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State commission sets new hurdles for minor political parties



Jay Jacobs speaks about the governor recommendation to head the state democratic committee on Monday, Jan. 14, 2019 in Glen Cove. Credit: Howard Schnapp

By Michael Gormley

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ALBANY – New York's move to use state money to help fund political campaigns comes with some landmark changes that would make it much harder for minor parties and individuals to get on ballots to challenge Democrats and Republicans.

Whether the new standards are to protect taxpayers' money against weak candidates and corruption or an incumbent protection program is up for debate.

The state Public Campaign Financing Commission of Democrats and Republicans appointed by Gov. Andrew M. Cuomo and legislative leaders of the major parties made the recommendations last week. The package would implement a \$100 million voluntary system of public financing to combat the influence of big-money donors and reduce corruption in state government. Under the recommendation, participating candidates for statewide office would get \$6 in state funds for every \$1 in donations they received, and legislative candidates would get an average of \$9 for every dollar up to \$250 from a qualified donor.

The commission's recommendations are scheduled to be delivered to the State Legislature on Sunday. The plan will become law unless the Legislature changes it by Dec. 21, and there's no plan for lawmakers to return to Albany.

The most controversial issue addressed by the commission was one pushed by one of the Cuomo appointees, Nassau County Democratic chairman Jay Jacobs, to require minor parties to attract three times as many voters as currently required to remain on ballots.

A minor party that receives at least 50,000 votes on its line in a governor's race now earns an automatic line on ballots for the next four years. This is the heart of how minor parties such as the liberal Working Families Party and the Conservative Party can influence candidates and platforms in the Democratic and Republican parties. The major parties seek cross-endorsements on minor party ballot lines to attract more voters who don't want to cast a ballot on a major party line.

The commission by a 6-3 vote tripled the number of votes minor parties such as the Working Families Party would have to attract in order to maintain their automatic line on ballots. That proposed threshold of 130,000 votes wasn't met by the Working Families Party or the liberal Green Party in the 2018 elections, and it's uncertain if they could in coming elections. The new measure also would require minor parties to qualify for ballots twice as often – during gubernatorial as well as presidential cycles.

"There is precedent for changing the number of signatures, but not for altering the length of time required from four to two years," said Gerald Benjamin, distinguished professor of political science at the State University of New York at New Paltz. "Major third parties will have to focus even more on survival ... The role of third-party leaders in candidate selection will diminish."

"Clearly the goal is to eliminate these parties," Benjamin said.

A related measure would triple the number of signatures an individual would need to petition onto a ballot to challenge major party candidates.

Jacobs, the commission's acting chairman, said the measures are needed to protect taxpayers from subsidizing too many candidates under the public financing system and to help protect against corruption.

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"You can't give away public money without accountability and responsibility," Cuomo told reporters. "A credible party should reach it. If it's not a credible party, then it shouldn't be getting tax dollars ... You have to work to meet that threshold."

"In the last gubernatorial election there were more than 6 million votes," said Commissioner Kimberly Galvin, an appointee of Assembly Republican leader Brian Kolb (R-Canandaigua). "You are asking them that in order to be eligible for up to \$7 million in public funds (for a statewide candidate) that a party gets 130,000 votes. When you look at it and put it in perspective and take all the anger and emotion out of it, I don't believe getting 130,000 votes is too onerous a requirement."

Critics of both measures, however, say the result will mean fewer new and bold ideas that often come from minor parties and less criticism of government corruption while reducing competition. For example, the Working Families Party and Green Party were early advocates for a \$15 minimum wage and funding for green energy producers. The Conservative Party was a catalyst for charter schools and property tax rebates. All of these ideas and more from minor parties eventually became law.

Conservatives elected James Buckley to the U.S. Senate in 1970 and helped elect Republican George Pataki in 1994. The Working Families Party was critical to flipping the State Senate to Democratic control in 2018.

"It's a two-party play," said Doug Muzzio, a political scientist at Baruch College. He called the decision a move by Democrats and Republicans to keep power, limit voter choice and voters' voices and Cuomo "getting even with WFP."

"It's just more evidence of the major parties sticking it to the minor parties," said Blair Horner of the nonpartisan New York Public Interest Research Group. "Major parties will make it harder for minor parties to operate."

Jacobs argued the current threshold hasn't been raised since 1936 and has been abused by some minor parties.

"We are not looking to target any particular party," Jacobs said. "Any credible party ... is going to make these thresholds."

Based on the 2018 election, only the state Conservative Party, which attracted 253,624 votes, would meet the new threshold. The Working Families Party attracted 114,478 votes; the liberal Green Party, 103,946 votes; the Independence Party, 68,713; the Libertarian Party, 95,033, and the Serve America Movement, which ran Cuomo critic and former Syracuse Mayor Stephanie Miner for governor, 55,441.

In all, 745,921 New Yorkers chose to vote on eight minor party lines in 2018.

The new thresholds for minor parties was a fallback position for Jacobs. He had insisted in following Cuomo's bill that created the commission in April and directed it to consider the future of "fusion voting." Fusion voting, which Jacobs and Cuomo allies including Suffolk County Executive Steven Bellone have opposed, allows votes cast on minor party lines to be added to the total of a candidate and fuels the influence of minor parties. Two previous high court rulings have upheld fusion voting.

The measure may prove to be a fatal wound to the Working Families Party, which has challenged Cuomo in his last two re-election bids and has been an unrelenting progressive critic of the more moderate governor.

"The governor was so obsessed with killing the WFP that he's put the integrity of New York's political system on the line," said Jessica Wisneski of Citizen Action of New York, an advocacy group for government reforms.

"This stinks of Cuomo's vendetta against the WFP, but the consequences will be hurting other third parties like the Greens and Libertarians," said Peter LaVenia, co-chair of the Green Party. "It's a cruel joke and the only winners are the Democratic and Republican party leadership."

As for the Working Families Party, it the measure "a clear abuse of state power to advance the governor's political agenda ... and to take revenge against the Working Families Party because of our independence."

Cuomo's senior adviser, Rich Azzopardi, called such criticism "paranoid rants."

"Facts matter even in politics," Azzopardi said. "The commission had nine members, only two were from the executive with the balance from the Legislature."

The commission also proposed making it harder for individuals to petition their way onto ballots and to receive matching state funds. The current standard of collecting 15,000 signatures of voters statewide to secure on a spot on a ballot for a statewide race would rise to 45,000 signatures statewide under the commission's proposal.

"Ballot access — already very difficult in New York — is about to get even more difficult in our state," said James Coll of Seaford, founder of the good-government group ChangeNYS and an adjunct professor at Hofstra University. He said the recommendations are "a farce that allows the two major political parties to exercise near exclusive control over who is on your ballot."

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