

STATE OF NEW YORK

952

2023-2024 Regular Sessions

IN ASSEMBLY

January 11, 2023

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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1 Windsor, and to the Newburgh Enlarged City School District and the Corn-
2 wall Central School District.

3 e. Following the construction of the GAC system, the town of New Wind-
4 sor reassessed the value of the City's water filtration plant in light
5 of the constructed improvements. The reassessment resulted in a substan-
6 tial increase in the property tax value and, thus, in taxes. The taxes
7 for the Newburgh Enlarged City School District alone rose from
8 \$49,604.25 during the 2016-2017 tax assessment year to \$303,046.59
9 during the 2018-2019 tax assessment year, an increase of nearly
10 \$250,000.00.

11 f. The City has commenced tax certiorari proceedings in the Supreme
12 Court of the State of New York, County of Orange for the 2017-2018 and
13 2018-2019 tax assessment years bearing Orange County Index Nos.
14 EF005922-2017 and EF007932-2018. The City was required to produce a
15 trial-ready property appraisal in September 2019, but those proceedings
16 were adjourned to May 2020, and no appraisal was filed as a result of
17 the COVID-19 pandemic and related restrictions that closed or signif-
18 icantly curtailed the operation of the New York state court system.
19 During the time such court operations were limited, the City continued
20 to protect its interests by filing tax certiorari proceedings for the
21 subsequent years 2019-2020 and 2020-2021 under Orange County Index Nos.
22 EF005909-2019 and EF003957-2020. The City will have to undertake signif-
23 icant additional expenses to resolve the aforementioned tax certiorari
24 proceedings if the tax relief sought cannot be obtained by legislative
25 action.

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

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

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

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

47 § 3. This act shall take effect immediately.