

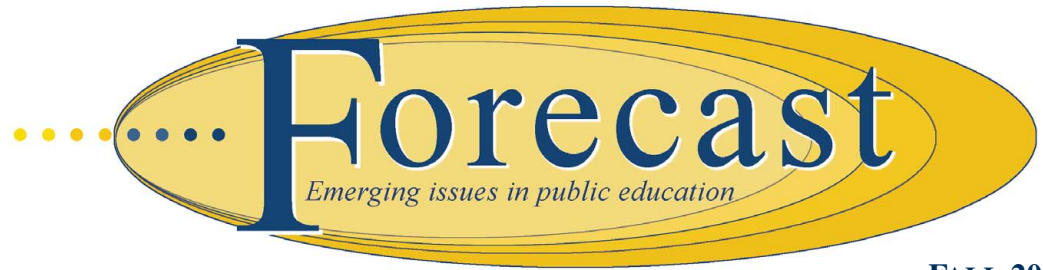
## An Overview of the Tax Levy Cap

New York law limits proposed tax levy increases to 2 percent or the rate of inflation, whichever is less. However, school districts may exempt certain expenditures, such as a portion of pension costs, PILOT\* payments and certain capital expenditures, so the cap varies from district to district and may actually exceed 2 percent.

If a school district budget has a tax levy increase equal to or less than its maximum allowable amount, or cap, the budget needs only a simple majority approval from voters to pass.

If a school district budget carries a tax levy increase greater than its capped amount, a supermajority of voters – 60 percent – must vote in favor of the plan in order for it to pass.

\* Payments in lieu of taxes



FALL 2012

## Planning for 2013: Lessons from Year 1 of the Tax Levy Cap

In May of 2012, school districts for the first time ever held budget votes under New York's new property tax levy cap. Taxpayers approved 96.5 percent of budgets, the second highest approval rate since the New York State School Boards Association began tracking results in 1969.

Now, as school districts prepare their budgets for the 2013-14 school year, school board members and administrators should take note of four key lessons from the first go-round under New York's tax cap law.

### Lesson 1: Less is more

*Tax levy increases at or below the tax cap were one-and-a-half times more likely to gain voter approval than tax levy increases that exceeded the cap.*

Budget approval rates varied greatly depending on whether a budget required simple majority or supermajority voter approval (see sidebar at left). Of the 671 school districts in our analysis,<sup>1</sup> 623 districts proposed budgets with tax levy increases that did not exceed their caps and therefore required approval by a simple majority of voters. Overall, these districts had relatively small tax levy increases; the average proposed tax levy increase of these spending plans (2.1 percent) was considerably lower than their average tax levy caps (3.6 percent). Ninety-nine percent of these budgets

### May Budget Vote

**623**

Number of budgets  
at or below tax levy cap

**48**

Number of budgets  
above tax levy cap

were approved by voters.

Only 48 of the 671 school districts proposed budgets that exceeded their tax levy caps – mostly to keep pace with the burgeoning costs of pensions, health care and educational programs – and therefore required the approval of at least 60 percent of voters. Of those districts, 29 budgets passed and 19 were defeated – an approval rate of just 60 percent.

### Lesson 2: Not all overrides are created equal

*Districts whose tax levy caps were less than 2 percent fared better in exceeding the cap and obtaining a supermajority.*

While budgets with tax levy increases that exceeded their caps were much less likely to gain voter approval overall, overrides were

<sup>1</sup> Taxpayers voted on a total of 678 spending plans, approving 654 of them. Since the State Education Department does not report tax levy information for school districts with fewer than eight teachers, this analysis excludes the seven small school districts that fall into that category. Thus, the report focuses on the remaining 671 school districts across the state that put their annual budgets up to a public vote on May 15, 2012, of which 647 gained voter approval and 24 did not.

