

WSR 21-23-063

PERMANENT RULES

DEPARTMENT OF REVENUE

[Filed November 12, 2021, 8:37 a.m., effective December 13, 2021]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The department is amending WAC 458-19-045 to incorporate 2021 legislation, E2SHB 1069. This legislation allows a county with a population of more than 1,500,000 to supplant existing funds when voters approve a lid lift and the lid lift is approved during certain years.

Citation of Rules Affected by this Order: Amending WAC 458-19-045 Levy limit—Removal of limit (lid lift).

Statutory Authority for Adoption: RCW 84.08.010, 84.08.070, and 84.55.060.

Other Authority: RCW 84.55.050.

Adopted under notice filed as WSR 21-18-076 on August 27, 2021.

Changes Other than Editing from Proposed to Adopted Version: **Sub-section (7) (b) (iii) was edited to correct an error that was inconsistent with the applicable statute, RCW 84.55.050.**

Proposed: In counties with a population of one million five hundred thousand or more, funds raised through a lid lift can be used to supplant existing funds ((for levies)) if the levy was approved by the voters ((between)) after July 26, 2009, ((and December 31, 2011)) or in one of the following calendar years; 2009, 2010, 2011, 2015, 2016, 2017, 2018, 2019, 2020, 2021, and 2022.

Adopted: In counties with a population of one million five hundred thousand or more, funds raised through a lid lift can be used to supplant existing funds ((for levies)) if the levy was approved by the voters ((between)) after July 26, 2009, ((and December 31, 2011)) ~~or~~ and in one of the following calendar years; 2009, 2010, 2011, 2015, 2016, 2017, 2018, 2019, 2020, 2021, and 2022.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 1, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: November 12, 2021.

Atif Aziz
Rules Coordinator

OTS-3295.2

AMENDATORY SECTION (Amending WSR 18-24-104, filed 12/4/18, effective 1/4/19)

WAC 458-19-045 Levy limit—Removal of limit (lid lift). (1) **Introduction.** This rule explains the procedures for implementing a lid lift ballot measure when a taxing district wants to ask its voters for the authority to exceed the levy limit.

(2) **Definitions.** The definitions in WAC 458-19-005 apply to this rule.

(3) **Lid lift - Purpose.** The purpose of a lid lift is to allow additional property taxes to be collected at a time when the levy limit in chapter 84.55 RCW is the effective legal constraint to increasing property taxes. A levy limit may be exceeded when authorized by a majority of the voters voting on a proposition to "lift the lid" of the levy limit as described in RCW 84.55.050. This "lid lift" is intended to allow the levy limit to be exceeded for the levy made immediately following the vote on the proposition. Lid lifts may result in increasing the limit factor, as defined in WAC 458-19-005, for one year or up to six consecutive years. The result of the limit factor increase can temporarily or permanently impact subsequent levy limit calculations.

(4) **Election for approval of lid lift proposition - When held.** The election to approve a lid lift proposition must be held within the taxing district and may be held at the time of a general election, or at a special election called by the governing body of the taxing district for that purpose. The election must not be held more than twelve months prior to the date the proposed levy is to be made. For purposes of this rule, a levy is "made" when the taxing district's budget is certified. The ballot title and measure proposing the lid lift are prepared by the county prosecutor or city attorney, as applicable, in accordance with RCW 29A.36.071. RCW 29A.36.071 requires a ballot title to include a concise description of the measure, not to exceed (~~seventy-five~~) 75 words. The requirements for the text of a ballot title and measure differ depending on whether the levy limit will be exceeded for a single year or multiple years, up to six consecutive years. A simple majority vote is required for approval of a lid lift.

(5) **Single year lid lift.** A single year lid lift allows a taxing district to increase its levy by more than one percent over its highest lawful levy since 1985 for 1986 collection, for one year.

(6) **Ballot title and measure - Single year lid lift.** The text of a ballot title and measure for a single year lid lift must contain the following:

(a) The dollar rate of the proposed levy so that it reflects the total dollar rate for the taxing district, which may be less than the maximum statutory dollar rate allowed for the particular class of taxing district; and

(b) Any of the following conditions that are applicable:

(i) The number of years the increased levy is to be made by the taxing district; however, if one of the purposes of the increased levy is to make redemption payments on bonds of the taxing district, the duration of the increased levy cannot exceed nine years, except for taxes levied for collection in 2018 and thereafter in Thurston County, the period for which the increased levies are made may not exceed (~~twenty-five~~) 25 years;

(ii) The purpose or purposes of the increased levy;

(iii) Whether the dollar amount of the increased levy will be used for the purpose of computing the limitations for subsequent levies and thereby permanently increase the taxing district's levy base; and

(iv) Whether the increase in regular property taxes by a county or city resulting from the approval of the lid lift will not apply to property exempt under the senior citizens and disabled persons property tax exemption in RCW 84.36.381.

(7) **Multiple year lid lift.** A multiple year lid lift allows a taxing district to increase its levy by more than one percent over its highest lawful levy since 1985 for 1986 collection, for up to six consecutive years.

