

**A RESOLUTION TO BE SUBMITTED BY
LEGISLATORS LOUGHRAN AND LORIGO**

Re: A Resolution Requesting the Chair of the Erie County Legislature Remove Commissioner Schad from his Appointment as Commissioner of the Erie County Water Authority

WHEREAS, the Erie County Water Authority (ECWA) is a state created authority that has a three member board of commissioners appointed by the Erie County Legislature; and

WHEREAS, the ECWA Commissioner are responsible for hiring management to run the day-to-day operations of the Water Authority as well as providing for borrowing on behalf of the authority; and

WHEREAS, the ECWA provides water and services to many residents in Erie County as well as residents in neighboring counties; and

WHEREAS, Commissioner Schad is the only sitting member of the ECWA Board of Commissioners to have been censured by the New York State office responsible for review of public authorities and it was the Authorities Budget Office recommendation that the Commissioner be removed from his position; and

WHEREAS, despite differing legal opinions of minority counsel, the Authorities Budget Office, and the in-house counsel for the Water Authority, the Chair of the Legislature is the only entity with authority to remove a sitting water authority commissioner; and

WHEREAS, members of this body have attempted to remove Commissioner Schad from his post as water authority commissioner several times; and

WHEREAS, each resolution introduced that would remove Commissioner Schad was immediately sent to committee without discussion at the ruling of the chair and openly supported by members of this body on the basis that the County Attorney is of the opinion that only the Chair may remove a sitting Commissioner; and

WHEREAS, all prerequisites for the removal of a Water Authority Commissioner, as prescribed in New York State law, have been met and Commissioner Schad has been provided with an opportunity to defend himself; and

WHEREAS, this body has already unanimously approved a resolution urging Commissioner Schad to step down, which he has not responded to; and

WHEREAS, it is an insult to this body that he has not vacated his post and the inability of this body to agree who has the authority to remove a commissioner has led to the Commissioner remaining on the authority and a disservice to the residents of Erie County; and

WHEREAS, it is the Chair of the Legislature who must ensure the actions of the Legislature are respected and take action to remove the Commissioner; and

WHEREAS, this request is being made not because the sponsors no longer feel it is the Legislature's authority to remove Commissioner Schad, it is and we still do. However, it must also be recognized that the Legislature is split over which opinion to follow, our counsel or the County Attorney. It is the belief of this body that if the Chairman is to proceed and remove Commissioner Schad a court may determine the validity of his action. If the Chairman does nothing and this body is still divided over which opinion is correct then the Water Authority will continue to operate behind the guidance and leadership of an individual whom this body, at the suggestion of the director of the State Authorities Budget Office, unanimously asked to resign.

NOW, THEREFORE, BE IT

RESOLVED, that this honorable body hereby calls on the Chair of the Erie County Legislature to remove Commissioner Schad, the last remaining member of the Erie County Water Authority to be censured by New York State's Authorities Budget Office; and, be it further

RESOLVED, that certified copies of this resolution be sent to the Board of the Erie County Water Authority, the County Attorney, the state Authorities Budget Office, and any party deemed necessary and proper.