



EXPEDITED RULE MAKING

CR-105 (June 2004)
(Implements RCW 34.05.353)
EXPEDITED RULE MAKING ONLY

Agency: Department of Revenue

Title of rule and other identifying information:

- WAC 458-14-056 *Petitions—Time limits—Waiver of filing deadline for good cause.*
- WAC 458-19-045 *Levy limit—Removal of limit (lid lift).*
- WAC 458-19-055 *Levy limit—Proration of earmarked funds.*
- WAC 458-19-060 *Emergency medical service levy.*
- WAC 458-19-070 *Procedure to adjust consolidated levy rate for taxing districts when the statutory aggregate dollar rate limit is exceeded.*
- WAC 458-19-075 *Constitutional one percent limit calculation.*
- WAC 458-19-085 *Refunds—Procedures—Applicable limits.*

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO

Name: Jay Jetter
 Agency: Department of Revenue
 Address: Post Office Box 47453
 Olympia, Washington 98504-7453
 E-mail: JayJ@dor.wa.gov

AND RECEIVED BY: June 2, 2014

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The Department of Revenue is proposing to amend these rules to incorporate recent legislation:

WAC 458-14-056 incorporates ESHB 1826 (2011), which requires a Board of Equalization to waive the filing deadline for valuation appeals when certain criteria are met.

(continued on the next page)

Copies of draft rules are available for viewing and printing on our website at [Rules Agenda](#)

Reasons supporting proposal: To recognize past legislation.

Statutory authority for adoption: RCW 84.08.010, 84.08.070, 84.48.080, 84.48.200, 84.52.0502, 84.55.060

Statute being implemented: RCW 71.20.110, 73.08.080, 84.40.038, 84.55.050, 84.52.043, 84.52.010, 84.52.069, 84.52.120, 84.52.81, 84.69.180

Is rule necessary because of a:

- | | | |
|-------------------------|------------------------------|--|
| Federal Law? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| Federal Court Decision? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| State Court Decision? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |

If yes, CITATION:

Date April 1, 2014

Name Dylan Waits

Signature

Title Rules Coordinator

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: April 01, 2014

TIME: 1:36 PM

WSR 14-08-086

Name of proponent: Department of Revenue

- Private
- Public
- Governmental

Name of agency personnel responsible for:

| Name | Office Location | Phone |
|--------------------------------|--|----------------|
| Drafting..... Jay Jetter | 1025 Union Ave. SE. Ste # 544, Olympia ,WA | (360) 534-1575 |
| Implementation.... Kathy Beith | 1025 Union Ave. SE. Ste #200, Olympia ,WA | (360) 534-1403 |
| Enforcement..... Kathy Beith | 1025 Union Ave. SE. Ste #200, Olympia ,WA | (360) 534-1403 |

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:

None



STATE OF WASHINGTON

DEPARTMENT OF REVENUE

WAC 458-19-045 incorporates 2SSB 5433 (2009), which allows property tax resulting from levy lid lifts to be used to supplant existing funds in certain counties in certain years; ESB 6641 (2008), which clarifies that all single year and multiple year lid lifts are considered temporary unless the ballot proposition approved by voters make the increase permanent; ESB 5498 (2007), which extended the ability to request multiple year lid-lifts to all taxing districts; and 2ESSB 5659 (2003), which allowed counties, cities, and towns to approve lid lifts for a six-year period with one vote.

WAC 458-19-055 incorporates ESHB 1432 (2013), which provides that the Veteran's Assistance Levy and Developmental Disability and Mental Health Levy may be increased or reduced in the same proportion as the regular county property tax levy, as approved by the county legislative authority. This authorization includes situations where the county legislative authority has decided to not levy the full amount of property tax revenue otherwise allowed under the law and bank the unused levy capacity for future use.

WAC 458-19-060 incorporates SSB 5381 (2012), which adjusts the voter requirements for the "uninterrupted continuation" renewal of a 6-year or 10-year EMS levy to only require a majority vote and does not contain any validation requirements; also incorporates SB 5628 (2011), relating to a limited property tax exemption for part of a city from a county's emergency medical services levy.

WAC 458-19-070 incorporates 2ESB5638 (2011), which allows certain Metropolitan Park Districts to protect a portion of its levy rate outside of the \$5.90 limitation with voter approval; also incorporates EHB 1969 (2011), which allows a Flood Control Zone District in certain counties to protect a portion of its levy rate outside of the \$5.90 limitation.

WAC 458-19-075 incorporates 2ESB 5638 (2011), which allows certain Metropolitan Park Districts to protect a portion of its levy rate outside of the \$5.90 limitation with voter approval; also incorporates EHB 1969 (2011), which allows a Flood Control Zone District in certain counties to protect a portion of its levy rate outside of the \$5.90 limitation.

WAC 458-19-085 incorporates SHB 5705 (2013), which provides that taxes may be levied within a taxing district in order to reimburse a taxing district for taxes that were abated or cancelled, offset by any supplemental tax, in the next levy cycle. Any tax received to reimburse the taxing district for taxes that were abated or cancelled does not reduce the levy authority of that taxing district.

AMENDATORY SECTION (Amending WSR 10-07-133, filed 3/23/10, effective 4/23/10)

WAC 458-14-056 Petitions—Time limits—Waiver of filing deadline for good cause. (1) The sole method for appealing an assessor's determination to the board, as to valuation of property, or as to any other types of assessor determinations is by means of a properly completed and timely filed taxpayer petition.

(2) A taxpayer's petition for review of the assessed valuation placed upon property by the assessor or for review of any of the types of appeals listed in WAC 458-14-015 must be filed in duplicate with the board (~~on or before July 1st of the assessment year or within thirty days, or up to sixty days if a longer time period is adopted by the county legislative authority, after the date an assessment or value change notice or other determination notice is mailed to the taxpayer, whichever date is later~~). The deadline for filing such petition with the board shall be the later of:

(a) July 1st of the year of assessment or determination;

(b) Thirty days from the date that an assessment, value change notice, or other notice has been mailed; or

(c) Sixty days from the date that an assessment, value change notice, or other notice has been mailed, if a longer time period was established by the county legislative authority. (RCW 84.40.038).

(3) No late filing of a petition shall be allowed except as specifically provided in this subsection. The board may waive the filing deadline if the petition is filed within a reasonable time after the filing deadline and the petitioner shows good cause, as defined in this subsection, for the late filing. However, the board must waive the filing deadline for the circumstance described under (g) of this subsection if the petition is filed within a reasonable time after the deadline. A petition that is filed after the deadline without a showing of good cause, as described in this subsection, must be dismissed unless, after the taxpayer is notified by the board that the petition will be dismissed because of the late filing, the taxpayer promptly shows good cause for the late filing. The board must decide a taxpayer's claim of good cause without holding a public hearing on the claim and must promptly notify the taxpayer of the decision, in writing. The board's decision regarding a waiver of the filing deadline is final and not appealable to the state board of tax appeals. Good cause may be shown by documentation of one or more of the following events or circumstances:

(a) The taxpayer was unable to file the petition by the filing deadline because of a death or serious illness of the taxpayer or of a member of the taxpayer's immediate family occurring at or shortly before the time for filing. For purposes of this subsection, the term "immediate family" includes, but is not limited to, a grandparent, parent, brother, sister, spouse, domestic partner, child, grandchild, or domestic partner's child or grandchild.

(b) The taxpayer was unable to file the petition by the filing deadline because of the occurrence of all of the following:

(i) The taxpayer was absent from his or her home or from the address where the assessment notice or value change notice is normally received by the taxpayer. If the notice is normally mailed by the assessor to a mortgagee or other agent of the taxpayer, the taxpayer must show that the mortgagee or other agent was required, pursuant to

written instructions from the taxpayer, to promptly transmit the notice and failed to do so; and

(ii) The taxpayer was absent (as described in (b)(i) of this subsection) for more than fifteen of the days allowed in subsection (2) of this section prior to the filing deadline; and

(iii) The filing deadline is after July 1st of the assessment year.

