

3828

2009-2010 Regular Sessions

I N S E N A T E

April 2, 2009

Introduced by Sen. GRIFFO -- read twice and ordered printed, and when printed to be committed to the Committee on Energy and Telecommunications

AN ACT authorizing the establishment of solar or wind or farm waste energy system tax stabilization funds

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

1 Section 1. Legislative findings and declaration. The legislature here-
2 by finds private development and ownership of solar or wind or farm
3 waste energy systems will generate significant, new tax revenue for the
4 municipalities where a solar or wind or farm waste energy system is
5 located. Therefore, in order to provide tax stability to the involved
6 municipalities, the purpose of this legislation is to empower such muni-
7 cipalities to create solar or wind or farm waste energy system tax
8 stabilization reserve funds.
9 S 2. (1) Any municipal corporation in which a solar or wind or farm
10 waste energy system is located may create a solar or wind or farm waste
11 energy system tax stabilization reserve fund.
12 (2) Definitions. As used in this section:
13 (a) "Eligible portion of the annual budget" shall mean:
14 (i) in the case of a county, city, village, school or fire district,
15 the general fund portion of the annual budget;
16 (ii) in the case of a town, the town-wide general fund, and highway
17 fund portions of the annual budget; and
18 (iii) in the case of the part of a town outside any villages, the
19 general fund and highway fund portions of the annual budget for such
20 part of the town.
21 (b) "Municipal corporation" shall mean a county, city, town or
22 village, school district, fire district, or district corporation.
23 (c) "Solar or wind or farm waste energy system" shall be defined as in
24 section 487 of the real property tax law and shall include the land upon

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

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1 which the system is located, any equipment used in such generation, and
2 equipment leading from the system to the interconnection with the trans-
3 mission system, but shall not include any equipment in the transmission
4 system.

5 (d) "Chief fiscal officer" shall mean a chief fiscal officer as
6 defined in paragraph 5 of section 2.00 of the local finance law.

7 (3) The finance board, as defined in paragraph 4 of section 2.00 of
8 the local finance law, of any municipal corporation, in municipal corpo-
9 rations in which at least one solar or wind or farm waste energy system
10 is located, may establish a reserve fund to be known as the solar or
11 wind or farm waste energy system tax stabilization reserve fund.

12 (4) There may be paid into such fund such amounts as may be provided
13 by budgetary appropriation.

14 (5) The moneys in such fund shall be deposited and secured in the
15 manner provided by section 10 of the general municipal law. The finance
16 board, or the chief fiscal officer of such municipal corporation, if the
17 finance board shall delegate such duty thereto, may invest the moneys in
18 such fund in the manner provided by section 11 of the general municipal
19 law. Any interest earned or capital gain realized on the money so depos-
20 ited or invested shall accrue to and become part of such fund.

21 (6) The chief fiscal officer shall account for this fund separate and
22 apart from all other funds of the municipal corporation. Such accounting
23 shall show: the source, date and amount of each sum paid into the fund;
24 the interest earned by such fund; capital gains or losses resulting from
25 the sale of investments of this fund; the order, purpose thereof, date
26 and amount of each payment from this fund; the assets of the fund, indi-
27 cating cash balance and a schedule of investments. The chief fiscal
28 officer, within 60 days of the end of each fiscal year, shall furnish to
29 the finance board and the state comptroller a detailed report of the
30 operation and condition of the fund during the preceding fiscal year
31 which shall include a statement of receipts and disbursements, and a
32 statement of the balance of the fund as of the last day of such preced-
33 ing fiscal year and such other dates as may be specified by the finance
34 board.

35 (7) An expenditure may be made from this fund:

36 (a) to lessen or prevent any projected increase in the amount of the
37 real property tax levy needed to finance the eligible portion of the
38 annual budget for the next succeeding fiscal year as disclosed in the
39 annual school budget that is presented to the voters for approval; and

40 (b) to lessen or prevent any projected increase in the amount of the
41 real property tax levy needed to finance the eligible portion of the
42 annual budget for municipal corporations other than school districts for
43 the next succeeding fiscal year.

44 (8) The members of the finance board are hereby declared trustees of
45 the moneys in the solar or wind or farm waste energy system tax stabili-
46 zation reserve fund and shall be subject to all duties and responsibil-
47 ities imposed by law on trustees, and such duties and responsibilities
48 may be enforced by the municipal corporation or by any board, commis-
49 sion, agency, officer or taxpayer thereof. No member of the finance
50 board shall:

51 (a) authorize a withdrawal from this fund for any purpose except as
52 provided in this act; or

53 (b) expend any moneys withdrawn from this fund for a purpose other
54 than as provided in this act.

55 Any member of the finance board who willfully and knowingly violates
56 the provision of this subdivision shall be guilty of a misdemeanor.

1 (9) If, after the establishment of such fund, the municipal corpo-
2 ration determines that such fund is no longer needed, the moneys remain-
3 ing in such fund may be transferred to any other reserve fund authorized
4 by section 3651 of the education law or the general fund of the municipi-
5 pal corporation that is comprised of moneys which were raised on the
6 same tax base as the moneys in the reserve fund established under this
7 section. Prior to discontinuance of such fund, the chief fiscal officer
8 of such municipal corporation shall certify to the finance board thereof
9 that such funds are no longer needed.

10 S 3. This act shall take effect immediately.