STATE OF NEW YORK

1343--B

Cal. No. 443

2021-2022 Regular Sessions

IN SENATE

January 11, 2021

Introduced by Sen. BROOKS -- read twice and ordered printed, and when printed to be committed to the Committee on Local Government -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading

AN ACT relating to the acquisition of real property by eminent domain

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

Section 1. Acquisition of real property by eminent domain in the New York public service commission designated service territory of water-works corporations located in counties of one million, one hundred thousand or more that are special assessing units as defined in said water-works corporation's tariff as of May first, two thousand nineteen. a. Notwithstanding any provision of the eminent domain procedure law to the contrary, in any proceeding brought pursuant to subdivision two of section sixty-four or subdivision five of section two hundred fifteen of the town law in the New York public service commission designated service territory of water-works corporations located in counties of one million, one hundred thousand or more that are special assessing units as defined in said water-works corporation's tariff as of May first, two thousand nineteen, title shall vest in the town or water district and compensation shall be paid only:

1. upon a decision by the state supreme court that compensation for the real property so condemned shall be determined solely by the income capitalization method of valuation, based on the actual net income as allowed by the public service commission; and

2. upon such court's determination of the amount of such compensation, based upon the income capitalization method, entry of the final judgment, filing of the final decree, and the conclusion of any appeal or

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

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expiration of the time to file an appeal related to the condemnation proceeding.

b. If any court shall utilize any method of compensation other than the income capitalization method, or if the proposed compensation is more than the rate base of the assets taken in condemnation as utilized by the public service commission in setting rates and as certified by the public service commission, the town or water district may withdraw the condemnation proceeding without prejudice or costs to any party.

§ 2. This act shall take effect immediately.