STATE OF NEW YORK

2852

2019-2020 Regular Sessions

IN SENATE

January 30, 2019

Introduced by Sens. FLANAGAN, LAVALLE -- read twice and ordered printed, and when printed to be committed to the Committee on Finance

AN ACT to amend subpart H of part C of chapter 20 of the laws of 2015, relating to appropriating money for certain municipal corporations and school districts, in relation to authorizing funds in the case of certain tax certiorari challenges or agreed upon settlements; and to permit certain boards of education to establish a tax certiorari stabilization reserve fund

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section 1 of subpart H of part C of chapter 20 of the laws of 2015, relating to appropriating money for certain municipal corporations and school districts, as amended by section 1 of part AAA of chapter 59 of the laws of 2018, is amended to read as follows:

Section 1. Contingent upon available funding, and not to exceed $69,000,000 moneys from the urban development corporation shall be available for a local government entity, which for the purposes of this section shall mean a county, city, town, village, school district or special district, where (i) on or after June 25, 2015, an electric generating facility located within such local government entity has ceased operations, and (ii) the closing of such facility has caused a reduction in the real property tax collections or payments in lieu of taxes of at least twenty percent owed by such electric generating facility**; or where, on or after April 1, 2019, a successful tax certiorari challenge or an agreed upon settlement to the assessment of an electric generating facility by the Long Island Power authority has resulted in either a reduction in the real property tax collections or payments in lieu of taxes of at least twenty percent, or in regards to a settlement agreement a reduction in real property taxes or payments in lieu of taxes of at least twenty percent in the aggregate over the term of the settlement agreement, owed by such electric generating facility or has**

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

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resulted in a real property tax levy increase of over twenty percent of a local government entity. Such moneys attributable to the cessation of operations**, a successful tax certiorari challenge, or an agreed upon settlement**, shall be paid annually on a first come, first served basis by the urban development corporation to such local government entity within a reasonable time upon confirmation from the state office of real property tax services or the local industrial development authority established pursuant to titles eleven and fifteen of article eight of the public authorities law, or the local industrial development agency established pursuant to article eighteen-A of the general municipal law that such cessation**, tax certiorari judgment, or an agreed upon settlement** has resulted in a reduction in the real property tax collections or payments in lieu of taxes, provided, however, that the urban development corporation shall not provide assistance to such local government entity for more than seven years **in the case of the closing of an electric generating facility or in the case of a tax certiorari judgment or agreed upon settlement for not more than fifteen years**, and shall award payments reflecting the loss of revenues due to the cessation of operations**, tax certiorari judgment or an agreed upon settlement** as follows:

Award [~~Year~~] **Years**	Maximum Potential Award
1	no more than eighty percent of loss of revenues
2	no more than seventy percent of loss of revenues
3	no more than sixty percent of loss of revenues
4	no more than fifty percent of loss of revenues
5	no more than forty percent of loss of revenues
6	no more than thirty percent of loss of revenues
7**-15**	no more than twenty percent of loss of revenues

A local government entity shall be eligible for only one payment of funds hereunder per year. A local government entity may seek assistance under the electric generation facility cessation **and tax certiorari** mitigation fund **(i)** once a generator has submitted its notice to the federally designated electric bulk system operator (BSO) serving the state of New York of its intent to retire the facility or of its intent to voluntarily remove the facility from service subject to any return-to-service provisions of any tariff, and that the facility also is ineligible to participate in the markets operated by the BSO**; or (ii) once a final judgment or settlement agreement in a tax certiorari proceeding has been filed or executed**. The date of submission of a local government entity's application for assistance shall establish the order in which assistance is paid to program applicants, except that in no event shall assistance be paid to a local government entity until such time that an electric generating facility has **either (i)** retired or become ineligible to participate in the markets operated by the BSO**, or (ii) a final judgment or settlement agreement in a tax certiorari proceeding has been filed or executed**. For purposes of this section, any local government entity seeking assistance under the electric generation facility cessation **and tax certiorari** mitigation fund must submit an attestation to the department of public service that **either (i)** a facility is no longer producing electricity and is no longer participating in markets operated by the BSO**, or (ii) a final judgment or settlement agreement in a tax certiorari proceeding has been filed or executed**. [~~After~~] **For facilities that have ceased operations after** receipt of such attestation, the department of public service shall confirm such information with the BSO. In the case that the BSO confirms to the department

