



LEGISLATIVE BRIEFS...

Special Edition — June 2011

New York State Legislature Passes Tax Cap!

Despite months of efforts by public education supporters to defeat a proposed property tax cap and nearly 11,000 signatures on the NYS Coalition for Local Control petition in opposition, this onerous measure was passed by the state Legislature as part of an omnibus bill (S5856; A8518) called the “Big Ugly”. New York State PTA opposed this measure on the basis that it would:

- undermine the opportunity for every child in our state to receive a sound basic education regardless of their zip code;
- impede the continuum of gains NY has made in closing the achievement gap between low and high need school districts;
- severely diminish local control and community engagement in our schools;
- eliminate the democratic principle of majority rule.

Overall, school districts wishing to spend an amount that generates a levy increase above the cap will be required to achieve a passage rate of 60% of those voting. They will also be required to use specific ballot language that makes clear that the district would be exceeding the cap. Districts where local budget votes fail twice would be held to spending, i.e., a 0% increase, at the same amount as the previous year, irrespective of increases in health care, contractual expenses or student enrollment. There are several exemptions from the cap calculation, including certain pension cost increases, capital expenditures, court judgments and tax certiorari payments.

The calculation of the tax levy cap:

- 2% or the rate of inflation, whichever is less. For the current year, this generates a 1.6% increase (the current rate of inflation) in the levy.
- Pension cost increases of more than two percentage points of payroll. For example, this means that if pension costs increase from 8% of payroll to 10% of payroll, a 25% increase, there would be no exemption.
- An additional amount is allowable for growth of the district’s tax base. Eligible districts would be notified of their tax base growth factor after the 15th of February in each year by the State Commissioner of Taxation and Finance.
- If a local district budget is below the cap, the difference between the requested amount and the cap amount (up to 1.5%) can be carried over to the next year.
- Court judgments and tax certiorari cases that exceed 5% of the previous year’s tax levy, are excluded from the cap.
- Differences in capital construction and capital transportation purchase costs approved by voters are excluded from the cap and percentage increase allowances are calculated without that portion of the levy represented by direct capital or capital debt service expense.
- Enrollment increases and debt service other than voter approved construction and transportation costs are not considered allowable exemptions.
- Each school district will be required to submit data required for the calculation of cap limits to the state comptroller, education commissioner and tax commissioner by March 1 of each year.

- There is no five year expiration date for the cap. It will last as long as rent control in New York City is in place, or until repealed by the legislature.

MANDATE RELIEF:

Student Transportation: This allows school districts to end the practice of providing a seat for every potential student bus rider in the district and instead base bus routes on patterns of actual ridership. A previously obtained determination by the education commissioner expressed that this was an allowable practice which this legislation affirms. The resulting savings is predicted to be significant for districts, as the new route planning can be done with sophisticated computer programs that have buses spending less time in operation. The intent is to allow districts to employ fewer drivers and replace buses less frequently and benefit from the savings resulting from burning less diesel fuel. The measure will also allow districts to jointly plan and share the cost of transporting non-public and special education students.

Cooperative Purchasing: New York State is one of only two states that do not allow school districts to do their purchasing through national buying cooperative programs or to “piggyback” their contracts onto already existing contracts from other states, school districts and localities. Other states utilizing this practice have saved hundreds of millions of dollars. Use of national purchasing cooperatives and piggybacking allows districts a much broader array of products and services at a discounted cost to taxpayers. The new law attempts to bring our state into the electronic age by allowing districts to piggyback onto federal contracts for computer hardware, software and professional services, county works projects and federal defense supply contracts. School districts may forego competitive bidding when they use the state contract. The state contract frequently omits needed items, provides inadequate selections, offers few savings and the process is slow. As a result, school costs may continue to be high.

Pension Borrowing: The legislature has authorized districts to borrow to pay up to 125% of pension increases incurred during the next three years. For districts in dire financial circumstances, this would be a helpful fiscal tool. However, the bonds that may be issued for this purpose are not tax exempt and come at a high interest rate, leaving districts to pay close to double the actual pension costs up to 15 years after incurring them. Rather than adjust employee salaries and benefits to an affordable level, districts may be pressured by unions to borrow to pay pensions so that current funds can be used to pay higher salary levels.

Mandate Relief Council: The law establishes a joint legislative and executive council to hear petitions from local governments and school districts for relief from specific mandates by providing an alternative method of compliance or for permanent relief from “costly or burdensome mandates”. The council would also review and refer unfunded mandates to the legislature and to executive agencies for modifications or repeal. This joint council is based on NYSSBA’s Playbook legislation on special education, where a similar council would be empowered to review all mandates beyond those imposed by the federal government.

Energy Purchasing: The new law authorizes the Office of General Services (OGS) to provide centralized electricity purchases for schools.

Local Cooperative Services: Local municipalities (school districts are municipalities) may share services, materials and equipment.

Shared Superintendents: Up to three school districts with enrollment under 1,000 may share a superintendent.

Pre-K Census: Districts need only determine the pre-K census every two years, rather than every year.

Deputy Claims Auditor and Claims Sampling: Districts are authorized to appoint a deputy claims auditor to cover times when the claims auditor is unable to fulfill their function. Districts with more than 10,000 students may audit claims using sampling methodologies, rather than audit every claim.

WHERE DO WE GO FROM HERE?

First, the NYS PTA Board of Directors would like to thank our membership for its efforts to preserve the quality of our public education system and the principles of local control which now stand seriously threatened. Since January 1, our electronic advocacy (Capwiz) subscribers have sent over 13,000 messages to the state Legislature on behalf of New York's children.

Additionally, in collaboration with a courageous and committed group of Westchester-Putnam-Long Island education advocates, aka the newly-organized NYS Coalition for Local Control, nearly 11,000 signatures were collected and delivered to the Legislature in opposition to the tax cap. We are deeply grateful to the Coalition and to our Executive Administrator, Rick Longhurst, who hand-delivered reams of signatures to the Legislature, for their zealous advocacy.

So, where do we go from here? With the tax cap in place and little significant mandate relief as part of the legislation package we will need to:

- Encourage responsible mandate relief while at the same time ensure that safeguards already in place to protect the education, health and well-being of our students, especially our most vulnerable populations, remain intact. For example, while legislation ending the requirement for school districts to provide a bus seat for every child enrolled would be a cost savings, it could also result in standees on buses in spite of wording to the contrary. This would be in direct conflict with NYS PTA's strong positions against standees on buses.
- Protect the democratic tradition of rule of majority by replacing the 60% super majority requirement for cap over ride with a simple 50% majority.
- Urge the State to identify resources and revenue that will "catch-up" its responsibility to fund public education in a manner that will provide every child with a sound basic education. State aid has been frozen or reduced for the past three years; the State has reneged on its promise of the foundation aid formula under the CFE decision. If the State continues along this path of reduced and delayed investment, coupled with the limitations of the tax cap and little significant relief, our public school system will suffer irreparable damage.
- Identify ways that we can protect and advocate for measures that ensure a high-quality educational staff and the integrity of the classroom and school buildings, while working within the boundaries drawn by our 501(c)(3) status and within our basic policy and positions.
- Monitor outcomes and hold decision makers accountable.

While the future may be very uncertain, we cannot allow ourselves to sit back and feed our disappointment or nurse our wounds. Albeit an onerous one, the decision has been made and we now need to pull together to mitigate the damage. Someone said with every crisis comes opportunity – we must regroup, then power up every PTA member and every grassroots advocate because now, more than ever, the children of our State need us to speak louder and more often for every child with one voice.