



# MEMO OF SUPPORT

[A2631-A \(Thiele\) / S977-A \(Gaughran\)](#)

**May 2021**

## **Title**

An act to amend the public authorities law and the not-for-profit corporation law, in relation to reviews by the Authority Budget Office and granting the Authorities Budget Office the authority to commence an action or special proceeding to annul the corporate existence or dissolve a corporation that has acted beyond its capacity or power or to restrain it from carrying on unauthorized activities.

## **Summary**

Section 1 adds a new section to Public Authorities Law (PAL) that requires the head of a public authority to respond to formal recommendations from the Authorities Budget Office (ABO) within 30 days of receipt. When the ABO report makes recommendations for corrective action, the authority has 180 days to respond detailing the actions taken or explaining why actions were not taken. Failure to respond will render the authority delinquent in meeting reporting requirements.

Section 2 amends subdivision 3 of section 2800 of PAL to make an authority CEO or CFO's willful submission of a false financial report perjury in the third degree.

Section 3 amends subdivision 2 of section 2824 of PAL to allow the ABO to remove authority board members who neglect to complete required state training. Members who do not take the training are suspended for three months. Further failure to complete the training will result in removal from the board. Suspended or removed members can be reinstated upon completion of the training.

Section 4 amends section 104 of the non-profit corporation law to direct the Department of State to inform the ABO of the creation of any new non-profit local development corporations.

Section 5 amends paragraphs (i) and (j) of subdivision 2 of section 6 of the PAL to empower the ABO to commence a proceeding to annul, dissolve or restrain a corporation that has acted outside its authority.

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Section 6 states that the act shall take effect 90 days after becoming law.

### **Statement of Support**

This bill is an important step toward giving the Authorities Budget Office more power to hold state and local authorities accountable.

When public authorities act outside of their capacity or mission, the ABO currently has the power to refer violations to the Office of the Attorney General of New York, which can then commence a proceeding to dissolve corporations. However, the ABO cannot commence a proceeding on its own. Passing this bill would give the ABO that power and enable the office to more effectively enforce Public Authorities Law. (The ABO is currently in litigation with two authorities, [Orange County Partnership](#) and [Saratoga Economic Development Corporation](#)).

This bill would also empower the ABO to remove authority board members who do not complete required training. Currently, the ABO can only censure and recommend the removal of board members who do not complete required training. This runs the risk of enabling authorities to act with impunity while not meeting statutory requirements. The ABO's [December 2019 report](#) on board member training noted that 12 authorities did not respond to the ABO's formal notice recommending removal of delinquent board members.

This bill passed the Senate on May 19, 2021, and is currently in the Assembly Codes committee. We urge the Assembly to pass the bill immediately.