

**Memorandum in Support of Legislative Package
to Improve Election Administration in New York State¹**

May 6, 2022

The Brennan Center for Justice writes in support of the legislative package to improve election administration currently before the Legislature.² These bills present an essential step forward in strengthening access to the franchise for all New Yorkers and fulfilling the promise of significant pro-voter reforms the Legislature has delivered in the past few years. The Brennan Center researches and advocates for policies to ensure free, fair, and accessible elections across the country and recently issued two studies on election administration in New York State and New York City.³ We have been working together with numerous community-based organizations and fellow voting rights groups throughout the state.

This legislative package would significantly strengthen New York's democracy. The inadequacy of transparency, accountability, and merit-based professional requirements for New York's local boards of elections (BOEs) has long enabled unnecessary barriers to the franchise and undermined voters' trust. A broad, diverse coalition of racial justice, labor, voting, and good government groups have been fighting to fix these problems for New York's voters and for the BOE employees serving them.⁴ This package would require professional standards and training for BOE commissioners and employees and increase accountability. If enacted, they will bring several best practices in election administration, tested and trusted across the country, to New York's 58 local BOEs.⁵

In the face of continuing attacks on the electoral process across the country, a congressional stalemate on federal democracy reform, and New York's low ranking in voter service compared to other states, the

¹ This package includes S263/A904, S823A/A4354A, S4542A/A7561, S5800B/A4323A, S6226E/A5691E, S6684A/A7780A, S7442/A4254, S8289, S8292, S8311/A9725, and S8337.

² This memorandum addresses 11 bills concerning election administration at New York's state and local boards of election that passed in the Senate Elections Committee on February 28, 2022. We write separately in support of S7382A, which the Senate Elections Committee also advanced at its February 28, 2022, meeting.

³ Joanna Zdanys et al., *How to Fix the New York City Board of Elections*, Brennan Center for Justice, 2021, <https://www.brennancenter.org/our-work/policy-solutions/how-fix-new-york-city-board-elections>; and Derek Tisler et al., *How to Fix Election Administration in New York State*, Brennan Center for Justice, 2021, <https://www.brennancenter.org/our-work/policy-solutions/how-fix-election-administration-new-york-state>.

⁴ "Coalition Letter Urges New York's Leaders to Advance Democracy Reforms in 2022," Brennan Center for Justice, last modified April 6, 2022, <https://www.brennancenter.org/our-work/research-reports/coalition-letter-urges-new-yorks-leaders-advance-democracy-reforms-2022>.

⁵ Zdanys et al., *How to Fix the New York City Board of Elections*; and Tisler et al., *How to Fix Election Administration in New York State*.

need to improve election administration in New York is urgent.⁶ The Brennan Center applauds the bills' sponsors for their commitment to promoting an inclusive and accessible democracy and urges the Legislature to pass this package promptly.

Modernizing commissioner appointments: The current lack of transparent, merit-based selection standards at New York's elections agencies limits consideration of the most qualified possible pool of candidates and harms public trust. Two bills in this package would help change that dynamic by bringing the appointment process into the open and setting baseline qualifications for election agency leadership.

- **S8289:** Commissioner appointments too often are the product of an opaque process that receives little public scrutiny, despite the role's important public function. S8289 would require county legislatures (or, in New York City, the City Council) to hold public hearings before appointing local BOE commissioners.⁷ Standardizing such hearings would promote the selection of commissioners based on their qualifications and experience and help to secure public confidence in those appointed.⁸
- **S8292:** National best practices counsel appointing elections commissioners based on merit. There is no such requirement in New York, however, where the only qualifications for the role are the appointee's party registration status and a requirement that they neither hold nor run for public office.⁹ S8292 would require the State Board of Elections (SBOE) to prescribe qualifications for all local commissioners, which must include demonstrated election administration experience or other management, operations, or administrative experience.¹⁰ These improvements would help ensure that commissioners have the preparation necessary to run elections.

Training: Inconsistent and inadequate training is one of the top problems stakeholders identify with New York's election administration system.¹¹ Two bills in this package would make a meaningful difference in preparing local elections agencies and poll workers to serve voters.

