

N J M M A

New Jersey Municipal Management Association, Inc.

STATEMENT REGARDING TAX LEVY CAPS

June 24, 2010

The New Jersey Municipal Management Association (NJMMA) is an organization of professional local government administrators and assistants whose goal is to improve the quality of local government in New Jersey through nonpartisan professional management.

NJMMA recognizes the need for property tax relief in New Jersey. We believe that if a more stringent tax levy cap is to be effective in controlling local budgets while providing for the common good in these uncertain times, it must take into consideration a number of factors that we have outlined below. In general, we believe that a levy cap should a) be passed in conjunction with measures to strengthen local government's ability to reduce costs, b) allow for certain exceptions for extraordinary or unforeseeable costs that cannot be managed around and c) permit future legislatures to adapt and respond to volatile economic times and changing circumstances. Those principles are reflected to a considerable extent in S29. We ask that the Committee consider making this legislation effective at the same time that associated "tool kit" measures are also effective. In addition, we recommend that the Committee allow the Local Finance Board to grant waivers in several circumstances where such waivers are currently allowed but which would be eliminated under the legislation: namely, for extraordinary utility rate increases and for state or federal mandates.

NJMMA urges policy makers to consider the following as you take up this important issue:

1. The varying impact of any cap of the tax levy among various municipalities. The existing 4% levy cap allows some municipalities to increase their total appropriation by up to 3.2%. In these municipalities the property tax levy constitutes 80% of the total revenues available to the municipality. Hence the 3.2% factor growth (4% Levy cap times the 80% that the Tax levy represents of the total budget revenues). However in the majority of municipalities the municipal tax rate generates approximately 50% of the total revenue, meaning that the 4% cap provides for 2% of expenditure growth.
 - i. Any legislation establishing Tax Cap Limitations should consider these varying impacts.
2. Municipalities are not in control of the economic forces that govern many parts of their cost structure. Managers and Administrators who were involved in local government in the late 1970's / early 1980's remember the catastrophic impact of 12 to 15% inflation on our budgets. Municipalities could not prevent these impacts; rather they can only respond to them.
 - i. Any legislation establishing a tax levy cap must have provisions that allow the State elected leaders, the Governor and the Legislature, to exercise their discretion to be able to respond to external economic forces that can and do impact local decisions.

3. Current state law provides several financial mechanisms that a municipality can use to respond to an emergency, such as infrastructure damages caused by adverse weather.
 - i. Any legislation establishing a tax levy cap must have provisions that continue to provide the financial capability for municipalities to respond to these emergencies in a manner that does not totally destroy all other ongoing activities and services.
4. Municipalities must respond to cost increases dictated by other entities over whom they have no control. Prime examples are actions by the BPU to grant rate increases not only to energy providers but in many cases (and more critically) to other utility providers, such as water and sewer.

There are other agencies which are also outside of local control who have major impacts on local budgets, these include county or regional utilities authorities which must increase rates dramatically to respond to demands by the State DEP.

The Division of Pensions annually recalculates required pension contributions taking into account its own investment results, analysis of “accrued unfunded liabilities” that often reflect benefit changes dictated by legislative action.

Health insurance providers respond to medical cost structures and practices over which the municipality has very limited control (especially if they are a part of the State Health Benefits Program).

Finally there are agencies such as PEOSH which create new regulations that have significant impact on municipalities, because these regulations are outside of the “State Mandate State Pay” provision of the State Constitution.

- i. Any legislation establishing a tax levy cap must have provisions to allow for some state agency to review these external cost increases and provide-limited exceptions or waivers to the cap limits to allow the municipality to respond to these outside agencies. In addition, legislation should consider placing a cap on the amounts that these external agencies are allowed to pass on to governmental agencies.
5. State aid is a significant portion of many municipal revenue structures. In essence, “when the state sneezes, the municipalities catch a cold.” The reduction in state aid to municipalities over the past decade has resulted in increased property taxes, as the municipalities have very few options in the way of generating other revenues. If the state must reduce municipal aid due to an economic downturn or a court order directing the reassignment of revenues, and there is a fixed-rate unchangeable tax levy cap, municipalities must immediately, often without time for proper planning or phasing in of any changes, adjust their appropriation budget accordingly.
 - i. Any legislation establishing a tax levy cap must have provisions for the Governor and Legislature to adjust the levy cap rate to reflect these short term (or even long term) changes in state aid contributions.

6. The proposed Municipal Tool Kit has a number of valuable mechanisms to allow municipalities to regain control over certain cost structures, most notably in direct personnel costs. If enacted as proposed, these will lead to significant long term changes in municipal expenditure patterns. However it will take time for these reforms to impact existing cost structures, especially given existing multiyear labor contracts.
 - i. Any legislation establishing a tax levy cap must have provisions to phase in the cap to correspond to the implementation of the Tool Kit cost containment provisions, while honoring existing contracts and court orders.

In addition to the above comments on the Levy cap, NJMMA has identified the following items that require consideration and inclusion in the Municipal Tool Kit.

1. The Tool Kit should contain a provision to permit the State to set aside dedicated funding for specific improvements, with this dedication superseding the annual budget process. Local governments have endorsed certain state programs as being viable means to address major long term issues. Unfortunately in the scramble to fund the annual State budget, these “dedicated” funds and their related programs can be set aside with the money being used for other purposes.
 - i. Any proposed legislation should consider a mechanism to allow for the dedication of funding for specific purposes to insure that these funds continue to address the needs cited in the original legislation.
2. A mechanism should be provided for a state agency to review actions by DEP, PEOSH, DOT and other state agencies which have the capability to make rules that have a significant impact on municipal expenditures but which may not rise to the level of the State Mandate State Pay amendment to the Constitution. Prime examples of these are DEP regulations on storm water management, fleet washing, street sweeping, etc. Another example is PEOSH regulations (and similar regulations by DCA Division of Fire Safety) on manpower assignments. The Administrative Office of the Courts established new “courtroom security requirements” that have imposed significant cost increases for all municipal courts and local police departments. The Department of Law and Public Safety periodically announces new training and equipment requirements as well as equipment qualifications which have significant long term costs (for example, recent regulations on alcohol testing).
3. Prevailing wage requirements should be focused on large scale infrastructure improvements. There have been changes to state law / regulations that further restrict the ability of municipalities to use local, qualified and skilled small contractors to perform infrastructure upgrades and maintenance projects because they cannot afford to pay the prevailing wage. This results not only in a higher cost but also discriminates against the small local contractors who are the backbone of many municipalities.

For the reasons cited above, NJMMA recommends that any tax levy cap require flexibility to allow for change as approved by the Governor and Legislative leaders, which will provide our state’s elected leaders with tools to address the constant evolution of government as well as the economic forces that local government cannot change, but must be able to respond to. We urge state elected leaders not to relinquish their responsibility to address future needs in favor of a formula that is prescribed today in an economic period that

is not “normal” in terms of economic history.

We are confident that by working together we can develop a tax levy cap and tool kit that will provide all municipal entities the resources required to think globally while acting locally. This will ensure that our residents receive the best value for their hard earned dollar.

Representatives of the Association are available to meet with State officials to discuss the issues outlined in this letter as well as other related issues.