STATE OF NEW YORK

2166

2021-2022 Regular Sessions

IN ASSEMBLY

January 14, 2021

Introduced by M. of A. JACOBSON -- read once and referred to the Committee on Real Property Taxation

AN ACT providing for a partial real property tax exemption for the water filtration plant for the City of Newburgh, Orange County, New York

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

Section 1. Legislative intent. The legislature finds as follows:

a. In 2014, potential contaminants, including Per- and Polyfluoroalkyl Substances (PFAS) were detected in Lake Washington, the primary source for the drinking water supply for the City of Newburgh in Orange County, New York ("the City"). At the time, the level of contamination was at 170 ppt, below the 400 ppt limit then recommended by the U.S. Environmental Protection Agency ("EPA"). When the EPA set a new level of 70 ppt for short-term exposure in May 2016, the City manager declared an emergency.

b. The source of contamination was determined to be PFOS- and PFAS-containing firefighting foam used at Stewart Air National Guard Base for training and emergency purposes. In August 2016, Stewart Air National Guard Base was designated as a state Superfund site to hold the U.S. Department of Defense responsible for full site clean-up.

c. New York State stepped in to assist with and fund the City's water supply hookup to Brown's Pond and then to the Catskill Aqueduct for a longer term, temporary water source. The State also constructed a granular activated carbon treatment facility ("GAC system") at the City's water filtration plant to remove PFAS from the water in Washington Lake. The GAC system became operational in 2018.

d. The City's water filtration plants and the GAC system are located outside the municipal boundaries of the City in the towns of Newburgh and New Windsor in Orange County. Both the county and the town of Newburgh have exempted the City's water supply plants from real property taxation. The City pays real property taxes annually to the town of New

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

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Windsor, and to the Newburgh Enlarged City School District and the Cornwall Central School District.

e. Following the construction of the GAC system, the town of New Windsor reassessed the value of the City's water filtration plant in light of the constructed improvements. The reassessment resulted in a substantial increase in the property tax value and, thus, in taxes. The taxes for the Newburgh Enlarged City School District alone rose from $49,604.25 during the 2016-2017 tax assessment year to $303,046.59 during the 2018-2019 tax assessment year, an increase of nearly $250,000.00.

f. The City has commenced tax certiorari proceedings in the Supreme Court of the State of New York, County of Orange for the 2017-2018 and 2018-2019 tax assessment years bearing Orange County Index Nos. EF005922-2017 and EF007932-2018. The City was required to produce a trial-ready property appraisal in September 2019, but those proceedings were adjourned to May 2020, and no appraisal was filed as a result of the COVID-19 pandemic and related restrictions that closed or significantly curtailed the operation of the New York state court system. During the time such court operations were limited, the City continued to protect its interests by filing tax certiorari proceedings for the subsequent years 2019-2020 and 2020-2021 under Orange County Index Nos. EF005909-2019 and EF003957-2020. The City will have to undertake significant additional expenses to resolve the aforementioned tax certiorari proceedings if the tax relief sought cannot be obtained by legislative action.

g. But for the PFAS contamination of the City's water supply, the construction of the GAC system as an improvement to the City's water filtration plant property would have been unnecessary. The construction of the GAC system has resulted in unbudgeted and unforeseen costs and expenses to the City through no fault of its own.

§ 2. a. Notwithstanding the provisions of section 406 of the real property tax law or any other law, rule or regulation, the City of Newburgh shall be entitled to a partial exemption from real property taxes imposed by the town of New Windsor, the Newburgh Enlarged City School District and the Cornwall Central School District. Such exemption shall be granted to the extent of the increase in the assessment of the water filtration plant property attributable to the construction of the GAC system.

b. As a condition of such exemption, the City shall withdraw and discontinue all of its tax certiorari proceedings against the town of New Windsor.

c. The town of New Windsor, the Newburgh Enlarged City School District and the Cornwall Central School District shall make appropriate corrections to the subject rolls, provide for the refund of those taxes paid and cancel any taxes, fines, penalties, interest or tax liens remaining unpaid.

§ 3. This act shall take effect immediately.