

7760--A

2013-2014 Regular Sessions

I N A S S E M B L Y

June 3, 2013

Introduced by M. of A. BRINDISI, BLANKENBUSH -- read once and referred to the Committee on Education -- 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.

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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 the sum of twelve million dollars. Such determination may
30 be amended to reduce the amount paid into the fund in the event that the
31 district's original proposed budget is not approved by the voters.

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47 moneys shall be paid into and withdrawn from such fund as set forth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

49 (c) Moneys may be withdrawn from the energy system tax stabilization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

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54 withdrawn from the fund.

55 (2) For any fiscal year for which payments in lieu of taxes receivable
56 by the school district are less than the amount of such payments

received for the immediately preceding fiscal year, the board of education 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 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 1 of this subdivision, and in addition to any withdrawal from the fund authorized pursuant to paragraph 2 or 3 of this subdivision, moneys may be withdrawn from the fund for any fiscal year to be expended for any other lawful purpose, provided, however, that no such withdrawal and expenditure shall be made unless approved by a majority vote of the qualified voters of the district present and voting on a separate ballot proposition therefor at either a special district meeting which the board of education may call for such purpose, or at the annual district meeting and election, to be noticed and conducted in either case in accordance with the provisions of article 41 of the education law, 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.

(d) 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 ballot 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 7 of section 1716 of the education law.

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

S 4. At the same time that the property tax report card prepared by the school district pursuant to subdivision 7 of section 1716 of the education law is filed and made publicly available, the school district shall also prepare, file with the commissioner of education and make publicly available in the same manner as required for the property tax report card, a report which 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 3 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

1 stabilization reserve fund for such prior school year and increased by
2 any amount withdrawn from the fund for such prior school year.

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

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

20 S 7. This act shall take effect immediately.