



RULE-MAKING ORDER PERMANENT RULE ONLY

CR-103P (December 2017) (Implements RCW 34.05.360)

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WSR 18-24-104

Agency: Department of Revenue

Effective date of rule:

Permanent Rules

- 31 days after filing.
- Other (specify) _____ (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

- Yes No If Yes, explain:

Purpose: WACs 458-19-045 and 458-19-060 are being amended to incorporate:

- Substitute House Bill 2597 that passed during the 2018 legislative session concerning extending the senior citizen, disabled person, and disabled veteran property tax exemption to certain increases in property taxes imposed by a county or city;
- Substitute House Bill 2627 that passed during the 2018 legislative session concerning the approval of emergency medical service levies.

Incorporating the updated statutory requirements into these rules will assist county assessors, taxpayers, and taxing districts in understanding how these types of property tax increases and levies are administered.

Citation of rules affected by this order:

- New:
- Repealed:
- Amended: WAC 458-19-045 Levy limit-Removal of limit (lid lift); WAC 458-19-060 Emergency medical service levy.
- Suspended:

Statutory authority for adoption: RCW 84.08.010, 84.08.070, and 84.55.060.

Other authority:

PERMANENT RULE (Including Expedited Rule Making)

Adopted under notice filed as WSR 18-20-101 on October 2, 2018 (date).
Describe any changes other than editing from proposed to adopted version: None

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting:

- Name:
- Address:
- Phone:
- Fax:
- TTY:
- Email:
- Web site:
- Other:

**Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.**

The number of sections adopted in order to comply with:

Federal statute:	New	___	Amended	___	Repealed	___
Federal rules or standards:	New	___	Amended	___	Repealed	___
Recently enacted state statutes:	New	___	Amended	2	Repealed	___

The number of sections adopted at the request of a nongovernmental entity:

New	___	Amended	___	Repealed	___
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The number of sections adopted on the agency's own initiative:

New	___	Amended	2	Repealed	___
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	___	Amended	2	Repealed	___
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The number of sections adopted using:

Negotiated rule making:	New	___	Amended	___	Repealed	___
Pilot rule making:	New	___	Amended	___	Repealed	___
Other alternative rule making:	New	___	Amended	2	Repealed	___

Date Adopted: December 4, 2018

Name: Erin T. Lopez

Title: Rules Coordinator

Signature:



AMENDATORY SECTION (Amending WSR 18-05-013, filed 2/8/18, effective 3/11/18)

WAC 458-19-045 Levy limit—Removal of limit (lid lift). (1) **Introduction.** ~~((The))~~ 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)~~ **Definitions.** The definitions in WAC 458-19-005 apply to this rule.

~~(3)~~ **Lid lift - Purpose.** The purpose of a 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 increasing property taxes. A 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 as described 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, as defined in WAC 458-19-005, 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))~~

~~(4)~~ **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 not 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 are prepared by the county prosecutor or city attorney, as applicable, in accordance with RCW 29A.36.071. RCW 29A.36.071 requires a ballot title to include a concise description of the measure, not to exceed seventy-five words. 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. A simple majority vote is required for approval of a lid lift.

~~((3))~~ **(5) 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 1985 for 1986 collection, for one year. ~~((The text of a ballot title and measure for a single year lid lift must contain the following:~~

~~(a))~~

~~(6)~~ **Ballot title and measure - Single year lid lift.** The text of a ballot title and measure for a single year lid lift must contain 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)~~) conditions 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, except for taxes levied for collection in 2018 and thereafter in Thurston County, the period for which the increased levies are made may not exceed twenty-five 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; and

(iv) Whether the increase in regular property taxes by a county or city resulting from the approval of the lid lift will not apply to property exempt under the senior citizens and disabled persons property tax exemption in RCW 84.36.381.

(~~(4)~~) **(7) 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 1985 for 1986 collection, for up to six consecutive years.

(a) Ballot title and measure. 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)~~) is not required to 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) The limited purposes for which the proposed annual increases will be used; and

(iv) Any of the following (~~(limitations)~~) conditions 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, except for taxes levied for collection in 2018 and thereafter in Thurston County, the period for which the increased levies are made may not exceed twenty-five 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; and

(D) Whether the increase in regular property taxes by a county or city resulting from the approval of the lid lift will not apply to property exempt under the senior citizens and disabled persons property tax exemption in RCW 84.36.381.

(b) Supplanting of existing funds.

(i) Except as otherwise provided in (b) of this subsection, funds raised by a levy under this ~~((section))~~ rule 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:

(A) Lost federal funds((τ));

(B) Lost or expired state grants or loans((τ));

(C) Extraordinary events not likely to reoccur((τ));

(D) Changes in contract provisions beyond the control of the taxing district receiving the services((τ)); and

(E) 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.

~~((5))~~ (8) Permanent lid lift. A permanent lid lift occurs when the ballot title and ~~((ballot))~~ measure 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))~~ (6)(b)(iii) and (7)(a)(iv)(C) of this ~~((section))~~ rule. Approval of a permanent lid lift permanently increases the base used to calculate the levy limit.

(a) First levy after voter approval. 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 ~~((τ but that))~~. The dollar rate is subject to the constitutional one percent limit ~~((and))~~, the statutory aggregate dollar rate limit, and any applicable prorationing.

