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EXPLAINER

2023 Statewide Ballot Proposal 1: Constitutional Amendment Removing the Debt Limit on Small City School Districts

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Introduction

On November 7, 2023, New Yorkers will be asked to vote on whether to approve an amendment to the New York State Constitution that would eliminate the constitutional debt limit for small city school districts (ballot proposal 1). The change would align the constitutional borrowing limits of small city school districts¹ with the limits that apply to rural and suburban districts.

What Is the Current Debt Limit for Small City School Districts and other School Districts?

Article 8, §4 of the New York State Constitution limits the ability of local governments to take on debt in various ways. Among those limitations is a cap on the amount of debt that small city school districts can incur. Currently, small city school district borrowing is limited to 5% of the average full valuation of taxable real estate over the last five years.²

Small city school districts may exceed this borrowing limit only if (1) a ballot proposal to do so receives more than 60% of the vote, (2) the Board of Regents of the University of the State of New York agrees, and (3) the New York State Comptroller also approves.³

By comparison, other school districts do not have a constitutional limitation on their borrowing. However, suburban and rural school districts are subject to a statutory limitation, set at 10% of the property tax base, which may be waived (1) by a ballot

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¹ Small city school districts are defined as the school districts of cities with fewer than 125,000 inhabitants. N.Y. Const. Art. 8, § 4(h). There are 57 such school districts in New York State.

² N.Y. Const. Art. 8, § 4(h); N.Y. Local Fin. Law §§ 104(b)(8), (c).

³ According to research by the NYS Association of Small City School Districts, such school districts have made use of this provision approximately 25 times in the past 12 years.

proposal to do so receiving more than 60% of the vote, and (2) with the consent of the Regents of the University of the State of New York.

What Does the Proposed Amendment Do in Practice?

The proposed amendment would remove the 5% constitutional limitation on the amount of debt that small city school districts can incur for educational purposes. This would place small city school districts on constitutional equal footing with suburban and rural school districts in New York State, whose borrowing limits are set by statute, and which may be modified by the Legislature more easily than amending the constitutional amendment.

If It Passes, Will Small City School Districts Be Able to Increase Their Borrowing Immediately?

Passage of the amendment will remove the constitutional limitation on small city school district borrowing. However, existing statutory limitations on small city school district borrowing will remain in place unless and until the Legislature changes them because other unchanged provisions of the New York State Constitution expressly empower the Legislature to place spending limits on localities, including school districts.⁴ Specifically, New York Local Finance Law §§ 104(b)(8) and (c) provide parallel debt limitations to those in Article 8, §4(h).

If the amendment passes, school districts would still be restricted by a statutory 10% debt limit prescribed by section 104.00(d) of the Local Finance Law.⁵ However, the proposed constitutional amendment would permit small city school districts to deduct costs reimbursed through state Building Aid from debt subject to the 10% limit.

Thus, the primary effect of the amendment would be to apply to small city school districts the same limitations and constitutional provisions that are applied to other school districts, subject to the statutory limitations of the Local Finance Law and other approvals required by school districts.

Is This Proposed Amendment Controversial?

If “controversy” is measured by political opposition in the Legislature, ballot proposal 1 is decidedly uncontroversial. In the 2021–22 session of the NY State Senate, the bill for this amendment was passed 56-5. In the 2021–22 session of the NY State Assembly, it passed

⁴ N.Y. Const. Art. 8, § 12 (“Nothing in this article shall be construed to prevent the legislature from further restricting the powers herein specified of any county, city, town, village or *school district* to contract indebtedness or to levy takes on real estate.”)(emphasis added).

⁵ See N.Y. Local Fin. Law § 121.20.

148-1. The results were similar in the 2022–23 session, when the vote in the Senate was 60-2, and in the Assembly was 145-0.

However, if the measure of controversy is the degree of support by the public, the proposed amendment may have the potential to be controversial. A similar amendment was put to the voters in 2003. It failed, with 54.2% of the public voting against the amendment.⁶ However, there is no information readily available as to why it failed; nor is there information that indicates the existence of a coordinated campaign against continuation of the debt limit.

Summary

If voters approve ballot proposal 1, the amendment would eliminate the constitutional debt limit that is imposed on small city schools and would subject them to the same limits imposed by statute on other independent school districts.

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⁶ The ballot proposal failed by a vote of 724,141 (45.8%) to 855,567 (54.2%).