- **S263/A904:** Mandatory training for commissioners is standard practice in other states that use bipartisan election boards, but there is currently no such requirement in New York.¹² S263/A904 would change the status quo by requiring the SBOE to create mandatory, uniform trainings for

⁶ Elections Performance Index, "New York," accessed April 26, 2022, <https://elections.mit.edu/#/data/map?view=state-profile&state=NY&year=2020>.

⁷ S. 8289, 2021-22 Legis. Sess. (N.Y. 2022).

⁸ Zdanys et al., *How to Fix the New York City Board of Elections*, 10; Tisler et al., *How to Fix Election Administration in New York State*, 13; and Zellnor Y. Myrie, *Report and Findings of the New York State Senate Elections Committee*, New York State Senate, 2021, 30, https://www.nysenate.gov/sites/default/files/press-release/attachment/elex1115_vfinal.pdf. Further legislation should give county legislatures clear responsibility to reject a nominee whom they do not find qualified for the position. Tisler et al., *How to Fix Election Administration in New York State*, 13.

⁹ Zdanys et al., *How to Fix the New York City Board of Elections*, 10-11; and Tisler et al., *How to Fix Election Administration in New York State*, 13.

¹⁰ S. 8292, 2021-22 Legis. Sess. (N.Y. 2022).

¹¹ Tisler et al., *How to Fix Election Administration in New York State*, 8.

¹² Tisler et al., *How to Fix Election Administration in New York State*, 11.

all elections commissioners and other BOE staff, to be completed within six months of appointment.

- **S5800B/A4323A:** At last year’s Senate Elections Committee hearings on election reform and voting rights, poll workers repeatedly expressed that their training was inadequate.¹³ S5800B/A4323A would strengthen the minimal existing requirements for poll worker training by providing a baseline of subjects training must cover, including new laws, affidavit and emergency voting processes, e-pollbooks, disability assistance, and language access. The bill also sensibly requires the SBOE to establish a training institute that equips local BOE staff to better train poll workers in their county each election.

Accountability: Local BOE commissioners face little accountability when failures cost voters opportunities to cast a ballot or have their vote counted. Actual or perceived conflicts of interest on the part of BOE employees can further undermine the public’s trust. Three bills in this package would help ensure that election officials serve voters first and foremost, and that they will be held accountable if they fail to do so.

- **S4542A/A7561:** S4542A/A7561 would prohibit BOE employees from engaging in a business that may present a conflict of interest or maintaining a financial interest in companies that provide election services. The bill would also prohibit BOE employees from remaining on BOE payroll while also being a candidate for office in a race overseen by that BOE.
- **S7442/A4254:** S7442/A4254 would prohibit active party chairs from serving as election commissioner or deputy commissioner in their county. The bill would also prohibit election commissioners and deputy commissioners from holding a publicly elected office, including village officer, town judge, or city judge.
- **S8337:** State law currently grants the governor the sole authority to remove commissioners — a power no governor has exercised, even in the wake of significant mismanagement that disenfranchised large numbers of voters.¹⁴ S8337 would provide additional protection for voters’ interests by empowering the SBOE to remove local elections commissioners for just cause, with an opportunity for a hearing.¹⁵

Improved staffing resources and poll worker compensation: Many local BOEs lack the staff capacity, funding, and infrastructure to meet the increasing demands of election administration. These shortages limit voting opportunities and leave local BOEs vulnerable to technical failures that make it harder for voters to cast a ballot and have their vote counted. We are pleased to see several bills introduced that

¹³ Myrie, *Report and Findings of the New York State Senate Elections Committee*, 21-23.

¹⁴ Zdanys et al., *How to Fix the New York City Board of Elections*, 14; and Tisler et al., *How to Fix Election Administration in New York State*, 17. See, e.g., David Colon, “NYC Board Of Elections Admits Wrongdoing In 2016 Election Purge, Agrees To Consent Decree,” *Gothamist*, October 25, 2017, <https://gothamist.com/news/nyc-board-of-elections-admits-wrongdoing-in-2016-election-purge-agrees-to-consent-decree>.

