

Sunshine Week
Testimony of Susan Lerner, Executive Director of Common Cause/NY
March 18, 2009

Good morning. My name is Susan Lerner and I am the Executive Director of Common Cause/New York. Common Cause/NY is a non-partisan, non-profit citizens' lobby and a leading force in the battle for honest and accountable government. Common Cause fights to strengthen public participation and faith in our institutions of self-government and to ensure that government and political processes serve the general interest, rather than special interests. We have consistently spoken out on the need for greater government transparency and have advocated for laws that require and make easier the disclosure of information to the public. We are, not surprisingly, strong supporters of Sunshine Week and applaud the efforts of all who seek to open a dialogue about the importance of open government and freedom of information.

Thank you for this opportunity to discuss the package of bills that are being introduced in support of Sunshine Week to support open government and the freedom of information.

We strongly support the concept of proactive disclosure of significant information to the public by using the internet to post documents when they first become available, rather than requiring members of the public to file Freedom of Information requests to obtain copies. In this day and age, all documents are produced on computer and, in most cases, can easily be prepared in a format that can be posted on a website. Many commonly used word processing programs, such as Microsoft Word, have such a capability built in. The process of posting information to the web has become streamlined, as sites such as YouTube (video), Flickr (photos), and Facebook demonstrate. The issue of how to protect the non-public parts of documents from disclosure is one for which technology and creativity can relatively easily work out a solution.

Common Cause/NY supports the effort to dispel concerns and resolve doubts that may be raised at the conceptual stage of a proactive state disclosure system by studying the feasibility, cost and benefit of such a system. We believe that the call for cooperation between government agencies, citizen organizations, the public and the news media in such a study is a good one. We commend the Apps for Democracy program used in the District of Columbia to you, as a possible model for melding government goals with private creativity. We strongly recommend that any study be specifically charged to examine the possibility of utilizing an open collaborative public process, with an emphasis on developing an open source solution.

New York City has had a proactive disclosure requirement in its law since 2003, Local Law 11 of 2003. The City's experience under that law, which was recently the subject of a hearing before a City Council committee, will undoubtedly prove instructive and we request that any study authorized be specifically charged to examine New York City's experiences with requirements for proactive disclosure, as well as those of other states.

We support the other bills which are discussed today, S3195, A2046 and S2754, as straightforward common sense improvements to New York's laws. We believe, however, that S.2754 should be strengthened by making internet posting of meeting notices mandatory. In this day and age, if the public body itself does not maintain its own website, it is part of a jurisdiction which has website. Posting of such

notices should be a typical and commonplace occurrence, expected to be automatic. The language of the bill, as drafted, implies that posting such notice may require some special ability, when we know that websites and web postings are now most commonplace. In fact, it is the entity without a website that is seen as unusual.

While we are pleased that these bills show that some effort is being made to increase openness and freedom of information, our primary concern lies with the fact that not enough has been done to insure that New York is a leader in insuring open and transparent government and in streamlining procedures and attendant costs of compliance with freedom of information laws. The study of proactive disclosure is a welcome first step in bringing New York State's government into the 21st century.

To that end, and in line with the goals of Sunshine Week, I would like to briefly discuss an existing excellent government disclosure tool which the Legislature could help make even more outstanding. Common Cause/NY has recently concluded an evaluation and analysis of Project Sunlight, the website developed and maintained by the Attorney General to collect and standardize different data maintained by various state entities and make it available to the public on a comprehensive, easy-to-search website. Project Sunlight is unique in our experience, correlating government information in a sophisticated inter-relational way. While improvements and changes have been made to an already strong site since its unveiling in 2007, nevertheless, our analysis leads us to conclude that it can be improved even further.

We have shared our analysis in a letter to the Attorney General, a copy of which has been provided along with my written testimony today. I would like, however, to share with you 2 specific recommendations which touch on information about legislation. We have recommended that voting history for legislators and legislative summaries would be valuable additions to Project Sunlight. Voting histories of legislators, an invaluable tool to help the public evaluate and understand the performance of its elected representatives, is not readily available on any website. Including a bi-weekly or monthly legislative summary would be a valuable addition to Project Sunlight. Summaries offered by the Legislative Retrieval Service, which is already produced by state employees on state time but unavailable to the public, could provide the information.

Which brings me to my final point. It is past time for the Legislative Retrieval Service to be replaced with a fully functioning, user-friendly modern website which would be available to *all* New Yorkers to access public information compiled by public employees, not just those who pay \$2,000 or have special privileges, as do some legislative staff as well as members. The LRS represents not only out-moded information technology, it represents a dated and disapproved attitude towards providing information to the public and should long ago have been replaced.

We look forward to working with you and any other members of the Legislature who want to develop measures – and we specifically hope they will be bold and creative – to make government more open and transparent.