

'Forever Taxable' Coalition Opposes State Land Tax Cap for Adirondacks and Catskills

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Contacts:

Matt Simpson, Town of Horicon, Adk. Assn. Towns & Villages 518-518-351-1075

Jeff Senterman, Catskill Center, 845-768-2657 cell

Jerry Delaney, Adirondack Park Local Government Review Board, 518-569-7800

David Gibson, Adirondack Wild, 518-469-4081

John Sheehan, Adirondack Council, 518-441-1340 cell

ALBANY, N.Y. – Members of New York State citizen advisory panels for the Adirondack and Catskill parks have joined forces to oppose a plan in Gov. Andrew Cuomo's Executive Budget that would eliminate the state's obligation to pay local property taxes on three million acres of public Forest Preserve it owns.

Under the budget plan, the state's obligation to pay full taxes to towns, counties and school districts on "forever wild" state lands would be replaced by less-reliable payments in lieu of taxes (PILOTs).

Local governments would lose their right to assess the value of state property within their borders. Instead, the state would impose a formula to determine how much it pays each year. The proposed formula would cap annual increases at 2 percent, or the rate of inflation, whichever is less.

To oppose the measure, members of the NYS Forest Preserve Advisory Committee and Catskill Park Advisory Committee have created the "Forever Taxable" Coalition. Both groups advise state officials on management of the Forest Preserve. Both passed resolutions opposing the PILOT plan. The new coalition wants the state to keep paying its fair share of property taxes to the towns, counties and school districts that host "forever wild" public Forest Preserve.

Both the Adirondack and Catskill parks contain public and private land. The parks encompass parts of 15 counties, more than 100 towns and dozens of school districts. In both parks, the public Forest Preserve is protected by the state Constitution's "forever wild" clause, which prohibits logging and development.

The Adirondack and Catskill forest preserves protect the purity of most of the state major rivers, while attracting some 16 million annual visitors – a key element of the state's tourism industry.

State law has required the state government to pay local property taxes on those lands since 1886, so they wouldn't become a financial burden on rural taxpayers. In the Adirondack Park alone, those tax payments total more than \$70 million annually, yet account for only 0.007 percent of the state's \$168-billion spending plan.

"A PILOT could be decreased significantly over the course of time by the Governor's Division of the Budget and State Legislature, negatively impacting Adirondacks and Catskill local budgets and likely resulting in a loss of local services or a tax shift to other landowners in those districts," read the **resolutions approved by both advisory committees**.

In some Adirondack and Catskills park communities, the state owns more than half of all land and state tax payments account for more than half of all town or school district revenue. For example, the Adirondack Park Town of Arietta in Hamilton County is 90% Forest Preserve land. Nearby Long Lake and Wells are 76% Forest Preserve lands.

Members of the Forever Taxable Coalition represent a broad array of Forest Preserve stakeholders, including forest ecologists, foresters, conservation organizations, local government officials and recreational/sporting clubs.

"Our Catskill towns, some of which include very extensive state ownership of Forest Preserve lands, need to be able to rely on the State paying its fair share of taxes," said **Jeff Senterman, Executive Director of the Catskill Center**. "These tax payments make a tremendous difference to our communities and represent an ongoing commitment to protect our Catskill Park including its towns and villages. The State paying its fair share of taxes on these lands is a small price to pay for all New Yorkers to enjoy the 'forever wild' Forest Preserve lands of the Catskill Park."

Helen K. Chase, Chairpe

rson of the NYS DEC Forest Preserve Advisory Committee said: "DEC is very much 'the peoples' department.' The Forest Preserve provides benefit to all the people of the state. And in turn the municipalities that contain Forest Preserve provide municipal services to the users of the Forest Preserve. Citizens who wish to preserve their lands want to be able to transfer their lands to the Forest Preserve because they see that the State has been a good owner and taxpayer. This profound benefit to the State and to the peoples of the State will be diminished by this new tax proposal – a loss to all.

"Municipalities depend on revenues from Forest Preserve tax payments on a par with other landowners," Chase continued. "Municipalities must meet their costs each year. The Forest Preserve is an equal partner and has been since 1885 in the payment of property taxes. The new proposal changes the rules. It allows for the Forest Preserve to gradually become disproportionate to the other landowners."

The **Catskill Mountainkeeper** also expressed its opposition to replacing Forest Preserve tax payments with PILOTs.

Adirondack advocates agreed.

"We, the Adirondack Park Local Government Review Board, call on Governor Cuomo to remove the payments in lieu of tax payments on forest preserve from his budget," said **Review Board chairman Gerald Delaney, who is also a Saranac Town Councilman**. "Tax payments by the State to localities are not new. It was recognized in 1885 that the entire State benefited from Forest Preserve, that local taxpayers should not suffer the burden of Forest Preserve alone. It is reasonable that the State land be assessed the same way as all private property in the Adirondacks and Catskills. That is what the law dictates, that is what is fair. This proposal, if adopted, will certainly spur Towns to veto future purchase of Forest Preserve."

"The Adirondack Association of Towns and Villages stands firmly opposed to any proposed legislation that doesn't provide for full assessed value tax payments on State lands to the towns, villages, counties and school districts of the Adirondack Park," said **Horicon Town Supervisor Matt Simpson, President of the Adirondack Association of Towns and Villages**.