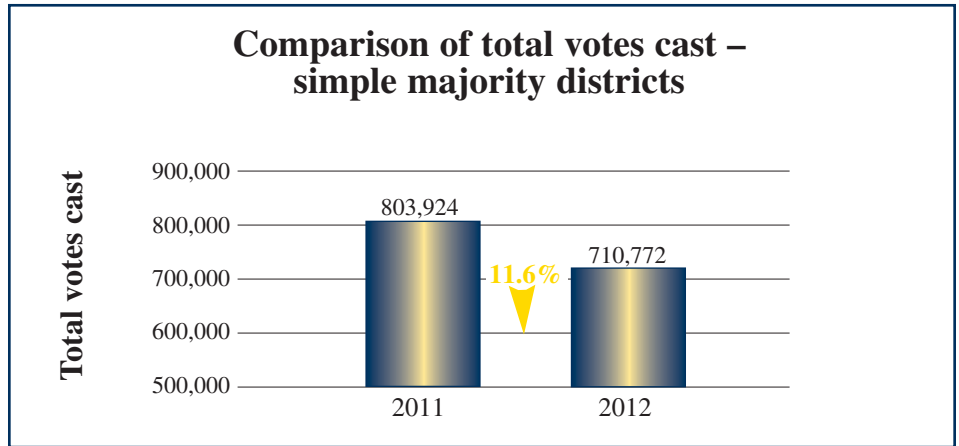
more successful when a district's maximum tax levy cap was at or below 2 percent.

Twenty-one districts that were required by law to limit their tax levy increases to 2 percent or less (and, in some cases, less than 0 percent), due mostly to PILOT agreements,<sup>2</sup> proposed budgets with tax levy increases that exceeded their caps, and all but four of them were approved. In fact, the 17 successful districts had maximum allowable tax levy increase limits that averaged negative 0.44 percent. In overriding their caps, these 17 districts passed budgets with an average tax levy increase of 2.75 percent. This suggests that districts may be more likely to obtain voter supermajority approval when their tax levy cap is viewed as overly restrictive.

The Ballston Spa school district in Saratoga County provides a good illustration. Ballston Spa had a tax levy cap of negative 2.9 percent, meaning the district actually had to cut its tax levy by that percentage to stay within its cap. The reason: PILOT payments.

Under existing PILOT agreements Ballston Spa has with several local businesses, the district will receive an additional \$2.1 million for 2012-13.<sup>3</sup> By law, these payments must be subtracted from the district's tax cap calculation, creating a situation whereby it had a negative tax levy cap.

Ballston Spa's

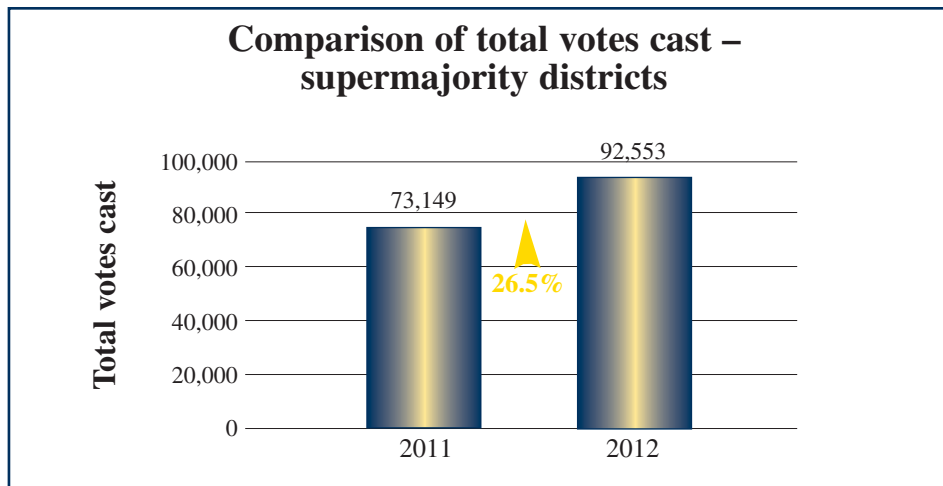


The total number of votes cast in the 623 districts that needed a simple majority for budget passage decreased by 11.6 percent in 2012 compared with 2011.

proposed budget called for a tax cut of 0.4 percent to avoid layoffs and program cuts as enrollment rises.<sup>4</sup> So, while Ballston Spa actually reduced its tax levy, the district still required supermajority voter approval to pass its budget because the levy change was greater than its negative 2.9 percent cap amount. Nearly 70 percent of voters approved the plan. Ballston Spa will see reduced payments under its PILOT agreements in coming years. This could lead to its tax cap calculation eventually rising to more than 2 percent.