(c) The taxpayer was unable to file the petition by the filing deadline because the taxpayer reasonably relied upon incorrect, ambiguous, or misleading written advice as to the proper filing requirements by either a board member or board staff, the assessor or assessor's staff, or the property tax advisor designated under RCW 84.48.140, or his or her staff.

(d) The taxpayer was unable to file the petition by the filing deadline because of a natural disaster such as a flood or earthquake occurring at or shortly before the time for filing.

(e) The taxpayer was unable to file the petition by the filing deadline because of a delay or loss related to the delivery of the petition by the postal service. The taxpayer must be able to provide documentation from the postal service of such a delay or loss.

(f) The taxpayer is a business and was unable to file the petition by the filing deadline because the person employed by the business, responsible for dealing with property taxes, was unavailable due to illness or unavoidable absence.

(g) The taxpayer was not sent a revaluation notice under RCW 84.40.045 for the current assessment year and the taxpayer can demonstrate both of the following:

(i) The taxpayer's property value did not change from the previous year; and

(ii) The taxpayer's property is located in an area revalued by the assessor for the current assessment year.

(4) If a petition is filed by mail it must be postmarked no later than the filing deadline. If the filing deadline falls upon a Saturday, Sunday or holiday, the petition must be filed on or postmarked no later than the next business day.

(5) A petition is properly completed when all relevant questions on the form provided or approved by the department have been answered and the answers contain sufficient information or statements to apprise the board and the assessor of the reasons for the appeal. A petition which merely states that the assessor's valuation is too high or that property taxes are excessive, or similar such statements, is not properly completed and must not be considered by the board. If, at the time of filing the petition, the taxpayer does not have all the documentary evidence available which he or she intends to present at the hearing, the petition will be deemed to be properly completed for purposes of preserving the taxpayer's right of appeal, if it is otherwise fully and properly filled out. However, any comparable sales, valuation evidence, or other documentary evidence not submitted at the time the petition is filed must be provided by the taxpayer to the assessor and the board at least seven business days, excluding legal holidays, prior to the board hearing. A copy of the completed petition must be provided to the assessor by the clerk of the board. Any petition not fully and properly completed must not be considered by the board (RCW 84.40.038) and a notice of the board's rejection of the petition must be promptly mailed to the taxpayer. See: WAC 458-14-066 Requests for valuation information-Duty to exchange information-Time limits, for an explanation of the availability, use and exchange of

valuation and other documentary information prior to the hearing before the board.

(6) Whenever the taxpayer has an appeal pending with the board, the state board of tax appeals or with a court of law, and the assessor notifies the taxpayer of a change in property valuation, the taxpayer is required to file a timely petition with the board in order to preserve the right to appeal the change in valuation. For example, if a taxpayer has appealed a decision of the board to the board of tax appeals regarding an assessed value for the year 2005, and that appeal is pending when the assessor issues a value change notice for the 2006 assessment year, the taxpayer must still file a timely petition appealing the valuation for the 2006 assessment year in order to preserve his or her right to appeal from that 2006 assessed value.

(7) Petition forms shall be available from the clerk of the board and from the assessor's office.

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AMENDATORY SECTION (Amending WSR 02-24-015, filed 11/25/02, effective 12/26/02)

WAC 458-19-045 Levy limit-Removal of limit (lid lift). (1) **Introduction.** The 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 in accordance with 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. The purpose of the 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 the collection of additional property taxes. Lid lifts may result in increasing the limit factor 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. 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. 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) **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 be held not 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 (~~is~~) are prepared by the county prosecutor or city attorney, as applicable, in accordance with RCW (~~(29.27.066)~~) 29A.36.071. RCW (~~(29.27.066)~~) 29A.36.071 requires a ballot title to include a concise description of the measure, not to exceed seventy-five words. A simple majority vote is required for approval of a lid lift.

(3) (~~Ballot title and contents of ballot measure.~~) **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 1986 for one year. The text of a ballot title and measure for a single year lid lift must contain(~~s~~) 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 limitations 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; and/or

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

(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.

(4) **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 1986 for up to six consecutive years.

(a) 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 need not 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) Any of the following limitations 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;

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

(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.

(b) Supplanting of existing funds.

(i) Except as otherwise provided in (b) of this subsection, funds raised by a levy under this section 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 lost federal funds, lost or expired state grants or loans, extraordinary events not likely to reoccur, changes in contract provisions beyond the control of the taxing district receiving the services, and major nonrecurring capital expenditures.

(ii) In counties with a population of less than one million five hundred thousand, 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 or more, funds raised through a lid lift can be used to supplant existing funds for levies approved by the voters between July 26, 2009, and December 31, 2011.

~~((4))~~ (5) Permanent lid lift. A permanent lid lift occurs when the ballot title and ~~((the))~~ ballot measure ~~((contain none of the limitations stated in subsection (3)(b) of this rule))~~ expressly state that the levy will be used for the purpose of computing the limitations for subsequent levies as provided in subsection (3)(a)(iii) and (4)(a)(iii)(C) of this section. Approval of a permanent lid lift permanently increases the base used to calculate the levy limit.

(a) 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, but that dollar rate is subject to the constitutional one percent limit and the statutory aggregate dollar rate limit and any applicable prorationing.

(b) 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, including the dollar amount of the regular levy calculated in accordance with (a) of this subsection by the limit factor.

~~((5))~~ **(6) Temporary lid lift.** ~~((A temporary lid lift occurs when the ballot title and the ballot measure contain a time limit for the increased levy or contains a limited purpose or purposes for the increased levy, or both.))~~ If the ballot title and ballot measure do not expressly indicate that the final levy will be used for the purpose of computing subsequent levies, the levy increase is presumed temporary.

(a) 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, but that dollar rate is subject to the constitutional one percent limit and the statutory aggregate dollar rate limit and any applicable prorationing.

(b) 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, including the dollar amount of the regular levy calculated in accordance with (a) of this subsection by the limit factor.

~~((c) After expiration of the time limit authorized or satisfaction of the limited purpose for which the lid lift was authorized, whichever comes first, the levy limit as defined in RCW 84.55.005 on the taxing district's subsequent regular levies is calculated as if the lid lift proposition had not been approved.))~~

AMENDATORY SECTION (Amending WSR 02-24-015, filed 11/25/02, effective 12/26/02)

WAC 458-19-060 Emergency medical service levy. (1) **Introduction.** This rule explains the criteria contained in RCW 84.52.069 relative to a taxing district imposing a limited or permanent regular levy for emergency medical care or emergency medical services. It describes the permitted duration of this levy, the ballot title and measure that must be presented to and approved by the voters, the maximum rate for this levy, and the applicable limits.

(2) **Purpose - Voter approval required - Who may levy.** An emergency medical service (EMS) levy is a regular voter approved levy. Any taxes collected as a result of this levy can only be used to provide emergency medical care or emergency medical services, including related personnel costs, training for such personnel and related equipment, supplies, vehicles, and structures needed to provide this care or service. ((An)) A permanent EMS levy, or the initial imposition of a six-year or ten-year EMS levy must be approved by a super majority of registered voters at a general or special election. However, the uninterrupted continuation of a six-year or ten-year EMS levy only requires the authorization of a majority of the registered voters at a general or special election. For purposes of this section, an "uninterrupted continuation of a six-year or ten-year EMS levy" means the continuation of both the levy itself and its maximum levy rate. Only a county, emergency medical service district, city, town, public hospital district, urban emergency medical service district, regional fire protection service area, or fire protection district is authorized to impose an EMS levy.