"This PILOT proposal is similar to a property tax freeze proposed by Governor Paterson in 2009, that was ultimately abandoned, but is actually worse because it would no longer be a tax based on well-established Real Property Tax Law," said Bolton Town Supervisor **Ron Conover, Chairman of the Warren County Board of Supervisors**. "It would be a capped PILOT that the state could further reduce or eliminate in difficult budget years. Warren County is very dependent on state payments of Forest Preserve taxes on about 196,000 acres, or one-third of the county. If property values rise in the county faster than the cap on the PILOT, part of the tax burden would shift to private homes, businesses and lands."

"I was disappointed by the proposal to eliminate one of the essential pillars of our Constitutionally-protected Forest Preserve," said **Morehouse Town Supervisor Bill Farber, Chairman of the Hamilton County Board of Supervisors**. "While the motivations in setting forth this proposal are understandable, and I always support efficiency, this proposal is untenable. The covenant with the local governments and the School Districts is not something which the State should attempt to unilaterally abolish, and the State of New York should continue to pay taxes on these lands as if they were privately held."

"Every year, Adirondack and Catskill towns should be able to count on the State paying its full and fair share of taxes on lands we all benefit from as 'forever wild'" said **David Gibson of Adirondack Wild: Friends of the Forest Preserve**. "This PILOT proposal from the Governor's Division of the Budget is sending a message to those towns that they cannot count on them or the State to fulfill its commitments."

“When the Forest Preserve was created in 1885, the state abrogated its sovereign immunity from paying local taxes and agreed that forever wild lands would be forever after be taxable in the same manner as private land owners,” **said Neil F. Woodworth, Executive Director and Counsel of the Adirondack Mountain Club.** “For over 130 years, state lands have been valued by local assessors and the resulting state tax payments have been fair and reasonable. The 2018-2019 Cuomo tax cap and Pilot proposal revokes this longstanding tax policy. No longer would the state be treated a private owner for tax purposes, the state would determine its own taxes. Local government leaders justifiably worry that the state will reduce or cap its tax payments in the future, shifting the tax burden to private citizens.”

“We love recycling, but this bad idea belongs in the trash bin,” **said William C. Janeway, Executive Director of the Adirondack Council,** the park’s largest environmental organization. “Governors George Pataki and David Paterson proposed similar cost-cutting plans. Both eventually realized that the Forest Preserve is a priceless asset that deserves the state’s financial support. The Forest Preserve protects the purity of most of the state’s major rivers and boosts the economy by luring millions of visitors per year. It deserves the state’s full financial support.”

If the Budget Division’s PILOT proposal is adopted, increases in the assessed value of local government and school districts will not result in an increase in the PILOT because increases will be limited to 2% or the change in level of assessment, whichever is lower. Therefore, says the coalition, over time the tax burden will invariably be shifted to private lands.

Recent state land and easement purchases in both the Adirondack and Catskill Parks, such as the 160,000 acres of former Finch, Pruyn land in the Adirondacks, have increased state ownership of Forest Preserve and land conserved by conservation easement very significantly. Over the years, local governments have been able to support land acquisition and protection proposals in large part because of the certainty created by the tax payments. This support is now seriously jeopardized by the DOB’s capped PILOT proposal.

Background

The New York State Forest Preserve in the Adirondacks and Catskills has been taxable for all purposes since 1886 (*Real property Tax Law Section 532a*) and by law (*Real Property Tax Law Sections 542*) must be valued as if privately owned.

The Report of the NYS Forest Commission to the Assembly in 1885, when the Forest Preserve was created, recognized that “the State lands in the Adirondacks are to be hereafter held and acquired, not for the especial benefit of the counties in which they lie, but to a much greater degree for the benefit of the whole State.”

The 1885 report also stated:

“Ultimately, therefore, there will probably be the position of the State holding a large part of the property in the Adirondack towns, which would normally pay taxes, and this holding would be chiefly for the benefit of the rest of the State.

“It is to be observed, also, that when the State becomes the owner of lands upon the plan now considered, the State assumes many of the advantages of a private owner which ought, in common fairness, to carry with them the corresponding burdens. The roads in the Adirondack region will afford access and protection to the State lands. The courts, offices and officials of the Adirondack counties will be constantly used by the State in the protection of its domain and in the assertion and establishment of rights with respect thereto, precisely as they are used by private citizens, it is not unreasonable, therefore, that the State should, up to the extent of taxes upon the lands which it holds in these counties, bear a proportion of the expenses of local administration whose benefits it receives.

“If the State does not pay or bear taxes upon these lands, then the remaining owners in the various Adirondack towns will see their burden steadily increase without any increase to them of the benefits which taxation purchases.”

The Commission concluded that the payment of taxes “.... would be a very slight price for the State to pay for the advantage which a sense of fair dealing by the State in the Adirondack region would bring to the plan, which it is now proposed to establish.”

Two-Percent Increases would be Insufficient in Some Cases

The Albany Times Union published on Feb. 19:

According to state figures, the state paid property taxes in Essex County totaling \$17.8 million in 2012, \$18.9 million in 2013, \$20.1 million in 2014, \$20.9 million in 2015, and \$21.2 million in 2016. That represents a total increase of about 19 percent during the five-year period, which would have exceeded the proposed 2 percent annual cap if it had been in place during that time. With the cap, the total taxes paid by 2016 would have been about \$19.2 million — or about \$2 million less than the state actually paid.