

2613--A

2013-2014 Regular Sessions

I N A S S E M B L Y

January 17, 2013

Introduced by M. of A. BLANKENBUSH -- read once and referred to the Committee on Real Property Taxation -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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:

- 1 Section 1. Legislative findings. The legislature hereby finds that the
2 private development and ownership of wind energy systems located within
3 the Lowville Central School District may result in instability in the
4 real property tax base and the budgets of the district due to the uncer-
5 tainty with the assessments of such wind energy systems at the time the
6 payments in lieu of taxes terminate.
- 7 S 2. Definitions. As used in this act:
- 8 (a) "Board of education" or "board" means the board of education of
9 the Lowville Central School District.
- 10 (b) "Energy system tax stabilization reserve fund" or "fund" means the
11 energy system tax stabilization reserve fund established pursuant to
12 this act.
- 13 (c) "Payments in lieu of taxes" or "payments" means payments in lieu
14 of taxes receivable by the school district pursuant to contracts entered
15 into in accordance with section 487 of the real property tax law or
16 subdivision 15 of section 858 of the general municipal law on any wind
17 energy system located wholly or partially within the Lowville Central
18 School District.
- 19 (d) "School district" or "district" means the Lowville Central School
20 District.
- 21 (e) "Wind energy systems" shall be defined as in section 487 of the
22 real property tax law and shall include the land upon which the system

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

LBD01518-03-3

1 is located, any equipment used in such generation, and equipment leading
2 from the system to the interconnection with the transmission system.

3 S 3. The board of education is hereby authorized to establish an ener-
4 gy system tax stabilization reserve fund to lessen or prevent increases
5 in the school district's real property tax levy resulting from decreases
6 in revenue due to changes in the amount of or termination of payments in
7 lieu of taxes receivable by the school district provided, however, that
8 no such fund shall be established unless approved by a majority vote of
9 the qualified voters of the district present and voting on a separate
10 ballot proposition therefor at either a special district meeting which
11 the board of education may call for such purposes, or at the annual
12 district meeting and election, to be noticed and conducted in either
13 case in accordance with the provisions of article 41 of the education
14 law. Further, the notice of the special district meeting or annual
15 district meeting and election, as applicable, at which such ballot
16 proposition shall be presented to the voters, shall explain the means by
17 which moneys shall be paid into and withdrawn from such fund as set
18 forth hereinafter in subdivisions (a) and (c) of this section. Moneys
19 shall be paid into and withdrawn from the fund, and the fund shall be
20 administered, as follows:

21 (a) For any school district fiscal year commencing after the effective
22 date of this act and after the establishment of the energy system tax
23 stabilization reserve fund, the board of education may determine that
24 there shall be paid into the fund all or any portion of the amount by
25 which the payments in lieu of taxes receivable by the school district
26 for such fiscal year is not required to prevent an increase in the
27 school tax levy from the immediately preceding fiscal year, provided
28 that no payment into the reserve fund shall cause the balance of the
29 fund to exceed 100 percent of the budget for such immediately preceding
30 fiscal year. Such determination may be amended to reduce the amount paid
31 into the fund in the event that the district's original proposed budget
32 is not approved by the voters.

33 (b) The board of education is hereby authorized to make a one-time
34 deposit into the energy system tax stabilization reserve fund in an
35 amount not to exceed the balance over any maximum allowable balance as
36 required by any other law that accrued prior to the establishment of the
37 energy system tax stabilization reserve fund as a result of the receipt
38 of any payment in lieu of taxes, provided, however, that no such deposit
39 shall be made unless approved by a majority vote of the qualified voters
40 of the district present and voting on a separate ballot proposition
41 therefor at either a special district meeting which the board of educa-
42 tion may call for such purpose, or at the annual district meeting and
43 election, to be noticed and conducted in either case in accordance with
44 the provisions of article 41 of the education law. Further, the notice
45 of the special district meeting or annual district meeting and election,
46 as applicable, at which such ballot proposition shall be presented to
47 the voters, shall explain the means by which moneys shall be paid into
48 and withdrawn from such fund as set forth hereinafter in subdivisions
49 (a) and (c) of this section.

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

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

1 (2) For any fiscal year for which payments in lieu of taxes receivable
2 by the school district are less than the amount of such payments
3 received for the immediately preceding fiscal year, the board of educa-
4 tion may authorize a withdrawal from the fund in an amount not to exceed
5 the amount of the payments received for the immediately preceding year
6 less the amount of the payments receivable for the fiscal year for which
7 the budget and tax levy is being determined provided, however, that no
8 such withdrawal shall be made unless approved by a majority of the qual-
9 ified voters of the district present and voting on a separate ballot
10 proposition therefor at the annual district meeting and election, in
11 accordance with the provisions of article 41 of the education law.

12 (3) For any fiscal year for which the school district does not antic-
13 ipate receiving any payments in lieu of taxes, the board of education
14 may authorize a withdrawal from the fund in an amount not to exceed the
15 amount of such payments received for the last preceding fiscal year for
16 which such payments were received plus the amount, if any, which the
17 board of education authorized to be withdrawn from the fund for such
18 last preceding fiscal year provided, however, that no such withdrawal
19 shall be made unless approved by a majority of the qualified voters of
20 the district present and voting on a separate ballot proposition there-
21 for at the annual district meeting and election in accordance with the
22 provisions of article 41 of the education law.

23 (4) Notwithstanding paragraph 1 of this subdivision, and in addition
24 to any withdrawal from the fund authorized pursuant to paragraph 2 or 3
25 of this subdivision, moneys may be withdrawn from the fund for any
26 fiscal year to be expended for any other lawful purpose, provided,
27 however, that no such withdrawal and expenditure shall be made unless
28 approved by a majority vote of the qualified voters of the district
29 present and voting on a separate ballot proposition therefor at either a
30 special district meeting which the board of education may call for such
31 purpose, or at the annual district meeting and election, to be noticed
32 and conducted in either case in accordance with the provisions of arti-
33 cle 41 of the education law, such purposes as may be set forth in a
34 separate proposition submitted by the board of education and approved by
35 the qualified voters of the school district.

36 (d) Determinations by the board of education to pay money into the
37 energy system tax stabilization reserve fund, authorizations by the
38 board to withdraw money from the fund, and decisions by the board to
39 submit a ballot proposition to the voters authorizing a withdrawal from
40 the fund shall be made on or before the last date provided by law for
41 the submission to the state education department of the school
42 district's property tax report card pursuant to subdivision 7 of section
43 1716 of the education law.

44 (e) The moneys in the energy system tax stabilization reserve fund
45 shall be deposited, invested and accounted for in the manner provided
46 for in subdivisions 2 and 6 of section 3651 and section 3652 of the
47 education law.

48 S 4. The property tax report card prepared by the school district
49 pursuant to subdivision 7 of section 1716 of the education law shall
50 contain the following information relating to the energy system tax
51 stabilization reserve fund: (a) the balance of the fund as of the start
52 of the current fiscal year, (b) all deposits or withdrawals from the
53 fund for the current fiscal year, (c) an analysis of the impact of such
54 withdrawals on the school district's tax levy for the current fiscal
55 year, (d) proposed deposits and withdrawals for the ensuing fiscal year,
56 and (e) an analysis of the impact of such proposed deposits and with-

1 drawals on the projected tax levy for the ensuing fiscal year if the
2 proposed budget is adopted.

3 S 5. When computing the school district's tax levy limit for a school
4 year pursuant to subdivision 3 of section 2023-a of the education law:

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

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

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

26 S 7. This act shall take effect immediately.