(3) **Duration - Maximum rate.** An EMS levy is imposed each year for six consecutive years, each year for ten consecutive years, or perma-

nently. ~~((If approved,))~~ Except as provided in subsection (10) of this section, a taxing district ~~((can))~~ may impose a regular property tax levy in an amount that cannot exceed fifty cents per thousand dollars of assessed value of the property of the taxing district.

(4) **Contents of ballot title and measure.** Any ballot title and measure seeking authorization of an EMS levy must conform to the requirements of RCW ~~((29.30.111))~~ 29A.36.210. A taxing district cannot submit to the voters at the same election multiple propositions to impose a levy under RCW 84.52.069. If the approved ballot title and measure did not authorize the maximum allowable levy rate (fifty cents) for the EMS levy, any future proposition to increase the rate up to the maximum allowable must be specifically authorized by voters at a general or special election. That is, a taxing district may impose a levy rate up to, but no greater than, the rate contained in the approved ballot measure without obtaining additional voter approval. The ballot title and measure authorizing a taxing district to impose:

(a) An EMS levy for a limited duration must state the name of the taxing district, the maximum rate per thousand dollars of assessed value to be imposed, and the maximum number of years the levy is to be allowed; or

(b) A permanent EMS levy must state the name of the taxing district and the maximum rate per thousand dollars of assessed value to be permanently imposed. A ballot title for this type of levy must include wording to indicate that it is a permanent EMS levy. A taxing district that seeks to impose a permanent levy must also provide for a referendum procedure to apply to the ordinance or resolution imposing the tax. The detailed specifics of this procedure are set forth in RCW 84.52.069(4).

(5) **County-wide EMS levy.** A county-wide EMS levy cannot be placed on the ballot without first obtaining the approval of the legislative authority of any city within the county having a population exceeding fifty thousand. No other taxing district within the county may hold an election on a proposed EMS levy at the same time as the election on a proposed county-wide EMS levy. To the extent feasible, emergency medical care and services must be provided throughout the county whenever the county levies an EMS levy. In addition, if a county levies an EMS levy, the following conditions apply:

(a) Any other taxing district within the county, authorized to levy an EMS levy may do so, but only if the taxing district's EMS levy rate does not exceed the difference between the county's EMS levy rate and fifty cents per thousand dollars of assessed value of the property of the taxing district; and

(b) When a taxing district within the county levies an EMS levy and the voters of the county subsequently approve a county-wide EMS levy, the taxing district must then reduce its EMS levy rate so that the combined EMS levy rate of the county and the taxing district does not exceed fifty cents per thousand dollars of assessed value in the taxing district; and

(c) An EMS levy of limited duration of a taxing district within the county, authorized by the voters subsequent to a county-wide EMS levy of limited duration, will expire concurrently with the county EMS levy; and

(d) A fire protection district that has annexed an area described in subsection (10) of this section may levy the maximum amount of tax that would otherwise be allowed, notwithstanding any limitations in this subsection.

(6) **EMS levy of taxing district other than county.** Once a taxing district that has the authority to levy an EMS levy has done so within the county, only the county may concurrently levy an EMS levy within the boundaries of that taxing district; all other taxing districts are prohibited from levying an EMS levy within that taxing district's boundaries while it collects an EMS levy.

(a) If a regional fire protection service authority imposes a tax under this section, no other taxing district that is a participating fire protection jurisdiction in the regional fire protection service authority may levy a tax under this section.

(b) For purposes of this subsection, "participating fire protection jurisdiction" means a fire protection district, city, town, Indian tribe, or port district that is represented on the governing board of a regional fire protection service authority.

(7) **Constitutional one percent limit is applicable.** An EMS levy is subject to the constitutional one percent limit for regular property taxes. If a reduction of the rate of an EMS levy is required because this limit is exceeded, it is to be reduced in the manner set forth in RCW 84.52.010(1) and WAC 458-19-075.

(8) **Statutory aggregate dollar rate limit is not applicable.** An EMS levy is not subject to the statutory aggregate dollar rate limit of five dollars and ninety cents per thousand dollars of assessed value (see RCW 84.52.043).

(9) **Applicability of limit factor to EMS levy.** The first year an EMS levy is made following voter approval, the levy limit set forth in RCW 84.55.010 does not apply. However, after the first year any EMS levy made is subject to this limit. In other words, beginning the second year this levy is made it cannot exceed the limit factor multiplied by the highest amount of regular property taxes that could have lawfully been levied since the voters last approved such a levy plus an additional dollar amount calculated by multiplying the increase in assessed value in that district resulting from new construction, improvements to property, and any increase in the assessed value of state-assessed property by the regular property tax rate for the district in the preceding year. The EMS levy is calculated separately from any other levies made by the taxing district for purposes of calculating the levy limit.

(10) For purposes of imposing the tax authorized under this section, the boundary of a county with a population greater than one million five hundred thousand does not include the area of the county that is located within a city that has a boundary in two counties, if the locally assessed value of all the property in the area of the city within the county having a population greater than one million five hundred thousand is less than two hundred fifty million dollars.

AMENDATORY SECTION (Amending WSR 09-19-010, filed 9/3/09, effective 10/4/09)

~~WAC 458-19-070 ((Procedure to adjust consolidated levy rate for taxing districts when the statutory aggregate dollar rate limit is exceeded.))~~ **Five dollars and ninety cents statutory aggregate limit calculation.** (1) **Introduction.** The aggregate of all regular levy rates of junior taxing districts and senior taxing districts, other than the state and other specifically identified districts, cannot exceed five

dollars and ninety cents per thousand dollars of assessed value in accordance with RCW 84.52.043. When the county assessor finds that this limit has been exceeded, the assessor recomputes the levy rates and establishes a new consolidated levy rate in the manner set forth in RCW 84.52.010. This section describes the prorationing process used to establish a consolidated levy rate when the assessor finds the statutory aggregate levy rate exceeds five dollars and ninety cents. If prorationing is required, the five dollar and ninety cents limit is reviewed before the constitutional one percent limit.

(2) **Levies not subject to statutory aggregate dollar rate limit.** The following levies are not subject to the statutory aggregate dollar rate limit of five dollars and ninety cents per thousand dollars of assessed value:

- (a) Levies by the state;
- (b) Levies by or for port or public utility districts;
- (c) Excess property tax levies authorized in Article VII, section 2 of the state Constitution;
- (d) Levies by or for county ferry districts under RCW 36.54.130;
- (e) Levies for acquiring conservation futures under RCW 84.34.230;
- (f) Levies for emergency medical care or emergency medical services under RCW 84.52.069;
- (g) Levies for financing affordable housing for very low-income households under RCW 84.52.105;
- (h) The portion of metropolitan park district levies protected under RCW 84.52.120;
- (i) The portion of fire protection district levies protected under RCW 84.52.125;
- (j) Levies for criminal justice purposes under RCW 84.52.135;
- ((and))
- (k) Levies for transit-related purposes by a county ((with a population of one million five hundred thousand or more under section 5, chapter 551, Laws of 2009)) under RCW 84.52.140; and
- (l) The protected portion of the levies imposed under RCW 86.15.160 by flood control zone districts in a county with a population of seven hundred seventy-five thousand or more that are coextensive with a county.

(3) **Prorationing under consolidated levy rate limitation.** RCW 84.52.010 sets forth the prorationing order in which the regular levies of taxing districts will be reduced or eliminated by the assessor to comply with the statutory aggregate dollar rate limit of five dollars and ninety cents per thousand dollars of assessed value. The order contained in the statute lists which taxing districts are the first to either reduce or eliminate their levy rate. Taxing districts that are at the same level within the prorationing order are grouped together in tiers. Reductions or eliminations in levy rates are made on a pro rata basis within each tier of taxing district levies until the consolidated levy rate no longer exceeds the statutory aggregate dollar rate limit of five dollars and ninety cents.

