§ 485. Nuclear powered electric generating facilities. 1. Nuclear powered electric generating facilities shall be exempt from taxation, special ad valorem levies and special assessments to the extent provided in section four hundred ninety of this article upon the adoption of a local law granting such exemption by the legislative body of the county, city, town or village in which such a facility is located or by resolution following a public hearing of the governing body of the school district in which such facility or facilities are located, provided the taxing district may only exempt the facility from real property taxes imposed by the taxing district granting the exemption. The local law or resolution shall state the date on which such exemption shall commence. A copy of such local law or resolution shall be filed no later than thirty days after the adoption thereof with the clerk of each municipal corporation in which the facility is located and with the commissioner. For purposes of this section, nuclear powered electric generating facility shall mean a facility that generates or formerly generated electricity using nuclear power for sale, directly or indirectly, to the public, including the land upon which the facility is located, any equipment used in such generation, and equipment leading from the facility to the interconnection with the electric transmission system, but shall not include any equipment in the electric transmission system.

2. (a) If a taxing district and an owner of a nuclear powered electric generating facility have not signed an agreement for payments in lieu of taxes by the date specified in the resolution or local law, or if an owner and a taxing district agree to cancel such an agreement, or if such an agreement does not apply to an assessment roll upon which a facility is wholly exempt from taxation pursuant to this section, the owner of such facility shall be obliged to make payments in lieu of taxes in the base amount, or in the base amount as adjusted pursuant to the provisions of paragraph (c) of this subdivision.

(b) The base amount shall be the taxes levied against the facility on the last assessment roll on which the facility was assessed as taxable real property, or in the case of a special district, the special ad valorem levies or special assessments levied against or charged to the facility on that assessment roll. However, if no taxes or special ad

valorem levies were or will be levied against the facility within one year of the effective date of the local law or resolution authorizing the exemption, the base amount shall be the taxes or special ad valorem levies that would have been levied against the facility on the assessment roll based on the first taxable status date occurring on or before the effective date of the local law or resolution, assuming that the facility had been taxable on that assessment roll, and that the applicable tax rate had been determined accordingly. For purposes of this section, the assessment roll which is used to determine the base amount pursuant to this paragraph shall be referred to as the "base assessment roll."

(c) The base amount for payments on the current assessment roll shall be adjusted as follows:

(i) by the percentage change between the assessment of the facility on the current roll and on the base assessment roll, adjusted for any change in level of assessment as defined in section twelve hundred of this chapter;

(ii) in the case of a municipal corporation, by the percentage change between the total amount of taxes levied against all taxable real property on the current roll and on the base assessment roll by that municipal corporation;

(iii) in the case of a special district, by the percentage change between the total amount of special ad valorem levies and special assessments imposed against all taxable real property on the current roll and on the base assessment roll by that special district; and

(iv) if the municipal corporation also contains a nuclear powered electric generating facility which had been wholly exempt from taxation on the base assessment roll pursuant to section one thousand twelve of the public authorities law but which is no longer eligible for that exemption due to a change in ownership, the base amount shall be adjusted to reflect the fact that the formerly exempt facility is now either subject to taxation or liable to make payments in lieu of taxes pursuant to this section, as the case may be.

(d) In the event the facility was not taxable on a prior assessment roll, and no exemption is then in effect, the assessor of each assessing unit in which the facility is located is hereby authorized to immediately subject the facility to taxation in the manner prescribed by

section five hundred twenty of this chapter.

(e) For assessment rolls with taxable status dates on or after January first, two thousand thirty-one, or such earlier year as may be specified in the local law or resolution authorizing the exemption, the exemption provided by this section shall no longer apply and any agreement for payments in lieu of taxes for any facility theretofore exempt pursuant to this section shall no longer be in effect. Upon the request of the assessor of an assessing unit containing a nuclear powered electric generating facility, the commissioner shall provide an advisory appraisal of such facility for use on the municipal assessment roll with a taxable status date on or after January first, two thousand thirty-one.

(f) Nothing herein shall be deemed to prevent the owner of a nuclear powered electric generating facility from seeking judicial review of an assessment pursuant to article seven of this chapter. Any determination of the proper assessment of a facility as a result of such a proceeding shall be reflected in any payment in lieu of taxes including the refund of such payments, as provided in the judgment and order of the court.

3. The owner of a nuclear powered electric generating facility shall enter into an agreement with each taxing district which grants the facility the exemption providing for payments in lieu of taxes to be made for no longer than the period during which the facility is exempt pursuant to this section. Any such agreement must be filed with the commissioner and the clerk of each municipal corporation in which the facility is located within thirty days of being executed. Nothing herein shall be deemed to invalidate any existing agreement for payments in lieu of taxes.

4. Any agreement for payments in lieu of taxes pursuant to this section may be negotiated at any time. Before an agreement for payments in lieu of taxes is executed by a taxing district, such taxing district must hold a public hearing on the proposed agreement.

5. Any payments in lieu of taxes to be made to a taxing district under this section shall be credited to the amount to be raised in taxes before determining the tax rates for each taxing district.

6. When a school district receives payments in lieu of taxes from a nuclear powered electric generating facility, any actual valuation computed for such school district pursuant to paragraph c of subdivision one of section thirty-six hundred two of the education law shall include the actual valuation equivalent of those payments. The commissioner shall determine such actual valuation equivalent by dividing the payment made, as reported to such commissioner by the commissioner of education, by the school tax rate that was applied to real property on that year's assessment roll or, if applicable, the special apportionment rate determined pursuant to section twelve hundred twenty-seven of this chapter and dividing such result by the final state equalization rate for that roll. The actual valuation equivalent shall be reported to the state comptroller and the commissioner of education, and shall be used by the commissioner of education in the determination of any state average that uses real property taxes levied against and/or actual valuation based upon the corresponding assessment roll. Each school district receiving payments in lieu of taxes for nuclear powered electric generating facilities shall annually report those payments to the commissioner of education, with a copy to the commissioner, as a condition to receiving any aid pursuant to section thirty-six hundred two of the education law.

7. Payments in lieu of taxes made pursuant to this section are not taxes and shall not be apportioned to any part of a taxing district in the apportionment of taxes.

8. Facilities exempt from taxation pursuant to subdivision one of this section shall not be deemed taxable real property for purposes of any equalization rate, product, study or survey conducted or established pursuant to article twelve of this chapter or any other provision of law.

9. Any payments in lieu of taxes made pursuant to this section shall be paid prior to the expiration of the warrant for collection of the taxes in lieu of which such payments are to be made and of the interest-free period prescribed by law, and the agreement shall so

provide. If payments are not made within such period, they shall be subject to the same interest and penalties as unpaid taxes. If the payments remain unpaid, the official to whom the payments are to be made shall present a statement to that effect to the appropriate tax levying body on or before a date specified by such body for that purpose. Such body shall levy against the facility the amount contained in such statement, together with all applicable interest and penalties, at the same time and in the same manner as taxes. The amounts so levied shall be collected and enforced in the same manner and at the same time as may be provided by law for the collection and enforcement of taxes, notwithstanding the fact that the facility is otherwise wholly exempt from taxation.

10. When restrictions have been imposed upon changing future assessments of a facility pursuant to the provisions of either section seven hundred twenty-seven of this chapter or a formal agreement between the parties, and the facility becomes exempt pursuant to this section, such restrictions shall apply to future assessments of the facility to the same extent as if it had not become exempt pursuant to this section.

11. The provisions of this section shall not be applicable in a special assessing unit.