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Cal. No. 1313

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 -- reported favorably from said committee and committed to the Committee on Finance -- committee discharged and said bill committed to the Committee on Rules -- ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading

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

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

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1 energy system located wholly or partially within the Lowville Central
2 School District.

3 (d) "School district" or "district" means the Lowville Central School
4 District.

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

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23 which moneys shall be paid into and withdrawn from such fund as set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25 shall be paid into and withdrawn from the fund, and the fund shall be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

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

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

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

1 (1) For any fiscal year for which payments in lieu of taxes receivable
2 by the school district equal or exceed the amount of such payments
3 received for the immediately preceding fiscal year, no amount shall be
4 withdrawn from the fund.

5 (2) For any fiscal year for which payments in lieu of taxes receivable
6 by the school district are less than the amount of such payments
7 received for the immediately preceding fiscal year, the board of educa-
8 tion may authorize a withdrawal from the fund in an amount not to exceed
9 the amount of the payments received for the immediately preceding year
10 less the amount of the payments receivable for the fiscal year for which
11 the budget and tax levy is being determined.

12 (3) For any fiscal year for which the school district does not antic-
13 ipate receiving any payments in lieu of taxes, the board of education
14 may authorize a withdrawal from the fund in an amount not to exceed the
15 amount of such payments received for the last preceding fiscal year for
16 which such payments were received plus the amount, if any, which the
17 board of education authorized to be withdrawn from the fund for such
18 last preceding fiscal year.

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

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

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

44 S 4. At the same time that the property tax report card prepared by
45 the school district pursuant to subdivision 7 of section 1716 of the
46 education law is filed and made publicly available, the school district
47 shall also prepare, file with the commissioner of education and make
48 publicly available in the same manner as required for the property tax
49 report card, a report which shall contain the following information
50 relating to the energy system tax stabilization reserve fund: (a) the
51 balance of the fund as of the start of the current fiscal year, (b) all
52 deposits or withdrawals from the fund for the current fiscal year, (c)
53 an analysis of the impact of such withdrawals on the school district's
54 tax levy for the current fiscal year, (d) proposed deposits and with-
55 drawals for the ensuing fiscal year, and (e) an analysis of the impact

1 of such proposed deposits and withdrawals on the projected tax levy for
2 the ensuing fiscal year if the proposed budget is adopted.

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

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

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

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

26 S 7. This act shall take effect immediately.