

S T A T E   O F   N E W   Y O R K

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S. 4539--C

A. 7792--C

2009-2010 Regular Sessions

S E N A T E - A S S E M B L Y

April 24, 2009

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IN SENATE -- Introduced by Sen. LAVALLE -- read twice and ordered printed, and when printed to be committed to the Committee on Local Government -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

IN ASSEMBLY -- Introduced by M. of A. THIELE, ALESSI -- read once and referred to the Committee on Local Governments -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the town law, in relation to payments for certain school, fire, fire protection, and ambulance districts for lands exempt from real property taxation for purposes which implement the Peconic Bay community preservation fund, and permitting the town of Southampton to make such payments in certain cases; and providing for the repeal of certain provisions upon expiration thereof

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

1    Section 1. Subdivision 3 of section 64-e of the town law, as amended  
2    by chapter 373 of the laws of 2008, is amended to read as follows:  
3    3. The purposes of the fund shall be exclusively, (a) to implement a  
4    plan for the preservation of community character as required by this  
5    section, (b) to acquire interests or rights in real property for the  
6    preservation of community character within the town including villages  
7    therein in accordance with such plan and in cooperation with willing  
8    sellers, (c) to establish a bank pursuant to a transfer of development

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

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1 rights program consistent with section two hundred sixty-one-a of this  
2 chapter, (d) to provide a management and stewardship program for such  
3 interests and rights consistent with subdivisions nine and nine-a of  
4 this section and in accordance with such plan designed to preserve  
5 community character; provided that not more than ten percent of the fund  
6 shall be utilized for the management and stewardship program[, and (e)  
7 to make payments to fire, fire protection and ambulance districts in  
8 connection with lands owned by the state or any municipal corporation  
9 within the central pine barrens area as defined in subdivision ten of  
10 section 57-0107 of the environmental conservation law. Such payments may  
11 only be made to districts where more than twenty-five percent of the  
12 assessed value of such district is wholly exempt from real property  
13 taxation pursuant to the real property tax law because it is owned by  
14 the state or a municipal corporation. Not more than ten percent of the  
15 fund may be used for said purpose in any calendar year. School districts  
16 shall also be eligible for such payments, provided (1) that real proper-  
17 ty within such school district has been made wholly exempt from real  
18 property taxation pursuant to the real property tax law to effectuate  
19 the purposes of the fund, and (2) such school district is determined to  
20 be a high need or average need school district pursuant to the need  
21 resource capacity index established by the state education department.  
22 Such payments from the fund shall not exceed the actual tax liability  
23 that would have been due if such lands of the state or of a municipal  
24 corporation had been subject to real property taxation. Where more than  
25 one district is eligible for such a payment under this provision, and  
26 such payment is less than the actual tax liability that would have been  
27 due if such lands of the state or a municipal corporation had been  
28 subject to real property taxation, the town shall apportion such annual  
29 payment on the basis of the total tax levied by each district within the  
30 town for the year such payment is made. Such payment made by the town  
31 shall be used solely to reduce the property tax liability of the remain-  
32 ing taxpayers of the district within said town]. If the implementation  
33 of the community preservation project plan, adopted by a town board, as  
34 provided in subdivision six of this section, has been completed, and  
35 funds are no longer needed for the purposes outlined in this subdivi-  
36 sion, then any remaining monies in the fund shall be applied to reduce  
37 any bonded indebtedness or obligations incurred to effectuate the  
38 purposes of this section.

39 S 2. Notwithstanding any provision of law to the contrary, the town of  
40 Southampton may make annual payments from its community preservation  
41 fund to certain high-tax school, fire, fire protection, and ambulance  
42 districts, listed in this section, located either wholly or partially  
43 within the central pine barrens area as defined in subdivision 10 of  
44 section 57-0107 of the environmental conservation law. Such payments  
45 may be made to mitigate the impact of the loss tax revenues from lands  
46 made wholly exempt as a result of their acquisition by the federal,  
47 state, or local government for the preservation of community character  
48 as defined in subdivision 4 of section 64-e of the town law. The follow-  
49 ing districts shall be eligible: Riverhead School District, Hampton Bays  
50 School District, Eastport-South Manor School District, Riverhead Fire  
51 District, Flanders Fire District, Flanders - Northampton Ambulance  
52 District.

