

STATE OF NEW YORK

5201

2019-2020 Regular Sessions

IN SENATE

April 16, 2019

Introduced by Sen. FLANAGAN -- read twice and ordered printed, and when printed to be committed to the Committee on Energy and Telecommunications

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

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

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

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

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

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

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

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