¹⁵ S. 8337, 2021-22 Legis. Sess. (N.Y. 2022). The Brennan Center, Let NY Vote, and Generation Vote have also recommended giving locally accountable elected officials the power to remove failing commissioners for just cause, with review by the courts. Tisler et al., *How to Fix Election Administration in New York State*, 18.

are responsive to local BOEs' resource challenges. Along with these improvements, we urge the Legislature to provide long-term, sustainable funding to local BOEs.¹⁶

- **S6684A/A7780A:** Insufficient staffing strains local boards and leaves elections vulnerable to oversights, errors, and technical malfunctions, especially as election administration grows increasingly complex.¹⁷ S6684A/A7780A would require every local BOE to employ at least four full-time employees in addition to the appointed commissioners (or more, in counties serving larger numbers of active registered voters).
- **S823A/A4354A:** Poll worker shortages are a persistent problem in New York and nationwide. S823A/A4354A would help incentivize participation in this important civic service by raising minimum pay for election day workers and increasing compensation for attending training. By enacting this change, New York would follow New Jersey and many local jurisdictions across the country who are increasing pay to attract more poll worker support for upcoming elections.¹⁸
- **S8311/A9725:** Election administration is a year-round job that requires full-time dedication and continuous learning and problem-solving on a range of issues. In some counties, commissioners' part-time status makes it difficult to recruit qualified candidates and leaves leadership spread thin.¹⁹ S8311/A9725 sensibly makes local commissioners full-time employees,²⁰ which would allow them to more effectively carry out their responsibilities. This change would also benefit voters, who require the services of election offices year-round to register to vote, learn about candidates and races, and understand their voting options.

Restructuring and professionalizing the New York City Board of Elections:

- **S6226E/A5691E:** The New York City BOE's unique, unwieldy structure and flawed election administration practices underlie the agency's reputation for dysfunction. S6226E/A5691E would make key improvements by, among other things, reducing the overly diffuse board from 10 commissioners to 2, better clarifying the powers and responsibilities of commissioners and executive staff, and requiring board leadership to report on the agency's performance at public hearings before the New York City Council. The bill would also broaden the qualified pools for talent by requiring a nationwide search for the executive director — a national best practice —

¹⁶ The Senate included \$10 million for local BOEs in its one-house budget proposal for this fiscal year. S. Res. 2081, 2021-22 Legis. Sess. (N.Y. 2022).

¹⁷ Tisler et al., *How to Fix Election Administration in New York State*, 15.

¹⁸ See, e.g., New Jersey, "Governor Murphy Signs Legislation to Increase Pay for New Jersey's Election Workers," March 25, 2022, <https://www.nj.gov/governor/news/news/562022/20220325e.shtml>; Kay Stephens, "Blair Election Workers Get Pay Raise," *Altoona Mirror*, April 26, 2022, <https://www.altoonamirror.com/news/local-news/2022/04/blair-election-workers-get-pay-raise/>; Taylor Long, "Brooke County Poll Workers to Get Pay Increase," WTRF, March 15, 2022, <https://www.wtrf.com/brooke-county/brooke-county-poll-workers-to-get-pay-increase/>; Claire Shoop, "Williamson County Approves \$2 Pay Increase for March 1 Primary Early Voting Election Workers," *Community Impact*, February 1, 2022, <https://communityimpact.com/austin/northwest-austin/election/2022/02/01/williamson-county-approves-2-pay-increase-for-march-1-primary-early-voting-election-workers/>; Al Lawrence, "Richland County Commissioners OK Pay Raise for Poll Workers," *Mansfield News Journal*, August 18, 2021, <https://www.mansfieldnewsjournal.com/story/news/2021/08/18/richland-county-commissioners-vote-increase-pay-poll-workers/8176733002/>.

¹⁹ Tisler et al., *How to Fix Election Administration in New York State*, 13.

²⁰ S. 8311, Legis. Sess. 2021-22 (N.Y. 2022).

and by reducing unnecessary, party-based duplication of staff roles. Together, these improvements are a significant step forward from the status quo.

We commend the Legislature for its dedication to shoring up New York's democracy and urge passage of this legislative package. We hope that future legislation will reform the structure and oversight practices of the SBOE, further improve standards for hiring and professionalism practices at local BOEs statewide, and promote more comprehensive information and data sharing with the public. We also urge this body to cement its commitment to New York's voters by passing the John R. Lewis Voting Rights Act of New York this session. If passed, it will be the strongest law in the country to combat race-based voter suppression.

Together, these reforms will help make New York the beacon for an inclusive, multiracial democracy that it can and should be.