As opposed to the order contained in RCW 84.52.010, which lists the taxing districts that are the first to have their levy rates reduced or eliminated, this section is written in reverse order; that is, it lists the taxing districts that must be first either fully or partially funded. If the statutory aggregate dollar rate is exceeded, then the levy rates for taxing districts within a particular tier must be reduced or eliminated on a pro rata basis. The proration factor, which is multiplied by each levy rate within the tier, is obtained by

dividing the dollar rate remaining available to the taxing districts in that tier as a group by the sum of the levy rates originally certified by or for all of the taxing districts within the tier.

(a) Step one: Total the aggregate levy rates requested by all affected taxing districts in the tax code area. If this total is less than five dollars and ninety cents per thousand dollars of assessed value, no prorationing is necessary. If this total levy rate is more than five dollars and ninety cents, the assessor must proceed through the following steps until the aggregate dollar rate is brought within that limit.

(b) Step two: Subtract from \$5.90 the levy rates of the county and the county road district if the tax code area includes an unincorporated portion of the county, or the levy rates of the county and the city or town if the tax code area includes an incorporated area, as applicable.

(c) Step three: Subtract from the remaining levy capacity the levy rates, if any, for fire protection districts under RCW 52.16.130, regional fire protection service authorities under RCW 52.26.140 (1) (a), library districts under RCW 27.12.050 and 27.12.150, the first fifty cents per thousand dollars of assessed value for metropolitan park districts created before January 1, 2002, under RCW 35.61.210, and the first fifty cents per thousand dollars of assessed value for public hospital districts under RCW 70.44.060(6).

(i) If the balance is zero, there is no remaining levy capacity for any other junior taxing district at a lower tier and their levies, if any, must be eliminated.

(ii) If the balance is less than zero, then the levies within this tier must be reduced on a pro rata basis until the balance is zero. After prorationing, there is no remaining levy capacity for any other junior taxing districts at a lower tier and their levies, if any, must be eliminated.

(iii) If the remaining balance is greater than zero, this amount is available to the remaining junior taxing districts at a lower tier and the assessor should proceed on to step four.

(d) Step four: Subtract from the remaining levy capacity the levy rates, if any, for fire protection districts under RCW 52.16.140 and 52.16.160, and regional fire protection service authorities under RCW 52.26.140 (1)(b) and (c). However, under RCW 84.52.125 fire protection districts may protect up to twenty-five cents per thousand dollars of assessed value of the total levies made under RCW 52.16.140 and 52.16.160 from prorationing.

(i) If the balance is zero, there is no remaining levy capacity for any other junior taxing districts at a lower tier and their levies, if any, must be eliminated.

(ii) If the balance is less than zero, then the levies within this tier must be reduced on a pro rata basis until the balance is zero. It is at this point that the provisions of RCW 84.52.125 come into play; that is, a fire protection district may protect up to twenty-five cents per thousand dollars of assessed value of the total levies made under RCW 52.16.140 and 52.16.160 from prorationing under RCW 84.52.043(2), if the total levies would otherwise be prorated under RCW 84.52.010 (2)(e) with respect to the five-dollar and ninety cent per thousand dollars of assessed value limit. After prorationing, there is no remaining levy capacity for any other junior taxing district at a lower tier and their levies, if any, must be eliminated.

(iii) If the remaining balance is greater than zero, this amount is available to the remaining junior taxing districts at a lower tier and the assessor should proceed on to step five.

(e) Step five: Subtract from the remaining levy capacity the levy rate, if any, for the first fifty cents per thousand dollars of assessed value of metropolitan park districts created on or after January 1, 2002, under RCW 35.61.210.

(i) If the balance is zero, there is no remaining levy capacity for any other junior taxing districts at a lower tier and their levies, if any, must be eliminated.

(ii) If the balance is less than zero, then the levies within this tier must be reduced on a pro rata basis until the balance is zero. After prorationing, there is no remaining levy capacity for any other junior taxing district at a lower tier and their levies, if any, must be eliminated.

(iii) If the remaining balance is greater than zero, this amount is available to the remaining junior taxing districts at a lower tier and the assessor should proceed on to step six.

(f) Step six: Subtract from the remaining levy capacity the twenty-five cent per thousand dollars of assessed value levy rate for metropolitan park districts if it is not protected under RCW 84.52.120, the twenty-five cent per thousand dollars of assessed value levy rate for public hospital districts under RCW 70.44.060(6), and the levy rates, if any, for cemetery districts under RCW 68.52.310 and all other junior taxing districts if those levies are not listed in steps three through five or seven or eight of this subsection.

(i) If the balance is zero, there is no remaining levy capacity for any other junior taxing districts at a lower tier and their levies, if any, must be eliminated.

(ii) If the balance is less than zero, then the levies within this tier must be reduced on a pro rata basis until the balance is zero. After prorationing, there is no remaining levy capacity for any other junior taxing district at a lower tier and their levies, if any, must be eliminated.

(iii) If the remaining balance is greater than zero, this amount is available to the remaining junior taxing districts at a lower tier and the assessor should proceed on to step seven.

(g) Step seven: Subtract from the remaining levy capacity the levy rate, if any, for flood control zone districts (~~under RCW 86.15.160~~) other than the portion of a levy protected under RCW 84.52.815.

(i) If the balance is zero, there is no remaining levy capacity for any other junior taxing districts at a lower tier and their levies, if any, must be eliminated.

(ii) If the balance is less than zero, then the levies within this tier must be reduced on a pro rata basis until the balance is zero. After prorationing, there is no remaining levy capacity for any other junior taxing district at a lower tier and their levies, if any, must be eliminated.

(iii) If the remaining balance is greater than zero, this amount is available to the remaining junior taxing districts at a lower tier and the assessor should proceed on to step eight.

(h) Step eight: Subtract from the remaining levy capacity the levy rates, if any, for city transportation authorities under RCW 35.95A.100, park and recreation service areas under RCW 36.68.525, park and recreation districts under RCW 36.69.145, and cultural arts,

stadium, and convention districts under RCW 67.38.130 on a pro rata basis until the remaining levy capacity equals zero.

(4) **Example.**

| DISTRICT | ORIGINAL LEVY RATE | PRORATION FACTOR | FINAL LEVY RATE | REMAINING LEVY CAPACITY |
|-----------------------------|--------------------|------------------|-----------------|-------------------------|
| County Road | 1.8000 | NONE | 1.8000 | 1.850 |
| | 2.2500 | NONE | 2.2500 | |
| Library Fire Hospital | .5000 | NONE | .5000 | .350 |
| | .5000 | NONE | .5000 | |
| | .5000 | NONE | .5000 | |
| Fire | .2000 | NONE | .2000 | .150 |
| Cemetery Hospital | .1125 | .4138 | .0466 | |
| | .2500 | .4138 | .1034 | |
| Totals | 6.1125 | | 5.90 | |

1. Beginning with the limit of \$5.90, subtract the original certified levy rates for the county and county road taxing districts leaving \$1.85 available for the remaining districts.

2. Subtract the total of the levy rates for each district within the next tier: The library's \$.50, the fire district's \$.50 and the hospital's \$.50 = \$1.50, which leaves \$.35 available for the remaining districts.

