

## WSACE Mtg - SeaTac - November 18-19, 2009

### County Road Administration Board

Information presented pertaining to:

**Property Taxes**  
**Road Levy Shift**  
**Road Levy Diversion**  
**Use of Road Funds for Road Purposes**  
**Road Levy Certification**  
**RAP Eligibility Impacts**

#### Property Taxes

Revenue collected as a result of property taxes is highly regulated, with very specific limitations. When dealing with property taxes, some of the common terminology includes:

- Ad valorem tax - A tax based on the value of property
- Levy - The act of imposing taxes, assessments or charges, OR, the total amount of taxes, assessments or charges imposed by a governmental unit
- Levy Rate - The rate necessary to raise the amount of taxes for any taxing district within the county, expressed in dollars and cents per one thousand dollars assessed value
- Levy Limit - The restriction on the amount that a district's property tax levy may increase over the previous year
- Lid-lift - A ballot measure, wherein the voters authorize the district to increase their levy rate beyond the levy limit
- Junior Taxing Districts - All taxing districts other than the state, county, county roads, city, port, and public utility districts
- Senior Taxing Districts - Means the state (for support of common schools), the county, county road, and city or town
- Road levy shift - A temporary shift of levy capacity (rate) from the county's road levy to the county's current expense levy

Note: *The above information was taken from the Washington State Department of Revenue - Operations Manual - Property Tax Levies, otherwise known as the "Levy Manual", which includes detailed information and guidance on these topics - available at <http://dor.wa.gov/content/GetAFormOrPublication/>.*

RCW 84.52.043 listed the maximum levy rates allowed by any one district, with the limits associated with the senior district summarized in the table on the following page:

Limitations upon regular property tax levies (RCW 84.52.043)		Max allowed per \$1,000	Levy Shift Max	
Senior Districts	County Current Expense	\$ 1.80	\$ 2.475	\$4.05 combined
	County Road	\$ 2.25		
	State Common School	\$ 3.60		
	Cities	\$ 3.375		
Junior plus Senior Districts		\$ 5.90		

The primary rules for setting levies each year are summarized as follows (subject to supplemental rules for certain entities and/or situations):

- Each taxing district may not exceed its statutory levy rate limit
- The aggregate levy rate for all taxing district levies must not exceed \$5.90
- Total levy amount from one year to the next may not exceed the lesser of 101% or inflation, plus the addition of new construction
- The levy limitations are subject to voter approved increases (lid-lift)  
AND
- The levy rate applied to a given taxing district must be uniform throughout its district

The primary obligation of every taxing district as a part of their budgeting process is to declare what funding “need” exists, and then perform the necessary calculations and apply limitation tests as a part of actually establishing a levy rate.

The calculated levy rates have actually been declining for most senior taxing districts over the past few years due to the combination of significant increases in property value and the legal restrictions on levy increases without voter approval. This can be seen with the average county road levy rates listed below:

2003 Average Road Levy / State-wide	\$ 1.90
2005	\$ 1.84
2007	\$ 1.66
2008	\$ 1.55
2009	\$ 1.47

The County Assessor is the most qualified individual to describe the specific rules and limitations affecting each county.

## **Road Levy Shift**

As the previous definition suggests, a levy shift is literally the shifting of taxing authority from the Road District (unincorporated land taxation only) to the general county levy (county-wide taxation). As summarized in the first table, the shift of Road Levy authority to the County's Current Expense authority is described in RCW 84.52.043:

- The Current Expense Levy can exceed \$1.80, but to no more than \$2.475
- The combination of the Current Expense Levy and the Road Levy can't exceed \$4.05
- No other taxing district can be required to reduce its levy rate as a result of a proposed increase in the Current Expense Levy rate

The action establishing the levy shift is valid for only one year and must be reenacted each year if it is to occur.

While there are numerous procedural steps required prior to implementing a levy shift, such action does not carry any limitations on the use of resulting Current Expense funds other than those normally assigned to general county government purposes. However, the two primary policy issues that must be dealt with as a part of enacting a Road Levy shift are:

- What are the financial and performance impacts to the Road Fund due to the loss of revenue for one or more years?
- What are the political implications for reducing the tax burden in the unincorporated areas while increasing the tax burden in the incorporated areas?

## **Road Levy Diversion**

### Diversion

The term "diversion" is probably the most common topic amongst road managers pertaining to property tax revenues. However, it has very little to do with the actual setting and collection of property taxes. In reality, within the context of the proper use of road funds (for road purposes), "diversion" is simply a term used to describe the use road funds for something other than a direct road activity - such as traffic policing.

### Protection of Road Funds

Article II, Section 40, Washington State Constitution

"All fees collected... as license fees for motor vehicles and all excise taxes collected... on... motor vehicle fuel and all other state revenue intended to be used for highway purposes, shall... be used exclusively for highway purposes."

(Note: highway purposes includes "policing by the state of public highways")

RCW 47.08.110

“It shall be unlawful and a misdemeanor, unless...by... law... a felony or gross misdemeanor, to divert or use, or authorize, permit or participate in the diversion or use of any moneys in the county road fund... for any other purpose or in any other manner than that authorized by law.”

For counties, the above legal protection on use of road funds is primarily due to the receipt and use of fuel taxes. However, once any revenue is deposited in the road fund and “comingled” with fuel tax revenue, the entire road fund is similarly protected. The underlying question is then only whether diverted road funds were used for a road purpose or not.

#### Diversion of the Road Levy

The exception to the general prohibition above is when the action is exclusively the “diversion” of a portion of the “road levy”- -- a portion that is never deposited in the road fund.

RCW 36.33.220

Allows use of road levy for any service provided in the unincorporated area

#### Traffic Policing

For traffic policing expenditures use of road funds is allowable and the term “diversion” applies equally to:

- An predetermined amount of the revenue collected through the road levy that is deposited by the County Treasurer directly into the current expense fund for the exclusive purpose of traffic policing, by formal action of the Board (the funds never enter the Road Fund)
- A predetermined amount of money agreed to by the Board, Sheriff, and County Engineer, for traffic policing that is “transferred” through an interfund transaction from the Road Fund
- The reimbursement of actual expenditures by the Sheriff for traffic policing, that were estimated and agreed by the Board and County Engineer

#### RAP Eligibility

Inappropriate use of Road Funds for non-road purposes carries with it, at a minimum, immediately loss of eligibility for Rural Arterial Program funds. An exception to this is for counties with a population of less than eight thousand or those counties that expend these funds pursuant to a voter-approved action under RCW 84.55.050 (voter approved levy for a specific purpose).