



GOVERNANCE WORKGROUP: Final Report & Recommendations Adopted by the Executive Committee

August 24, 2016
Webinar Presentation

How did we get here?

- Executive Committee (“EC”) retreat in November 2015
- EC focused on what kind of governing body it felt NYSARC should have to adapt to increasingly complex and challenging environment
- Key features of the right kind of board were “knowledgeable”, “highly principled”, “responsive”, and “representative” measured by whether the board was “participatory, timely, and engaged”
- EC identified that a decision-making body of 148 members that meets only 2x/year cannot possibly meet these key features
- Therefore, Governance Workgroup was established and tasked with looking at how NYSARC can restructure its governance to have a smaller, more effective board while at the same time creating more meaningful regional activities and input

Importance of Governance Reform

- Meet the changing needs of the corporation and the families and individuals it supports
- Difficulty of external environment
- Necessity due to external legal and compliance landscapes

Governance Workgroup Members

| Name | Affiliation |
|---------------------------|--|
| Jack Schuppenhauer, Chair | Immediate Past President (Western Region) |
| Robert DeSio | Executive Committee & Board of Governor Member (Northeast Region) |
| Arthur Stillwell | Executive Committee & Board of Governor Member (Western Region) |
| Shelley Winters | Executive Committee & Board of Governor Member, Officer (Northeast Region) |
| Anne Marie Lockhart | Board of Governor Member (Northeast Region) |
| Randy Schaal | Board of Governor Member (Central Region) |
| Ed Leahy | Board of Governor Member (Southeast Region) |
| Michael Doherty | Executive Director, Chemung |
| Gary Lind | Executive Director, New York City |
| Kate Jerian | General Counsel, State Office |

Governance Workgroup

- Made up of volunteer Board members, including several members of the Executive Committee, as well as Executive Directors
- Tasks were limited to making recommendations regarding:
 - (1) desired and reasonably achievable size for the Board of Governors;
 - (2) functionality and structure of the Delegate Assembly; and
 - (3) utility and function of current regional structure

Governance Workgroup

- Beginning in March 2016, multiple meetings were held, both in person and via phone
- Survey of all BOGs and Executive Directors was completed and analyzed in April 2016 (more on that shortly)
- Just some of the materials reviewed and discussed by the workgroup included:
 - NYSARC By-laws and Chapter Manual
 - Ad Hoc Governance Restructuring Committee resolutions from 2014/2015
 - Non-profit governance resources and industry standards
 - NYSARC committee structure and participation
 - Attendance statistics for BOG meetings
 - Recent board meeting evaluation summaries
 - NYSARC regional structure and responsibilities
 - Weighted voting options
 - Delegate Assembly function and responsibilities
 - Current challenging regulatory and financial environment

Some Statistics

Industry Standards

- Average # of directors on nonprofit boards: **15** (2015 Survey on Board of Directors of Nonprofit Organizations, Stanford Graduate School of Business)
- Average # of standing committees: **4.3** (2013 S&P 500 companies)

NYSARC Standards

- **148** Board members (**almost 10x the average**)
- Approximately 30% of the Board does not attend meetings (reviewed over 7 meetings from April 2013-April 2016)
 - Only 66% attended the April 2016 meeting
 - Only 44% of Chapters sent every available BOG over the last 7 meetings
- **20** Committees (**4.6x the average**)
- **Only about 1/3 of the BOG members are on a committee, with an even smaller number on 2 or more committees**
- Executive Committee met 9x in 2015 and 8x in 2013 & 2014
- In 2016, EC will **meet at least 11 times**, plus mail meetings

2016 NYSARC Governance Survey: Highlights

- Sent to all BOGs and EDS with a return rate of 50%
 - 75% of respondents were BOG; 25% EDs (approx.)
 - 22% from NE region; 32% SE region; 24% Western region; 20% NE region
- Sample top responses when asked for a one-word description of the Board of Governors' current structure:
 - "Cumbersome" (used 16 times); "too large" (20 times)
 - "Antiquated" & "archaic"
 - "Inefficient", "unwieldy", "bloated", "outdated", "dysfunctional", "family", "inclusive", "dedicated", "representative"

