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

5170--A

2015-2016 Regular Sessions

I N A S S E M B L Y

February 12, 2015

Introduced by M. of A. LAVINE -- 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 amend the education law, in relation to special utility loss transition aid

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 special circumstances can occur in various school districts where a real property of a utility, as that term is defined in article 18 of the real property tax law, is decommissioned, abandoned, downgraded, damaged or otherwise affected in a significant manner thereby decreasing the value and assessed valuation of such property and such decreased value or assessment constitutes the loss of more than twenty per centum of the total assessed value of such utility power plant. The legislature further finds that a sudden substantial loss of real property tax revenue of a utility power plant, as defined in section 1802 of the real property tax law, can result in diminished educational opportunities for public school students, can be inconsistent with the objectives of the 2 percent property tax cap, can result in substantial increases in real property taxes for residential and commercial taxpayers and be disruptive and harmful to the proper administration of public schools. Therefore, it is in the public interest to minimize the harmful effects outlined above by creating a transition period where the loss of a utility power plant tax revenue is realized over several years allowing for the gradual assumption of an additional tax burden on class one, two and four properties. Notwithstanding any provision of this new section 3614, section 1803-a of the real property tax law shall remain in full force and effect.

S 2. The education law is amended by adding a new section 3614 to read as follows:

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

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S 3614. SPECIAL UTILITY LOSS TRANSITION AID. 1. NOTWITHSTANDING ANY OTHER LAW TO THE CONTRARY, THE COMMISSIONER IS HEREBY AUTHORIZED TO ESTABLISH A SEPARATE FUND TO PAY SPECIAL UTILITY LOSS TRANSITION AID TO SCHOOL DISTRICTS WHEN THE ASSESSED VALUE OF A UTILITY POWER PLANT LOCATED WITHIN THE GEOGRAPHICAL BOUNDARIES OF SUCH DISTRICT IS REDUCED BY TWENTY PER CENTUM OR MORE DUE TO THE DECOMMISSIONING, ABANDONMENT, DAMAGE OR DOWNGRADE OF SUCH UTILITY POWER PLANT PROPERTY AS DEFINED IN SECTION EIGHTEEN HUNDRED TWO OF THE REAL PROPERTY TAX LAW, OR IF SUCH UTILITY POWER PLANT IS OTHERWISE AFFECTED IN A SIGNIFICANT MANNER. SUCH SPECIAL UTILITY LOSS TRANSITION AID SHALL BE PAID OVER A SIX YEAR PERIOD WITH SUCH AID BEING PAID AS OUTLINED IN THE FOLLOWING SCHEDULE:

YEAR:	AN AMOUNT EQUAL TO:
1	85 PER CENTUM OF THE LOSS OF REAL PROPERTY TAX REVENUE CAUSED BY THE DECREASE IN THE UTILITY POWER PLANT ASSESSMENT
2	70 PER CENTUM OF THE LOSS OF REAL PROPERTY TAX REVENUE CAUSED BY THE DECREASE IN THE UTILITY POWER PLANT ASSESSMENT
3	55 PER CENTUM OF THE LOSS OF REAL PROPERTY TAX REVENUE CAUSED BY THE DECREASE IN THE UTILITY POWER PLANT ASSESSMENT
4	40 PER CENTUM OF THE LOSS OF REAL PROPERTY TAX REVENUE CAUSED BY THE DECREASE IN THE UTILITY POWER PLANT ASSESSMENT
5	25 PER CENTUM OF THE LOSS OF REAL PROPERTY TAX REVENUE CAUSED BY THE DECREASE IN THE UTILITY POWER PLANT ASSESSMENT
6	10 PER CENTUM OF THE LOSS OF REAL PROPERTY TAX REVENUE CAUSED BY THE DECREASE IN THE UTILITY POWER PLANT ASSESSMENT

THE COMMISSIONER IS FURTHER AUTHORIZED TO ADJUST AND DECREASE SUCH PAYMENTS IF SUCH SCHOOL DISTRICT EXPERIENCES A SIGNIFICANT INCREASE OF TOTAL ASSESSMENT DURING SUCH PERIOD CAUSED BY NEW DEVELOPMENT OF PROPERTIES WITHIN THE DISTRICT OR THE CONVERSION OF SUCH UTILITY POWER PLANT PROPERTY FOR OTHER PURPOSES.

