

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:

1 Section 1. Legislative findings. The legislature hereby finds that  
2 special circumstances can occur in various school districts where a real  
3 property of a utility, as that term is defined in article 18 of the real  
4 property tax law, is decommissioned, abandoned, downgraded, damaged or  
5 otherwise affected in a significant manner thereby decreasing the value  
6 and assessed valuation of such property and such decreased value or  
7 assessment constitutes the loss of more than twenty per centum of the  
8 total assessed value of such utility power plant. The legislature  
9 further finds that a sudden substantial loss of real property tax revenue  
10 of a utility power plant, as defined in section 1802 of the real  
11 property tax law, can result in diminished educational opportunities for  
12 public school students, can be inconsistent with the objectives of the 2  
13 percent property tax cap, can result in substantial increases in real  
14 property taxes for residential and commercial taxpayers and be disruptive  
15 and harmful to the proper administration of public schools. Therefore,  
16 it is in the public interest to minimize the harmful effects  
17 outlined above by creating a transition period where the loss of a utility  
18 power plant tax revenue is realized over several years allowing for  
19 the gradual assumption of an additional tax burden on class one, two and  
20 four properties. Notwithstanding any provision of this new section 3614,  
21 section 1803-a of the real property tax law shall remain in full force  
22 and effect.

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

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

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

12	YEAR:	AN AMOUNT EQUAL TO:
13	1	85 PER CENTUM OF THE LOSS OF REAL PROPERTY TAX
14		REVENUE CAUSED BY THE DECREASE IN THE UTILITY
15		POWER PLANT ASSESSMENT
16	2	70 PER CENTUM OF THE LOSS OF REAL PROPERTY TAX
17		REVENUE CAUSED BY THE DECREASE IN THE UTILITY
18		POWER PLANT ASSESSMENT
19	3	55 PER CENTUM OF THE LOSS OF REAL PROPERTY TAX
20		REVENUE CAUSED BY THE DECREASE IN THE UTILITY
21		POWER PLANT ASSESSMENT
22	4	40 PER CENTUM OF THE LOSS OF REAL PROPERTY TAX
23		REVENUE CAUSED BY THE DECREASE IN THE UTILITY
24		POWER PLANT ASSESSMENT
25	5	25 PER CENTUM OF THE LOSS OF REAL PROPERTY TAX
26		REVENUE CAUSED BY THE DECREASE IN THE UTILITY
27		POWER PLANT ASSESSMENT
28	6	10 PER CENTUM OF THE LOSS OF REAL PROPERTY TAX
29		REVENUE CAUSED BY THE DECREASE IN THE UTILITY
30		POWER PLANT ASSESSMENT

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

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

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

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

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

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

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

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

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

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

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

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

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