

Fix the Property Tax Cap

THE COUNCIL urges reasonable modifications to the tax cap.

The Council supports amending the school district property tax cap to provide for more predictable and sustainable funding for schools, benefitting both students and taxpayers over time.

New York's school district property tax cap is commonly referred to as a "2 percent tax cap." But the actual calculation is more complicated. The base is the lesser of 2 percent or the average increase in the national Consumer Price Index over the preceding calendar year. For the 2017-18 school year, this base is 1.26 percent, the fourth consecutive year below the popular conception of a 2 percent cap.

The actual tax cap varies from district to district after various exclusions are applied. Exclusions can cause the actual applicable tax cap to be more or less than the inflation-based figure. Last year, a total of 95 districts actually had negative tax caps, meaning they needed a super majority to increase the tax levy one dollar.

The state has also enacted a property tax relief credit (credit is based on a percent of a homeowner's STAR benefit and is linked to income limitations) which imposes even more pressure on school districts to propose a budget within the cap. For 2017, taxpayers will only be eligible for this credit if the school district enacts a levy increase within the cap. This credit disincentivizes good educational budgeting by imposing undue pressures on school districts in an effort to award taxpayers a modicum of property tax relief.

Finally, what is referred to as the "cap" is actually a threshold for determining whether a proposed tax levy increase requires 60 percent of voters to approve, or a simple majority. An increase above the threshold requires the super majority. Whatever passing threshold is required, without voter approval, districts may not increase their local tax levy over the prior year at all.

The Council supports the following recommendations as changes that would retain the tax cap but provide for more predictable and sustainable funding, benefiting both students and taxpayers over time:

- Make the allowable growth factor 2 percent, not the lesser of 2 percent or the prior year change in the CPI. It is doubtful anyone conceived the possibility of a near zero tax cap.
- Enact a workable carryover provision that enables schools seeking tax increases below 2 percent to apply the savings in a future budget. The existing carryover provision is narrowly interpreted and barely used as a result.

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- Eliminate negative tax caps – provide that the minimum tax cap shall be zero percent.
- Include properties covered by payments in lieu of taxes (PILOTs) in the tax base growth factor that allows districts to exclude from their cap revenue generated by actual additions to their tax base which may necessitate increased service demands.
- Include BOCES capital costs in the local capital expense exclusion from the tax cap. The local share of expenses for district capital projects is excluded from the cap. Districts rely on BOCES to provide shared services enabling them to provide opportunities for students that might otherwise be impossible to offer. The local share of BOCES capital projects paid by districts should also be excluded from the cap.
- When a district seeks to over-ride the tax cap, allow it to present two budget proposals, one within the cap and one to over-ride, allowing voters to approve or reject either, each by a simple majority vote.

Legislation was enacted last session to authorize the Tax and Finance Department to adopt regulations providing for the PILOT and BOCES exclusions, but the Department has failed to act.

The following bills address the concerns raised above and make other improvements in the tax cap formula:

- A.3799 (Jaffee) / S.1707 (Marchione) Authorizes school districts to increase school tax levies up to 2 percent without a supermajority.
- S.4283 (Murphy)/A.5965 (Galef) Exempts certain BOCES capital expenditures from limitation upon local school district tax levies.
- A.1841 (Morelle) Relates to payments in lieu of taxes to adjust the growth factor for PILOT payments.
- A.226 (Lupardo) / S.3969 (Seward) Provides that no tax levy limit shall be less than zero percent.
- A.227 (Jaffee) and A.2699 (Steck) Amends the Tax Cap statute to require a simple majority for an override of a tax levy limit.
- A.2082 (Thiele) / S.903 (Crocì) Relates to the effect of propositions on the voter approval requirements for school budgets.

The negative effects of the current school year near zero percent tax cap were mitigated last year with a strong increase in state aid. An equally significant increase in state aid is necessary this year to offset cost pressures and a 1.26 percent tax cap. This does nothing to mitigate the concerns that state aid increases of the magnitude since over the last several years can be sustained year after year after year.

The Council strongly supports reforms to the tax cap and urges their adoption.