

## **BACKGROUND STATEMENT**

PARA President Dave Gallagher was invited to testify in a public hearing before the New Jersey Senate Legislative Oversight Committee on October 20, 2015. The hearing was the third in a series being held in NJ to discuss a proposed bill designed to reform the Port Authority. This legislative effort stems from the Bridgegate scandal and several other actions taken at the Port Authority in the recent past.

A Port Authority reform bill was passed in the New York Legislature several months ago and identical legislation must be passed in New Jersey this year in order for it to apply to the Port Authority. The NJ proposed bill goes beyond the NY legislation and, if approved with any changes, it must go back to NY for consideration and re-approval. We have been posting relevant press articles on the PARA website to keep our members updated about the developments on these issues. .

The comments shown below were followed by an extended Q&A session on the bill and other aspects of the PA's activities.

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### **STATEMENT TO NJ PANEL**

October 20, 2015

Good afternoon, Ladies and Gentlemen.

My name is David Gallagher. I am pleased to be invited here to discuss the legislative proposals regarding reform measures affecting the Port Authority. I am a retiree from the Port Authority having served there for 33 years in a variety of positions including Human Resources, Engineering and the Tunnels, Bridges and Terminals (TBT) Departments. At the time of my retirement, I held the position of Assistant Director of the TBT department having responsibility for all non-field activities including budget, customer information, project engineering and planning, and tenant leasing. In addition, I concurrently served as the project director for the E-ZPass program during its final testing and initial implementation stages prior to it being launched across the PA's facilities.

The events that have occurred at the Port Authority over these past several years have been most disheartening and they fly in the face of long standing Port Authority policy and by-laws. As a Port Authority retiree, I share your frustration - -and your anger - - at the actions that were taken by some individuals. They do not reflect the Port Authority that I knew over more than three decades of service there. I wholeheartedly agree that there is a need for some change and indeed I'm happy to see that a number of positive changes have already taken hold.

I have followed the media reports from the very outset of the revelations regarding Bridgegate and the various other issues which have surfaced as well. For me and for many of my retiree colleagues and current staff, they are shocking and jaw dropping to put it mildly. I am very pleased that there has been a good deal of scrutiny in these past months in an effort to address these problems - in an appropriate way - and I appreciate the opportunity to share my views on the proposed legislation and to discuss these matters with you today. I fully support the effort to “get it right”.

So, as I have followed the reports over these many months and have listened to the epithets being hurled at “**the** Port Authority” and then as I read through this bill, I continue to ask myself: “What exactly went wrong?” and “What are the specific problems that are needed to be solved?”. We certainly are all very aware of the circumstances and the particular actions that have caused much of this controversy. But I ask myself: What is the underlying root cause? And - -to what extent does this legislation address that?” In each case the genesis – the initiation of these highly questionable actions - comes back to individuals assigned or appointed to the Port Authority from outside. None of the actions were the work of the PA’s career professionals. **All of it was undertaken by those whose allegiance was directed to others - - but not to the Port Authority or to the region.** So I ask myself – and I ask you - “Does this bill address these key problems?”

Improving the organization’s transparency, requiring more disclosure of its actions, protecting whistleblowers, clearly delineating the role and responsibility **and allegiance** of Port Authority commissioners, having the CEO be selected by the PA Board (not by the governor), and re-stating or clarifying the mission of the Port Authority makes all the sense in the world given the prevailing concerns. The proposed bill seems to address these items fairly well.

Just a quick aside regarding transparency and openness - - I find it to be more than ironic – perhaps even inexplicable - - when people are pounding the table demanding transparency from the PA - - that the New York bill currently being considered for amendment here today was essentially developed behind the scenes and passed with no public meeting, no public input and no public discussion. It seems to have been done with no transparency at all. As it stands, it is hardly the model of a transparent legislation or public policy process so I applaud your efforts in these hearings.

