Decentralization of Local Government on Long Island

The casebook (“CB”) for this class is *Cases and Materials on State and Local Government Law* (Ninth Edition), by Briffault, Reynolds, Davidson, Scharff and Su.

Please read pp. 8-36 and 51-54 in the casebook, and the below hyperlinked report.

The Long Island Index was a project of the Rauch Foundation from 2003-2018 that gathered and published data about the Long Island region. In 2012, the Long Island Index published a report entitled “Who Provides Services on Long Island” that described the multiplicity of local government entities on Long Island. The maps for municipal geographic boundaries and service providers referenced in the Long Island Index report have been updated by Newsday’s nextLI project at https://next.newsday.com/map/boundaries/ and https://next.newsday.com/map/service-providers/

Keeping in mind the points made about the distribution of power by Madison, de Tocqueville and Tiebout (at pp. 17-36 of the casebook), should local government on Long Island be more centralized or is the current structure of local government appropriate?

- **If your last name begins with the letter “A” through the letter “O”,** please be prepared to discuss the strongest arguments for maintaining the current decentralized structure of local government on Long Island. Which municipal services are best delivered on a decentralized basis?

- **If your last name begins with the letter “P” through “Z”,** please be prepared to discuss the strongest arguments for more centralized delivery of local government services? Which municipal services do you think could be most improved by greater centralization? How do you think more centralization could be achieved most effectively?
State and Local Government Law Class 2
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State Constitutional Law

Please read CB, pp. 55-56, 63-77, 89-90 (Note on “Positive Rights”) and the following hyperlinked materials:

1) The New York State Constitution

Please review Protections in the New York State Constitution Beyond the Federal Bill of Rights, pp. 24-32.

Unlike the federal Constitution, the New York State Constitution includes affirmative obligations for the government to provide specified services and programs, including the provisions related to public education, aid to the needy, housing and conservation described in the above article.

What are the advantages and disadvantages of having detailed program and regulatory commitments articulated in the constitution rather than in statutes?

Are there any reasons why this level of detail might be more suitable in state constitutions rather than the federal Constitution?

The Environmental Rights Amendment of 2021

In 2021, New York State’s voters approved a referendum to add the Environmental Rights Amendment (“ERA”) to the State Constitution’s Bill of Rights. https://ballotpedia.org/New_York_Proposal_2,_Environmental_Rights_Amendment_(2021)

New Article I, §19 of the Constitution provides: “Each person shall have a right to clean air and water, and a healthful environment.” How does this compare to the Pennsylvania Environmental Defense Foundation v Commonwealth? Does the New York ERA contain language similar to the clause in the Pennsylvania ERA on which the court in Pennsylvania Environmental Defense Foundation v Commonwealth? Does the New York ERA contain language similar to the clause in Pennsylvania Environmental Defense Foundation v Commonwealth based its decision?
Note 1 following *Pennsylvania Environmental Defense Foundation v Commonwealth* (on page 72 of the casebook) compares Pennsylvania’s ERA to Article XIV of the New York State Constitution. Section 4 of Article XIV, which was approved by the voters in 1969, has made it the policy of this state to “conserve and protect its natural resources and scenic beauty” and requires the legislature to implement that policy by enacting legislation that, among other things, provides “for the abatement of air and water pollution.”

i. Does the New York ERA afford rights or establish duties that do not exist independently under Article XIV and the body of federal, state and local environmental protection laws and regulations that were already in force prior to its adoption?

ii. What potential benefits do you think the proponents of the ERA hoped would be achieved by its enactment?

iii. What risks or problems could the general language of the ERA pose according to those who opposed it?

Note 2 on pages 73-75 of the casebook observes that the values recognized in a state constitution can reflect the particular history and experience in that state. How did Pennsylvania’s history impact the values expressed in its ERA as interpreted by the court in *Pennsylvania Environmental Defense Foundation v Commonwealth*? How do you think the political and economic history of New York might impact the interpretation of this state’s Environmental Rights Amendment?