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

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:

Section 1. Subdivision 3 of section 64-e of the town law, as amended by chapter 373 of the laws of 2008, is amended to read as follows:

3. The purposes of the fund shall be exclusively, (a) to implement a plan for the preservation of community character as required by this section, (b) to acquire interests or rights in real property for the preservation of community character within the town including villages therein in accordance with such plan and in cooperation with willing sellers, (c) to establish a bank pursuant to a transfer of development rights program consistent with section two hundred sixty-one-a of this chapter, AND (d) to provide a management and stewardship program for such interests and rights consistent with subdivisions nine and nine-a of this section and in accordance with such plan designed to preserve community character; provided that not more than ten percent of the fund shall be utilized for the management and stewardship program[, and (e) to make payments to fire, fire protection and ambulance districts in connection with lands owned by the state or any municipal corporation 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.

LBD05688-03-1

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

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

S 3. Such payments made by the town of Southampton pursuant to this act shall only be made for lands within such districts which are wholly exempt from real property taxation pursuant to the real property tax law that have been acquired by the federal government, state government, or a municipal corporation for community preservation purposes pursuant to section 64-e of the town law, whether or not said lands were actually acquired with community preservation funds. For the purposes of determining the payment to each eligible district, each eligible parcel shall be assessed as provided for in the real property tax law. Such assessments shall be approved by commissioner of taxation and finance in the same manner as state lands, as provided for in subdivision 3 of section 542 of the real property tax law. Such eligible parcels shall be reas-

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

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

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

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

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