3. Subtract the fire district's additional \$.20 levy rate, which leaves \$.15 available for the remaining districts.

4. The remaining \$.15 must be shared by the cemetery and the hospital districts within the next tier of levies. The cemetery district originally sought to levy \$.1125 and the hospital district sought to levy \$.25. The proration factor is arrived at by dividing the amount available (\$.15) by the original levy rates (\$.3625) requested within that tier resulting in a proration factor of .4138. And finally, the original levy rates in this tier of \$.1125 and \$.25 for the cemetery and hospital respectively are multiplied by the proration factor.

AMENDATORY SECTION (Amending WSR 09-19-010, filed 9/3/09, effective 10/4/09)

WAC 458-19-075 Constitutional one percent limit calculation.

(1) **Introduction.** The total amount of all regular property tax levies that can be applied against taxable property is limited to one percent of the true and fair value of the property in money. The one percent limit is stated in Article VII, section 2 of the state Constitution and the enabling statute, RCW 84.52.050. The constitutional one percent limit is based upon the amount of taxes actually levied on the true and fair value of the property, not the dollar rate used in computing property taxes. This section explains how to determine if the constitutional one percent limit is being exceeded and the sequence in which levy rates will be reduced or eliminated in accordance with RCW 84.52.010 if the constitutional one percent limit is exceeded. The constitutional one percent calculation is made after the assessor ensures that the \$5.90 statutory aggregate dollar rate limit is not exceeded.

(2) **Preliminary calculations.** After prorating under RCW 84.52.043 (the five dollar and ninety cent per thousand dollars of as-

sessed value limit) has occurred, make the following calculations to determine if the constitutional one percent limit is being exceeded:

(a) First, add all the regular levy rates, except the rates for port and public utility districts, in the tax code area, to arrive at a combined levy rate for that tax code area. "Regular levy rates" in this context means the levy rates that remain after prorationing under RCW 84.52.043 has occurred. The levy rates for port and public utility districts are not included in this computation because they are not subject to the constitutional one percent limit. The rates for the following regular ((levy rates)) levies are used to calculate the combined levy rate of any particular tax code area:

- (i) The local rate for the state levy;
 - (ii) Levies by or for county ferry districts under RCW 36.54.130;
 - (iii) Levies for acquiring conservation futures under RCW 84.34.230;
 - (iv) Levies for emergency medical care or emergency medical services under RCW 84.52.069;
 - (v) Levies for financing affordable housing for very low-income households under RCW 84.52.105;
 - (vi) The portion of metropolitan park district levies protected under RCW 84.52.120;
 - (vii) The portion of fire protection district levies protected under RCW 84.52.125;
 - (viii) Levies for criminal justice purposes under RCW 84.52.135;
- ((and))

(ix) ((The levy rate)) Levies for transit-related purposes by a county with a population of one million five hundred thousand or more under ((section 5, chapter 551, Laws of 2009)) RCW 84.52.140; and

(x) The protected portion of the levies imposed under RCW 86.15.160 by flood control zone districts in a county with a population of seven hundred seventy-five thousand or more that are coextensive with a county.

(b) Second, divide ten dollars by the higher of the real or personal property ratio of the county for the assessment year in which the levy is made to determine the maximum effective levy rate. If the combined levy rate exceeds the maximum effective levy rate, then the individual levy rates must be reduced or eliminated until the combined levy rate is equal to the maximum effective levy rate.

(3) Prorationing - Constitutional one percent limit. RCW 84.52.010 sets forth the prorationing order in which levy rates are to be reduced or eliminated when the constitutional one percent limit is exceeded. ~~((The order contained in this statute begins with the taxing districts that are the first to have their levy rates either reduced or eliminated. Taxing districts that are at the same level within the prorationing order are grouped together in tiers. Levy rates are reduced or eliminated on a pro rata basis within each tier of taxing district levies until the combined levy rate no longer exceeds one percent of the true and fair value of property.))~~

As opposed to the order contained in RCW 84.52.010, which lists the taxing districts that are the first to have their levy rates reduced or eliminated, this section is written in reverse order; that is, it lists the taxing districts that must be first either fully or partially funded. If the constitutional one percent limit is exceeded, then the levy rates for taxing districts within a particular tier must be reduced or eliminated on a pro rata basis.

If the constitutional one percent limit is exceeded after performing the preliminary calculations described in subsection (2) of

this section, the following levies ((are to)) must be reduced or eliminated ((in the following order)) until the combined levy rate no longer exceeds the maximum effective levy rate:

~~((a) The levy rate for transit related purposes by a county with a population of one million five hundred thousand or more under section 5, chapter 551, Laws of 2009;~~

~~(b) The levy rate for fire protection districts protected under RCW 84.52.125;~~

~~(c) The levy rate for criminal justice purposes imposed under RCW 84.52.135;~~

~~(d) The levy rate for county ferry districts under RCW 36.54.130;~~

~~(e) The levy rate for metropolitan park districts protected under RCW 84.52.120;~~

~~(f) The levy rates for levies used for acquiring conservation futures under RCW 84.34.230, financing affordable housing for very low-income households under RCW 84.52.105, and any portion of a levy rate for emergency medical care or emergency medical services under RCW 84.52.069 in excess of thirty cents per thousand dollars of assessed value are reduced on a pro rata basis or eliminated;~~

~~(g) The levy rate for the first thirty cents per thousand dollars for emergency medical care or emergency medical services under RCW 84.52.069;~~

~~(h) The levy rates for city transportation authorities under RCW 35.95A.100, park and recreation service areas under RCW 36.68.525, park and recreation districts under RCW 36.69.145, and cultural arts, stadium, and convention districts under RCW 67.38.130 are reduced on a pro rata basis or eliminated;~~

~~(i) The levy rate for flood control zone districts under RCW 86.15.160;~~

~~(j) The levy rates for all other junior taxing districts, except fire protection districts under RCW 52.16.140 and 52.16.160, regional fire protection service authorities under RCW 52.26.140, library districts under RCW 27.12.050 and 27.12.150, and the first fifty cents per thousand dollars of assessed value for metropolitan park districts under RCW 84.52.120 and for public hospital districts under RCW 70.44.060(6) are reduced on a pro rata basis or eliminated;~~

~~(k) The levy rate of the first fifty cents per thousand dollars of assessed value for metropolitan park districts created on or after January 1, 2002 under RCW 35.61.210;~~

~~(l) The levy rates for fire protection districts under RCW 52.16.140 and 52.16.160, and regional fire protection service authorities under RCW 52.26.140 (1)(b) and (c) are reduced on a pro rata basis or eliminated;~~

~~(m) The levy rates for fire protection service authorities under RCW 52.16.130, regional fire protection districts under RCW 52.26.140 (1)(a), library districts under RCW 27.12.050 and 27.12.150, the first fifty cents per thousand dollars of assessed value for metropolitan park districts created before January 1, 2002, under RCW 35.61.210, and for public hospital districts under RCW 70.44.060(6) are reduced on a pro rata basis or eliminated;~~

~~(n) The levy rates for the county, county road district, and for city or town purposes are reduced on a pro rata basis or eliminated; and~~

~~(o) The levy rate for the state for the support of common schools.)~~ (a) Step one: Subtract the levy rate for the state for the support of common schools from the effective rate limit;

(b) Step two: Subtract the levy rates for the county, county road district, and for city or town purposes;

(c) Step three: Subtract from the remaining levy capacity the levy rates for fire protection districts under RCW 52.16.130, regional fire protection service authorities under RCW 52.26.140 (1)(a), library districts under RCW 27.12.050 and 27.12.150, the first fifty cents per thousand dollars of assessed value for metropolitan park districts created before January 1, 2002, under RCW 35.61.210, and the first fifty cents per thousand dollars of assessed value for public hospital districts under RCW 70.44.060(6).

(i) If the balance is zero, there is no remaining levy capacity for any other junior taxing district at a lower tier and their levies, if any, must be eliminated.

