

S. 3036

A. 4766

2011-2012 Regular Sessions

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

February 7, 2011

IN SENATE -- Introduced by Sen. LAVALLE -- read twice and ordered printed, and when printed to be committed to the Committee on Local Government

IN ASSEMBLY -- Introduced by M. of A. THIELE -- read once and referred to the Committee on Local Governments

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
9 rights program consistent with section two hundred sixty-one-a of this
10 chapter, AND (d) to provide a management and stewardship program for
11 such interests and rights consistent with subdivisions nine and nine-a
12 of this section and in accordance with such plan designed to preserve
13 community character; provided that not more than ten percent of the fund
14 shall be utilized for the management and stewardship program[, and (e)
15 to make payments to fire, fire protection and ambulance districts in
16 connection with lands owned by the state or any municipal corporation
17 within the central pine barrens area as defined in subdivision ten of

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

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

30 S 2. Notwithstanding any provision of law to the contrary, the town of
31 Southamptton may make annual payments from its community preservation
32 fund to certain high-tax school, fire, fire protection, and ambulance
33 districts, as specified in this section, located either wholly or
34 partially within the central Pine Barrens area as defined in subdivision
35 10 of section 57-0107 of the environmental conservation law. Such
36 payments may be made to mitigate the impact of the lost tax revenues
37 from lands made wholly exempt as a result of their acquisition by the
38 federal, state, or local government for the preservation of community
39 character as defined in subdivision 4 of section 64-e of the town law.
40 The following districts shall be eligible: Riverhead central school
41 district, Hampton Bays union free school district, Eastport-South Manor
42 central school district, Riverhead fire district, Flanders fire
43 district, Flanders - Northampton ambulance district, and the North End
44 Quogue fire protection district.

45 S 3. Such payments made by the town of Southamptton pursuant to this
46 act shall only be made for lands within such districts which are wholly
47 exempt from real property taxation pursuant to the real property tax law
48 that have been acquired by the federal government, state government, or
49 a municipal corporation for community preservation purposes pursuant to
50 section 64-e of the town law, whether or not said lands were actually
51 acquired with community preservation funds. For the purposes of deter-
52 mining the payment to each eligible district, each eligible parcel shall
53 be assessed as provided for in the real property tax law. Such assess-
54 ments shall be approved by commissioner of taxation and finance in the
55 same manner as state lands, as provided for in subdivision 3 of section
56 542 of the real property tax law. Such eligible parcels shall be reas-

1 sessed annually. The town shall apply each eligible district's tax rate
2 to determine the maximum payment for each eligible parcel in that
3 district for each year.

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

20 S 5. The town board shall adopt an annual plan before the payments
21 authorized by this act may be made. No monies from the fund shall be
22 expended for such payments, except as approved in said plan. Said plan
23 shall specify each parcel eligible for a payment and shall provide for
24 the amount of payment for each eligible parcel for the current fiscal
25 year as well as an estimate for the following fiscal year. In addition,
26 such plan shall provide the assessed value of each eligible parcel. Said
27 plan shall be approved and adopted by the town board after a public
28 hearing.

29 S 6. All appropriations by the town of Southampton to the Riverhead
30 central school district, Hampton Bays union free school district, East-
31 port-South Manor central school district, Riverhead fire district, Flan-
32 ders fire district, Flanders - Northampton ambulance district, and the
33 North End Quogue fire protection district pursuant to paragraph (e) of
34 subdivision 3 of section 64-e of the town law for the years 2008, and
35 2009 are hereby legalized, validated, ratified, and confirmed, provided
36 that the town of Southampton shall repay to its community preservation
37 fund, established pursuant to subdivision 2 of section 64-e of the town
38 law, from its general fund or capital fund an amount equal to \$664,647,
39 said amount representing the aggregate overpayments made to the afore-
40 mentioned school and special districts for the years 2008, and 2009, as
41 determined by the Office of the State Comptroller in an audit entitled
42 "Town of Southampton, Peconic Bay Community Preservation Fund, Payment
43 in Lieu of Taxes, Period Covered January 1, 2008-June 30, 2009", dated
44 November 2010. If such repayment shall be made from the capital fund,
45 the period of probable usefulness for such indebtedness shall be twenty
46 years. In the alternative, the town may provide for the dedication of
47 additional lands to the community preservation fund with a fair market
48 value equal to \$664,647 or more, said lands shall not have been acquired
49 with monies from the community preservation fund.

50 S 7. This act shall take effect immediately, provided that the
51 provisions of sections two, three, four and five of this act shall
52 remain in full force and effect until December 31, 2030 when upon such
53 date the provisions of such sections shall expire and be deemed
54 repealed.