Statistics from BOG Survey

82.29%

of respondents who said that the BOG has too many members

74.49%

of respondents who said that the current BOG structure is NOT the right structure for NYSARC

76.53%

of respondents who said participation on at least one committee should be required of each member of the BOG

Statistics from BOG Survey

27%

of respondents who said that the BOG operates effectively

67.71%

of respondents who said that the Delegate Assembly is no longer necessary and that its functions should be transferred to the BOG

Our Own Responses to the Survey and Industry Standards Point Us in a Uniform Direction...

“Change is the law of life and those who look only to the past or present are certain to miss the future.”

- John F. Kennedy

Recommendations

- Following a report by the Governance Workgroup's of its recommendations, some modifications to the proposal were made. As such, the following recommendations have been endorsed by majority vote of the NYSARC Executive Committee.



#1 – Enhance Effective Decision Making With a Smaller But Representative Board That Meets More Frequently

#1 – Reduce BOG Size, Implement Weighted Voting

- Each Chapter will receive 1 BOG representative + 1 alternate BOG with weighted vote to ensure proportionate representation
- Weighted vote will be according to the same formula currently used, except that the cap of 6 will be raised to 10 *provided the Delegate Assembly is eliminated (discussed herein later)*
- NO CHAPTERS LOSE ANY VOTES, and several Chapters gain some votes

| # of Chapter Members | # of Votes |
|----------------------|------------|
| 0-300 | 1 |
| 301-1,000 | 2 |
| 1,001-1,501 | 3 |
| 1,502-2,501 | 4 |
| 2,502-3,501 | 5 |
| 3,502-4,501 | 6 |
| 4,502-5,501 | 7 |
| 5,502-6,501 | 8 |
| 6,502-7,501 | 9 |
| 7,502 and beyond | 10 |

Current Formula: Each Chapter gets between 1-6 members on the BOG based on each Chapter's number of members. BOG current seats 148 individuals, but can go up to 165.

#1 – Reduce BOG Size, Implement Weighted Voting

- BOG will meet at least 4x/year (currently only meets 2x)
- Again, under the “new” formula = same calculation of members but takes the cap from 6 and increases it to 10.
- The Result - 4 Chapters gain votes based on 2015 membership numbers, and none lose.
- *Why?* Allows Chapters with significantly larger membership numbers to gain more equity in the formula and encourages Chapters who would otherwise be capped out to continue to increase their membership.

