

TOP STORY

State bill would hinder local taxation of wind and solar projects, opponents say

Thomas J. Prohaska
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Solar panel array on the Town of Tonawanda's former landfill, between Two Mile Creek Road and Military Road with the I-290 to the south.

John Hickey

Thomas J. Prohaska

Local officials say a proposal in Gov. Andrew M. Cuomo's stack of proposed budget amendments in effect subsidizes large-scale wind and solar projects by barring towns from taxing them at their full value.

The measure would direct two state agencies to calculate a model for appraising the value of wind and solar projects, using "a discounted cash flow approach" to determine how much the projects are worth.

A discount rate for renewable energy projects' property taxes also would be determined in Albany. Like the appraisal model, it would be based on the companies' state-mandated annual financial reports.

The agencies – the Department of Taxation and Finance and the New York State Energy Research and Development Authority – could set such a low appraisal value that it would be pointless for wind and solar developers to work out a payment-in-lieu-of-taxes, or PILOT, deal with their host community, said John Syracuse, vice chairman of the Niagara County Legislature.

"You know the state wants these programs and they'll probably give it a highly discounted rate, and then there's nothing left for us to decide locally," Syracuse said. "They'll probably get a sweetheart deal."

"It is true that New York has these goals, but one thing I've learned is companies are equally worried about what Tax and Finance is going to do," said Anne Reynolds, a spokeswoman for the Alliance for Clean Energy New York, a group of renewable energy developers that Reynolds said sought state legislation on the assessment issue.

She said the companies "asked for the governor to propose a very detailed methodology in law, and they declined to do that."

State law already says renewable energy projects are exempt from property taxes, but host communities often opt out of the exemption and try to make their own deal with a developer.

"That opt-out allows them to negotiate a PILOT agreement up to full taxation," said Gary A. Abraham, a Cattaraugus County attorney who represents several towns faced with large renewable energy projects.

"Normally, the PILOT agreement is about a 75% discount on property taxes," Abraham said. "The developers in my experience say, if we don't get the PILOT with the 75% discount, we don't have a project."

"We think it would help these negotiations if there were a standard method published by the state of how you would do it," Reynolds said. "It would give the assessors a standard method to follow, that's true, but they would do the assessments themselves and the towns could still choose to negotiate a PILOT or go through the full tax assessment approach."

She said developers often need a long-term PILOT agreement in order to obtain financing.

"I don't think it is consistent with history, or even likely at all, that Tax and Finance will publish something that is not a fair taxation for renewables compared to other land uses," Reynolds said.

The state associations of assessors, counties and towns all oppose the bill.

"The act of forcing assessors across the state to apply a specific method of valuation with specific discount rates may be challenged as unconstitutional, especially if the rates and theories are derived from within the solar industry," the state Assessors Association wrote in a memo to the State Legislature.

Assessments often are based on sales of comparable properties, but in the case of wind and solar farms, such data can be rare.

"I don't think it's always public the amount that they're sold for, and a wind farm in one place doesn't make the same amount of money as a wind farm in another place, because it depends on how windy it is and what the electricity prices are. Same with solar," Reynolds said.

"This is another incremental takeover of the home rule powers of towns over their land," Abraham argued.

But both the Assembly and the Senate included the proposal in their one-house budget bills, making it likely to become law unless there is a last-minute change.

Thomas J. Prohaska

Reporter

I have covered Niagara County for The Buffalo News since 1995, when I joined the paper after 10 years as news director at WLVL in Lockport.

