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

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I N A S S E M B L Y

April 18, 2012

Introduced by M. of A. BLANKENBUSH -- read once and referred to the Committee on Real Property Taxation

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:

Section 1. Legislative findings. The legislature hereby finds that the private development and ownership of wind energy systems located within the Lowville Central School District may result in instability in the real property tax base and the budgets of the district due to the uncertainty with the assessments of such wind energy systems at the time the payments in lieu of taxes terminate.

S 2. Definitions. As used in this act:

(a) "Board of education" or "board" means the board of education of the Lowville Central School District.

(b) "Energy system tax stabilization reserve fund" or "fund" means the energy system tax stabilization reserve fund established pursuant to this act.

(c) "Payments in lieu of taxes" or "payments" means payments in lieu of taxes receivable by the school district pursuant to contracts entered into in accordance with section 487 of the real property tax law or subdivision 15 of section 858 of the general municipal law on any wind energy system located wholly or partially within the Lowville Central School District.

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

(e) "Wind energy systems" 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 equipment leading from the system to the interconnection with the transmission system.

S 3. The board of education, without voter approval, is hereby authorized to establish an energy system tax stabilization reserve fund to lessen or prevent increases in the school district's real property tax

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

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levy resulting from decreases in revenue due to changes in the amount of or termination of payments in lieu of taxes receivable by the school district. Moneys shall be paid into and withdrawn from the fund, and the fund shall be administered, as follows:

(a) For any school district fiscal year commencing after the effective date of this act and after the establishment of the energy system tax stabilization reserve fund, the board of education, without voter approval, may determine that there shall be paid into the fund all or any portion of the amount by which the payments in lieu of taxes receivable by the school district for such fiscal year is not required to prevent an increase in the school tax levy from the immediately preceding fiscal year, provided that no payment into the reserve fund shall cause the balance of the fund to exceed 100 percent of the budget for such immediately preceding fiscal year. Such determination may be amended to reduce the amount paid into the fund in the event that the district's original proposed budget is not approved by the voters.

(b) The board of education, without voter approval, is hereby authorized to make a one-time deposit into the energy system tax stabilization reserve fund in an amount not to exceed the balance over any maximum allowable balance as required by any other law that accrued prior to the establishment of the energy system tax stabilization reserve fund as a result of the receipt of any payment in lieu of taxes.

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

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

(2) For any fiscal year for which payments in lieu of taxes receivable by the school district are less than the amount of such payments received for the immediately preceding fiscal year, the board of education, without voter approval, may authorize a withdrawal from the fund in an amount not to exceed the amount of the payments received for the immediately preceding year less the amount of the payments receivable for the fiscal year for which the budget and tax levy is being determined.

(3) For any fiscal year for which the school district does not anticipate receiving any payments in lieu of taxes, the board of education, without voter approval, may authorize a withdrawal from the fund in an amount not to exceed the amount of such payments received for the last preceding fiscal year for which such payments were received plus the amount, if any, which the board of education authorized to be withdrawn from the fund for such last preceding fiscal year.

(4) Notwithstanding paragraph one of this subdivision, and in addition to any withdrawal from the fund authorized pursuant to paragraph two or three of this subdivision, moneys may be withdrawn from the fund for any fiscal year in such amount and for such purposes as may be set forth in a separate proposition submitted by the board of education and approved by the qualified voters of the school district.

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

(d) The moneys in the energy system tax stabilization reserve fund shall be deposited, invested and accounted for in the manner provided for in subdivisions two and six of section 3651 and section 3652 of the education law.

S 4. The property tax report card prepared by the school district pursuant to subdivision seven of section 1716 of the education law shall contain the following information relating to the energy system tax stabilization reserve fund: (a) the balance of the fund as of the start of the current fiscal year, (b) all deposits or withdrawals from the fund for the current fiscal year, (c) an analysis of the impact of such withdrawals on the school district's tax levy for the current fiscal year, (d) proposed deposits and withdrawals for the ensuing fiscal year, and (e) an analysis of the impact of such proposed deposits and withdrawals on the projected tax levy for the ensuing fiscal year if the proposed budget is adopted.

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

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

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

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

S 7. This act shall take effect immediately.