MEMO OF SUPPORT

S2377 (Mattera) / A2479 (Colton)

Allows the Governor, Senate, or Assembly to reject new authority subsidiaries

February 21, 2025

TITLE OF BILL
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.

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 that there is a need to create new subsidiaries for most ad hoc government activities.

The underfunded Authorities Budget Office, with a current staff of 11 and proposed FY 2023-2024 budget of only $2.9 million, is tasked with the impossible job of overseeing these public authorities.

Together, the state's public authorities have issued 97 percent of all outstanding state-funded debt. Public authorities are allowed to issue debt without voter approval, while the State Constitution requires the voters to approve other debt issued by the state under general obligation bonds.

Currently, public authorities may create subsidiaries after notification to the Legislature, Comptroller, and Authorities Budget Office. The current notification does not provide the ability for the subsidiary to be rejected by any of these parties. Under law, subsidiaries may only be created for certain purposes, including to limit the potential liability impact, or because state or federal law requires a specific corporate structure. Additionally, they are not supposed to be created to circumvent collective bargaining agreements. Nonetheless, authorities have still proposed creation of subsidiaries that have sparked a number of public concerns. Specifically, the creation of the East Side Access subsidiary by the MTA raised concerns among watchdogs about efforts to obscure the MTA's finances, and from unions regarding privatization of the workforce and creation of more bureaucracy.

We strongly support this legislation because it will give either the Senate, Assembly, or Governor the ability to reject the creation of subsidiaries, providing a check on their proliferation. This will in turn require authorities to provide a more detailed rationale for creating subsidiaries.

SUMMARY OF PROVISIONS

Section 1 of the bill would amend section 2827-a of the Public Authorities Law to require that absent the Legislature authorizing the creation of a public authority subsidiary via statute, public authorities are required to notify the Governor, Senate, and Assembly of their intention to create a subsidiary 60 days prior to its creation. The Senate or Assembly may then deny the request by passing a legislative resolution, or the Governor may deny the request through a signed certification. In the event that it is received with fewer than 60 days remaining in the legislative session, the Legislature may act within 60 days of the start of the *next* legislative session in January of the following year.

The legislation retains the requirement that subsidiaries make the reports and other disclosures required for all state authorities, unless the subsidiary corporation's operations and finances are consolidated with its parent authority. Additionally, subsidiaries may not be created to circumvent collective bargaining agreements, or to replace or remove a certified employee organization, and may not issue bonds or debt.

Section 2 sets the effective date as immediately.