

The Issue

The newly enacted NYS property tax cap does not cap school district levy increases due to capital expenditures (including related debt service). One type of capital expenditure incurred by school districts is the purchase, construction, repair, or renovation of property that the districts own/lease in common through BOCES. BOCES are an integral part of most school district's continuum of educational programming – serving disabled students, and offering specialized programs that would be uneconomical or redundant for districts to replicate independently, but which would nevertheless have to be offered.

BOCES capital expenditures are undertaken through the BOCES budget process – in the case of repairs and renovations; or by a referendum of the voters in the component districts – in the case of purchase or new construction.

As state agencies begin the difficult work of providing guidance on the implementation of the tax cap legislation, this question of whether BOCES capital expenditures fall within the capital expenditures exemption for districts is open to interpretation. Yet, any determination treating capital expenditures dissimilarly for programs housed at BOCES facilities rather than district facilities, would create an economic disincentive to regionalizing education in order to achieve economies of scale. This is clearly antithetical to finding greater efficiencies which the tax cap legislation was intended to stimulate.

The Solution

BOCES capital expenditures are school district capital expenditures. The fact that school districts receive building aid on such expenditures on BOCES buildings supports this position. The impact of including a district's BOCES capital expenditure under the cap is identical to the impact of a capital expenditure by that district on its in-district buildings. Therefore, not including BOCES capital expenditures in this exemption undermines the intent and purpose of the tax cap legislation and its capital expenditures exclusion.

Specific Proposals

The Board of Regents should consider the following in its Legislative/State Aid Proposal:

1. A Regents' position statement supporting the inclusion of BOCES-related capital expenditures in a school district's capital expenditures exemption from the property tax cap.
2. A strong, Regents-supported, negotiating effort by SED to convince the Division of Budget and Office of the State Comptroller of the appropriateness and necessity of an interpretation of the exclusion language that identifies BOCES capital expenditures as capital expenditures of the school districts incurring those expenditures and, therefore, as exempt from the property tax cap.
3. Statutory revisions to clarify that all district capital expenditures (whether incurred locally or through BOCES) are exempt from the cap.