(ii) If the balance is less than zero, then the levies within this tier must be reduced on a pro rata basis until the balance is zero. After prorationing, there is no remaining levy capacity for any other junior taxing districts at a lower tier and their levies, if any, must be eliminated.

(iii) If the remaining balance is greater than zero, this amount is available to the remaining junior taxing districts at a lower tier and the assessor should proceed on to step four.

(d) Step four: Subtract from the remaining levy capacity the levy rates for fire protection districts under RCW 52.16.140 and 52.16.160, and regional fire protection service authorities under RCW 52.26.140 (1)(b) and (c).

(i) If the balance is zero, there is no remaining levy capacity for any other junior taxing districts at a lower tier and their levies, if any, must be eliminated.

(ii) If the balance is less than zero, then the levies within this tier must be reduced on a pro rata basis until the balance is zero. After prorationing, there is no remaining levy capacity for any other junior taxing district at a lower tier and their levies, if any, must be eliminated.

(iii) If the remaining balance is greater than zero, this amount is available to the remaining junior taxing districts at a lower tier and the assessor should proceed on to step five.

(e) Step five: Subtract from the remaining levy capacity the levy rate for the first fifty cents per thousand dollars of assessed value of metropolitan park districts created on or after January 1, 2002, under RCW 35.61.210.

(i) If the balance is zero, there is no remaining levy capacity for any other junior taxing districts at a lower tier and their levies, if any, must be eliminated.

(ii) If the balance is less than zero, then the levy is reduced to the remaining balance from step four. There is no remaining levy capacity for any other junior taxing district at a lower tier and their levies, if any, must be eliminated.

(iii) If the remaining balance is greater than zero, this amount is available to the remaining junior taxing districts at a lower tier and the assessor should proceed on to step six.

(f) Step six: Subtract from the remaining levy capacity the levy rates for all other junior taxing districts if those levies are not listed in steps three through five or steps seven through sixteen of this subsection.

(i) If the balance is zero, there is no remaining levy capacity for any other junior taxing districts at a lower tier and their levies, if any, must be eliminated.

(ii) If the balance is less than zero, then the levies within this tier must be reduced on a pro rata basis until the balance is zero. After prorationing, there is no remaining levy capacity for any other junior taxing district at a lower tier and their levies, if any, must be eliminated.

(iii) If the remaining balance is greater than zero, this amount is available to the remaining junior taxing districts at a lower tier and the assessor should proceed on to step seven.

(g) Step seven: Subtract from the remaining levy capacity the levy rate for flood control zone districts other than the portion of a levy protected under RCW 84.52.815.

(i) If the balance is zero, there is no remaining levy capacity for any other junior taxing districts at a lower tier and their levies, if any, must be eliminated.

(ii) If the balance is less than zero, then the levy is reduced to the remaining balance in step six. There is no remaining levy capacity for any other junior taxing district at a lower tier and their levies, if any, must be eliminated.

(iii) If the remaining balance is greater than zero, this amount is available to the remaining junior taxing districts at a lower tier and the assessor should proceed on to step eight.

(h) Step eight: Subtract from the remaining levy capacity the levy rates for city transportation authorities under RCW 35.95A.100, park and recreation service areas under RCW 36.68.525, park and recreation districts under RCW 36.69.145, and cultural arts, stadium, and convention districts under RCW 67.38.130.

(i) If the balance is zero, there is no remaining levy capacity for any other junior taxing districts at a lower tier and their levies, if any, must be eliminated.

(ii) If the balance is less than zero, then the levies within this tier must be reduced on a pro rata basis until the balance is zero. After prorationing, there is no remaining levy capacity for any other junior taxing district at a lower tier and their levies, if any, must be eliminated.

(iii) If the remaining balance is greater than zero, this amount is available to the remaining junior taxing districts at a lower tier and the assessor should proceed on to step nine.

(i) Step nine: Subtract from the remaining levy capacity the levy rate for the first thirty cents per thousand dollars for emergency medical care or emergency medical services under RCW 84.52.069.

(i) If the balance is zero, there is no remaining levy capacity for any other junior taxing districts at a lower tier and their levies, if any, must be eliminated.

(ii) If the balance is less than zero, then the levy is reduced to the remaining balance in step eight. There is no remaining levy capacity for any other junior taxing district at a lower tier and their levies, if any, must be eliminated.

(iii) If the remaining balance is greater than zero, this amount is available to the remaining junior taxing districts at a lower tier and the assessor should proceed on to step ten.

(j) Step ten: Subtract from the remaining levy capacity the levy rates for levies used for acquiring conservation futures under RCW 84.34.230, financing affordable housing for very low-income households under RCW 84.52.105, and any portion of a levy rate for emergency medical care or emergency medical services under RCW 84.52.069 in excess of thirty cents per thousand dollars of assessed value.

(i) If the balance is zero, there is no remaining levy capacity for any other junior taxing districts at a lower tier and their levies, if any, must be eliminated.

(ii) If the balance is less than zero, then the levies within this tier must be reduced on a pro rata basis until the balance is zero. After prorationing, there is no remaining levy capacity for any other junior taxing district at a lower tier and their levies, if any, must be eliminated.

(iii) If the remaining balance is greater than zero, this amount is available to the remaining junior taxing districts at a lower tier and the assessor should proceed on to step eleven.

(k) Step eleven: Subtract from the remaining levy capacity the portion of the levy by a metropolitan park district with a population of one hundred fifty thousand or more that is protected under RCW 84.52.120.

(i) If the balance is zero, there is no remaining levy capacity for any other junior taxing districts at a lower tier and their levies, if any, must be eliminated.

(ii) If the balance is less than zero, then the portion of the levy within this tier must be reduced to the remaining balance in step ten. There is no remaining levy capacity for any other junior taxing district at a lower tier and their levies, if any, must be eliminated.

(iii) If the remaining balance is greater than zero, this amount is available to the remaining junior taxing districts at a lower tier and the assessor should proceed on to step twelve.

(l) Step twelve: Subtract from the remaining levy capacity the levy rates for county ferry districts under RCW 36.54.130.

(i) If the balance is zero, there is no remaining levy capacity for any other junior taxing districts at a lower tier and their levies, if any, must be eliminated.

(ii) If the balance is less than zero, then the levy is reduced to the remaining balance in step eleven. There is no remaining levy capacity for any other junior taxing district at a lower tier and their levies, if any, must be eliminated.

(iii) If the remaining balance is greater than zero, this amount is available to the remaining junior taxing districts at a lower tier and the assessor should proceed on to step thirteen.

(m) Step thirteen: Subtract from the remaining levy capacity the levy rate for criminal justice purposes imposed under RCW 84.52.135.

(i) If the balance is zero, there is no remaining levy capacity for any other junior taxing districts at a lower tier and their levies, if any, must be eliminated.

(ii) If the balance is less than zero, then the levy is reduced to the remaining balance in step twelve. There is no remaining levy capacity for any other junior taxing district at a lower tier and their levies, if any, must be eliminated.

(iii) If the remaining balance is greater than zero, this amount is available to the remaining junior taxing districts at a lower tier and the assessor should proceed on to step fourteen.

(n) Step fourteen: Subtract from the remaining levy capacity the levy rate for fire protection districts protected under RCW 84.52.125.

(i) If the balance is zero, there is no remaining levy capacity for any other junior taxing districts at a lower tier and their levies, if any, must be eliminated.

(ii) If the balance is less than zero, then the portion of the levy within this tier must be reduced to the remaining balance in step thirteen. There is no remaining levy capacity for any other junior

taxing district at a lower tier and their levies, if any, must be eliminated.

(iii) If the remaining balance is greater than zero, this amount is available to the remaining junior taxing districts at a lower tier and the assessor should proceed on to step fifteen.

