

1961--A

2013-2014 Regular Sessions

I N S E N A T E

(PREFILED)

January 9, 2013

Introduced by Sen. GRIFFO -- read twice and ordered printed, and when printed to be committed to the Committee on Education -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to establish an energy system tax stabilization reserve fund in the Lowville Central School District to lessen or prevent increases in the school district's real property tax levy

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

- 1 Section 1. Legislative findings. The legislature hereby finds that the
2 private development and ownership of wind energy systems located within
3 the Lowville Central School District may result in instability in the
4 real property tax base and the budgets of the district due to the uncer-
5 tainty with the assessments of such wind energy systems at the time the
6 payments in lieu of taxes terminate.
7 S 2. Definitions. As used in this act:
8 (a) "Board of education" or "board" means the board of education of
9 the Lowville Central School District.
10 (b) "Energy system tax stabilization reserve fund" or "fund" means the
11 energy system tax stabilization reserve fund established pursuant to
12 this act.
13 (c) "Payments in lieu of taxes" or "payments" means payments in lieu
14 of taxes receivable by the school district pursuant to contracts entered
15 into in accordance with section 487 of the real property tax law or
16 subdivision 15 of section 858 of the general municipal law on any wind
17 energy system located wholly or partially within the Lowville Central
18 School District.
19 (d) "School district" or "district" means the Lowville Central School
20 District.

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

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(e) "Wind energy systems" shall be defined as in section 487 of the real property tax law and shall include the land upon which the system is located, any equipment used in such generation, and equipment leading from the system to the interconnection with the transmission system.

S 3. The board of education is hereby authorized to establish an energy system tax stabilization reserve fund to lessen or prevent increases in the school district's real property tax levy resulting from decreases in revenue due to changes in the amount of or termination of payments in lieu of taxes receivable by the school district provided, however, that no such fund shall be established unless approved by a majority vote of the qualified voters of the district present and voting on a separate ballot proposition therefor at either a special district meeting which the board of education may call for such purposes, or at the annual district meeting and election, to be noticed and conducted in either case in accordance with the provisions of article 41 of the education law. Further, the notice of the special district meeting or annual district meeting and election, as applicable, at which such ballot proposition shall be presented to the voters, shall explain the means by which moneys shall be paid into and withdrawn from such fund as set forth hereinafter in subdivisions (a) and (c) of this section. Moneys shall be paid into and withdrawn from the fund, and the fund shall be administered, as follows:

(a) For any school district fiscal year commencing after the effective date of this act and after the establishment of the energy system tax stabilization reserve fund, the board of education may determine that there shall be paid into the fund all or any portion of the amount by which the payments in lieu of taxes receivable by the school district for such fiscal year is not required to prevent an increase in the school tax levy from the immediately preceding fiscal year, provided that no payment into the reserve fund shall cause the balance of the fund to exceed 100 percent of the budget for such immediately preceding fiscal year. Such determination may be amended to reduce the amount paid into the fund in the event that the district's original proposed budget is not approved by the voters.

(b) The board of education is hereby authorized to make a one-time deposit into the energy system tax stabilization reserve fund in an amount not to exceed the balance over any maximum allowable balance as required by any other law that accrued prior to the establishment of the energy system tax stabilization reserve fund as a result of the receipt of any payment in lieu of taxes, provided, however, that no such deposit shall be made unless approved by a majority vote of the qualified voters of the district present and voting on a separate ballot proposition therefor at either a special district meeting which the board of education may call for such purpose, or at the annual district meeting and election, to be noticed and conducted in either case in accordance with the provisions of article 41 of the education law. Further, the notice of the special district meeting or annual district meeting and election, as applicable, at which such ballot proposition shall be presented to the voters, shall explain the means by which moneys shall be paid into and withdrawn from such fund as set forth hereinafter in subdivisions (a) and (c) of this section.

(c) Moneys may be withdrawn from the energy system tax stabilization reserve fund subject to the following limitations:

(1) For any fiscal year for which payments in lieu of taxes receivable by the school district equal or exceed the amount of such payments

1 received for the immediately preceding fiscal year, no amount shall be
2 withdrawn from the fund.

