

Fulton County supervisors talk of suing state over unpaid school taxes
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FULTON COUNTY — Some members of the Board of Supervisors say they favor taking New York state to court over paying local school taxes owed by the Hudson River Black River Regulating District.

The regulating district owes about \$1.5 million in school taxes for the 2009-10 school year to the districts of Broadalbin-Perth, Edinburg, Hadley-Luzerne, Mayfield, Northville and Wells.

In most instances county governments are required to make school districts and local municipalities whole for any unpaid property taxes, but because the regulating district is a state entity that can't be held liable for late tax penalties or foreclosed on, some supervisors say the risk is too great for the county to pay its tax bills.

Johnstown 4th Ward Supervisor James Callery, the board's finance committee chairman, said he is leaving the board at the end of the year, but his advice to the new board is not to pay.

"I'm telling them to sue the state because the only way the county would make the school districts whole is if we could own the land and afterward we could auction it off, but under state law you can't foreclose on state land, so the county will be the biggest loser if we don't take the State of New York to court," Callery said. "The county will never be able to get the money back. If we make a one-time payment, it'll never get back to the county."

The regulating district has no money it can legally use to pay its taxes because a federal court ruled that the district can no longer pass on the cost of its operating budget and property taxes to downstate hydroelectric plants licensed by the Federal Energy Regulatory Commission. The ruling eliminated about 80 percent of the \$5.4 million in revenue the regulating district had anticipated for the Hudson River area in 2009. The regulating district does have money in its Black River area reserve fund, but the state comptroller's office ruled that it can't be used to pay Hudson River area taxes.

Regulating district officials have told the schools they are exploring the legality of borrowing money to pay the taxes but won't be able to do so until at least April. The regulating district also is attempting to establish a new revenue stream from the flood control charges it levies against downstream municipalities.

Fulton County interim treasurer Michelle Ippoliti said typically the county would make the school district's whole for the missing tax payments by March. She said she added the unpaid school taxes to the regulating district's 2010 county tax bill and told the regulating district to pay the county if funds become available to pay the owed taxes. She said in the meantime the board has asked County Attorney Arthur Spring to formulate a legal strategy for how to proceed if the regulating district can't pay by January. She said paying the taxes and hoping the state repays the county could be risky.

"If they were to not pay, God only knows how long the debt could go on," Ippoliti said.

Callery said county officials have already told state officials they likely won't pay the tax bills.

"We've been negotiating with the governor and the attorney general and they think they're going to be able to bond the money and pay off the school taxes because they don't really want to get into a [legal

battle] with us,” Callery said. “My recommendation is challenge them legally, but hopefully it won’t go that way. The state knows it’s our stance that we aren’t paying their bills, we’re going to take them to court, and we aren’t rolling over.”

Northville Superintendent Kathy Dougherty, one of the leaders of the Committee of Great Sacandaga Lake School District Superintendents, said uncertainty over when the school taxes will be paid is putting additional stress on the school districts. She said it will be problematic for the district’s to finance budget gaps in the short term because the district’s can’t prove to private banks that the money will be paid eventually.

“This is unprecedented, this whole scenario has never really been tested before. The county is saying maybe they will test this and say we’re not paying for a state entity,” she said. “Our previous belief that [the taxes] would automatically come from the county may not happen, which puts us in a worse situation.”

Gloversville 3rd Ward Supervisor Michael F. Gendron said he is concerned that the regulating district won’t pay its 2010 county taxes, which could blow a hole in the county’s budget. He said he is waiting for advice from Spring before he decides whether he’ll support legal action. Spring could not be reached for comment on Friday.

“I think we’re going to pursue all of our options to try to collect those taxes. This is uncharted waters because you can’t foreclose on state property,” Gendron said.

Mayfield Supervisor Richard Argotsinger said even though the Mayfield Central School District is in his town he will argue in favor of taking the state to court rather than the county paying the school taxes.

“The county doesn’t have the money, that’s the bottom line. It only makes sense to me to put some pressure on the state to do it,” he said. “The state is just dragging their feet on this, hoping someone else will pay the bill. It’s the state’s regulating district, they’ve got to step up and solve the financial problem. If the county puts out the money it trickles back at the state’s convenience and meanwhile our local taxpayers are footing the bill.”