
Finance Committee

HB 2309

Brief Description: Regarding property tax limits.

Sponsors: Representatives Simpson, Chase, Kirby, Moeller, Upthegrove, Takko, Hasegawa, Pettigrew, B. Sullivan, Ormsby and Linville.

Brief Summary of Bill

- Reenacts the limitations on regular property tax growth adopted under Initiative 747, retroactive to December 2001.
- Replaces the existing limitations with a new limit that allows, absent a public vote:
- local taxing districts to increase regular levies by factor equal to the greater of inflation or 101 percent; and
- the state to increase its levy by factor equal to the lesser of inflation or 101 percent, the same as current law.

Hearing Date: 2/26/07

Staff: Mark Matteson (786-7145).

Background:

Property Taxes - General Requirements and Limitations. Property subject to property tax is assessed at its true and fair value. This includes both real estate and personal property. In most cases true and fair value is the market value in the property's highest and best use. The state constitution requires the property tax to be uniform on real estate.

The constitution limits the sum of property tax rates to a maximum of 1 percent of true and fair value, or \$10 per \$1,000 of market value. Levies that are subject to the 1 percent rate limitation are known as "regular" levies, and there is no constitutional voting requirement for regular levies. The constitution does provide a procedure for voter approval for tax rates that exceed the 1

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percent limit. These taxes are called "excess" levies. The most common excess levies are maintenance and operation levies for school districts and bond retirement levies. The constitution provides that excess levies must obtain a 60 percent majority vote plus meet a minimum voter turnout requirement.

A district's regular property tax levy is limited by a statutory maximum growth rate in the amount of tax revenue that may be collected from year to year. Most recently, this limit was modified by voter initiative in 2002 with the passage of Initiative 747 (I-747; see below). For districts with a population of less than 10,000, the limit restricts regular levy growth to 101 percent. For districts adopting a limit based on a finding of substantial need, growth is restricted to the lesser of 101 percent or the limit factor adopted. For all other districts, growth is restricted to the lesser of 101 percent or inflation, defined as the change in the implicit price deflator published by the federal Bureau of Economic Analysis. The revenue limitation does not apply to new value placed on tax rolls attributable to new construction, to improvements to existing property, to changes in state-assessed valuation, or to construction of certain wind turbines. In areas where property values have grown more rapidly than 1 percent per year the 101 percent revenue limit has caused district tax rates to decline below the maximum rate.

The revenue limit for regular property taxes may be superseded by voter approval; this process is known as a "lid lift." Lid lifts require approval by a majority of the voters in a taxing district, and allow the district to set its levy in an amount that exceeds 101 percent of the previous year's tax, as long as the resulting tax rate is within the statutory rate limit.

Constitutional requirements with respect to legislation. The Washington Constitution requires that, regarding legislation, bills contain only one subject, and that subject be contained in the title. The court has interpreted this requirement to mean that there must be rational unity between the subject matter within the measure and that the title adequately reflect the subject matter. The constitution also requires that current law may not be amended by reference, but rather legislation amending current law must set forth in full the provisions being amended. The primary purpose of this requirement is to inform the public and the legislature of the nature and effect of proposed changes and to avoid confusion from having disconnected sections scattered throughout the legal code.

Initiative 747 - events leading up to passage - recent court rulings. The provision of law that limits the amount of growth in regular property tax revenue has been modified several times in the last 10 years as a result of measures put to a public vote. In 1997, voters adopted Referendum 47 (R-47), establishing the current three limit factor structure. Under R-47, the limit factor for maximum regular levy growth was set at 106 percent.

In November 2000, state voters approved initiative 722 (I-722), which among other things modified the property tax revenue limit factors established under R-47. The changes modified the maximum regular levy growth limit to 102 percent. That same month, however, the Thurston County Superior Court enjoined implementation of I-722. In February 2001, the Pierce County Superior Court invalidated the initiative under the title/subject rule. The state Supreme Court affirmed the superior court ruling in September 2001.

In January 2001, I-747 was filed. Under the initiative, the statutory changes under I-722 with respect to the 102 percent limitation were modified, providing instead a 101 percent limitation, unless approved otherwise by a public vote. In November 2001, I-747 was enacted by the voters.

In June 2006, the King County Superior Court invalidated I-747. The court ruled that the initiative violated constitutional requirements concerning amendment by reference. The court held that the persons voting on I-747 were led incorrectly to believe that they were voting to amend I-722 when, in fact, because I-722 had been struck down by the court, the voters were voting to amend R-47.

Summary of Bill:

The amendments to the limitation on regular property tax growth that were adopted by voters under I-747 are reenacted and made retroactive to December 6, 2001. These provisions are repealed and replaced by new limit factor in which annual growth in the state levy is limited to the lesser of 101 percent or 100 percent plus inflation, and annual growth in the regular levy of any other district is limited to the greater of 101 percent or 100 percent plus inflation.

Appropriation: None.

Fiscal Note: Requested on February 21, 2007.

Effective Date: The bill contains an emergency clause and takes effect immediately.