

# 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:

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

5 Section 1. Contingent upon available funding, and not to exceed  
6 \$69,000,000 moneys from the urban development corporation shall be  
7 available for a local government entity, which for the purposes of this  
8 section shall mean a county, city, town, village, school district or  
9 special district, where (i) on or after June 25, 2015, an electric  
10 generating facility located within such local government entity has  
11 ceased operations, and (ii) the closing of such facility has caused a  
12 reduction in the real property tax collections or payments in lieu of  
13 taxes of at least twenty percent owed by such electric generating facil-  
14 ity; or where, on or after April 1, 2019, a successful tax certiorari  
15 challenge or an agreed upon settlement to the assessment of an electric  
16 generating facility by the Long Island Power authority has resulted in  
17 either a reduction in the real property tax collections or payments in  
18 lieu of taxes of at least twenty percent, or in regards to a settlement  
19 agreement a reduction in real property taxes or payments in lieu of  
20 taxes of at least twenty percent in the aggregate over the term of the  
21 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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1 resulted in a real property tax levy increase of over twenty percent of  
 2 a local government entity. Such moneys attributable to the cessation of  
 3 operations, a successful tax certiorari challenge, or an agreed upon  
 4 settlement, shall be paid annually on a first come, first served basis  
 5 by the urban development corporation to such local government entity  
 6 within a reasonable time upon confirmation from the state office of real  
 7 property tax services or the local industrial development authority  
 8 established pursuant to titles eleven and fifteen of article eight of  
 9 the public authorities law, or the local industrial development agency  
 10 established pursuant to article eighteen-A of the general municipal law  
 11 that such cessation, tax certiorari judgment, or an agreed upon settle-  
 12 ment has resulted in a reduction in the real property tax collections or  
 13 payments in lieu of taxes, provided, however, that the urban development  
 14 corporation shall not provide assistance to such local government entity  
 15 for more than seven years in the case of the closing of an electric  
 16 generating facility or in the case of a tax certiorari judgment or  
 17 agreed upon settlement for not more than fifteen years, and shall award  
 18 payments reflecting the loss of revenues due to the cessation of oper-  
 19 ations, tax certiorari judgment or an agreed upon settlement as follows:

20	Award [ <del>Year</del> <u>Years</u> ]	Maximum Potential Award
21	1	no more than eighty percent of loss of revenues
22	2	no more than seventy percent of loss of revenues
23	3	no more than sixty percent of loss of revenues
24	4	no more than fifty percent of loss of revenues
25	5	no more than forty percent of loss of revenues
26	6	no more than thirty percent of loss of revenues
27	<u>7-15</u>	no more than twenty percent of loss of revenues

28 A local government entity shall be eligible for only one payment of  
 29 funds hereunder per year. A local government entity may seek assistance  
 30 under the electric generation facility cessation and tax certiorari  
 31 mitigation fund (i) once a generator has submitted its notice to the  
 32 federally designated electric bulk system operator (BSO) serving the  
 33 state of New York of its intent to retire the facility or of its intent  
 34 to voluntarily remove the facility from service subject to any return-  
 35 to-service provisions of any tariff, and that the facility also is inel-  
 36 ible to participate in the markets operated by the BSO; or (ii) once a  
 37 final judgment or settlement agreement in a tax certiorari proceeding  
 38 has been filed or executed. The date of submission of a local govern-  
 39 ment entity's application for assistance shall establish the order in  
 40 which assistance is paid to program applicants, except that in no event  
 41 shall assistance be paid to a local government entity until such time  
 42 that an electric generating facility has either (i) retired or become  
 43 ineligible to participate in the markets operated by the BSO, or (ii) a  
 44 final judgment or settlement agreement in a tax certiorari proceeding  
 45 has been filed or executed. For purposes of this section, any local  
 46 government entity seeking assistance under the electric generation  
 47 facility cessation and tax certiorari mitigation fund must submit an  
 48 attestation to the department of public service that either (i) a facil-  
 49 ity is no longer producing electricity and is no longer participating in  
 50 markets operated by the BSO, or (ii) a final judgment or settlement  
 51 agreement in a tax certiorari proceeding has been filed or executed.  
 52 [~~After~~ For facilities that have ceased operations after receipt of such  
 53 attestation, the department of public service shall confirm such infor-  
 54 mation with the BSO. In the case that the BSO confirms to the department

1 of public service that the facility is no longer producing electricity  
2 and participating in markets operated by such BSO, it shall be deemed  
3 that the electric generating facility located within the local govern-  
4 ment entity has ceased operation. The department of public service shall  
5 provide such confirmation to the urban development corporation upon  
6 receipt. ~~[The]~~ For a facility with a tax certiorari judgment or settle-  
7 ment, the department of public service shall submit such attestation to  
8 the urban development corporation upon receipt of the determination of  
9 the amount of such annual payment which shall be determined by the pres-  
10 ident of the urban development corporation based on the amount of the  
11 differential between the annual real property taxes and payments in lieu  
12 of taxes imposed upon the facility, exclusive of interest and penalties,  
13 during the last year of operations and either (i) the current real prop-  
14 erty taxes and payments in lieu of taxes imposed upon the facility,  
15 exclusive of interest and penalties after the cessation of operations or  
16 final judgment or settlement agreement in a tax certiorari proceeding,  
17 or (ii) the annual reduction on real property taxes or payments in lieu  
18 of taxes during the term of a settlement agreement from a tax certiorari  
19 proceeding. The total amount awarded from this program shall not exceed  
20 \$69,000,000.

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

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

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

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

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

51 (i) The board of education is hereby authorized to receive payments  
52 into its tax certiorari stabilization reserve fund from any annual funds  
53 it is eligible to receive from the electric generating facility cessa-  
54 tion fund. Such received allocations from the electric generating facil-  
55 ity cessation fund shall not count against the district's maximum allow-  
56 able fund balance for its tax certiorari stabilization reserve fund.

1 (ii) Moneys may be withdrawn from the tax certiorari stabilization  
2 reserve fund for any fiscal year to be expended for any lawful purpose  
3 to lessen or prevent increases in the district's tax levy. Withdrawals  
4 from the fund shall be disclosed in a manner consistent with the  
5 required disclosures of similar reserve funds held by the district,  
6 including disclosures of similar reserve funds held by the district,  
7 including disclosures required by the property tax report card prepared  
8 by the district pursuant to the provisions of subdivision 7 of section  
9 1716 of the education law; and deposits and withdrawals made in each  
10 fiscal year shall be subject to the district's annual budget approval  
11 process.

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