

## PUBLIC AUTHORITIES

Public authorities are legal entities established by the New York State Legislature to undertake large-scale works many of which are fiscally self-sustaining (e.g., mass transit, public housing). Although government creates them, authorities are publicly owned, raise their own capital by issuing bonds, and are vested with certain administrative and financial powers.

At the outset public authorities were single purpose and financially independent. In recent years, however, their projects have included many which have produced little or no revenue (e.g., mental health facilities) and have required government loans, grants, and subsidies.

In recent years, the legislature has sold, traded, and assigned state facilities (e.g., prisons) to public authorities in order to obscure budget deficits.

By early 1986, public authorities had amassed a \$26 billion debt, which was guaranteed by the full faith and credit of the state. Critics of the public authorities system have long cited their failure in long-range planning and their lack of accountability to the public.

In 1986 the League undertook a study, "Public Authorities: Their Organization, Function, Financing and Accountability."

### **PUBLIC AUTHORITIES**

#### **Statement of Position**

**As announced by the State Board, May 1987**

**The League of Women Voters of New York State believes that the legislature should create public authorities only when it has determined that there is a need for the services/projects that government agencies and private organizations are unable or unwilling to undertake.**

**Greater accountability and oversight should be built into the system. The governor, comptroller, and legislature should monitor actively those areas for which they are legally responsible and should report their findings to the public.**

**The jurisdiction of the Public Authorities Control Board should be extended to large authorities, which are not dependent on state budget subsidies and thus are exempt from much legislative scrutiny. This increased oversight should include the power to deny new financing. Authority debt should be limited by such means as sunset provisions and debt ceilings. Authorities should adhere to sound financial practices including competitive bidding where appropriate, timely standardized reporting and management, and performance audits.**

**Authorities should coordinate with their counterparts in government on matters of planning and purchasing.**

**Members of authority boards should be broadly representative of the community and qualified by appropriate expertise. Political affiliation should not be a consideration when selecting members of authority boards. Boards of directors should be subject to the same state laws that apply to personnel in government line agencies in matters of ethics, disclosure, open meetings, and liability. They should be responsible for the actions of senior management.**

### **Recent League Activity**

In December 2009, Governor Patterson signed the Public Authorities Reform Act of 2009 into law. The League and other good government groups saw this legislation as a truly significant attempt to address ways to make the authorities more accountable and transparent. The bill reflected fundamental positions the groups had long held:

- An Independent State Public Authorities Office to oversee the authorities, much as the NYC Independent Budget Office does not for the City
- A requirement that members of public authority board's have a fiduciary duty of loyalty to their authority
- Some meaningful State Comptroller review of billions of dollars annually in authority contracts
- Limits on giving away assets and protections for whistleblowers.

### **Past League Activity**

During 2000-2003, the League has become increasingly aware of the need to monitor the Public Authorities Control Board (PACB). The League's Legislative Director now monitors the meetings held monthly. We have encouraged the press to also attend these meetings to assure the public is aware of the importance of the activities carried out by this Board. Because of the budget deficits following the World Trade disaster, there is the potential for State borrowing to increase to a greater degree than is currently done. Also, because of the publicity surrounding alleged irregularities in the MTA (Metropolitan Transportation Authority), the Canal Corporation there is increased potential for legislative action involving public authorities. During the 2004 legislative session, this issue may take center stage in League legislative activities.

Early in 2004 the New York State Comptroller issued a report entitled "Public Authority Reform: Reining in New York's Secret Government." In that report, the Comptroller documented scores of incidences of scandals and corruptions at New York State Authorities. As a result, of this scrutiny and work done from the Assembly Corporations Committee there appears to be a broad based agreement that the states' authority be subject of greater public scrutiny and oversight. Governor Pataki agreed and by executive order created the Public Authority Governance Advisory Committee to review and make recommendations regarding each authority's corporate governance plan. The panel, known as the Millstein Panel was charged with examining authorities' practices.

Because of this scrutiny, both the legislature and the executive branch came forward with legislation to advance Public Authority reform. Attorney General Eliot Spitzer and Comptroller Allen Hevasi called for the creation of a Commission modeled on the commissions used by Washington to shut down unnecessary military facilities to examine each of the state's authorities to determine whether they should be re-organized or shut down altogether. The Governor's plan was advanced by legislation, which would:

- Requires those lobbying for authority contracts to register with the State's Temporary Commission on Lobbying.
- Increased public disclosure to the Public Authority Control Board, Senate Finance Committee and Assembly Ways and Means Committee; for those authorities already required to report to said bodies.
- Same authorities must also give their approved budget and independent audit to the yet to be created Independent Budget Office.
- Annual independent audits.

- State Comptroller must audit each authority every three years, rather than every five as currently required by law.

In addition, Assemblyman Brodsky proposed advanced legislation which would:

- Require those lobbying for authority contacts to register with the State's Temporary Commission on Lobbying.
- Create the office of the Public Authorities Inspector General, the attorney general would appoint the Inspector General.
- Enable the IG to investigate and report his or her findings and to work on policies to avoid corruption and other abuse, including improper lobbying, in public authorities.
- Create the Public Authorities Independent Budget Office.
- The Comptroller would appoint the head of the Public Authority Independent Budget Office. Requires the IBO to collect, distribute and assess information about the yearly budget for each authority.

Unfortunately, the 2004 legislative session ended without these initiatives being passed.

The 2005 legislative session saw the exact above measures reintroduced. Ultimately, the Senate and the Assembly took the first step toward improving oversight and governance of New York's Public Authorities by passing the Public Authorities Accountability Act. The legislation essentially codified recommendations made by the Millstein commission and created an Authorities Budget Office and Inspector General, appointed by the Governor.

The League supported the Public Authorities reform legislation, however, we regretted that it did not address the issue of closing down inactive and/or redundant Authorities. At that time, we called for a one-time review of each Public Authority and Subsidiary Corporation with a report-recommending disillusion of those that no longer served a useful function.

The League and its good government coalition partners continued to lobby that session for more oversight over the amount of public debt that Authorities can issue. Most of this debt issued by Public Authorities is without legislative or voter approval. The League feels there also needs to be a requirement that decisions to issue debt of a large amount should be subject to public approval.

In 2006, no legislative action was taken on further Public Authorities legislation however attention turned that session to the Public Authorities Control Board (PACB). The League has monitored this control board for several sessions and was present at the highly controversial Westside Stadium Control Board meeting to decide if this stadium would be created on the Westside of Manhattan. Most PACB control board meetings are held in a small conference room on the first floor of the Capitol and attended by the Assembly Ways and Means and Senate Finance staff. Decisions are made by the leadership in the two houses and the Governor's budget division behind closed doors and then rubberstamped at the PACB meeting.

Because of the controversy surrounding the Westside stadium the meeting was moved to the large meeting room off the concourse adjacent to the convention center. For this PACB meeting, the room was filled to overflow with approximately 500 people in attendance. Most of them construction workers who stood to gain or lose jobs. After four hours of waiting the Assembly Ways and Means and Senate Finance staff entered the room surrounded by State Troopers. The meeting was ruckus and

following the decision not to fund the Westside stadium the staff and a few lobbyist were escorted out the back of the meeting room by State Troopers.

In the 2007, the Public Authorities Reform Act of 2007 was introduced which would create an independent public authority office, provide for a fiscal year start date of July 1, and clarify aspects of the Public Authorities Accountability Act of 2005. This legislation was unanimously passed by the Assembly, but was not addressed in the state Senate. This legislation did address concerns that the government reform coalition sited in 2005.