of committee, or have the support of a majority of members, to the floor for debate and a vote (even over the objection of the Majority Leader or Speaker).

Institutionalize Conference Committees – In 2005 and 2006 the Senate and Assembly used conference committees for budget and HAVA bills. However, New York still holds far fewer conference committees than most state legislatures, and there is still no provision for the automatic application of conference committee reconciliation of similar bills passed in both Houses—as there is in Congress and many state legislatures. The decision to convene conference committees is left to the whim of the Leadership, which leads to gridlock and rare use of the conferencing process.

- When bills addressing the same subject have been passed by both chambers, a conference committee should be convened at the request of the prime sponsor from each chamber or the Speaker and Majority Leader.

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End Leadership Control over Resources and Staff – In New York, the Speaker and Majority Leader have almost complete discretion over distribution of funds for Legislators' personal staff, equipment and operational expenses—including legislative and district office resources. The result is that individual members in the majority party of each chamber are allotted significantly more than the individual members of the minority parties in the pursuit of their duties as citizen representatives. Thus citizens who elect a minority legislator are short changed. The leadership is also able to use the funds to reward or punish legislators based on their opinion of the loyalty of the legislator to them. Equal representation and basic fairness require that:

- The bulk of office and staff allowances should be distributed equally to all legislators within each chamber, regardless of party. And additional resources provided for “extra” responsibilities should be considerably less than the base amount and allocated using objective criteria, unrelated to party affiliation.
- Each committee must have the power to hire and fire professional committee staff, independent of the preferences of the Speaker or Majority.

What Impact Will These Changes Have?

Together, these changes will, among other things: (1) increase the strength and efficiency of committees, by enabling rank and file legislators to develop, examine and solicit public and expert feedback on legislation, improve bills, and convey the results of their work to the full chamber; (2) provide the opportunity for rank and file members of both houses to bring important and popular bills to the chamber floor for debate, and a vote, even over the objection of leadership; (3) prevent complete legislative failure – gridlock – which occurs when the Majority Leader and the Speaker cannot reconcile their differences in their respective bills in closed door negotiations; (4) eliminate the unfair and demeaning practice whereby the Leadership of the Senate and Assembly autocratically provide the majority party of their chambers with more operating monies than the minority party; and 5) empower individual legislators by enhancing their role in the process and ensuing all members have adequate resources to do their jobs. The current discretionary distribution system acts as a disincentive for members to challenge their leaders for fear that they might not receive the resources necessary to run their offices.