

GOVERNOR'S PROGRAM BILL

2009

MEMORANDUM

AN ACT to amend the real property tax law and the education law, in relation to establishing limitations upon school district tax levies; and repealing certain provisions of the education law relating thereto

Purpose:

This bill would establish a school property tax levy cap for all school districts other than the "Big 5" fiscally dependent city school districts.

Summary of Provisions:

Section 1 of the bill would add a new §1307 to the Real Property Tax Law to establish a real property tax levy cap for all school districts other than school districts of cities with a population of 125,000 or more (the "Big 5" school districts). Under the tax levy cap:

- a school district's tax levy limit, excluding the taxes necessary to support the local share of capital expenditures, could increase by up to the lesser of 4% or 120% of the annual increase in the consumer price index ("CPI");
- a school district's tax levy limit would be adjusted to reflect any growth in the district's tax base due to new construction;
- a school district would be allowed to "bank" unused tax levy capacity from prior years, but could use this carryover levy capacity to increase its tax levy only an additional 1.5% in any year;
- tax levy limits would be subject to "override" through voter-initiated propositions; and
- in the event a district's actual tax levy exceeds its authorized levy due to clerical or technical errors, the erroneous excess levy must be placed in reserve to offset the levy for the next school year.

Section 2 of the bill would add a new §2023-a to the Education Law to establish the procedures for voter approval of tax levy limitations:

- An override proposition could be initiated by submission of a petition signed by at least 10% of the registered voters in the district or, in districts that do not have voter registration, by the lesser of 250 voters or 20% of the voters in the previous annual

election. Underride votes would take place at special district meetings on the first Tuesday in May, and the deadline for filing an underride petition would be 20 days prior to the district's annual meeting. If two or more petitions are timely filed, then the proposition garnering the greatest number of signatures shall be placed on the ballot. If an underride vote is approved, then the district would be required to adopt a budget that complies with the underridden tax levy limit, and would be barred from advancing any other tax levy proposition.

- Unless an underride proposition has been approved, any school district subject to a tax levy cap would be required to submit a tax levy proposition for approval by voters at the district's annual meeting on the third Tuesday in May. If the proposed tax levy is within the district's tax levy limit, then a majority vote would be required for approval. If the proposed tax levy exceeds the district's tax levy limit, then the vote threshold required for approval would depend on the level of state school aid payable to the district for the upcoming school year. If the amount of general purpose state aid payable to the district-excluding building, library, computer hardware and software, universal prekindergarten and textbook aid- will increase by less than 5% over the prior year, then the tax levy proposition would need 55% voter approval. If, however, the amount of general purpose state aid will increase by at least 5% over the prior year, then the tax levy proposition would need 60% voter approval.
- If the tax levy proposition is defeated, then the district would be required to adopt a budget that complies with its tax levy base, which does not include any available carryover levy from prior years.

Sections 3-4, 6, 8-9, 11, 17-19, and 21 of the bill would amend Education Law §§ 416(1) and (3), 1604(14), (15), (18) and (24), 1709(22) and (28), 1718, 2005, 2007(3), 2503(9)(a) and (12)(a) and (b), 2601-a, §3602-e(11), and 3635-b(10), respectively, to remove references to school budget votes, revotes, contingency budgets and/or ordinary contingent expenses, and to make other conforming technical amendments.

Sections 5 and 7 of the bill would amend Education Law §§ 1608 and 1716 to: (1) require a district to present a budget that complies with an approved underride proposition; (2) require districts to include information about the applicable tax levy limit on their property tax report cards; (3) remove references to budget votes; and (4) make other conforming amendments.

Section 10 of the bill would repeal Education Law §2006(3), which relates to school budget revotes.

Section 12 of the bill would amend Education Law §2008 to provide that voters can initiate underride propositions, but not propositions that would require the expenditure of money.

Section 13 of the bill would repeal Education Law §2021(10)-(12), (15)-(18) and (20)-(21), which provide for voter approval of specific budget items, and would amend §2021(8) and (19) to maintain voter approval of transportation mileage issues and remove references to voter budget approvals.

Section 14 of the bill would amend Education Law §2022 to: (1) allow a school district to adopt a budget that complies with a voter approved tax levy proposition or approved override proposition without additional voter approval; (2) require a school district to adopt a budget within its tax levy base if no tax levy proposition or override proposition is approved by voters; (3) require districts to include information about the applicable tax levy limit on their property tax report cards; (4) remove references to budget votes, revotes and contingency budgets; and (5) make other conforming amendments.

