

VOTER APPROVAL FOR SCHOOL DISTRICT EXCESS LEVY AUTHORITY

This memorandum provides information regarding voter approval for school district excess property tax levy authority, including voter approval requirements for various sized school districts.

Pursuant to North Dakota Century Code Section 57-15-14.2, a school district may levy a tax not exceeding the amount in dollars levied for the prior year, plus 12 percent, up to a levy of 70 mills; up to 12 mills for miscellaneous purposes; up to 3 mills for deposit into a special reserve fund; mills necessary for the payment of tuition in accordance with Section 15.1-29-15; mills for a building fund as permitted in Sections 15.1-09-49 and 57-15-16; and mills necessary to pay principal and interest on the bonded debt of the district. Unless excess levy authority is approved by the voters pursuant to Section 57-15-14, a school district is limited to the levy authority provided under Section 57-15-14.2.

Section 57-15-14 requires the question of authorizing excess levy authority be submitted to the qualified electors at the next regular or special school district election upon a resolution by the school board or the filing of a petition with the school board for increased levy authority. If initiated through a petition process, the petition must contain the signatures of at least 10 percent of the number of electors who cast votes in the most recent election in the school district, and no fewer than 25 signatures. A ballot question submitted to the electors after June 30, 2009, must specify the number of mills proposed for approval and the number of taxable years for which that approval is to apply, which may not exceed 10 taxable years. Ballot questions submitted to the electors after June 30, 2013, also must include a statement that the statutory school district general fund levy limitation is 70 mills on the dollar of the taxable valuation of the school district.

Excess levy authority must be approved by a majority of the qualified electors voting on the question in any school district having a population of over 4,000, and 55 percent of the qualified electors voting on the question in any school district having a population of fewer than 4,000. Excess or unlimited levy authority approved by the electors of a school district before July 1, 2009, was terminated effective for taxable years beginning after 2015.

As originally enacted by 1929 House Bill No. 97, the percentage of voter approval required to authorize excess levy authority was 60 percent of the electors voting on the question. The bill did not foreclose the opportunity to approve excess levy authority in school districts under a certain population or differentiate between the percentages of voter approval required to authorize excess levy authority based on a school district's population.

The first reference to population figures was seen in 1961 House Bill No. 539. The bill set a minimum population threshold for school districts allowed to vote on the question of authorizing excess levy authority. The bill required a school district to have a population in excess of 7,500 before a question of authorizing excess levy authority could be posed to the voters. The bill also lowered the percentage of voter approval required to authorize excess levy authority from 60 percent of the electors voting on the question to a majority of the electors voting on the question.

Minimum school district population thresholds were further reduced by 1965 House Bill No. 616 for purposes of allowing voters to authorize excess levy authority. The bill lowered the minimum school district population thresholds from school districts with a population exceeding 7,500 to school districts with a population exceeding 4,000.

Language requiring a higher percentage of voter approval to authorize excess levies in smaller population school districts was first enacted in 1975 by Senate Bill No. 2026. The bill's provisions mirrored the current excess levy provisions that require approval by a majority of the electors in school districts with a population in excess of 4,000, and approval by 60 percent of the electors in school districts with a population of less than 4,000. The legislative history for the bill contains discussion of removing the minimum school district population threshold in order to treat all school districts equally. The final provisions of the bill reflect a compromise in allowing excess levy authority to be approved in low-population school districts, so long as a higher percentage of voter approval is received.