

# STATE OF NEW YORK

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7558--A

R. R. 480

2023-2024 Regular Sessions

## IN ASSEMBLY

May 25, 2023

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Introduced by M. of A. THIELE, PHEFFER AMATO, SMITH, SOLAGES -- read once and referred to the Committee on Governmental Operations -- reported and referred to the Committee on Rules -- amended on the special order of third reading, ordered reprinted as amended, retaining its place on the special order of third reading

AN ACT to amend the legislative law, in relation to the legislative commission on the future of the Long Island Power Authority

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

1 Section 1. Subdivisions 1, 10, 11, and 12 of section 83-n of the  
2 legislative law, as added by section 1 of part JJ of chapter 55 of the  
3 laws of 2022, are amended to read as follows:

4 1. The legislature hereby finds and declares that chapter 517 of the  
5 laws of 1986 created the Long Island Power Authority (LIPA). Said  
6 authority was created, in part, because the decisions by LILCO, the  
7 private utility that provided electricity to Long Island and part of  
8 Queens, "to commence construction of the Shoreham nuclear power plant  
9 and thereafter to continue such construction were imprudent". Further,  
10 the legislature found in chapter 517 of the laws of 1986 that "a situ-  
11 ation threatening the economy, health and safety exists in the service  
12 area". One of the two express purposes of the act was the closure of the  
13 Shoreham nuclear power plant. In 1992, LIPA bought the Shoreham nuclear  
14 power plant. The plant was fully decommissioned in 1994.

15 The second purpose of such chapter 517 was to replace LILCO with a  
16 publicly owned power authority. The legislature found that "There is a  
17 lack of confidence that the needs of the residents and of commerce and  
18 industry in the service area for electricity can be supplied in a reli-  
19 able, efficient and economic manner by the Long Island lighting company  
20 (hereinafter referred to as "LILCO")" and "Such matters of state concern  
21 best can be dealt with by replacing such investor owned utility with a  
22 publicly owned power authority."

23 In 1995, LIPA replaced LILCO as the electric company for its service  
24 area. However, LIPA was never established as a true "publicly owned  
25 power authority" as originally envisioned by the State Legislature.

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

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1 Rather, since 1995, LIPA has opted for a third-party management model  
2 whereby LIPA contracts its responsibility to manage the utility to a  
3 private, investor owned utility company.

4 LIPA is the only utility in the nation that is operated under a third-  
5 party management model. This model has repeatedly failed its customers.  
6 There has been a lack of transparency, oversight, and accountability.  
7 This failure has been most dramatically evidenced in the unacceptable  
8 storm response by LIPA and its third-party contractors during Superstorm  
9 Sandy in 2012 and Tropical Storm Isaias in 2020.

10 After more than 25 years of unsatisfactory management under the third-  
11 party management model, a better alternative must be implemented. That  
12 inquiry must begin with the original intent of chapter 517 of the laws  
13 of 1986, whereby LIPA was to directly manage and operate the utility as  
14 a true public power utility. Initial investigations by LIPA after Trop-  
15 ical Storm Isaias in 2020-2021 indicate that both ratepayer savings and  
16 increased management efficiencies could be achieved through the public  
17 power model.

18 Consequently, it is the purpose of this section to implement the  
19 original vision for LIPA intended by chapter 517 of the laws of 1986, as  
20 a publicly owned power company. The legislature hereby creates a commis-  
21 sion to provide the legislature with the specific actions, legislation,  
22 and timeline necessary to restructure LIPA into a true publicly owned  
23 power authority. The public must participate in that process so that the  
24 new LIPA becomes transparent with proper oversight and accountability.  
25 The legislative commission shall submit its final report to the legisla-  
26 ture no later than ~~[April first]~~ November thirtieth, two thousand twen-  
27 ty-three.

28 10. No later than ~~[December thirty first, two thousand twenty two]~~ May  
29 first, two thousand twenty-three, the commission shall issue a draft  
30 report to the members of the legislature regarding the establishment of  
31 a public power model for the Long Island Power Authority. The commission  
32 shall hold at least one public hearing with a public comment period in  
33 each of the counties comprising the service area of the Long Island  
34 Power Authority on the draft report no later than ~~[February fifteenth]~~  
35 October first, two thousand twenty-three and before issuing a final  
36 report.

37 11. ~~[No later than February first, two thousand twenty three]~~ Within  
38 thirty days of the issuance of the commission's draft report, the comp-  
39 troller shall have the discretion to review the draft report and issue  
40 to the legislature any recommendations relative to the findings  
41 contained in the draft report which relates to the establishment of a  
42 public power model for the Long Island Power Authority.

43 12. No later than ~~[April first]~~ November thirtieth, two thousand twen-  
44 ty-three, the commission shall issue a final report to the members of  
45 the legislature regarding the establishment of a public power model for  
46 the Long Island Power Authority. Such report shall provide any legis-  
47 lation required to implement the public power model.

48 § 2. Severability. If any provision of this act or the application  
49 thereof shall for any reason be adjudged by any court of competent  
50 jurisdiction to be invalid, such judgment shall not affect, impair or  
51 invalidate the remainder of this act, but shall be confined in its oper-  
52 ation to the provision thereof directly involved in the controversy in  
53 which the judgment shall have been rendered.

54 § 3. This act shall take effect immediately.