

TABOR INITIATIVE

Ballot Question to the Voters

“Do you want to change the existing formulas that limit state and local government spending and require voter approval by referendum for spending over those limits and for increases in state taxes?”

Question Number 4

Impact to Present LD 1 CAP on Municipalities

Cumberland’s Past History – LD 1 Cap

| | 2007 | 2008 | 2009 | 2010 |
|------------------|-----------|-----------|-----------|-----------|
| Over Cap | \$143,380 | | | |
| Under Cap | | \$534,312 | \$336,670 | \$434,838 |

I.

II. **§5721-A. Limitation on municipal property tax levy**

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Average real personal income growth" has the same meaning as in Title 5, section 1531, subsection 2. [2005, c. 621, §9 (AMD).]

B. "Forecasted inflation" has the same meaning as in Title 5, section 1531, subsection 6. [2005, c. 621, §10 (AMD).]

C. "Property growth factor" means the percentage equivalent to a fraction established by a municipality, whose denominator is the total valuation of the municipality, and whose numerator is the amount of increase in the assessed valuation of any real or personal property in the municipality that became subject to taxation for the first time, or taxed as a separate parcel for the first time for the most recent property tax year for which information is available, or that has had an increase in its assessed valuation over the prior year's valuation as a result of improvements to or expansion of the property. [2005, c. 2, Pt. C, §1 (NEW); 2005, c. 2, Pt. C, §§3, 5 (AFF); 2005, c. 12, Pt. WW, §16 (AFF).]

D. "Property tax levy" means the total annual municipal appropriations, excluding assessments properly issued by a county of which the municipality is a member and amounts governed by and appropriated in accordance with Title 20-A, chapter 606-B, and amounts appropriated to pay assessments properly issued by a school administrative unit or tuition for students or amounts attributable to a tax increment financing district agreement or similar special tax district, reduced by all resources available to fund those appropriations other than the property tax. [2005, c. 12, Pt. WW, §11 (AMD); 2005, c. 2, Pt. C, §5 (AFF); 2005, c. 12, Pt. WW, §§15, 16 (AFF).]

E. "State and local tax burden" has the same meaning as in Title 5, section 1531, subsection 9. [2005, c. 621, §11 (AMD).]
[2005, c. 621, §§9-11 (AMD) .]

2. Property tax levy limit. Except as otherwise provided in this section, a municipality may not in any year adopt a property tax levy that exceeds the property tax levy limit established in this subsection.

A. The property tax levy limit for the first fiscal year for which this section is effective is the property tax levy for the municipality for the immediately preceding fiscal year multiplied by one plus the growth limitation factor pursuant to subsection 3. [2005, c. 2, Pt. C, §1 (NEW); 2005, c. 2, Pt. C, §§3, 5 (AFF); 2005, c. 12, Pt. WW, §16 (AFF).]

B. The property tax levy limit for subsequent fiscal years is the property tax levy limit for the preceding year multiplied by one plus the growth limitation factor pursuant to subsection 3. [2005, c. 621, §12 (AMD).]

C. If a previous year's property tax levy reflects the effect of extraordinary, nonrecurring events, the municipality may submit a written notice to the State Tax Assessor requesting an adjustment in its property tax levy limit. [2005, c. 2, Pt. C, §1 (NEW); 2005, c. 2, Pt. C, §§3, 5 (AFF); 2005, c. 12, Pt. WW, §16 (AFF).]
[2005, c. 621, §12 (AMD) .]

3. Growth limitation factor. The growth limitation factor is calculated as follows.

A. For fiscal years when the State Tax Assessor has determined that the state and local tax burden ranks in the highest 1/3 of all states, the growth limitation factor is average real personal income growth but no more than 2.75%, plus the property growth factor. [2005, c. 2, Pt. C, §1 (NEW); 2005, c. 2, Pt. C, §§3, 5 (AFF); 2005, c. 12, Pt. WW, §16 (AFF).]

B. For fiscal years when the state and local tax burden ranks in the middle 1/3 of all states, as determined by the State Tax Assessor, the growth limitation factor is the average real personal income growth plus forecasted inflation plus the property growth factor. [2005, c. 2, Pt. C, §1 (NEW); 2005, c. 2, Pt. C, §§3, 5 (AFF); 2005, c. 12, Pt. WW, §16 (AFF).]
[2005, c. 2, Pt. C, §1 (NEW); 2005, c. 2, Pt. C, §§3, 5 (AFF); 2005, c. 12, Pt. WW, §16 (AFF) .]

C. The growth limitation factor may not exceed average real personal income growth plus forecasted inflation.

4. Adjustment for new state funding. If the State provides net new funding to a municipality for existing services funded in whole or in part by the property tax levy, other than required state mandate funds pursuant to section 5685 that do not displace current property tax expenditures, the municipality shall lower its property tax levy limit in that year in an amount equal to the net new funds. For purposes of this subsection, "net new funds" means the amount of funds received by the municipality from the State during the most recently completed calendar year, with respect to services funded in whole or in part by the property tax levy, less the product of the following: the amount of such funds received in the prior calendar year multiplied by one plus the growth limitation factor described in subsection 3. "Net new funds" refers to state-municipal revenue sharing and does not include changes in state funding for general assistance under Title 22, section 4311 or in state funding under the Urban-Rural Initiative Program under Title 23, section 1803-B if those changes are the result of the operation of the formula for calculation of state funding under that section but does include changes in funding that are the result of a statutory change in the formula for calculation of state funding under that section. If the calculation required by this subsection reveals that the municipality received a net reduction in funding, the municipality is authorized to adjust its property tax levy limit in an amount equal to the net reduction of funds. For the purpose of determining if there was a net reduction in funding, the municipality may consider only those funds that are net new funds. For purposes of this subsection, "net reduction in funding" means the amount of funds received by the municipality from the State during the calendar year immediately preceding the most recently completed calendar year less the amount of such funds received in the most recently completed calendar year. If the calculation required by this subsection yields a positive value, that value may be added to the municipality's property tax levy limit. If a municipality receives net new funds in any fiscal year for which its property tax levy limit has not been adjusted as provided in this subsection, the municipality shall adjust its property tax levy limit in the following year in an amount equal to the net new funds.