(a) Ballot title and measure. The text of a ballot title and measure for a multiple year lid lift must contain the following:

(i) The dollar rate of the first year's proposed levy so that it reflects the total dollar rate for the taxing district, which may be less than the maximum statutory dollar rate allowed for the particular class of taxing district;

(ii) The limit factor, or specific index used to determine the limit factor (such as the consumer price index), which is not required to be the same for all years, by which the regular tax levy for the district may be increased in each of the subsequent consecutive years;

(iii) The limited purposes for which the proposed annual increases will be used; and

(iv) Any of the following conditions that are applicable:

(A) The number of years the increased levy is to be made by the taxing district; however, if one of the purposes of the increased levy is to make redemption payments on bonds of the taxing district, the duration of the increased levy cannot exceed nine years, except for taxes levied for collection in 2018 and thereafter in Thurston County, the period for which the increased levies are made may not exceed (~~twenty-five~~) 25 years;

(B) The purpose or purposes of the increased levy;

(C) Whether the dollar amount of the increased levy will be used for the purpose of computing the limitations for subsequent levies and thereby permanently increase the taxing district's levy base; and

(D) Whether the increase in regular property taxes by a county or city resulting from the approval of the lid lift will not apply to property exempt under the senior citizens and disabled persons property tax exemption in RCW 84.36.381.

(b) Supplanting of existing funds.

(i) Except as otherwise provided in (b) of this subsection, funds raised by a levy under this rule may not supplant existing funds used for the limited purpose specified in the ballot title. For purposes of (b) of this subsection, existing funds means the actual operating expenditures for the calendar year in which the ballot measure is approved by voters. Actual operating expenditures excludes:

(A) Lost federal funds;

(B) Lost or expired state grants or loans;

(C) Extraordinary events not likely to reoccur;

(D) Changes in contract provisions beyond the control of the taxing district receiving the services; and

(E) Major nonrecurring capital expenditures.

(ii) In counties with a population of less than (~~one million five hundred thousand~~) \$1,500,000, funds raised through a lid lift can be used to supplant existing funds beginning with levies submitted and approved by the voters after July 26, 2009.

(iii) In counties with a population of (~~one million five hundred thousand~~) 1,500,000 or more, funds raised through a lid lift can be used to supplant existing funds (~~for levies~~) if the levy was approved by the voters (~~between~~) after July 26, 2009, and (~~December 31, 2011~~) in one of the following calendar years; 2009, 2010, 2011, 2015, 2016, 2017, 2018, 2019, 2020, 2021, and 2022.

(8) **Permanent lid lift.** A permanent lid lift occurs when the ballot title and measure expressly state that the levy will be used for the purpose of computing the limitations for subsequent levies as provided in subsections (6)(b)(iii) and (7)(a)(iv)(C) of this rule. Approval of a permanent lid lift permanently increases the base used to calculate the levy limit.

(a) First levy after voter approval. The first regular levy of a taxing district made after voter approval of a permanent lid lift proposition is calculated on the basis of the dollar rate stated in the ballot title. The dollar rate is subject to the constitutional one percent limit, the statutory aggregate dollar rate limit, and any applicable prorationing.

(b) Subsequent levies. The levy limit on regular levies of a taxing district made subsequent to the first regular levy made after voter approval of a permanent lid lift proposition is calculated by multiplying the highest amount that could have been lawfully levied since 1985 for 1986 collection, including the dollar amount of the regular levy calculated in (a) of this subsection, by the limit factor.

(9) **Temporary lid lift.** If the ballot title and measure do not expressly indicate that the final levy will be used for the purpose of computing subsequent levies, the levy increase is temporary.

(a) First levy after voter approval. The first regular levy of a taxing district made after voter approval of a temporary lid lift proposition is calculated on the basis of the dollar rate stated in the ballot title. The dollar rate is subject to the constitutional one percent limit, the statutory aggregate dollar rate limit, and any applicable prorationing.

(b) Subsequent levies. The levy limit on regular levies of a taxing district made subsequent to the first regular levy made after voter approval of a temporary lid lift proposition is calculated by multiplying the highest amount that could have been lawfully levied since 1985 for 1986 collection, including the dollar amount of the regular levy calculated in (a) of this subsection, by the limit factor.

[Statutory Authority: RCW 84.08.010, 84.08.070, and 84.55.060. WSR 18-24-104, § 458-19-045, filed 12/4/18, effective 1/4/19. Statutory Authority: RCW 84.08.010, 84.08.070, 84.48.080, 84.48.200, 84.52.0502, and 84.55.060. WSR 18-05-013, § 458-19-045, filed 2/8/18, effective 3/11/18; WSR 14-14-023, § 458-19-045, filed 6/23/14, effective 7/24/14. Statutory Authority: RCW 84.08.010, 84.08.070, 84.48.080, 84.55.060, 84.52.0502, chapters 84.52 and 84.55 RCW, and RCW 34.05.230(1). WSR 02-24-015, § 458-19-045, filed 11/25/02, effective 12/26/02. Statutory Authority: RCW 84.55.060 and 84.08.070. WSR 94-07-066, § 458-19-045, filed 3/14/94, effective 4/14/94.]