I mentioned earlier that these events occurred **at** the Port Authority but I re-emphasize that they were neither undertaken nor initiated **by** the Port Authority professional career staff. In each case, these actions were taken by political appointees, patronage appointees whose allegiance and behavior were demonstrably **NOT** in support of the Port Authority or the region but **rather were directed to serve their patron (on the one hand) or they were taken to promote their own self-interest.** The notion of acting for the benefit of the public or the region was far from their agenda. And therein lies a root cause of these recent problems. It goes directly to those who are **NOT** PA career people and these actions were undertaken in brazen defiance of the PA’s long standing policies, operating procedures and by-laws.

In my view, the root cause(s) fall into several categories: first, the inappropriate and politically driven interference in the PA's activities and priorities. This interference was designed specifically to promote a partisan political agenda as opposed to meeting this region's needs.

Second, more than 70 patronage appointees were spread throughout the ranks of the PA staff to serve as eyes and ears for political leaders and their allies. These individuals were **not** selected in accordance with traditional recruitment practices or because of their particular expertise or because there was a particular vacancy in the staffing ranks. They were simply directed to be appointed. These actions were - and are - absolutely wrong. They were counterproductive and divisive.

These two factors have gone a long way to tarnish the organization's reputation and they have impeded the ongoing efforts of the PA to serve this region. The presence of those patronage appointees served to create an environment riddled with dysfunction, suspicion, fear and intimidation. The remnants persist among the staff even to this day. This is most unfortunate in view of the long term challenges facing the PA as it works to modernize the airports, maintain safe bridges and tunnels, port facilities and terminals and execute a myriad of other essential tasks. It is a tribute to the current PA staff that they remain committed to fulfilling their role of public service with professionalism and dedication despite these politically motivated intrusions.

Fortunately, from what I can tell, the current chairman, John Degnan, has exercised outstanding leadership over these past 15 months or so in his effort to lead the board and to re-energize the organization and restore the public trust in the midst of a number of complex and controversial policy issues. This is no easy task after all that has happened and all of the derogatory comments about the PA over these past months. From all reports, his calm demeanor, his sense of reason and his political independence have been exemplary at this critical juncture in the PA's history. I'm fully aware of the proposed provision in the bill which calls for rotating the chair and vice-chair from one state to the other every two years beginning one year from the effective date of this bill. This proposal has merit and I support this waiting period as a way to provide this chairman with sufficient time and space to continue the effort to "get things right".

I have had an opportunity to read the proposed bill with the recommended amendments. My general comments fall into three broad areas.

First, it would seem that legislation ought to be directed mainly toward establishing key public policy requirements but in this bill there are a myriad of basic management practices which would now become a matter of legislative mandate. Many of these requirements such as issuing an annual report or a capital plan are already part and parcel of the Port Authority's management practices and this has been the case for decades. They are readily available on the PA's website. To require these practices (and others) to be a legal mandate strikes me as being superfluous and essentially results in legislating a structure of **inflexibility**. What happens when circumstances change or when other options develop in the future? Apparently new legislation in two

states would be required. Is there really a desire for that? It's been a tortuous process already just to get to this point.

Second, I disagree with the effort to have the Port Authority be subject to direct legislative involvement as a matter of law or to have a liaison person from each state assigned to the Port Authority staff - - again, as a matter of law. To me, this is a clear case of political overreach and flies in the face of long standing provisions of the Port Compact and historical precedent. As I see it, it is counterproductive and can only add to an environment of dysfunction and distrust. It provides an even greater opportunity for exerting political favoritism - - this time from hundreds of legislators in two states. I think it is a grave mistake and I hope these provisions would be deleted from the bill. I completely understand your desire to have the legislators be more involved and I know that it has been particularly frustrating in your dealings with the executive branch. But those frustrations ought not to be resolved by redefining the historical relationship of the PA with the two states. There are several other avenues to pursue that desire.