[2007, c. 662, §3 (AMD) .]

5. Exceeding property tax levy limit; extraordinary circumstances. The property tax levy limit established in subsection 2 may be exceeded for extraordinary circumstances only under the following circumstances.

A. The extraordinary circumstances must be circumstances outside the control of the municipal legislative body, including:

- (1) Catastrophic events such as natural disaster, terrorism, fire, war or riot;
- (2) Unfunded or underfunded state or federal mandates;
- (3) Citizens' initiatives or other referenda;
- (4) Court orders or decrees; or
- (5) Loss of state or federal funding.

Extraordinary circumstances do not include changes in economic conditions, revenue shortfalls, increases in salaries or benefits, new programs or program expansions that go beyond existing program criteria and operation. [2005, c. 2, Pt. C, §1 (NEW); 2005, c. 2, Pt. C, §§3, 5 (AFF); 2005, c. 12, Pt. WW, §16 (AFF).]

B. The property tax levy limit may be exceeded only as provided in subsection 7. [2005, c. 2, Pt. C, §1 (NEW); 2005, c. 2, Pt. C, §§3, 5 (AFF); 2005, c. 12, Pt. WW, §16 (AFF).]

C. Exceeding the property tax levy limit established in subsection 2 permits the property tax levy to exceed the property tax levy limit only for the year in which the extraordinary circumstance occurs and does not increase the base for purposes of calculating the property tax levy limit for future years. [2005, c. 2, Pt. C, §1 (NEW); 2005, c. 2, Pt. C, §§3, 5 (AFF); 2005, c. 12, Pt. WW, §16 (AFF).]

[2005, c. 2, Pt. C, §1 (NEW); 2005, c. 2, Pt. C, §§3, 5 (AFF); 2005, c. 12, Pt. WW, §16 (AFF) .]

6. Increase in property tax levy limit. The property tax levy limit established in subsection 2 may be increased for other purposes only as provided in subsection 7.

[2005, c. 2, Pt. C, §1 (NEW); 2005, c. 2, Pt. C, §§3, 5 (AFF); 2005, c. 12, Pt. WW, §16 (AFF) .]

7. Process for exceeding property tax levy limit. A municipality may exceed or increase the property tax levy limit only by the following means.

A. If the municipal budget is adopted by town meeting or by referendum, the property tax levy limit may be exceeded by the same process that applies to adoption of the municipal budget except that the vote must be by written ballot on a separate article that specifically identifies the intent to exceed the property tax levy limit **and the action must be approved by the voters at a referendum held at a regular or special election, as defined in Title 21-A, section 1.**

. [2005, c. 2, Pt. C, §1 (NEW); 2005, c. 2, Pt. C, §§3, 5 (AFF); 2005, c. 12, Pt. WW, §16 (AFF).]

B. If the municipal budget is adopted by a town council or city council, the property tax levy limit may be exceeded **only if approved** by a majority vote of all the elected members of the town council or city council on a separate article that specifically identifies the intent to exceed the property tax levy limit **and approved by the voters at a referendum held at a regular or special election, as defined in Title 21-A, section 1.**

2005, c. 12, Pt. WW, §12 (AMD); 2005, c. 2, Pt. C, §5 (AFF); 2005, c. 12, Pt. WW, §§15, 16 (AFF).]
[2005, c. 12, Pt. WW, §12 (AMD); 2005, c. 2, Pt. C, §5 (AFF); 2005, c. 12, Pt. WW, §§15, 16 (AFF) .]

8. Treatment of surplus; reserves. Any property tax revenues collected by a municipality in any fiscal year in excess of its property tax levy limit, as determined by a final audited accounting, must be transferred to a property tax relief fund, which each municipality must establish, and used to reduce property tax levies in subsequent fiscal years. Nothing in this subsection limits the ability of a municipality to maintain adequate reserves pursuant to section 5801.

[2005, c. 2, Pt. C, §1 (NEW); 2005, c. 2, Pt. C, §§3, 5 (AFF); 2005, c. 12, Pt. WW, §16 (AFF) .]

9. Fractional divisions. A municipality may, consistent with Title 36, section 710, exceed its property tax levy limit in such reasonable amount as necessary to avoid fractional divisions.

[2005, c. 2, Pt. C, §1 (NEW); 2005, c. 2, Pt. C, §§3, 5 (AFF); 2005, c. 12, Pt. WW, §16 (AFF) .]

10. Enforcement. If a municipality adopts a property tax levy in violation of this section, the State Tax Assessor may require the municipality to adjust its property tax levy downward in an amount equal to the illegal property tax levy and impose such other penalties as the Legislature may provide.

[2005, c. 2, Pt. C, §1 (NEW); 2005, c. 2, Pt. C, §§3, 5 (AFF); 2005, c. 12, Pt. WW, §16 (AFF) .]

SECTION HISTORY

2005, c. 2, §C1 (NEW). 2005, c. 12, §§WW11,12 (AMD). 2005, c. 515, §1 (AMD). 2005, c. 621, §§9-13 (AMD). 2005, c. 683, §I2 (AMD). 2005, c. 2, §§C3,5 (AFF). 2005, c. 12, §WW16 (AFF). 2007, c. 662, §3 (AMD).