S T A T E O F N E W Y O R K

6840

2009-2010 Regular Sessions

I N A S S E M B L Y

March 13, 2009

Introduced by M. of A. SCOZZAFAVA -- read once and referred to the Committee on Energy

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:

Section 1. Legislative findings and declaration. The legislature hereby finds private development and ownership of solar or wind or farm waste energy systems will generate significant, new tax revenue for the municipalities where a solar or wind or farm waste energy system is located. Therefore, in order to provide tax stability to the involved municipalities, the purpose of this legislation is to empower such municipalities to create solar or wind or farm waste energy system tax stabilization reserve funds.

S 2. (1) Any municipal corporation in which a solar or wind or farm waste energy system is located may create a solar or wind or farm waste energy system tax stabilization reserve fund.

(2) Definitions. As used in this section:

(a) "Eligible portion of the annual budget" shall mean:

(i) in the case of a county, city, village, school or fire district, the general fund portion of the annual budget;

(ii) in the case of a town, the town-wide general fund, and highway fund portions of the annual budget; and

(iii) in the case of the part of a town outside any villages, the general fund and highway fund portions of the annual budget for such part of the town.

(b) "Municipal corporation" shall mean a county, city, town or village, school district, fire district, or district corporation.

(c) "Solar or wind or farm waste energy system" 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

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

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equipment leading from the system to the interconnection with the transmission system, but shall not include any equipment in the transmission system.

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

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

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

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

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

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

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

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

(8) The members of the finance board are hereby declared trustees of the moneys in the solar or wind or farm waste energy system tax stabilization reserve fund and shall be subject to all duties and responsibilities imposed by law on trustees, and such duties and responsibilities may be enforced by the municipal corporation or by any board, commission, agency, officer or taxpayer thereof. No member of the finance board shall:

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

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

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

(9) If, after the establishment of such fund, the municipal corporation determines that such fund is no longer needed, the moneys remaining in such fund may be transferred to any other reserve fund authorized by section 3651 of the education law or the general fund of the municipal corporation that is comprised of moneys which were raised on the same tax base as the moneys in the reserve fund established under this section. Prior to discontinuance of such fund, the chief fiscal officer of such municipal corporation shall certify to the finance board thereof that such funds are no longer needed.

S 3. This act shall take effect immediately.