#1 – Impact of “New” Formula

| Chapter | Membership | Calculated | | Chg. to BOG B. |
|--------------------------|------------|------------|---------------------|----------------|
| | Number | BOG Weight | BOG Weight (10 Cap) | |
| Allegany | 1,029 | 2 | 2 | - |
| Benevolent Society | 400 | 2 | 2 | - |
| Bronx D.C. | 75 | 1 | 1 | - |
| Broome-Tioga | 1,531 | 3 | 3 | - |
| Cattaraugus | 36 | 1 | 1 | - |
| Chautauqua | 1,844 | 3 | 3 | - |
| Chemung | 3,483 | 4 | 4 | - |
| Chenango | 83 | 1 | 1 | - |
| Clinton | 5,272 | 6 | 6 | - |
| Columbia | 388 | 2 | 2 | - |
| Community League | 375 | 2 | 2 | - |
| Delaware | 481 | 2 | 2 | - |
| Dutchess | 501 | 2 | 2 | - |
| Erie | 191 | 1 | 1 | - |
| Essex | 384 | 2 | 2 | - |
| Franklin-Hamilton | 825 | 2 | 2 | - |
| Fulton | 2,730 | 4 | 4 | - |
| Genesee | 901 | 2 | 2 | - |
| Herkimer | 1,457 | 2 | 2 | - |
| Jefferson | 649 | 2 | 2 | - |
| Livingston-Wyoming | 1,288 | 2 | 2 | - |
| Madison-Cortland | 449 | 2 | 2 | - |
| Monroe | 916 | 2 | 2 | - |
| Montgomery | 367 | 2 | 2 | - |
| Nassau | 8,656 | 6 | 10 | 4 |
| New York City | 20,214 | 6 | 10 | 4 |
| Niagara | 585 | 2 | 2 | - |
| Oneida-Lewis | 6,009 | 6 | 7 | 1 |
| Onondaga | 2,176 | 3 | 3 | - |
| Ontario | 404 | 2 | 2 | - |
| Orange | 243 | 1 | 1 | - |
| Orleans | 350 | 2 | 2 | - |
| Oswego | 310 | 2 | 2 | - |
| Otsego | 287 | 1 | 1 | - |
| Putnam | 1,913 | 3 | 3 | - |
| Rensselaer | 382 | 2 | 2 | - |
| Rockland | 11,898 | 6 | 10 | 4 |
| Rome D.C. | 204 | 1 | 1 | - |
| St. Lawrence | 2,459 | 3 | 3 | - |
| Saratoga | 3,575 | 5 | 5 | - |
| Schenectady | 819 | 2 | 2 | - |
| Schoharie | 377 | 2 | 2 | - |
| Schuyler | 414 | 2 | 2 | - |
| Seneca-Cayuga | 385 | 2 | 2 | - |
| Steuben | 1,504 | 3 | 3 | - |
| Suffolk | 4,661 | 6 | 6 | - |
| Sullivan | 731 | 2 | 2 | - |
| Ulster-Greene | 1,540 | 3 | 3 | - |
| Warren-Washington-Albany | 3,903 | 5 | 5 | - |
| Wayne | 659 | 2 | 2 | - |
| Welfare League | 707 | 2 | 2 | - |
| Westchester | 4,564 | 6 | 6 | - |
| West Seneca D.C. | 456 | 2 | 2 | - |
| Yates | 306 | 2 | 2 | - |
| | 106346 | 146 | 159 | 13 |

#1 – Alternate Formula Proposal

- The new weighted vote formula just discussed is the proposal only if the Delegate Assembly is also eliminated (to be discussed in later slides)
- If Delegate Assembly is retained, the weighted vote formula would be the same as current; 1 BOG/community Chapter with a weighted vote of 1-6 (cap remains at 6)
- *Why?* Important in an effort to balance out voting strength between DA and BOG. If DA is eliminated, some additional voting strength for Chapters with larger membership otherwise capped out would move over to BOG when cap is increased to 10. If DA remains, no need to increase the cap from 6 to 10.

#1 – More Details on Alternate BOG

- Each Chapter would receive 1 “primary” BOG representative and 1 “alternate” BOG representative
- Both are elected
- Both receive all communications and board materials
- Both are invited to attend all meetings, but only primary BOG can be heard and vote at meetings
- Only primary BOG’s attendance at meetings is required and will therefore be paid for by NYSARC (alternate BOG can attend if Chapter wishes to sponsor)
- Alternate BOG can attend, deliberate, and vote only if primary BOG is not in attendance with notice to State Office



#2 – Foster Enhanced Regional Communication and Input to the Larger Association

#2 – Increase Number of Regions & Regional Activism

- # of NYSARC Chapter Regions would be increased from 4 to 8. Regions would contain generally proportionate # of Chapters and be determined by BOG in consultation with the Chapters/EDA.
- Current Map Stats: 4 total regions; 3 out of 4 regions are actually larger in size than 9 different U.S. states. In fact, the Central Region is larger than MA and NJ combined!
- Depending on location of regional meetings, some participants have had to drive 4+ hours one way to attend.

