

# 'Fusion voting' faces uncertain future in NYS

*By Ford Motor Company*

ALBANY — A centuries-old practice called fusion voting, which has been credited with defeating New York's corrupt Tammany Hall in 1901, is now threatened by the effort to publicly finance campaigns to fight corruption today.

The Public Finance Reform Commission was created by Gov. Andrew M. Cuomo and the Legislature in April to implement a \$100 million system to subsidize political campaigns with public money as a way to curb the influence of big-money donors and special interests. But the commission already faces lawsuits from the left and right over its order from Cuomo and legislative leaders to also consider the fate of fusion voting.

Fusion voting allows minor parties, such as the liberal Working Families Party and the Conservative Party, to cross-endorse major party candidates. That practice provides another ballot line to a candidate to attract voters who may not want to vote under the major party banner. Minor parties say this provides voters with another voice and keeps the major parties accountable to more voters.

The Conservative Party has used fusion voting to influence the selection of Republican nominees and the GOP platform, and liberal parties have influenced the selection of Democratic nominees and their policies.

"Major parties dislike fusion," said Dan Cantor of the Working Families Party. "They wish we would go away. But it's the law."

"It creates all sorts of problems," said state Democratic Committee Chairman Jay Jacobs of Nassau County in March. "You've got transactional politics. You have lack of clarity for voters ... There's no good-government basis for fusion voting."

However, critics argue that small minor parties are fiefdoms that demand a share of patronage jobs and policy compromises from incumbents they support. Critics also say fusion voting polarizes politics by making major party platforms more extreme, turning off moderate voters. In Republican politics, for example, no GOP candidate has won statewide office without the Conservative Party endorsement, and Republicans haven't held a statewide office in the heavily Democratic state since Gov. George Pataki left office in 2006.

The Working Families Party takes credit for forcing Cuomo, the Democratic Party he heads and the State Legislature to the left on many issues, such as a \$15 minimum wage and anti-corruption measures. The party mounted challenges to Cuomo in his last two re-election campaigns and helped defeat Cuomo-allied members of the Independent Democratic Conference, which once divided Senate Democrats and has since dissolved.

Cuomo spokesman Rich Azzopardi said the Working Families Party's view that it pushed Cuomo to become more progressive is "delusional and imaginary," which is an attempt to make the minor party relevant to Democratic politics.

Fusion voting dates to the 1770s. In the early days of New York State, voting was done by paper ballots often without political parties directly involved with voters. All votes cast for a candidate counted. That was the start of fusion voting and it remained legal nationwide until the late 19th century, according to the Brennan Center for Justice of New York University School of Law.

Through the 1800s, fusion voting played a major role in New York politics, leading to the election of many minor party candidates, which further strengthened the influence of minor parties on major party policies and the selection of candidates.

During that time, the Populist Party became particularly powerful nationwide, supporting candidates in each major party to advance Populist Party ideas. That led many states to limit or end the practice of fusion voting, but the influence of the minor parties blocked the effort in New York.

In 1911, fusion voting supporters successfully challenged a candidate backed by the Tammany Hall political machine. In reaction, Tammany-backed legislators passed a law prohibiting candidates from appearing on more than one party's ballot line.

The state's highest court, however, struck down that measure, ruling that the law banning fusion voting unconstitutionally limited voters' choices. "The discrimination here is of a very substantial character," the court ruled.

Today, the state Democratic Committee headed by Jacobs, who was appointed by Cuomo, voted to ban fusion voting in March.

Jacobs now serves on the Public Finance Reform Commission as one of Cuomo's appointees. Jacobs said he's keeping an open mind on fusion voting, but at last week's hearing in Albany on public campaign financing, two speakers said Jacobs should recuse himself from any debate and vote on fusion voting.

Cuomo told public radio on Thursday: "I haven't taken a position on fusion voting."

Fusion voting allows a "tail-wagging-the-dog political system," said Debra Blalock, a Democratic candidate in Dutchess County, at the Albany hearing. "It has allowed corruption and pay-to-play politics to flourish."

But Sister Honora Kinney, a nun and member of Citizen Action, said fusion voting is needed because "we need to be concerned about our increasingly imperial governorship" under Cuomo, who has "enormous power" in crafting a state budget. A minor party vote sends "a message of dissent that the governor may heed."

The liberal Working Families Party and the Conservative Party are suing the commission, contending the state's highest court has repeatedly upheld the constitutionality of fusion voting despite challenges by incumbents.

"I don't have to argue that my opinion is right," said Richard Brodsky, who represents the Working Families Party in its lawsuit and is a former Democratic assemblyman. "The Court of Appeals has said it three times unequivocally and without reservation."

And because Democratic Attorney General Letitia James recused herself from representing the state in the matter because of her own endorsements by the Working Families Party, taxpayers are picking up the bill for this fight. The

commission and Democratic and Republican legislative leaders have all hired outside counsel out of their government budgets.

Last week's hearing in Albany was the commission's second of four scheduled ones, including one Oct. 22 in Smithtown.

Many modern political scientists agree fusion voting has played an important and positive role in New York.

“Fusion voting elevates competition in the major parties by providing a base for potential ideological challengers, on the left for the Democrats, on the right for Republicans,” said Gerald Benjamin, distinguished professor of political science at the State University of New York at New Paltz.

“Campaign finance and fusion should not be linked,” Benjamin said. “They are distinct issues. I fear, too, that adoption of campaign finance reform will be linked to eliminating or weakening fusion: Give the left a win, but they have to pay a price.”

Good-government groups said it was irresponsible for Cuomo and legislative leaders, many of whom courted minority party support to win their seats, to saddle the commission with the complex issue of fusion voting.

“This is the ladder that they used to get here, now they want to burn it down,” said Rosemary Rivera, executive director of Citizen Action.

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