



MEMO OF SUPPORT

[S5137 \(Mattera\)/A4078 \(Colton\)](#)

Requires Legislative Approval for Creation of Public Authority Subsidiaries

April 2021

Title

An act to amend the public authorities law, in relation to prohibiting the formation of a subsidiary of a public authority without prior permission of the legislature.

Summary

Section 1 of the bill would amend section 2827-a of the Public Authorities Law, to eliminate the exception to the general prohibition against public authorities establishing any new subsidiary corporation without prior statutory authority from the Legislature. Currently, public authorities may create subsidiaries provided that: (1) notice is provided to the Legislature; (2) the purpose for creating the subsidiary is within the powers of the authority under its corporate purpose; (3) the primary reason for the subsidiary is to limit the potential liability impact on the authority; or (4) because state or federal law requires that the subsidiary's purpose be undertaken through a specific corporate structure. The legislation would retain the requirement that subsidiaries make the reports and other disclosures as required for all state authorities, unless the subsidiary corporation's operations and finances are consolidated with its parent authority. Section 2 sets the effective date as immediately.

Statement of Support

Reinvent Albany supports this legislation because there are currently [more than 1,000 state and local public authorities and subsidiaries within New York State](#) performing governmental functions in addition to those being carried out by governmental agencies. Reinvent Albany believes public authorities (which includes government chartered nonprofit organizations and their subsidiaries) are less accountable to the public, less transparent and more prone to corruption and political abuse than executive agencies with clear lines of control and management. We would like to see far fewer public authorities in general, and we are not persuaded there is a need to create new subsidiaries for most ad hoc government activities.

Together, the state's public authorities [have issued nearly 96 percent of all outstanding state-funded debt](#). This debt is issued without the voter approval required under the State Constitution for General Obligation debt issued by the state itself.

The underfunded Authorities Budget Office, with a staff of 11 and budget of \$2.05 million, is currently tasked with the impossible job of overseeing [585 public authorities](#). Giving the Legislature the responsibility for authorizing the creation of subsidiaries will require authorities to provide a public rationale for this action, providing a check on their creation and reining in their proliferation. This amendment to the Public Authorities Law also ensures that the law remains true to the spirit of §5 of Article 10 of the State Constitution, which requires that only the State Legislature may create public authorities.