3 (2) For any fiscal year for which payments in lieu of taxes receivable
4 by the school district are less than the amount of such payments
5 received for the immediately preceding fiscal year, the board of educa-
6 tion may authorize a withdrawal from the fund in an amount not to exceed
7 the amount of the payments received for the immediately preceding year
8 less the amount of the payments receivable for the fiscal year for which
9 the budget and tax levy is being determined provided, however, that no
10 such withdrawal shall be made unless approved by a majority of the qual-
11 ified voters of the district present and voting on a separate ballot
12 proposition therefor at the annual district meeting and election, in
13 accordance with the provisions of article 41 of the education law.

14 (3) For any fiscal year for which the school district does not antic-
15 ipate receiving any payments in lieu of taxes, the board of education
16 may authorize a withdrawal from the fund in an amount not to exceed the
17 amount of such payments received for the last preceding fiscal year for
18 which such payments were received plus the amount, if any, which the
19 board of education authorized to be withdrawn from the fund for such
20 last preceding fiscal year provided, however, that no such withdrawal
21 shall be made unless approved by a majority of the qualified voters of
22 the district present and voting on a separate ballot proposition there-
23 for at the annual district meeting and election in accordance with the
24 provisions of article 41 of the education law.

25 (4) Notwithstanding paragraph 1 of this subdivision, and in addition
26 to any withdrawal from the fund authorized pursuant to paragraph 2 or 3
27 of this subdivision, moneys may be withdrawn from the fund for any
28 fiscal year to be expended for any other lawful purpose, provided,
29 however, that no such withdrawal and expenditure shall be made unless
30 approved by a majority vote of the qualified voters of the district
31 present and voting on a separate ballot proposition therefor at either a
32 special district meeting which the board of education may call for such
33 purpose, or at the annual district meeting and election, to be noticed
34 and conducted in either case in accordance with the provisions of arti-
35 cle 41 of the education law, such purposes as may be set forth in a
36 separate proposition submitted by the board of education and approved by
37 the qualified voters of the school district.

38 (d) Determinations by the board of education to pay money into the
39 energy system tax stabilization reserve fund, authorizations by the
40 board to withdraw money from the fund, and decisions by the board to
41 submit a ballot proposition to the voters authorizing a withdrawal from
42 the fund shall be made on or before the last date provided by law for
43 the submission to the state education department of the school
44 district's property tax report card pursuant to subdivision 7 of section
45 1716 of the education law.

46 (e) The moneys in the energy system tax stabilization reserve fund
47 shall be deposited, invested and accounted for in the manner provided
48 for in subdivisions 2 and 6 of section 3651 and section 3652 of the
49 education law.

50 S 4. The property tax report card prepared by the school district
51 pursuant to subdivision 7 of section 1716 of the education law shall
52 contain the following information relating to the energy system tax
53 stabilization reserve fund: (a) the balance of the fund as of the start
54 of the current fiscal year, (b) all deposits or withdrawals from the
55 fund for the current fiscal year, (c) an analysis of the impact of such
56 withdrawals on the school district's tax levy for the current fiscal

1 year, (d) proposed deposits and withdrawals for the ensuing fiscal year,
2 and (e) an analysis of the impact of such proposed deposits and with-
3 draws on the projected tax levy for the ensuing fiscal year if the
4 proposed budget is adopted.

5 S 5. When computing the school district's tax levy limit for a school
6 year pursuant to subdivision 3 of section 2023-a of the education law:

7 (a) The payments in lieu of taxes receivable for the prior school year
8 shall be decreased by any amount paid into the energy system tax
9 stabilization reserve fund for such prior school year and increased by
10 any amount withdrawn from the fund for such prior school year.

11 (b) The payments in lieu of taxes receivable in the coming fiscal year
12 shall be decreased by the amount to be paid into the energy system tax
13 stabilization reserve fund for such coming fiscal year and increased by
14 any amount to be withdrawn from the energy system tax stabilization
15 reserve fund for such coming fiscal year.

16 S 6. Notwithstanding the provisions of subdivision (c) of section
17 three of this act and section four of this act, if this act shall take
18 effect later than fourteen days prior to the last date provided by law
19 for the submission to the state education department of the school
20 district's property tax report card for the school district's ensuing
21 fiscal year, then a determination by the board of education to pay money
22 into the fund for the ensuing fiscal year may be made on or before the
23 last date provided by law for the levy of taxes for such ensuing fiscal
24 year. Upon making such determination to pay money into the fund, the
25 board shall cause to be posted on the school district's website a state-
26 ment containing the amount of the payment into the fund and the effect
27 of the payment on the projected tax levy for the ensuing fiscal year.

28 S 7. This act shall take effect immediately.