Other unusual circumstances arose in the first year of the tax cap that showed there are still a number of bugs to be worked out. The New Paltz (Ulster County) school district budget was defeated because it did not receive the 60 percent voter approval it needed to override the cap – falling just short with 59.4 percent. School district trustees said the override provision is unfair because ‘no’ votes have greater weight than ‘yes’ votes, making it undemocratic and possibly unconstitutional. The Board of Education said it

will send a letter to a state educational reform commission suggesting that a simple majority of voters be required to override a state cap on property tax increases instead of the 60 percent currently mandated.<sup>5</sup>



The total number of votes cast in the 48 districts that needed a supermajority for budget passage increased by 26.5 percent in 2012 compared with 2011.

<sup>2</sup> A PILOT, or payment in lieu of taxes, is compensation to a local government (in this case, a school district) for some or all of the tax revenue it loses from a piece of property that is exempt from taxes, such as federally-owned land or a commercial enterprise that was given a tax break to locate in a particular geographic area. The property tax cap calculation for each district is adjusted by any PILOT payments, which may reduce the property tax cap to less than 2 percent.

### Lesson 3: Opposites attract

*In general, voter turnout increased in districts requiring 60 percent overrides, but decreased in districts requiring only simple majorities.*

The tax cap did not result in an increase in overall voter turnout statewide. In fact, overall voter turnout in 2012 decreased by a total of 73,398 votes – or 8.4 percent – compared with 2011. Only 30 percent of districts had higher voter turnouts in 2012 compared to 2011, while 70 percent had lower voter turnouts in 2012.

In the 623 districts that did not seek to override their caps, there were 93,152 fewer votes cast in 2012 than 2011, a decrease of 11.6 percent. Only about a quarter of these districts had higher voter turnout in 2012, while 74 percent had lower voter turnout. Voters in districts that did not seek to override their tax caps may have felt less incentive to go to the polls because levy increases in those districts

averaged only about 2.2 percent.

However, the opposite trend was evident in districts attempting to override their caps. There was a significant upsurge in voter turnout in the 48 districts that needed a 60 percent supermajority override for budget passage. In these districts, there were 19,404 more votes cast in 2012 than in 2011, an increase of 26.5 percent. Four out of five of these districts had higher voter turnout in 2012, while 19 percent had lower voter turnout in 2012 than in 2011. Tax levy increases that exceeded the cap were likely the major factor contributing to greater voter turnout in these districts.

### Lesson 4: Higher means lower

*In general, higher voter turnout meant lower passage rates.*

There appears to be an inverse relationship between voter turnout and budget passage: the greater the turnout, the less

likely the budget was to pass. Of the 24 districts whose budgets were defeated, voter turnout increased by 19 percent from 2011, and 92 percent of these districts had higher voter turnout in 2012 than in 2011.

Conversely, of the 647 districts whose budgets passed, voter turnout decreased by 10 percent from 2011. Only 28 percent of these districts had higher voter turnout in 2012 than in 2011, while 72 percent of districts had lower voter turnout in 2012 than in 2011.

