

Industrial Wind Turbines and Taxes

Who Benefits from PILOT Agreements Instead of Taxes?

Payment In Lieu of Taxes (PILOT) were created to compensate towns and cities for the municipal services used by not-for-profits such as universities. They are now also used by Industrial Development Agencies (IDA) /Economic Development Agencies (EDA) as a form of financial assistance to help a business project become a reality. IDAs offer businesses a PILOT as an incentive for the business to locate to an area or stay in an area with the purpose of creating jobs or retaining jobs.

Voluntary payments (less than the taxes they replace) are made to forgo property taxes- usually 25% of taxes. A PILOT is voluntary – no law requires a non-profit or business to pay it. PILOTs are often short-term, haphazard, secretive, and calculated in an ad hoc manner with no underlying basis and they result in widely varying payments among similar nonprofits and businesses. In addition, a municipality's attempt to collect PILOTs can lead to contentious, costly, and unproductive litigation. A PILOT agreement usually lasts from 10 to 30 years after which time it is expected that the company pays regular property taxes. As can be seen with the Somerset Coal-burning power plant this is not always the case.

The Niagara County IDA and Orleans County IDA will make the determination of the amount of the PILOT for Lighthouse Wind (supposedly using existing tax data to negotiate the PILOT) and then inform the local taxing jurisdictions (Town of Somerset and Town of Yates). Their own files indicate that normally appraisals will not be required. Notably, however, because the revenue received through the use of PILOTs is typically less than the real property taxes abated, they represent only partial compensation to the local governments involved. While approval by these local governments is not required, the IDA is obliged to review and respond to any issues raised by them. Niagara County IDA and Orleans County IDA will determine the PILOT Agreement - how much Apex will pay, what percentage the IDA will receive, what percentage the School District will

receive and what percentage the Towns of Somerset and Yates will receive. Commonly, the county takes the lion's share of the funds, school districts next and the towns get cut out of most of the funds. IDA's cannot tax and do not receive tax monies. They use the PILOT money to fund themselves and so they have no incentive to not sign a PILOT.

See Newsday article: January 23, 2015, *Cuomo: IDA's need more state oversight* by James Madore

Would Lighthouse Wind have a PILOT?

Somerset, Yates, Lyndonville Central School, Barker Central School have all voted to refuse to agree to a PILOT. This will force Apex to either pay full taxes on Lighthouse Wind if it comes to fruition or negotiate a separate agreement with each instead of allowing the county IDAs to accept a PILOT and shortchange everyone to create only a few jobs some of which will likely not be located in either town. See Town and School District minutes.

Will full taxes be paid when PILOT ends?

Although originally agreeing to pay full assessed value when PILOT terms end, industrial wind corporations have recently been suing counties, towns, and school districts to reduce the assessed value of their wind facility as the term of the PILOT is expiring. Maple Ridge in Lewis County is seeking a 97% reduction in assessed value of its almost 200 industrial Wind turbines. Canastota Wind sued the town of Fenner in Madison County to reduce the assessed value of its facility by 86%. The town settled for a 50% reduction in the assessed value of the facility – a \$13 million reduction.

See the September 11, 2018 Watertown Daily News article [Maple Ridge Owners seeking assessment reduction on Wind Farm](#) by Brian Kelly;

and September 16, 2018 Cazenovia Republican article [Fenner resolves lawsuit with windmill company reassesses wind farm at \\$13 million less](#). by Jason Emerson

School Districts

As stated previously, school districts have no influence on the PILOT Agreements, their negotiations, terms of payments, or whether the payments are front loaded or evenly spaced-out for the duration of the agreement. The problem

for school districts occurs because under the state’s tax cap law PILOT payments must be subtracted from a district’s tax cap calculation. If PILOT payments increase, the amount of property taxes the school district is allowed to raise without exceeding its tax cap will decline, all other things being equal. This could lead to a district needing to obtain a 60 percent majority voter override to maintain or even decrease its tax levy.

In addition, these agreements are often front-loaded tax abatement benefits that begins lower and increase over time. In other words, school districts may have to end up cutting their tax levy to stay within their cap and require a super-majority voter approval to do so. Ballston Spa and New Paltz School districts can attest to the fact that the PILOTs ended up costing them money, going so far as to adopt a resolution opposing any PILOT agreement.

Source: New York State School Boards Association, *Under ta cap, PILOTs pose new financial perils*, by Paul Heiser, September 22, 2014.

Impact on Lakeshore Properties and the Domino Effect on Local Taxes

In addition to the information on the Clarkson University study that documents a 26-37 % reduction in property values in northern NY previously identified (see talking points), the CBC identified reductions in property values across the lake in Ontario, Canada. The CBC report notes that properties adjacent to wind turbines sold for 20-40% less than properties out of sight of wind turbines and take longer to sell. One household was awarded a 50% reduction in their property tax because it sat next to a transformer station for the turbines and that caused a significant reduction in the value of the property. In addition, one bank in the Melancthon, ON area is not allowing homeowners to secure lines-of-credit on their homes. It stated to one homeowner “We find your property a high risk and its future marketability may be jeopardized.”

Canadian Hydro bought four properties from homeowners at their market value prior to the influx of wind turbines when those homeowners threatened to sue. Canadian Hydro in turn sold the properties losing over a half million dollars.

Canadian Hydro Home Purchase	Canadian Hydro Sold Property for:	Reduction in value
\$500,000	\$288,400	42.4%
\$350,000	\$175,000	50%
\$305,000	\$278,000	9%
\$302,670	\$215,000	29.9%

New buyers of those four properties were required to sign agreements acknowledging that the wind turbines may affect the buyers “living environment” and that the power company was not responsible for or liable from any complaints, claims, demands, suits, actions, or causes of action of every kind known or unknown which may arise directly or indirectly from the wind turbine facilities.

Lakeshore properties are some of the most highly valued and taxed properties in the townships of Somerset and Yates. If their value declines by 25-40 percent and so too any properties within sight of wind turbines, their taxes will decline comparatively. Both towns will need to maintain their tax base. *The difference in taxes will be made up by those properties out of wind turbine sightlines whose value has not declined. This will increase the tax burden to properties out of sight of the wind turbines yet still in the township and villages.*

CBC Report: *Ontario wind power bringing down property values*, October 1, 2011, by Nicol and Seglins.

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