NYSARC, Inc.
Proposed Regions



#2 – Proposed Regional Lists

| Region A | Region B | Region C | Region D | Region E | Region F | Region G | Region H |
|--------------------|---------------|--------------|------------------|--------------------------|-------------|-----------------------|---|
| Niagara | Monroe | Onondaga | Broome-Tioga | St. Lawrence | Fulton | Ulster-Greene | Rockland |
| Genesee-Orleans | Wayne | Oswego | Madison-Cortland | Franklin-Hamilton | Montgomery | Columbia | Westchester |
| Erie | Ontario | Jefferson | Chenango | Clinton | Schoharie | Dutchess | Suffolk |
| Chautauqua | Yates | Oneida-Lewis | Otsego | Essex | Schenectady | Putnam | Nassau |
| Cattaraugus | Steuben | Herkimer | Delaware | Warren-Washington-Albany | Saratoga | Sullivan | New York City |
| Livingston-Wyoming | Schuyler | Onondaga | Rome D.C. | | Rensselaer | Orange | Welfare League D.C. |
| Allegany | Chemung | | | | | Community League D.C. | Bronx D.C. |
| West Seneca D.C. | Seneca-Cayuga | | | | | | Benevolent Society (Staten Island D.C.) |

#2 – Increase Regional Activism

- Each of the regions would have 1 Regional V.P., elected by their respective region (same as now)
- Regional VP must organize and hold 2 or more regional meetings annually and bring forward policy and legislative concerns of their region to the State Association.
- Regional meetings shall be open to all NYSARC members.
- *Why?* It is important to foster more frequent and intimate conversations among our regions to allow for greater voice and input in policy decision making.

#2 – New Regions Not Intended to Limit Current or Future Collaborations

- The new regions are most critical for aiding increased advocacy dialogue among smaller, more manageable groups
- These should not stall or stymie current collaborations or any future collaborations
- Changes to regions can be made by the BOG in the future as necessary

#3 – NYSARC Committees

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- Each BOG and alternate BOG would be required to serve on at least one committee/workgroup/taskforce during entire term (over 76% of survey respondents said committee participation should be mandatory; last year only about 1/3 of BOGs served on any committees)
- *Why?* This will automatically increase our participation by BOGs on committees by about 2x. Committee work is critical to the success of NYSARC, and opens the door to future leaders.

#3 – NYSARC Committees

- To allow for increased flexibility, minimum necessary and legally required “board committees” remain in place and allow for task forces and workgroups to do the bulk of our existing work
- Remaining “board committees” would be: Audit, Budget & Finance, Financial Sustainability Review, Joint Committee on Quality and Corporate Compliance, and Legal
- All other current “committees” will remain listed in by-laws as workgroups, but will not require amendments each time a change is needed

#4 – Functions of Delegate Assembly

#4 – Review of Current Role of Delegate Assembly (“DA”)

4 Main Functions

- 1) Vote on Association By-law changes (ABLs, Article XIV)
- 2) Elect Officers and BOGs (ABLs Article II, Sec. 2/Article IV, Sec. 4)
- 3) Rescind certain actions of BOG by 2/3 vote*(ABLs Article V, Section 6)
- 4) Vote on legislative platform and position statements (not required per by-laws – just done traditionally)

#4 –Delegate Assembly's Makeup

- Each Chapter receives 1 delegate for every 50 members, with no cap (different formula than BOG reps)
- Chapters range dramatically with the lowest having 1 delegate and the highest having 405 delegates
- DA is theoretically made up of NYSARCs 106,000+/- members, but Chapters can and do send one or more reps to cast the Chapter's votes
- In reality, the DA is typically the same people as those making up the BOG

Survey Stats - **67.7%** of respondents said DA should be removed and its authority transferred to BOG; almost *62% of Chapters with 6 BOGs also supported this*

#4 – DA Recommendations

- In light of survey responses and reality of the functioning of the DA, the recommendation made by the Governance Workgroup and endorsed by the Executive Committee is for the elimination of the DA along with the increased cap formula for the BOG representation
- BOG would be elected at an annual meeting based upon Chapter nominations
- Other functions of DA would be given to the BOG, with one exception...

