



Changes to the New York State Tax Cap: What are they and what is the potential benefit to school districts?

A NYSASBO Research Note

The New York State Association of School Business Officials (NYSASBO) has advocated for adjustments to the Tax Cap since its inception that would better balance the state's twin priorities of providing tax relief and improving educational outcomes. To lay the groundwork for potential changes to the Tax Cap, that were indeed acted on this year by the Legislature, NYSASBO did two important things.

First, NYSASBO together with the Rockefeller Institute of Government held a school finance symposium in September 2014 entitled "Balancing Educational Excellence with Tax Relief" that discussed how other states, notably Massachusetts and New Jersey, have instituted tax caps and raised student achievement. The event was attended by state policymakers, other educational associations and school district leaders.

Second, it led the development of a position paper by the Education Conference Board (ECB), a coalition of educational associations, titled *Tax Cap adjustments can help schools balance student needs, fiscal stability, and taxpayer concerns* [[http://www.nysasbo.org/uploads/files/1424813093_NEW_ECB-taxcap-Feb2015%20\(1\).pdf](http://www.nysasbo.org/uploads/files/1424813093_NEW_ECB-taxcap-Feb2015%20(1).pdf)] that was issued in February 2015. The paper identified 11 actions New York State could take to better balance improvements to education and tax relief by looking at tax cap models from other states and rules for New York's municipalities.

The 2015 legislative session ended with two adjustments (see Appendix A) to the Tax Cap that reflected priorities of NYSASBO and the Education Conference Board relating to excluding local capital expenditures for BOCES instructional space and counting payments in lieu of taxes from tax exempt properties in the calculation of the allowable tax levy limit.

Impact of Tax Cap Changes to School Districts

Figure 1 shows data on BOCES capital expenditures for aid year 2014-15. Five hundred twelve component school districts of BOCES incurred \$53 million in aidable expense for BOCES instructional space. These districts represent 73 percent of districts statewide. For this expense, they received \$30 million in aid, leaving a difference of almost \$23 million in local capital expense for this construction.

Without the regulations that may be promulgated by the Commissioner of Tax and Finance, we do not know precisely the manner in which these expenses will affect the allowable levy limit of the Tax Cap. However, if we anticipate a process similar to that used for school district capital expense, we would expect districts to be able to add to their permissible exclusion for local capital expenses an amount equal to total expenses less any aid or grants received for the construction less any fund balance or reserves used. The \$23 million reported by the State Education Department for the 2014-15 aid year is an estimate of the potential benefit for New York State school districts. The estimate may be low since presumably the exclusion would be based on total expenses and not just aidable expense.



Figure 1. Aidable Expense, Aid and Local Capital Expense for BOCES Instructional Spaces

| Aidable Debt Svc and Capital Outlay Expense | Aid on Debt Svc and Cap Outlay | Difference |
|--|---------------------------------------|-------------------|
| \$53,037,472 | \$30,086,870 | \$22,950,602 |

SOURCE: NYSED State Aid Office data for the 2014-15 aid year as of July 8, 2015.

Figure 2 shows revenues from payments in lieu of taxes (PILOTs) that school districts reported receiving for 2015 and 2016. About 70 percent of New York State school districts reported receiving revenues from PILOTs. About a third of school districts saw an increase in revenues from PILOTs from 2014 to 2015 and almost 40 percent saw an increase in revenues from PILOTs from 2015 to 2016. A large number of school districts also saw decreases in revenues from PILOTs from 2014 to 2015 (37 percent) and from 2015 to 2016 (21 percent).

While it is unknown the exact manner in which the Commissioner of Tax and Finance will incorporate PILOTs in the quantity change factor used to calculate the allowable levy limit, it is expected that some measure of growth associated with these revenues will be used. Thus there is a potential benefit associated with the growth in revenues from PILOTs which totaled approximately \$23 million for 2015 and \$13 million for 2016.

