

New York Coalition



For Open Government, Inc.

Advocating for timely access to information & meaningful citizen participation

www.nyopengov.org

January 16, 2024

PRESS RELEASE

RE: Governor Hochul Failed To Address New York State's Open Government Crisis

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When Governor Hochul first took office in 2021, she promised a new era of government transparency. She committed to restoring New Yorkers' faith in their government by improving transparency and increasing government accountability.

The New York Coalition For Open Government has documented large scale non-compliance with the Open Meetings Law and the Freedom of Information Law at the local level. For example:

- 72% of towns not posting meeting documents online
- 25% of towns not posting meeting minutes or a recording
- 39% of counties failed to acknowledge a FOIL request within five business days as required by law.
- 75% of Planning Boards not posting meeting documents online

- Only 25% of villages posted meeting minutes online
- 35% of villages did not even post a meeting agenda
- Out of 158 school district executive session motions reviewed, 61% were not in compliance with the Open Meetings Law

In her 2023, State of the State speech the Governor did not say or propose anything to address the open government crisis that exists in New York State. This lack of attention was disappointingly repeated in the 2024 State of the State last week.

The Governor proposed addressing the backlog of liquor license applications but said nothing about the broken Freedom of Information Law (FOIL) system where members of the public are improperly denied FOIL requests or must wait many months to receive basic information.

Governor Hochul proposed actions to strengthen consumer protections and to enhance the Attorney General's ability to enforce consumer protections. Meanwhile New York has some of the weakest open government laws in the nation and the Attorney General's office actually fights against the public on Freedom of Information Law matters.

The New York Coalition For Open Government has several important bills introduced in Albany, which will improve government transparency and accountability. We encourage Governor Hochul to support these bills.

Constitutional Amendment (Assemblymember Steck A4429)

Several states have the right to open government stated in their Constitution (California, Florida, Louisiana, and Montana), New York does not. Assemblymember Phil Steck has introduced a bill to establish a right to open government in New York's Constitution. Governor Hochul supports amending New York's Constitution so that more Judges can be appointed. It will be interesting to see whether Governor Hochul supports a bill to amend the State Constitution to add a right to open government.

Mandatory Attorney Fees (Assemblymember Steck/Senator Liu A5357A/S5801A)

Unlike other states, New York does not have an independent body with enforcement powers to address violations of the Open Meetings Law and Freedom of Information Law. Other states also impose fines or criminal charges for violations of open government laws, such penalties are not available in New York.

The only recourse available to the public in NY is retaining an attorney to file an Article 78 proceeding and hope that the court will award attorney fees.

New York's current attorney fee statute is weaker than many other states and it is more difficult to obtain attorney fees when litigation is successful.

Assemblymember Phil Steck and Senator John Liu have introduced a bill, which reforms New York's attorney fee statute for Freedom of Information Law and Open Meetings Law litigation.

Create A Hearing Officer System To Address Freedom of Information Law Appeals And Open Meetings Law Complaints (Assemblymember Rosenthal A7933)

In the 1980's homeowners across New York State were angry about increasing property taxes. The only recourse homeowners had to challenge their property assessments was to hire an attorney to file a lawsuit in Supreme Court, which was not easy or affordable. To assist homeowners, the New York State legislature in 1982 passed legislation creating a hearing officer system to hear property tax assessment cases.

Through this system, homeowners complete a simple application, pay a filing fee and the New York State Office of Court Administration appoints a hearing officer to decide the complaint. Hearing officers are attorneys, realtors and others with experience in dealing with real property valuations.

In 2020, 102,000 assessment complaints were handled across the state through this hearing officer system. Applicants paid a \$30 filing fee and the Court Administration paid hearing officers \$75 per case.

The same system can and should be replicated to handle Freedom of Information Law and Open Meetings Law appeals. Assemblymember Linda Rosenthal has introduced a bill to create an independent hearing officer system to address open government law complaints.