#4 – Delegate Assembly’s Power to Rescind

- ABLs Read: “Any action of the Board of Governors may be reviewed at the succeeding Delegate Assembly...such action may be rescinded by affirmative vote...provided that no irrevocable rights of third parties shall be affected.” (Art. V, Sec. 6)
- BUT, the Not-for-Profit Corporation Law § 701 requires that NYSARC must be managed by its board of directors
- Workgroup and Executive Committee members alike agree that giving NYSARC’s membership (a body without fiduciary responsibilities to the corporation) the authority rescind a decision of the Board, presumably made after thoughtful review of materials/data, and the benefit of deliberations and voting, is not desirable and, as is, violates law
- ***If anyone other than the Board has management authority (i.e., NYSARC’s 106,000 members), the law requires those individuals to have the “same obligations and liabilities for managerial acts or omissions as are imposed upon directors”***
- Elimination of DA corrects this concern; even if DA remains, the power to rescind decision of the BOG cannot be maintained

#4 – DA Proposal

- SO....the preferred, primary proposal of both the Governance Workgroup and Executive Committee is that the Delegate Assembly be eliminated and its legally authorized powers be transferred to the Board of Governors
- In short:
 - (a) Eliminate DA; (b) reduce BOG to 1/Chapter + 1 alternate with weighted vote under current formula, except cap is raised to 10
- In the alternative, DA could remain (with the exception of the power to rescind), but the formula for weighted votes for the BOG would change slightly, keeping the cap at 6
 - DA would continue to elect officers/BOGs, vote on by-law amendments

#5 – Makeup of Executive Committee

#5 – NYSARC Executive Committee

- EC will not need to meet as frequently as BOG will meet 4x/year
- Amend by-laws to remove (currently 4) “regional reps” from committee and replace with 4 new regional V.P.s based on 8 regions instead of 4 (end result – same # of individuals on Executive Committee as now)
- Will also continue to include immediate past president in non-voting capacity
- EC would contain at least 1 D.C. rep

Summary of Preferred Proposal

- Reduce BOG to 1 Governor/Chapter with a weighted vote from 1-10 based upon membership
- Eliminate Delegate Assembly and transfer its authority to BOG
- Increase # of NYSARC regions from 4-8
- Slightly modify Executive Committee makeup to include 8 regional VPs, eliminate regional reps, 1 D.C. rep

Other Recommendations

- In addition to conforming changes to implement the previous 6 recommendations discussed in this presentation, what follows are a number of other changes that have been proposed, but not necessarily endorsed by the Executive Committee due to their nature and a lack of time to fully consider them at the July 29, 2016 meeting
 - Authority to remove BOG for cause sits with Executive Committee or BOG
 - Authority to elect replacement to BOG following death, resignation, or disability of officers (other than President) moved from Executive Committee to Board of Governors
 - Imposition of 3 consecutive 2-year term limits for BOG
- *A complete redline of the proposed by-law changes will be provided for review with the regional meeting materials next month.*

Timing of Phase In for Changes

- October 2016 – Changes presented for approval to BOG and DA
 - If approved, majority of Chapters must ratify
 - October 2016 election will see about ½ of current BOG elected to new, 2-year terms (or about 75 individuals) not expiring until October 2018
- January 2017 – Ratification complete
- Note: Law does not allow by-law changes to involuntarily unseat incumbent directors
- Goal is to move as soon as reasonably possible towards the agreed-upon board size of 1 primary/Chapter + 1 alternate
- However, we want to allow this to happen as naturally as it can and allow individual, currently seated BOGs to forfeit remaining terms (if their term goes through October 2018) and choose to be nominated for primary or alternate next fall OR allow those BOGs to stay on through October 2018, EXCEPT that in either event no Chapter will be entitled to greater than their allotted weighted vote beginning with first meeting in 2018 regardless of how many BOGs remain through October 2018

Phasing In Changes

- 36 Chapters have 2 or less BOGs
- 18 Chapters have 3 more more BOGs
 - Next year, any Chapter can nominate who they would like to elect for primary BOG and alternate in October 2017
 - For BOGs with terms extending past October 2017, they can agree to accept primary or alternate designation, voluntarily step down, or stay on BOG through October 2018 (provided that votes only will be cast by primary BOG and not to exceed new formula)

NEXT STEPS

- 1) Discuss proposal further during September regional meetings
- 2) Bring the matter to the Board and Delegate Assembly for vote in October 2016