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SIMPLE MAJORITY

Revised 10/8

BRIEFLY

In November, Washington voters will decide whether to approve or reject EHJR 4204, a constitutional amendment that would allow property tax levies for public school operations to pass by simple majority.

Engrossed House Joint Resolution 4204 is one of four constitutional amendments that will be on the ballot this November. EHJR 4204, dubbed “simple majority,” would eliminate the supermajority requirement to pass local school levies. Similar amendments have been proposed in the legislature since 1993 and garnered the two-thirds majority needed in the House six times but have been unsuccessful in the Senate until this year.

This year the resolution received the requisite two-thirds majorities in both houses and is headed for a public vote. The approval of only a simple majority of November voters is required for it to pass.

CONSTITUTIONAL BASIS

Current Constitution. Article VII, Section 2 of the state constitution lays out the provisions that currently govern the approval of special levies:

LIMITATIONS ON LEVIES . . . The aggregate of all tax levies upon real and personal property by the state and all taxing districts now existing or hereafter created, shall not in any year exceed one percent of the true and fair value of such property in money . . . Such aggregate limitation or any specific limitation imposed by law in conformity therewith may be exceeded only as follows:

(a) By any taxing district when specifically authorized so to do by a majority of at least three-fifths of the voters of the taxing district voting on the proposition to levy such additional tax . . . at which election the number of voters voting “yes” on the proposition shall constitute three-fifths of a number equal to forty percent of the total number of voters voting in such taxing district at the last preceding general election.

(b) By any taxing district otherwise authorized by law to issue general obligation bonds for capital purposes, for the sole purpose of making the required payments of principal and interest on general obligation bonds issued solely for capital purposes . . . when authorized so to do by majority of at least three-fifths of the voters of the taxing district voting on the proposition to issue such bonds and to pay the principal and interest thereon by annual tax levies in excess of the limitation herein provided during the term of such bonds . . . at which election the total number of voters voting on the proposition shall constitute not less than forty percent of the total number of voters voting in such taxing district at the last preceding general election.

(c) By the state or any taxing district for the purpose of preventing the impairment of the obligation of a contract when ordered so to do by a court of last resort.

Although the terms are not explicitly in the text, this provision has spawned the distinction between *regular* and *special or excess* property tax levies. Regular levies are within the 1 percent limit while special levies are in excess of the 1 percent limit and require voter approval.

INITIATIVE 747: THE OTHER 1 PERCENT LIMIT

The existence of two distinct 1 percent limits on property taxes is often a source of confusion. While the state constitution limits regular property taxes to 1 percent of a property's value, Initiative 747 limits the annual growth in regular property tax revenues for each taxing district allotted a share of the regular property tax property to 1 percent plus the percentage growth in the districts assessed valuation due to new construction.

Taxing districts can increase regular taxes by more than 1 percent if voters approve a *levy lid lift*. Lid lifts require only a simple majority of voters to pass.

Property taxes. The legislature has allocated the 1 percent capacity among various taxing districts. Levies within this allocation are called regular property taxes. Property tax rates are often expressed as taxes per \$1000 of assessed value. The 1 percent limit then translates to \$10 per \$1000 of value. The \$10 regular tax capacity is apportioned as follows: the state receives \$3.60, cities receive \$3.375, counties receive \$1.80, junior districts receive \$0.725 and \$0.50 is reserved for "other" regular levies, including emergency medical services (EMS). The state portion of the property tax levy is dedicated to funding basic education.

All property tax levies outside of the 1 percent capacity are called special or excess levies. Such levies require a public vote and a 60 percent majority to pass. Special levies are approved in terms of total dollars and are generally for one year but can be for up to six years for school levies and up to 30 years for bond retirement levies.

School districts have not been allocated a share of the 1 percent regular tax capacity. School levies, therefore, are always special or excess levies.

The Amendment. EHJR 4204 would tack the following sentence to the end of subsection (a):

Notwithstanding any other provision of this subsection, a proposition under this subsection to levy an additional tax for a school district shall be authorized by a majority of the voters voting on the proposition, regardless of the number of voters voting on the proposition.

This sentence would eliminate the supermajority (60 percent) requirement to pass special property tax levies for public schools. School bonds would still require a supermajority. It would also eliminate the minimum turnout requirement, which currently requires the 'yes' votes be equal to 60 percent of 40 percent of votes cast in the last election for the election to be valid.

School budgets. The state constitution declares that education is the state's paramount duty, and as a result the legislature provides substantial funding from the General Fund to local school districts for basic education. The state property tax is deposited into the General Fund with the explicit provision that the money can be spent only on education. The state's proceeds from the property tax, however, account for less than a quarter of general fund support for local schools.

State funding accounts for 70 percent of public school spending, federal funds make up 9.8 percent and local taxes make up 16.3 percent. For the 2005-2007 biennium public education was estimated to account for 40.7 percent of the state's general fund budget.

Excess school levies account for a statewide average of 17 percent of school operating expenses. These levies make up 24 percent of property taxes collected across the state, with the state portion of the property tax constituting another 23 percent. Excess school levies in most districts are limited to 24 percent of revenue collected from state and federal sources.

Other districts have levy lids between 24.1 and 33.9 percent.

History. The supermajority requirement for special levies came about during the great depression as a means of controlling increasing property taxes. Property owners were especially concerned about non-property owners voting to increase tax rates. It was written into statute in 1932 and was added to the state constitution in 1944. The minimum turn out requirement was to ensure that elections were properly publicized.

In 1985 an amendment to repeal the 40 percent validation requirement was rejected by voters and in 1997 voters approved a measure to allow school levies to last for up to four years. Throughout the last decade and a half amendments have been proposed to eliminate either the three-fifths requirement or the 40 percent validation requirement but none has successfully passed the Senate.

DISCUSSION

Opponents argue that it is simply making it too easy to increase property tax rates above the one percent limit and that the minimum voter turn out requirements should be maintained.

Proponents argue it is unfair to require a super majority for school levies when taxes for other, less important, purposes can be approved by simple majority.

This measure will likely have little impact in King County where voters have not rejected a school levy measure since 1975. However, of the 363 fundraising measures submitted to voters across the state in 2006 and 2007, 80 have been rejected and 71 of those were defeated by between 50 and the required 60 percent.

Some business leaders who support the measure note that while most school levies eventually pass, nearly a quarter of school districts have had to put levies on the ballot more than once. They argue that these duplicative campaigns and elections require time and resources that could be better spent elsewhere.