

Watchdog Groups: Dissolve Erie County Water Authority

Groups Agree with Buffalo News: Convert Authority to County Agency

Prominent watchdog groups back the *Buffalo News*' call to convert the Erie County Water Authority to a more accountable county agency.

[A scorching July 2018 review of the Water Authority by the New York State Authorities Budget Office \(ABO\)](#) and accounts by investigative journalists paint a picture of an authority that has become a politicized patronage mill plagued by mismanagement and waste.

The ABO chastised the Water Authority Board for failing to exercise independent judgment and adequate due diligence in entering into an employment agreement with its Executive Director, granting extra vacation time to executives, and giving its Deputy Director a 36 percent raise. Board members even voted for resolutions they actually opposed. The ABO further criticized the Authority for its lack of transparency, including regularly violating the Open Meeting Law, ignoring and reflexively denying Freedom of Information requests, and deliberately failing to tell Erie County customers about pending increases in water bills so they could not potentially thwart them.

To its credit, the Erie County Water Authority has made recent improvements. All three board members serving during the period reviewed by the ABO have now been replaced. The Authority has improved its FOIL procedures, started audiocasting meetings and will soon overhaul its website and webcast its proceedings. The Authority appears to be conducting a real search for a new executive director.

Unfortunately, it is too little and too late. The Erie County Water Authority is still primarily a landing place for patronage hires from the political parties and is inherently less accountable than a county agency reporting to the county executive and legislature.

In New York State, public authorities have proliferated as opaque and unaccountable shadow governments. Authorities in New York State were created to circumvent constitutional and budgetary limits on debt and politically insulate elected officials from rate hikes for public services. Dissolution of politicized public authorities, government-affiliated nonprofits and their subsidiaries is long overdue. It's high time we put

government work back where it belongs: in a government agency. Beginning with the Erie County Water Authority is a good place to start.

Reinvent Albany
Selected Findings from the [ABO's Operational Review](#)
[of the Erie County Water Authority](#)

A June 2018 report issued by the ABO revealed major problems at the Authority during 2016-2017.

Board Management/Fiduciary Duty Deficiencies

- The Board members failed to sign upon appointment an acknowledgement they had a fiduciary duty as required by section 2824 of Public Authorities Law, and then approved authority annual reports stating they had signed the acknowledgments.
- The Board failed to receive materials in advance of 36 percent of board meetings in 2016-2017 and admitted to being unprepared to make decisions. The recommended time for receipt of materials is one week in advance of meetings.
- Board members admitted to voting in favor of resolutions they disagreed with, failing to exercise their independent judgment.
- The Board gave a 36 percent salary increase to a Deputy Director at the Authority without reviewing the Deputy Director's performance.
- The Board approved the hiring of its Executive Director in May 2017 without in-depth knowledge of the individual's background or experience.
- The Board approved a severance package in January 2016 and a contract for underwriting services in July 2016 without knowing any background information or details.
- The Board approved board minutes without reading them.

Lack of Transparency

- The Board violated the letter and the spirit of the Open Meetings Law by:
 - improperly discussing its budget and other matters in private meetings
 - discussing matters in executive session on occasions when the discussions should have occurred in public.
 - failing to cite the specific exemption in the law or specific issue to be discussed before going into executive session.
 - failing to provide agendas and board materials in advance of meetings on its website.
 - failing to notify media outlets of upcoming board meetings.
 - failing to include in meeting minutes supplemental materials or capture the rationale for decisions or summarize related discussions.

- The Authority has routinely violated numerous provisions of the Freedom of Information Law (FOIL)
 - It was unwilling or unable to provide a log of FOIL requests and responses.
 - 22 of 70 FOIL requests ABO reviewed were ignored completely.
 - The Secretary of the Authority often reviewed FOIL appeals rather than bring them to the Board. When appeals were brought to the Board, insufficient materials or context was provided, and the Board approved FOIL denials without understanding the requests.
 - The Authority improperly asserts attorney-client privilege in relation to non-legal matters related to FOIL requests.
- The Board increased water charges without adequately informing customers of the precise amount or expected future increases citing fear of resistance from customers.
- The Authority failed to post basic information about its operations on its website including its operating and capital budgets.

Wasteful Spending

- The Board pays its board members \$22K annually, the highest of any water authority in the county while most authorities do not pay board members at all.
- The Board made generous exceptions to its Vacation Policy in granting more days and allowing senior executives to roll over more vacation days from one year to the next, and failed to provide any justification for doing so.
- Procurement guidelines are routinely ignored by the Authority. The Board violated its guidelines for purchasing when it hired a law firm on an emergency basis in 2016 and paid it \$143,887. Neither the emergency or the work billed is known. The staff frequently raised the maximum amount the Authority could pay for contracted services without approval from the Board.