If you, as legislators, have been thwarted in exercising your "check and balance" function with the executive branch, then that is a problem for you to solve with the executive - - but not by way of hamstringing the PA's professional staff. I'm sure that this frustration is not limited to issues of the Port Authority alone. It seems to pervade the governance of the state more broadly. I urge you not to take out your frustration on the PA when the core problem is elsewhere.

Third, this goes back to my earlier comment about the root cause of these problems. As I mentioned earlier, to me the root cause is the inappropriate involvement of political outsiders and the imposition of patronage appointees into the ranks of the organization. But I see nothing in this bill that addresses that in any way whatsoever. While I completely understand the anger and lashing out, I think the growling has been directed (or misdirected) broadly at the Port Authority - including its staff - - rather than at the source of these inappropriate actions. If this bill is passed what will prevent the continuation of patronage largess? What will prevent the directives from outside the organization which are **not** in the interests of the Port Authority or the region?

There is no question in my mind that patronage appointments should be halted completely once and for all. All recruiting and hiring below the position of Executive Director (or CEO) should be accomplished through normal Human Resource policies and procedures employed by the PA staff. That's clear. Is legislation required to accomplish that? Each governor has the right to nominate six individuals to serve on the PA Board and they can only serve once they are approved by the legislature. In effect, all PA commissioners have received the legislature's seal of approval - - for better or for worse. Is a bill needed to strengthen that legislative responsibility in order to assure a more effective outcome?

In addition, a key point - - - any policy directive from outside the organization that is not consistent with the proper role, responsibility and policies of the Port Authority must be resisted by the PA Board. This is a crucial and intrinsic element of their role. It is their fundamental responsibility to act on behalf of the organization and its basic regional purpose - - but not as servants of the governor of one state or the other.

They need to stand firm and resist improper requests or directives. Is legislation needed to assure that? That is the basis for the PA being an independent organization - independent from partisan political agendas. The board definitely needs to work **with** the elected officials and business leaders in the ongoing efforts to meet the regional and public interests. Unfortunately, throughout this ordeal and prior to Chairman Degnan's appointment, their silence has been deafening and their apparent subservience has been both disappointing and disheartening.

Finally, in the absence of context, it is not clear why some of these provisions ( e.g. on subsidiaries, lobbyists etc.) are included in the bill so it is difficult to comment on them specifically except to say that they too seem to be superfluous and will undoubtedly add to the PA's bureaucratic load. In addition, it's not clear just how this bill impacts existing provisions as reflected in documents like the Port Compact or the PA By-laws or other laws which apply to the PA. Again, many of the items are already a matter of ongoing and long standing practice at the PA so it is hard to understand the need for legislating them. It would seem to me that the goal of having these practices to be in effect has in fact already been accomplished in great measure. For me, I encourage more continued and constructive vigilance, less legislation.

In conclusion, I support the efforts to "get it right". Those efforts require a clear description or definition of the problem to be solved and an objective focus and assessment of the underlying cause(s). The solution in the form of legislation needs to clearly address those underlying causes. Otherwise the effort misses the target and basically serves as window dressing for the public while allowing for the continuation of the very actions that contributed to these problems in the first place. In the future, others may still be allowed to misuse the Port Authority to meet their own short term political agenda.

In the final analysis, the Port Authority Board (each member's qualifications and commitment having been reviewed and approved by the legislature) together with the senior leaders of the agency need to be able to "live with" the mandates of this bill and still be able to apply top level professionalism and political independence in executing their regional mission. I would hope they have been an integral part of the process of developing these requirements.

I've offered some observations and concerns based on my own experiences over more than three decades but it is they – the current and future leaders - who must carry on the PA mission in today's world - - and in my view they need to do so with your support and collaboration - not retribution, retaliation and punishment, with professionalism - not bureaucracy, with a regional perspective - not with political parochialism. If this bill - - whatever form it takes - - can do that then I think it may be fair to say that you've "gotten it right".

I look forward to continuing the discussion. Thank you.