of public service that the facility is no longer producing electricity and participating in markets operated by such BSO, it shall be deemed that the electric generating facility located within the local government entity has ceased operation. The department of public service shall provide such confirmation to the urban development corporation upon receipt. [~~The~~] **For a facility with a tax certiorari judgment or settlement, the department of public service shall submit such attestation to the urban development corporation upon receipt of the** determination of the amount of such annual payment **which** shall be determined by the president of the urban development corporation based on the amount of the differential between the annual real property taxes and payments in lieu of taxes imposed upon the facility, exclusive of interest and penalties, during the last year of operations and **either (i)** the current real property taxes and payments in lieu of taxes imposed upon the facility, exclusive of interest and penalties **after the cessation of operations or final judgment or settlement agreement in a tax certiorari proceeding, or (ii) the annual reduction on real property taxes or payments in lieu of taxes during the term of a settlement agreement from a tax certiorari proceeding**. The total amount awarded from this program shall not exceed $69,000,000.

§ 2. Tax certiorari stabilization reserve fund. (a) Definitions. As used in this section:

(i) "Board of education" or "board" shall mean the board of education of either: the Port Jefferson union free school district, the Northport-East Northport union free school district, the North Shore central school district, the Island Park union free school district, or any other school district that is impacted by a tax certiorari action brought by the Long Island Power Authority.

(ii) "Tax certiorari stabilization reserve fund" shall mean the tax certiorari stabilization reserve fund established pursuant to this section.

(iii) "School district" or "district" shall mean either: the Port Jefferson union free school district, the Northport-East Northport union free school district, the North Shore central school district, the Island Park union free school district, or any other school district that is impacted by a tax certiorari action brought by the Long Island Power Authority.

(b) The board of education is hereby authorized to establish a tax certiorari stabilization reserve fund to lessen or prevent increases in the school district's real property tax levy resulting from decreases in revenue due to a tax certiorari settlement or judgment provided, however, that no such fund shall be established unless approved by a majority vote of the voters present and voting on a separate ballot proposition therefor at either a special district meeting which the board of education may call for such purpose or at the annual district meeting and election, to be noticed and conducted in either case in accordance with article 41 of the education law. Such separate proposition shall set forth the maximum allowable balance to be deposited and held in the tax certiorari stabilization reserve fund. Moneys shall be paid into and withdrawn from the fund and the fund shall be administered as follows:

(i) The board of education is hereby authorized to receive payments into its tax certiorari stabilization reserve fund from any annual funds it is eligible to receive from the electric generating facility cessation fund. Such received allocations from the electric generating facility cessation fund shall not count against the district's maximum allowable fund balance for its tax certiorari stabilization reserve fund.

(ii) Moneys may be withdrawn from the tax certiorari stabilization reserve fund for any fiscal year to be expended for any lawful purpose to lessen or prevent increases in the district's tax levy. Withdrawals from the fund shall be disclosed in a manner consistent with the required disclosures of similar reserve funds held by the district, including disclosures of similar reserve funds held by the district, including disclosures required by the property tax report card prepared by the district pursuant to the provisions of subdivision 7 of section 1716 of the education law; and deposits and withdrawals made in each fiscal year shall be subject to the district's annual budget approval process.

§ 3. This act shall take effect immediately, provided, however, that the amendments to section 1 of subpart H of part C of chapter 20 of the laws of 2015 made by section one of this act shall not affect the repeal of such subpart and shall be deemed repealed therewith.