(o) Step fifteen: Subtract from the remaining levy capacity the levy rate for transit-related purposes by a county under RCW 84.52.140.

(i) If the balance is zero, there is no remaining levy capacity for any other junior taxing districts at a lower tier and their levies, if any, must be eliminated.

(ii) If the balance is less than zero, then the levy is reduced to the remaining balance in step fourteen. There is no remaining levy capacity for any other junior taxing district at a lower tier and their levies, if any, must be eliminated.

(iii) If the remaining balance is greater than zero, this amount is available to the remaining junior taxing districts at a lower tier and the assessor should proceed on to step sixteen.

(p) Step sixteen: Subtract from the remaining levy capacity the protected portion of the levy imposed under RCW 86.15.160 by a flood control zone district in a county with a population of seven hundred seventy-five thousand or more that is coextensive with a county.

(i) If the balance is zero, there is no remaining levy capacity for any other junior taxing districts at a lower tier and their levies, if any, must be eliminated.

(ii) If the balance is less than zero, then the portion of the levy within this tier must be reduced to the remaining balance in step fifteen. There is no remaining levy capacity for any other junior taxing district at a lower tier and their levies, if any, must be eliminated.

(iii) If the remaining balance is greater than zero, this amount is available to the remaining junior taxing districts at a lower tier and the assessor should proceed on to step seventeen.

(q) Step seventeen: Subtract from the remaining levy capacity the portion of the levy by a metropolitan park district that has a population of less than one hundred fifty thousand and is located in a county with a population of one million five hundred thousand or more that is protected under RCW 84.52.120 until the remaining levy capacity equals zero.

AMENDATORY SECTION (Amending WSR 02-24-015, filed 11/25/02, effective 12/26/02)

WAC 458-19-055 Levy limit—Proration of earmarked funds. (1) **Introduction.** Certain taxing districts are authorized to make "earmarked" levies for specific purposes. An "earmarked levy" is not a taxing district in and of itself; the levy is included within, or is in addition to, the general regular levy made by a taxing district. Because these levies are generally placed within a taxing district treasury as a separately identified fund, they are often referred to as "earmarked funds." A taxing district is either directed by statute to levy or is authorized by statute to levy, but is not required to levy, for these earmarked funds; that is, some of the underlying statutes are mandatory while others are permissive in nature. This rule only discusses those taxing districts with the statutory authority to reduce their earmarked levies from their budgeted levy amount when they are up against ~~((their general levy limit; that is,))~~ the levy limit contained in chapter 84.55 RCW. ~~((Only those taxing districts having specific authorization to reduce the earmarked levy as a result of the levy limit under this chapter are addressed in this rule.))~~

(2) **Reduction of earmarked funds ~~((to be reduced only))~~ when regular levy affected.** Cities having a regularly organized full-time, paid, fire department may levy an additional amount for a firemen's pension fund under RCW 41.16.060. Counties are required to annually levy amounts for the developmental disabilities or mental health services fund under RCW 71.20.110 and for ~~((veteran's))~~ veterans' assistance fund under RCW 73.08.080. Each of these earmarked levies may be reduced if the taxing district's general regular levy is restricted by the levy limit contained in chapter 84.55 RCW. If a reduction is necessary, the earmarked levy may be reduced from its budgeted levy amount in the same proportion as the district's general levy is reduced from its budgeted amount.

~~((In other words, if the taxing district is unable to levy its total budgeted amount because it is restricted by the levy limit under chapter 84.55 RCW, the amount levied for the earmarked fund may be reduced proportionately to the reduction in the taxing district's general regular levy. For example, if the overall budget of the county or city/town is limited by the levy limit, and that levy includes specific amounts earmarked for special purposes, the county or city/town may take the total amount it receives from property taxes and allocate "x" amount to the earmarked fund and the remainder to its general purposes.))~~

(3) **Modification of county earmarked funds when regular levy affected.** The budgeted amount for an earmarked levy may be modified by the county legislative authority as provided in this subsection. For the purposes of this subsection, refund levies are not included within the general county property tax levy.

(a) If the general county property tax levy is reduced from the preceding year's levy, funding for the earmarked levies may be reduced by no more than the same percentage as the general county property tax levy was reduced from the preceding year's levy;

(b)(i) If the general county property tax levy is increased from the preceding year's levy, funding for the developmental disabilities and mental health services fund must be increased by at least the same percentage as the general county property tax levy was increased from the preceding year's levy; however, funding does not need to be in-

created for the portion of a voter-approved levy increase that is dedicated to a specific purpose;

(ii) If the general county property tax levy is increased from the preceding year's levy, funding for the veterans' assistance fund cannot be less than the base allocation (the most recent allocation that was not reduced when collections exceed expectations per RCW 73.08.080(2)) increased by the same percentage as the general county property tax levy was increased from the preceding year's levy; however, funding does not need to be increased for the portion of a voter-approved levy increase that is dedicated to a specific purpose; or

(c) If the general county property tax levy is unchanged from the preceding year's levy, funding for the programs must equal or exceed the previous year's funding.

(4) Nothing in this section precludes a county from increasing funding for the programs to an amount that is greater than the change in the regular county levy.

AMENDATORY SECTION (Amending WSR 02-24-015, filed 11/25/02, effective 12/26/02)

WAC 458-19-085 Refunds—Procedures—Applicable limits. (1) **Introduction.** Chapters 84.68 and 84.69 RCW both set out procedures and conditions under which property taxes are refunded. This rule explains the differences between the types of refunds authorized under each chapter, the procedures related to the refunds, and the effect the refunds have on levy limits and the levy setting process in general.

(2) **Court ordered refunds under chapter 84.68 RCW - County tax refund fund levy.** Any person who believes that the taxes levied against their property are unlawful or excessive may pay the taxes under protest, setting forth all the grounds upon which the tax is claimed to be unlawful or excessive, and bring an action in superior court or in any federal court of competent jurisdiction against the state, county, or municipality. RCW 84.68.020. If the court determines that the taxes were indeed unlawful or excessive, it will enter a judgment in favor of the taxpayer who paid the tax under protest and determine the amount to be refunded to the taxpayer. When such a judgment is entered, the law provides a specific procedure for refunding the money to the taxpayer in RCW 84.68.030 and for taxing districts to generate the moneys to be refunded in RCW 84.68.040. Any and all taxing districts that were levying taxes against the property at the time for which a refund is directed by court order under RCW 84.68.020 must levy, or have levied for them, an amount for the county tax refund fund. The county tax refund fund levy is a regular levy that is subject to all the applicable levy limitations provided in law for regular levies. However, the law specifically exempts a refund fund levy from the levy limit set forth in RCW 84.55.010.

(a) Method used to make refunds. When a court judgment is entered in favor of a taxpayer, RCW 84.68.030 states that the refund is to be paid via warrants drawn against the "county tax refund fund." If, at the time the judgment is entered, there are no moneys in that fund, then the warrants bear interest and are "callable under such conditions as are provided by law for county warrants."

(b) Process used to generate funds for the county tax refund fund. RCW 84.68.040 provides that as part of the annual levying of

taxes for county purposes, the county is required to make and enter a tax levy or levies for the county tax refund fund. The purpose of the refund fund levy is to produce moneys to be deposited into a fund from which a taxpayer, who paid taxes that were later adjudged to be unlawful or excessive, can be repaid, without unduly affecting the operating funds of the taxing districts. This levy has precedence over all other tax levies for county and/or taxing district purposes.

(c) Who makes and enters the tax levies for the refund fund levy? Officers of local taxing districts, the county legislative authority, the county assessor, and any other person or entity that would normally be involved in the levy making process are required to make and enter the refund fund levy. However, if a taxing district is required to levy for the county tax refund fund and fails to do so, or if a taxing district is required to levy for the county tax refund fund and does not have a regular nonvoted levy, then the county legislative authority levies the tax for or on behalf of the district, the assessor sets the rate, and the treasurer collects the tax.

