

**SUPREME COURT OF THE STATE OF NEW YORK**  
***Appellate Division, Fourth Judicial Department***

**434**

**CA 25-00473**

PRESENT: WHALEN, P.J., BANNISTER, GREENWOOD, NOWAK, AND HANNAH, JJ.

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IN THE MATTER OF JAMES ALLARD,  
STEUBEN COUNTY SHERIFF,  
PETITIONER-PLAINTIFF-RESPONDENT,

V

MEMORANDUM AND ORDER

COUNTY OF STEUBEN, STEUBEN COUNTY LEGISLATURE,  
SCOTT J. VAN ETEN, IN HIS CAPACITY AS CHAIR OF  
STEUBEN COUNTY LEGISLATURE AND JACK WHEELER,  
IN HIS CAPACITY AS COUNTY MANAGER FOR COUNTY OF STEUBEN,  
RESPONDENTS-DEFENDANTS-APPELLANTS.

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COUGHLIN & GERHART, LLP, BINGHAMTON (NICHOLAS S. CORTESE OF COUNSEL),  
FOR RESPONDENTS-DEFENDANTS-APPELLANTS.

BALONAS LABOR LAW, PITTSFORD (KARLEE S. BOLANOS OF COUNSEL), FOR  
PETITIONER-PLAINTIFF-RESPONDENT.

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Appeal from a judgment (denominated decision and order) of the Supreme Court, Steuben County (Jason L. Cook, J.), entered November 25, 2024, in a proceeding pursuant to CPLR article 78 and declaratory judgment action. The judgment, among other things, declared Local Law No. 11 of 2023 invalid.

It is hereby ORDERED that the judgment so appealed from is unanimously modified on the law by vacating the first three decretal paragraphs and granting judgment in favor of respondents-defendants as follows:

It is ADJUDGED and DECLARED that Local Law No. 11 of 2023 of the County of Steuben is valid,

and as modified the judgment is affirmed without costs.

Memorandum: Petitioner-plaintiff (petitioner) commenced this hybrid CPLR article 78 proceeding and declaratory judgment action seeking, among other things, to invalidate Resolution 183-23 of respondent-defendant Steuben County Legislature (County Legislature), enacted as Local Law No. 11 of 2023 (Local Law No. 11). Local Law No. 11 repealed a prior local law providing that respondent-defendant County of Steuben (County) would defend and indemnify the County Sheriff. Following limited discovery and a hearing at which petitioner testified, Supreme Court converted the proceeding-action to an action for a declaratory judgment and issued a judgment

(denominated decision and order) that, among other things, invalidated Local Law No. 11. We agree with respondents-defendants (respondents) that the court erred in invalidating Local Law No. 11, and we modify the judgment accordingly.

Preliminarily, we conclude that the court properly converted the hybrid proceeding-action into a declaratory judgment action (see *Jones v Town of Carroll*, 32 AD3d 1216, 1218 [4th Dept 2006], *appeal dismissed* 12 NY3d 880 [2009]). "The general rule is that an article 78 proceeding is unavailable to challenge the validity of a legislative act" (*Matter of Save the Pine Bush v City of Albany*, 70 NY2d 193, 202 [1987]; see *Parker v Town of Alexandria*, 138 AD3d 1467, 1467-1468 [4th Dept 2016]). "When the challenge is directed at the procedures followed by the legislature rather than the substance of the enactment, however, 'it is maintainable in an article 78 proceeding' " (*Byrnes v Senate of State of N.Y.*, 228 AD3d 1363, 1365 [4th Dept 2024], *appeal dismissed* 41 NY3d 1022 [2024], *lv dismissed in part & denied in part* 41 NY3d 1024 [2024], quoting *Save the Pine Bush*, 70 NY2d at 202).