Figure 2. Revenues from PILOTs for New York State School Districts

| | 2015 | | | | | | 2016 | | | | | |
|--|------------------|---------|------------------|---------|-------------------------|---------|------------------|---------|------------------|---------|-------------------------|---------|
| | PY PILOTs | | CY PILOTs | | Growth in PILOTs | | PY PILOTs | | CY PILOTs | | Growth in PILOTs | |
| | Number | Percent | Number | Percent | Number | Percent | Number | Percent | Number | Percent | Number | Percent |
| Totals | \$343,696,687 | | \$324,429,608 | | \$23,430,418 | | \$336,349,618 | | \$339,293,994 | | \$13,514,391 | |
| Count of districts with PILOTs or Increase | 467 | 69% | 467 | 69% | 221 | 33% | 477 | 71% | 474 | 70% | 260 | 39% |
| Districts with No PILOTs | 209 | 31% | 209 | 31% | 224 | 33% | 199 | 29% | 129 | 19% | 277 | 41% |
| Districts with a decrease in PILOTs | | | | | 247 | 37% | | | | | 139 | 21% |
| Total Count | 676 | 100% | 676 | 100% | 676 | 100% | 675 | 100% | 675 | 100% | 675 | 100% |

SOURCE: Office of the State Comptroller, Tax Cap data, as of June 1, 2015.

How does this help school districts? It allows them to increase their allowable levy limits to support critical basic educational programs. The capital exclusion to the Tax Cap is expected to increase by the amount of the local capital expenditures for BOCES projects. The increase in PILOTs is expected to be reflected in the quantity change factor which is multiplied by the prior year tax levy to create a prior year levy that is adjusted for property expansion. The adjusted prior year tax levy, as the starting point for determining the allowable levy limit, is then multiplied by the allowable growth factor (two percent or inflation, whichever is less) and the result is increased by permissible exclusions, including local capital expenditures. The impact is expected to be greater especially for cash-strapped school districts which may have exhausted their fund balance and low-performing school districts which need to invest more in educational programs to raise student performance.



The New York State Association of School Business Officials

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Conclusion

While the legislative action is welcome and appears to reflect an interest in making the Tax Cap work better for schools, there are some troubling aspects. First, the changes depend on the discretion of the Commissioner of Tax and Finance to implement.

Second, school districts are faced with the potential of no increase in the Tax Cap for next year. Due to recent inflation or CPI data released by the US Bureau of Labor Statistics, the tax cap for next year may allow for no growth in a school district's levy over the prior year. This is especially troubling for school districts with limited fiscal capacity and substantial student poverty, which have been historically underfunded. Many of these districts are only now recovering from six years of GEA reductions, three years of tax cap restrictions on local revenues, and a foundation formula promised but never fully funded.

Although these pending adjustments to the tax cap are indeed helpful, the adjustments will have limited or no positive impact if the trend towards a zero increase in the tax cap continues.



Appendix A

2015 Legislative Action

The session concluded with amendments to section 2023-a of the Education Law and section 3-c of the General Municipal Law relating to the Tax Cap¹.

Education Law section 2023-a was amended to include a possible adjustment to the definition of local capital expenditures to recognize school district local capital expenditures for BOCES instructional space, which are a permissible exclusion from the Tax Cap:

THE COMMISSIONER OF TAXATION AND FINANCE SHALL, AS APPROPRIATE, PROMULGATE RULES AND REGULATIONS WHICH MAY PROVIDE FOR ADJUSTMENT OF CAPITAL LOCAL EXPENDITURES TO REFLECT A SCHOOL DISTRICT'S SHARE OF ADDITIONAL BUDGETED CAPITAL EXPENDITURES MADE BY A BOARD OF COOPERATIVE EDUCATIONAL SERVICES.

General Municipal Law section 3-c was amended to recognize growth (quantity change) on tax exempt land, for which the school district or local government may be receiving payments in lieu of taxes (PILOTs).

THE COMMISSIONER OF TAXATION AND FINANCE SHALL, AS APPROPRIATE, PROMULGATE RULES AND REGULATIONS REGARDING THE CALCULATION OF THE QUANTITY CHANGE FACTOR WHICH MAY ADJUST THE CALCULATION BASED ON THE DEVELOPMENT ON TAX EXEMPT LAND.