2. SPECIAL UTILITY LOSS TRANSITION AID SHALL BE PAID TO SUCH DISTRICT OR DISTRICTS IN ADDITION TO THE AID PAYMENTS SUCH DISTRICT OR DISTRICTS SHALL BE ALLOCATED UNDER THE ANNUAL SCHOOL AID FORMULA ADOPTED BY THE LEGISLATURE DURING THE ANNUAL BUDGET PROCESS.

S 3. Paragraph i of subdivision 2 of section 2023-a of the education law, as added by section 2 of part A of chapter 97 of the laws of 2011, is amended to read as follows:

i. "Tax levy limit" means the amount of taxes a school district is authorized to levy pursuant to this section, provided, however, that the tax levy limit shall not include the following:

(i) a tax levy necessary for expenditures resulting from court orders or judgments against the school district arising out of tort actions for any amount that exceeds five percent of the total tax levied in the prior school year;

(ii) in years in which the system average actuarial contribution rate of the New York state and local employees' retirement system, as defined by paragraph ten of subdivision a of section nineteen-a of the retirement and social security law, increases by more than two percentage points from the previous year, a tax levy necessary for expenditures for the coming fiscal year for school district employer contributions to the New York state and local employees' retirement system caused by growth

in the system average actuarial contribution rate minus two percentage points;

(iii) in years in which the normal contribution rate of the New York state teachers' retirement system, as defined by paragraph a of subdivision two of section five hundred seventeen of this chapter, increases by more than two percentage points from the previous year, a tax levy necessary for expenditures for the coming fiscal year for school district employer contributions to the New York state teachers' retirement system caused by growth in the normal contribution rate minus two percentage points; [and]

(iv) a capital tax levy[.]; AND

(V) A TAX LEVY NECESSARY TO REPLACE THE TAX REVENUE LOST FROM A DEVALUED UTILITY POWER PLANT PROPERTY UNDER WHICH A SCHOOL DISTRICT QUALIFIES FOR SPECIAL UTILITY LOSS TRANSITION AID.

S 4. Section 1709 of the education law is amended by adding a new subdivision 43 to read as follows:

S 43. SPECIAL UTILITY LOSS TRANSITION AID RECEIVED BY A SCHOOL DISTRICT SHALL BE PAID INTO A RESERVE FUND TO BE ESTABLISHED BY THE BOARD OF EDUCATION OF THE SCHOOL DISTRICT AND USED TO OFFSET INCREASES IN REAL PROPERTY TAXES DUE TO THE LOSS OF ASSESSED VALUE IN UTILITY POWER PLANT PROPERTY IN SUCH SCHOOL DISTRICT FOR A PERIOD NOT TO EXCEED TEN SCHOOL YEARS, OR SUCH LESSER PERIOD AS IT MAY DIRECT. A SCHOOL DISTRICT MAY ALSO PAY MONEYS DERIVED FROM ANY OTHER SOURCE INTO SUCH FUND TO OFFSET INCREASES IN REAL PROPERTY TAXES DUE TO THE LOSS OF ASSESSED VALUE IN UTILITY POWER PLANT PROPERTY. SUCH PROCEEDS MAY BE INVESTED AND ANY INTEREST OBTAINED MAY ALSO BE USED FOR SUCH PURPOSE. SUCH RESERVE FUND SHALL BE INVESTED AND REINVESTED PURSUANT TO THE PROVISIONS OF SECTION SEVENTEEN HUNDRED TWENTY-THREE-A OF THIS ARTICLE. ANY SPECIAL UTILITY LOSS TRANSITION AID OR SUPPLEMENTAL VALUATION IMPACT AID PREVIOUSLY RECEIVED BY A SCHOOL DISTRICT AND DEPOSITED IN ANY OTHER RESERVE FUND SHALL BE TRANSFERRED TO THE RESERVE FUND CREATED PURSUANT TO, AND EXPENDED IN ACCORDANCE WITH, THIS SUBDIVISION. AMOUNTS EXPENDED FROM SUCH RESERVE FUND THAT ARE USED TO OFFSET SUCH REAL PROPERTY TAX INCREASES IN ANY YEAR SHALL BE EXCLUDED FROM THE CALCULATIONS SET FORTH IN SECTION TWO THOUSAND TWENTY-THREE-A OF THIS TITLE.

S 5. This act shall take effect immediately; provided that the amendments to paragraph i of subdivision 2 of section 2023-a of the education law made by section three of this act shall be subject to the repeal of such section and shall be deemed to be repealed therewith.