Here, petitioner does not allege that there was any procedural error in the enactment of Local Law No. 11 (*cf. Matter of Cobbs Hill Vil. Tenants' Assn. v City of Rochester*, 194 AD3d 1437, 1438 [4th Dept 2021]), but instead challenges only the motivation for the law's enactment. To that end, an action taken by a legislature in its administrative capacity may be reviewed "to determine whether there exists a rational basis for its determination or whether that determination was arbitrary or capricious" (*Staller v County of Suffolk*, 139 AD2d 726, 726 [2d Dept 1988], *lv denied* 73 NY2d 701 [1988]; see generally *Matter of Foley v Masiello*, 38 AD3d 1201, 1202 [4th Dept 2007]). "An action or a determination is deemed to be administrative where it is characterized by its individualized application, limited duration, and informal adoption, e.g., resolution by the governing body" (*Town of Webster v Village of Webster*, 280 AD2d 931, 933 [4th Dept 2001] [internal quotation marks omitted]; see *Foley*, 38 AD3d at 1202; *Bennett Rd. Sewer Co. v Town Bd. of Town of Camillus*, 243 AD2d 61, 66 [4th Dept 1998]). The present case, however, does not involve, for example, a municipal body's administrative acts as an employer with respect to an alleged bad faith termination of a single employee (see *Matter of Penale v County of Niagara*, 170 AD2d 965, 965 [4th Dept 1991]) or the legislature's use of condemnation authority against a specified parcel of real property (see *Matter of Faith Temple Church v Town of Brighton*, 17 AD3d 1072, 1072-1073 [4th Dept 2005]; *Village Auto Body Works v Incorporated Vil. of Westbury*, 90 AD2d 502, 502 [2d Dept 1982]). Instead, the County Legislature's determination whether to indemnify the County Sheriff is applicable to the office, not to any individual electee, and the County Legislature may effect or repeal indemnification of the County Sheriff only through the enactment of a local law (*cf. Town of Webster*, 280 AD2d at 933; see generally *Mosey v County of Erie*, 117 AD3d 1381, 1385 [4th Dept 2014]). The County Legislature's enactment of Local Law No. 11 is therefore a legislative, rather than an administrative, action (see generally *Town*

of Webster, 280 AD2d at 933).

The court thus properly determined the action was one for only a declaratory judgment (see *Matter of Benderson Dev. Co. v Swiatek*, 162 AD2d 1023, 1024 [4th Dept 1990]; cf. *Matter of Krug v County of Lewis*, 296 AD2d 834, 834 [4th Dept 2002], lv denied 99 NY2d 501 [2002]). Nonetheless, we agree with respondents that the court erred in invalidating Local Law No. 11 on the ground that its enactment was an arbitrary and capricious action taken in "bad faith."

"[L]egislative enactments [are] supported by a presumption of validity so strong as to demand of those who attack them a demonstration of invalidity beyond a reasonable doubt, and the courts strike them down only as a last unavoidable result" (*Matter of Van Berkel v Power*, 16 NY2d 37, 40 [1965]; see *Overstock.com, Inc. v New York State Dept. of Taxation & Fin.*, 20 NY3d 586, 593 [2013], cert denied 571 US 1071 [2013]). "[I]f any state of facts known[,] or to be assumed, justifies the disputed [legislation], th[e] court's power of inquiry ends" (*Lighthouse Shores v Town of Islip*, 41 NY2d 7, 11-12 [1976]; see *White v Cuomo*, 38 NY3d 209, 217 [2022]). Although the presumption of validity afforded to a legislative enactment is not irrefutable and may be defeated by, for example, a meritorious challenge to its constitutionality (see generally *41 Kew Gardens Rd. Assoc. v Tyburski*, 70 NY2d 325, 333 [1987]), here petitioner relies solely on an alleged improper animus on the part of the County Legislature. In reviewing the substance of a legislative enactment such as this one, however, the separation-of-powers doctrine requires that courts generally "not be concerned with questions as to the 'reasonableness, wisdom and propriety' " of (*Lincoln Bldg. Assoc. v Barr*, 1 NY2d 413, 415 [1956]; see generally *New York City Health & Hosps. Corp. v McBarnette*, 84 NY2d 194, 203-204 [1994], rearg denied 84 NY2d 865 [1994]), or the purported motivation for, the enactment (see *People v Stover*, 12 NY2d 462, 466 [1963]; see generally McKinney's Cons Laws of NY, Book 1, Statutes § 151; *Sharkey v Thurston*, 268 NY 123, 127 [1935]). Petitioner therefore did not meet his heavy burden of establishing the invalidity of Local Law No. 11 beyond a reasonable doubt (see generally *White*, 38 NY3d at 216; *Van Berkel*, 16 NY2d at 40).

In light of the foregoing, we conclude that the court erred in invalidating Local Law No. 11 and therefore modify the judgment by vacating the first three decretal paragraphs and granting judgment in favor of respondents by declaring that Local Law No. 11 is valid. We have reviewed respondents' remaining contention and conclude that it does not warrant further modification of the judgment.