53 S 3. Such payments made by the town of Southampton pursuant to this  
54 act shall only be made for lands within such districts which are wholly  
55 exempt from real property taxation pursuant to the real property tax law  
56 that have been acquired by the federal government, state government, or

1 a municipal corporation for community preservation purposes pursuant to  
2 section 64-e of the town law, whether or not said lands were actually  
3 acquired with community preservation funds. For the purposes of deter-  
4 mining the payment to each eligible district, each eligible parcel shall  
5 be assessed in the same manner as state lands, as provided for in subdivi-  
6 sion one of section 542 of the real property tax law. Such assess-  
7 ments shall be approved by the state board of real property services in  
8 the same manner as state lands, as provided for in subdivision 3 of  
9 section 542 of the real property tax law. Such eligible parcels shall  
10 be reassessed annually. The town shall apply each eligible district's  
11 tax rate to determine the maximum payment for each eligible parcel in  
12 that district.

13 S 4. Where the total annual budget appropriation by the town for the  
14 payments provided for by this act is less than the aggregate payments  
15 for all districts, then the town shall apportion such annual payment for  
16 each district based on a percentage calculated as a proportion of each  
17 district's payment to the aggregate of payments to all districts. In  
18 such case, each district shall receive its proportional share of the  
19 budget appropriation. Such payment made by the town shall be used sole-  
20 ly to reduce the property tax liability of the remaining taxpayers of  
21 the district within such town. Not more than 10 percent of the fund  
22 collected in any fiscal year may be used for the purpose outlined in  
23 this section. The last fiscal year for which twelve full months of  
24 collected revenue is available shall be used to determine the maximum  
25 appropriation permitted by this section. The maximum percentage of the  
26 fund to be appropriated for such payments for any year or years may be  
27 reduced below 10 percent by an election upon proposition pursuant to  
28 section 81 of the town law.

29 S 5. The town board shall adopt an annual plan before the payments  
30 authorized by this act may be made. No monies from the fund shall be  
31 expended for such payments, except as approved in said plan. Said plan  
32 shall specify each parcel eligible for a payment and shall provide for  
33 the amount of payment for each eligible parcel for the current fiscal  
34 year as well as an estimate for the following fiscal year. In addition,  
35 such plan shall provide the assessed value of each eligible parcel. Said  
36 plan shall be approved and adopted by the town board after a public  
37 hearing.

38 S 6. All local laws enacted by the town of Southampton pursuant to  
39 chapter 250 of the laws of 2002 and chapter 531 of the laws of 2007, are  
40 hereby legalized, validated, ratified, and confirmed. All appropri-  
41 ations by the town of Southampton to the Riverhead school district,  
42 Hampton Bays school district, Eastport-South Manor school district,  
43 Riverhead fire district, Flanders fire district, Flanders - Northampton  
44 ambulance district pursuant to paragraph (e) of subdivision 3 of section  
45 64-e of the town law for the years 2006, 2007, 2008, and 2009 are hereby  
46 legalized, validated, ratified, and confirmed, provided that the town of  
47 Southampton shall repay to its community preservation fund, established  
48 pursuant to subdivision 2 of section 64-e of the town law, an amount  
49 equal to the aggregate overpayments made to the aforementioned school  
50 and special districts for the years 2006, 2007, 2008, and 2009, includ-  
51 ing overpayments resulting from the incorrect assessment of lands eligi-  
52 ble for payments, pursuant to paragraph (e) of subdivision 3 of section  
53 64-e of the town law. The state comptroller shall review, confirm and  
54 certify the amount of such overpayments. Within thirty days of such  
55 certification, the town board of the town of Southampton shall prepare a  
56 repayment plan and submit such plan to the state comptroller for

1 approval or approval with modifications. The state comptroller shall act  
2 to approve or approve with modifications within thirty days of  
3 submission of the repayment plan by the town of Southampton. The town  
4 shall implement the repayment plan as approved or approved with modifi-  
5 cations by the state comptroller.  
6 S 7. This act shall take effect immediately, provided that the  
7 provisions of sections two, three, four, five and six of this act shall  
8 remain in full force and effect until December 31, 2030 when upon such  
9 date, the provisions of such sections shall expire and be deemed  
10 repealed.