

# STATE OF NEW YORK

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7698

2019-2020 Regular Sessions

## IN ASSEMBLY

May 16, 2019

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Introduced by M. of A. RAIA -- read once and referred to the Committee on Corporations, Authorities and Commissions

AN ACT to amend the public authorities law, in relation to prohibiting the Long Island power authority from bringing a tax certiorari challenge against a municipality; and providing for the repeal of certain provisions upon expiration thereof

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

1 Section 1. Legislative intent. The legislature finds and declares that  
2 the Long Island power authority ("LIPA") took over the Long Island  
3 lighting company ("LILCO") in 1998. As part of that takeover, represen-  
4 tatives from both LILCO and LIPA made repeated public representations  
5 that LIPA would drop all outstanding tax certiorari challenges previous-  
6 ly initiated by LILCO, and would not challenge the assessments on its  
7 four "legacy" power plants ("plants") in the future. For over a decade  
8 LIPA adhered to its commitment. In 2010, however, LIPA brought suit  
9 against the county of Nassau, the towns of Brookhaven and Huntington,  
10 and the village of Port Jefferson ("the assessing municipalities"),  
11 alleging that the assessing municipalities have over valued the plants  
12 thereby seeking a reduction in their assessed value and a repayment of  
13 the over-taxes they paid.

14 The legislature further finds that according to LIPA, if these tax  
15 certiorari challenges are successful against the assessing munici-  
16 palities, in addition to a significant reduction in the assessed value  
17 of each plant going forward, the "back-taxes" owed to it would be:  
18 \$500,000,000 from Huntington; \$200,000,000 from Nassau County; and  
19 \$300,000,000 from Brookhaven/Port Jefferson. That refund would be borne  
20 by all taxpayers across the respective municipality, and would be due  
21 immediately. If the assessing municipalities lose at trial, in order to  
22 refund that exorbitant amount of money would require a massive increase  
23 in property taxes for residents in the respective municipality. In addi-

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

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tion, the drastic reduction in the value of each plant would immediately wipe out a significant amount of school taxes generated by such plant to the school district in which the respective plant is located. In the Northport-East Northport school district, if the Northport plant were found to be valued at what LIPA alleges its value to be, the school district would immediately lose one-third of its tax base.

Therefore, the legislature finds LIPA made a number of promises to the Long Island community, federal, state and local elected officials, school districts, and taxpayers in the assessing municipalities that it would not challenge its taxes. That promise was relied upon by the community and upheld by LIPA for years. LIPA broke that promise and therefore the legislature finds it necessary to codify in statute the promises LIPA agreed to before significant financial harm is brought upon the assessing municipalities.

§ 2. Section 1020-f of the public authorities law is amended by adding a new subdivision (a-1) to read as follows:

(a-1) 1. Notwithstanding subdivision (a) of this section, the authority shall not and is prohibited from bringing a tax certiorari challenge against any municipality in which one or more of its electric generating facilities are located, unless the municipality abusively increases the assessment on the authority's property in which such electric generating facility is located.

2. Any tax certiorari challenges the authority, or its predecessor in interest, initiated prior to or after the enactment of the chapter of the laws of two thousand nineteen that added this subdivision against any municipality that was not the result of an abusive assessment increase are deemed void and non-justiciable.

§ 3. This act shall take effect immediately; provided, that this act shall be deemed to have been in full force and effect on and after January 1, 2009; provided further, that any memorandum of understanding or settlement agreement previously entered into between a municipality and the authority as a result of a tax certiorari challenge reducing the assessed value of one of the authority's electric generating facilities shall be deemed void; and provided further, that paragraph 2 of subdivision (a-1) of section 1020-f of the public authorities law added by section two of this act shall expire and be deemed repealed one year after the effective date of this act.