FACT SHEET

A.7916 (Silver) Tax Cap Bill

11-21 *May 2011*

Contents

Description

A.7916 enacts a tax cap for both municipalities and school districts. There is no cap imposed on New York City. The Big 4 City school districts do not levy a tax directly and as such would be covered by the municipal tax cap on their respective cities. Also, this legislation limits all taxes that "may be levied by or on behalf of any school district". Therefore, this bill limits the overall levy on property taxes, utility taxes which may be levied by small cities, and any sales tax revenues which are shared by counties with school districts.

Zero Percent Cap

This tax cap proposal enacts a 0% tax cap similar to that of the Governor's original bill. Therefore, without voter approval the school board may not increase the tax levy above the previous year's levy.

In order to increase the tax levy by the lesser of the C.P.I. increase of the previous year or 2% a simple majority of voters must approve. However, if the district wishes to raise the levy by greater than that amount then 60%, of the voters must approve.

Exemptions/ Adjustments In The Cap Calculation

There are three exemptions from the tax cap and one adjustment that can be made to the cap.

Tax levy associated with capital projects is fully exempted from the capped levy amount.

Levy associated with court orders or judgments that arise out of tort actions for any amount that exceeds 5% of the total levy. Since this exemption is limited to tort actions, it would not cover tax certiorari actions which are not torts.

Third, levy associated with increases in pension costs (in both ERS and TRS) only if the employer contribution rate increases by more than two percentage points. Once that threshold is met then only the amount of tax levy associated with costs above the two percentage point increase is exempt from the cap.

For example, the TRS employer rate for 2010-11 salaries is 8.62% of salaries. TRS has indicated that they expect the rate for 2011-12 salaries (which will be paid in the Fall of 2012) to be 11.11%. This represents a 2.49 percentage point increase in the contribution rate, but only the levy associated with 0.49 of a percentage point will be exempt from the cap. Of course an increase in the contribution rate described above is a 29% increase, and almost all of it will be counted against the cap.

The tax levy is adjusted for physical or quantity changes in property in the school district. This accounts for new construction that occurs in a school district. The bill adjusts the allowable tax levy by the percentage increase in full value attributable to physical changes – so called “new ratables” – in the district each year.

Carryover

School districts are authorized to carryover unused tax levy from the prior year. The maximum carryover is 1.5% of the previous year’s maximum allowable levy. Since the carryover levy is counted as part of the allowable levy calculation, a district which uses carryover levy does not need 60% voter approval.

Voter Approval

Voters will continue to vote directly on the school budget. This is a difference from the Governor’s bill which had voters vote directly on the tax levy only. The existing statutory timelines for budget votes, revotes, and budget development (property tax report card filings, budget hearings etc.) all stay in place as they are currently configured.

However, if the school board is presenting a budget which exceeds the allowable levy in the school district (the adjusted lesser of 2% or CPI) then the ballot must include a sentence which notifies the voter that the proposed budget contains a tax levy that exceeds the allowable levy and what the proposed tax levy increase is compared to the maximum allowable increase.

The current authority to have separate propositions is also continued but any proposition which increases the tax levy beyond the maximum allowable tax levy must obtain 60% voter approval.

Contingency Budget

A district is required to go to a contingency budget if the school budget is defeated twice or the school board goes directly to contingency after one defeat. However, this contingency budget is constructed differently than the current contingency structure. Under A.7916 the contingency budget does not limit spending as the current statutory construct provides for, but limits the tax levy instead. Under the proposed contingency budget the tax levy may not exceed the prior year’s levy. Therefore, under a contingency budget the district loses any adjustments made to the current year levy for pension increases, capital expenses, new ratables etc. As a result, a school district on contingency which has a 5% increase in new property ratables from the prior year must lower its tax rate so that it does not levy any additional dollars, all else being equal. Also, it appears that the district permanently loses the benefit of the new ratable adjustments to the tax levy for any year that the district is on a contingency budget since the change in ratables is done annually for changes that occurred in the previous twelve months. If a district is on contingency for even one year then the physical growth in property would occur outside of the 12 month window.

Municipal Cap

The municipal cap is constructed in a similar manner to the school district cap with some notable exceptions. There is no exemption from the cap for capital tax levy in the municipal cap. Also, a municipality may exceed the lesser of 2% or CPI by a 60% vote of its governing body. Any increase below that amount is approved by a simple majority of the governing board.

Effective Date

The tax cap would take effect for 2012-13 school and municipal budgets. However, the tax cap would sunset if various provisions of State law that relate to rent regulation at any point expire.

Analysis

This tax cap proposal will limit the ability of school districts to provide a quality education and impair the ability districts to close the student achievement gap in New York.

In addition to the property tax cap, the State has also limited future school aid growth to no greater than the growth in personal income in New York. For 2012-13 this means that school aid may not grow faster than 4%. In bad economic times it will force a freeze on school aid. The combination of this tax cap and the hard cap on State aid growth will have a detrimental effect on public schools in this State (particularly in high need, low wealth communities).

This tax cap bill is a 0% cap not a 2% cap. School districts cannot increase the levy without voter approval. Districts need 60% voter approval to increase the levy above inflation or 2%. This will negatively impact low wealth communities greater. In 2011 over 68% of the districts that failed to get a 60% budget approval rate are below average wealth communities.

In addition to the obvious negative impact that a tax cap would have on low wealth communities – it does not reflect the reality of how we finance our school districts. Under the bill districts can't increase the levy to maintain spending levels when enrollment grows, and only has limited exemptions for torts, and increased pension costs. Schools with growing enrollment would be at significant disadvantage under this bill since the school may not add tax levy to hire additional teachers, add bus routes etc. . as enrollment rises. While enrollment does not normally spike in one year, it is not uncommon for districts to add 1%-2% enrollment per year over a period of many years.

The contingency budget construct is particularly problematic. Since a district can't increase the levy above the prior year levy a district on contingency loses the exemptions for capital tax levy etc., and the adjustments for new ratables. Therefore, a district which is making new debt service payments would have to cut the tax levy that supports its operating budget in order to keep the overall levy from the prior year when the district wasn't on contingency and the capital levy was excluded from the limited levy. The permanent loss of the new ratables when a district is under a contingency is not defensible and places a permanent burden on the school district for the loss of a budget vote.

School districts understand that these are tough times and have taken significant actions to close budget gaps. In the Property Tax Report Card data for the 2011-12 proposed budgets, schools on average kept spending increases to less than 1%, with tax levies increasing by 3.3%. Voters responded by approving 94% of these proposed budgets. The higher tax levy increase was driven by the $1.3 billion reduction in School Aid that was enacted in April.

DK/PA/jd
#84845