Section 15 of the bill would repeal Education Law §2023, which governs contingency budgets.

Section 16 of the bill would amend Education Law §2035(2) to clarify that a proposition to change transportation mileage limits can be rejected if it would require additional expenditures unless the proposition includes the necessary appropriation.

Section 20 of the bill would amend Education Law §3635(1)(a) and (b) to maintain voter approval for transportation mileage changes and to remove references to ordinary contingent expenses.

Section 22 of the bill would amend Education Law § 3651(1) and (3)-(5) to provide for school authority approval of certain reserve fund matters that previously were approved within school budget votes.

Section 23 of the bill provides that the bill would take effect immediately, and apply to the 2010-11 school year, but sections 8, 15, 19, 20 and 21 would take effect on July 1, 2010.

Existing Law:

Under current law, voters outside of the Big 5 school districts can approve a school district budget at the district's annual meeting (generally the 3rd Tuesday in May). If a school budget is defeated, the district can adopt a contingency budget or call a special district meeting (generally the 3rd Tuesday in June) to re-present the defeated budget or to present an amended budget. In the event no budget is approved by voters, the district must adopt a contingency budget.

Statement in Support:

The Commission on Property Tax Relief ("Commission") issued its Final Report to Governor David A. Paterson on December 1, 2008. The Commission's report explores the root causes of the growth in school property taxes, and highlights several key facts:

- New York State's local taxes are the highest in the nation, 78% above the national average;
- outside of New York City, school property taxes make up 62% of the property tax

burden;

- When property taxes are expressed as a percentage of home value, eight of the top ten counties with the highest tax rates in the nation are in Upstate New York;
- Nassau, Putnam, Rockland and Westchester counties are in the nation's top ten in terms of the percentage of household income that must be devoted to paying property taxes; and
- property tax levies are rising at more than twice the rate of inflation and salary growth.

In order to address this unsustainable growth in school district property taxes, the Commission was charged with proposing a school tax levy cap that would not impair the quality of education for our children. The Commission proposed a property tax cap that would shift the focus of school districts and voters from total school district spending (which includes state and federal aid) to the actual property taxes levied to support the local share of school district expenses.

This bill mirrors the property tax cap recommended by the Commission in most respects. In particular, this bill adopts the Commission's recommendations to:

- establish a tax levy cap for each school district (other than the Big 5 districts) that would limit tax levy growth to the lesser of 4% or 120% of the annual increase in the consumer price index;
- adjust the district's tax cap to reflect any new construction that has increased the size of the district's tax base;
- exclude the local share of voter-approved capital expenditures from the tax levy cap;
- allow a district that has budgeted below the tax levy cap in the past to use this "banked" tax levy to increase the size of its allowable tax levy, up to an additional 1.5% in any year; and
- allow voters to petition to have an "override" vote that would require the district to adopt a budget that complies with the approved lower tax levy cap.

In contrast to the Commission's recommendation, however, this bill would also exclude budgeted expenditures resulting from payments to the New York State Teachers' Retirement System and the New York State Employees' Retirement System from the tax levy cap. In addition, it would establish different procedures for voter approval of tax levy limits. Whereas the Commission recommended voter approval only for tax levy override and override propositions, this bill would require all school district tax levy proposals to be submitted to voters for approval, as follows:

- if an override petition is placed on the ballot, then voters could approve a proposition to override a district's tax levy cap and the district would then need to adopt a budget that

complies with the reduced cap;

- if there is no override petition or if the override is defeated, then the district would propose a tax levy to be voted on at the May district elections;
- if the proposed tax levy is within the district's tax cap, then a majority vote would be needed for approval;
- if the proposed tax levy is above the district's cap, then it would require 60% voter approval if state aid grew by at least 5%, and 55% voter approval if state aid grew by less than 5%; and
- if the proposed tax levy is defeated, then the district would be required to adopt a budget that grows by 4% or 120% of CPI, whichever is less, without any additional banked levy growth.

Legislative History:

This is a new bill.

Budget Implications:

This bill would have no direct fiscal implications for the State, but would limit the amount of real property taxes that a school district can levy.

Effective Date:

This bill would take effect immediately and apply to the 2010-11 school year, but sections 8, 15, 19, 20 and 21 would take effect on July 1, 2010.