(d) What limitations apply to the county tax refund fund levy? There are four basic levy limitations that need to be taken into consideration: The levy limit set forth in RCW 84.55.010; the constitutional (Article VII, section 2) and statutory (RCW 84.52.010) one percent limit; the statutory dollar rate limit for the various taxing districts; and the aggregate dollar rate limit contained in RCW 84.52.043.

(i) The levy limit set forth in RCW 84.55.010 does not apply to the county tax refund fund levy, regardless of which taxing district is involved (see RCW 84.55.070). Therefore, a taxing district(s) can levy the amount to be refunded even if that amount will cause the total levy of the taxing district to exceed the levy limit. For example, a court orders County A to refund \$10,000 to a Taxpayer. The proper county officials in County A must determine what portion of the \$10,000 is attributable to Taxing District No. 1. For purposes of this example, Taxing District No. 1 owes the Taxpayer \$1,000. Taxing District No. 1's levy last year was \$30,000. Without considering new construction, improvements to property, and increase in value of state assessed property the levy for this year under the levy limit would be \$30,300. However, Taxing District No. 1's levy for this year, including the refund fund levy, can be \$31,300.

(ii) The constitutional one percent limit, the statutory dollar rate limit, and the aggregate dollar rate limit apply to any refund fund levy. Consequently, any refund fund levy must be contained within the maximum dollar rate authorized by law for any taxing district. For example, if under the levy limit, the county current expense levy rate is \$1.80/\$1,000 and the refund fund levy rate is \$.10/\$1,000 A.V., then only \$1.70 may go to the current expense fund. Similarly, if the current expense levy rate, as limited by the levy limit, is \$1.50/\$1,000 A.V., then the \$.10/\$1,000 is added to the \$1.50 making a levy rate that is \$1.60/\$1,000 A.V. Any combination is possible as long as the total of the two does not exceed the statutory dollar rate maximum of \$1.80/\$1,000 A.V. for levies made for county purposes. All moneys levied for the county tax refund fund levy are allocated first, without consideration of any delinquency, and then whatever balance is remaining goes to the district's operating fund.

(e) Refund fund's relationship to excess levies. Because the refund fund levy is the direct result of a court ordered judgment in a specific amount, it does not matter whether the judgment amount is derived from taxes paid on regular, excess, or bond levies, or any com-

bination of these levies. The refund fund levy is separate and independent of the levies from which it arose. The levy includes an additional amount deemed necessary to meet the obligations of the county tax refund fund, taking into consideration the probable portions of the taxes that will not be collected or collectible during the year in which they are due and payable, as well as any unobligated cash in hand in this fund.

(f) Applicability to school district levies and state school levy. All taxing districts for which, and within which, taxes were collected unlawfully are required to levy for the refund fund. A refund fund for the school district would not be limited by a dollar rate limit. However, the school district refund fund levy would be subject to the constitutional one percent limit because the refund fund is a regular levy subject to all applicable limits. The state school levy will include a refund fund levy, which will be calculated by the department at the time it levies the state school levy. The state, as a taxing district itself, follows the same procedures that apply to any other taxing district, to the extent that those procedures are applicable.

(g) Separate account in county treasury. The county treasurer must keep a separate account for each district for which a refund fund is created and can only disburse money from that account to the taxpayer(s) entitled to receive a court ordered refund.

(3) **Administrative refunds under chapter 84.69 RCW.** Property taxes may be refunded on the order of the county treasurer before or after delinquency if the property taxes were paid under one of the circumstances listed in RCW 84.69.020. These circumstances include errors, changes in valuation or status by a county board of equalization or the state board of tax appeals, and delays in applying for a senior citizen exemption or deferral.

(a) The levy limit set forth in RCW 84.55.010 does not apply. RCW 84.55.070 states that the limitations contained in chapter 84.55 RCW do not apply to property tax refunds paid or to be paid under the provisions of ~~((chapter 84.69))~~ RCW 84.69.180. Therefore, an amount necessary to fund any refund paid in accordance with RCW 84.69.020 may be added to the levy for a taxing district without regard to the levy limit. A refund fund levy is not subject to the levy limit. However, the statutory dollar rate limit still applies to each taxing district, as well as the five dollar and ninety cent limit set forth in RCW 84.52.043 and the constitutional one percent limit set forth in Article VII, section 2 of the state Constitution and RCW 84.52.050.

(b) Refunds include interest. Refunds authorized under RCW 84.69.020 must include interest that is payable from the time the taxes were paid. The rate of interest is calculated in accordance with RCW 84.69.100, established annually by the department, and published in WAC 458-18-220.

(c) Taxing districts other than the state may levy a tax upon all the taxable property within the district for the purpose of:

(i) Funding refunds paid or to be paid under this chapter, except for refunds due to taxes paid more than once, RCW 84.69.020(1), including interest, as ordered by the county treasurer or county legislative authority within the preceding twelve months; and

(ii) Taxes that have been abated or canceled, offset by any supplemental taxes collected under Title 84 RCW other than amounts collected due to highly valued disputed property, RCW 84.52.018, within the preceding twelve months can be levied by taxing districts other than the state.

(iii) This subsection (3)(c)(ii) only applies to abatements and cancellations that do not require a refund under chapter 84.69 RCW. Cancellations that require a refund are included within the scope of (c)(i) of this subsection.

(d) Example 1. This example demonstrates net refunds, cancellations, and supplements that occurred within the past twelve months and the refund levy that can be requested by the taxing district:

| | | |
|---|-----------------|-----------------|
| <u>Refunds</u> | | <u>\$8,000</u> |
| <u>Cancellations</u> | <u>\$10,000</u> | |
| <u>Abatements</u> | <u>\$ 1,000</u> | |
| <u>Supplements</u> | <u>\$ 7,000</u> | |
| <u>Net cancellations and abatements offset by supplements</u> | | <u>\$4,000</u> |
| <u>Net amount eligible for a refund levy</u> | | <u>\$12,000</u> |

(e) Example 2. This example assumes that the base for computing the allowable levy is \$10,000 and refers to the county current expense levy rate that may not exceed one dollar and eighty cents per thousand dollars of assessed value in accordance with RCW 84.52.043.

(i) Statutory rate requested does not exceed the dollar rate allowable:

| | |
|--|-----------------|
| The allowable levy for the county current expense fund | \$10,000 |
| Refunds paid or to be paid | <u>2,000</u> |
| Total amount of levy | \$12,000 |
| Assessed value | \$7,000,000 |
| Levy rate | \$1.714/\$1,000 |
| The levy rate is within the statutory rate limit of \$1.80/\$1,000 | |

(ii) Statutory rate requested exceeds the dollar rate allowable:

| | |
|---|-----------------|
| Allowable levy | \$10,000 |
| Refunds paid or to be paid | <u>2,000</u> |
| Total amount of levy | \$12,000 |
| Assessed value | \$6,500,000 |
| Levy rate | \$1.846/\$1,000 |
| The dollar rate cannot exceed \$1.80/\$1,000; therefore, the maximum that can be levied is \$6,500,000 x \$1.80/\$1,000 | |
| | \$11,700 |
| Amount to be refunded | \$2,000 |
| Amount to be credited to current expense | \$9,700 |

(f) The base for computing the following year's levy limit does not include the refund levy amount. In the preceding example, the base for the following year's levy limit calculation is \$10,000. However, when calculating the additional levy amount based on the value of new construction, improvements to property and any increase in the value of state assessed property, the actual regular levy rate (including the refund levy) is used.