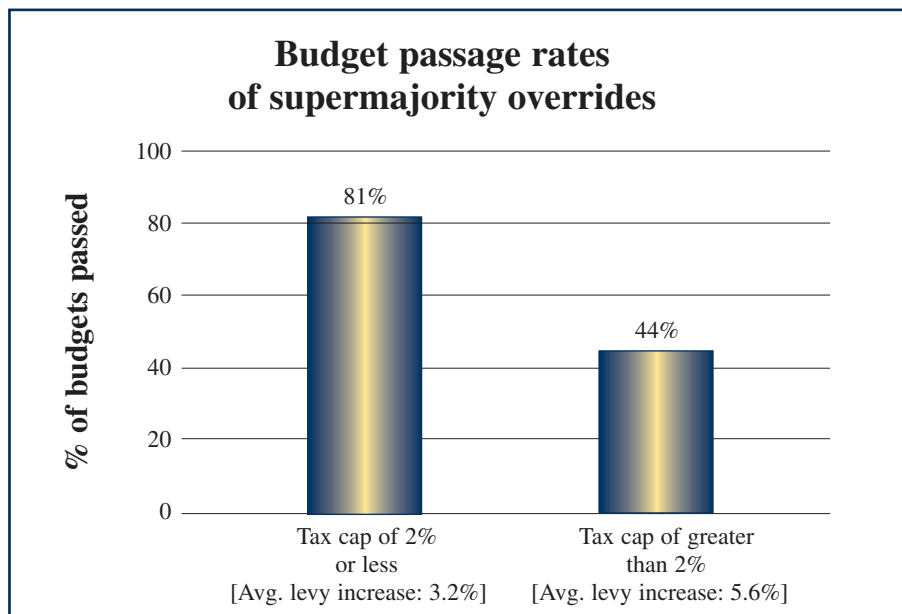
### Conclusion

School districts in New York were wary of exceeding their property tax cap limits in the first budgets under the tax cap. According to NYSSBA’s analysis, of the 671 school budgets, 67 percent were below their cap limit, 26 percent were right at their cap limit, and 7 percent exceeded their cap limit and required a supermajority for passage.

School leaders understood that voters in their communities were acutely aware of the 2 percent tax levy cap. This led them in year 1 to craft budgets with tax levy increases that averaged about 2.3 percent – even if it meant adopting budgets with property tax levy increases that were actually below what the law would allow if they chose to take all of their allowable exemptions.

School districts are now preparing for year 2 under New York State’s property tax levy cap. Much more remains to be studied in the coming years, including how factors such as wealth, regional demographics, resource equity and student achievement are impacted by the tax cap.

For example, a preliminary analysis shows that, when comparing the 48



The percentage of budgets requiring supermajority overrides that were approved by voters varied greatly depending on the magnitude of the tax levy increase.

districts that needed 60 percent supermajorities for budget passage, districts with below average wealth had a similar percentage of budgets pass as districts with above average wealth (59 percent vs. 64 percent).<sup>6</sup>

Gov. Andrew Cuomo recently said, "...it is clear that the property tax cap has been a tremendous success, saving hard-

earned money for New York families while ensuring that local governments learn to do more with less."<sup>7</sup>

With schools continuing to struggle with the effects of reduced state aid and a sluggish economy, it remains to be seen whether quality public schools and the tax cap can peacefully coexist in the minds of voters.

<sup>6</sup>This analysis was based on a district's combined wealth ratio, which is a measure of district wealth used by the State Education Department that takes into account the property and income wealth of school district residents.

### References

<sup>1</sup> See footnote on page 1.

<sup>2</sup> See footnote on page 2.

<sup>3</sup> Kenneth C. Crowe II, "A tax cap head-scratcher," *Albany Times Union*, May 10, 2012.

<sup>4</sup> Tatiana Zarnowski, "Ballston Spa school budget may top tax cap," *Schenectady Daily Gazette*, March 25, 2012.

<sup>5</sup> William J. Kemble, "New Paltz school board objects to 60% voter approval needed to override property tax levy limit," *Kingston Daily Freeman*, October 18, 2012.

<sup>6</sup> See footnote on page 4.

<sup>7</sup> Office of Governor Andrew Cuomo. Press Release. "Governor Cuomo Issues Report on Property Tax Cap's Successful First Year." (September 27, 2012).