(b) Subsequent levies. 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 for 1986 collection, including the dollar amount of the regular levy calculated in ~~((accordance with))~~ (a) of this subsection, by the limit factor.

~~((6))~~ (9) Temporary lid lift. 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) First levy after voter approval. 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 ~~((τ but that))~~. The dollar rate is subject to the constitutional one percent limit ~~((and))~~, the statutory aggregate dollar rate limit, and any applicable prorationing.

(b) Subsequent levies. 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 for 1986 collection, including the dollar amount of the regular levy calculated in ~~((accordance with))~~ (a) of this subsection, by the limit factor.

AMENDATORY SECTION (Amending WSR 15-03-087, filed 1/21/15, effective 2/21/15)

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

Definitions. The definitions in WAC 458-19-005 apply to this rule.

(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))~~ from 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.

(a) Initial approval of EMS levy. 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))~~ if an area comprising a newly formed regional fire protection service authority was subject to an EMS levy immediately prior to the creation of the authority, the initial imposition of a six-year or ten-year EMS levy may be approved by a majority of the registered voters who approved the creation of the authority and the related service plan.

(b) Subsequent approval of EMS levy. The subsequent approval 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 rule, 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))~~ authority, or fire protection district is authorized to impose an EMS levy.

(3) **Duration - Maximum levy rate.** An EMS levy is imposed each year for six consecutive years, each year for ten consecutive years, or permanently. Except as provided in subsection ~~((+10))~~ (11) of this rule, a taxing district may impose ~~((a regular property tax))~~ an EMS levy in an amount that cannot exceed fifty cents per thousand dollars of assessed value of the property ~~((of))~~ in 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 29A.36.210. A taxing district cannot submit to the voters, at the same election, multiple propositions to impose ~~((a))~~ an EMS levy under RCW 84.52.069. If the approved ballot title and measure did not authorize the maximum allowable levy rate (fifty cents per thousand dollars of assessed value) for the EMS levy, any future proposition to increase the rate up to the maximum allowable levy rate must be specifically authorized by voters at a general or special election. ~~((That is))~~ Therefore, a taxing district may impose ~~((a))~~ an EMS 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 levy 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 levy 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))~~ For additional information regarding the referendum procedures, see RCW 84.52.069((+4)).

(5) **County-wide EMS levy.** A county-wide EMS levy proposal cannot be placed on the ballot without first obtaining the approval ~~((of))~~ from the legislative authority of ~~((any city))~~ a majority of at least seventy-five percent of all cities 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))~~ (6) **Additional requirements.** When a county levies an EMS levy, the following conditions apply:

(a) ~~((Any))~~ Other taxing districts within the county ~~((r))~~ 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))~~ in the taxing district; ~~((and))~~

(b) ~~((When))~~ If a taxing district within the county levies an EMS levy and the voters of the county subsequently approve a county-wide EMS levy, then 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 of the property in the taxing district; ~~((and~~

~~((c) An EMS levy of limited duration of))~~

~~((c))~~ A taxing district within ~~((the))~~ a county ~~((r))~~ having an EMS levy of limited duration that was authorized by the voters subsequent to a county-wide EMS levy of limited duration, will expire ~~((concurrently with))~~ at the same time as the county EMS levy; and

(d) A fire protection district ~~((that has))~~ having annexed an area described in subsection ~~((+10))~~ (11) of this rule may levy the maximum amount of tax ~~((that would otherwise be))~~ allowed, ~~((notwithstanding))~~ taking into consideration any limitations in this subsection.

~~((+6))~~ (7) **EMS levy of a taxing district other than a county.** ~~((Once))~~ When a taxing district ~~((that has the authority to levy))~~ levies an EMS levy ~~((has done so))~~ within the county, only the county may ~~((concurrently))~~ , at the same time, 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))~~ an EMS levy under this rule, no other taxing district that is a

participating fire protection jurisdiction in the regional fire protection service authority may ~~((levy a tax))~~ impose an EMS levy under this rule.

(b) For purposes of this subsection, a "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))~~ **(8) 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))~~ according to RCW 84.52.010 and WAC 458-19-075.

~~((8))~~ **(9) 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))~~ as described in RCW 84.52.043~~((+))~~.

~~((9))~~ **(10) 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))~~ in chapter 84.55 RCW does not apply. However, after the first year ~~((any))~~ an EMS levy ~~((made))~~ is subject to this limit. ~~((In other words, beginning))~~ Therefore, in the second year ~~((this levy is made it))~~, the EMS levy 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))~~ the levy, plus an additional ~~((dollar))~~ amount calculated by multiplying the regular property tax levy rate of the district ~~((for))~~ from the preceding year by the increase in assessed value in the taxing district resulting from:

- (a) New construction;
- (b) Improvements to property;
- (c) Increases in the assessed value of state assessed property;

and

(d) Increases in assessed value due to the construction of wind turbine, solar, biomass, and geothermal facilities, if such facilities generate electricity and the property is not included elsewhere under chapter 84.55 RCW for purposes of providing an additional dollar amount. The property may be classified as real or personal property.

The EMS levy is calculated separately from any other levies made by the taxing district for purposes of calculating the levy limit.

~~((10))~~ **(11) County boundaries.** For purposes of imposing ~~((the tax authorized under this rule))~~ an EMS levy, 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~~((r))~~. This only applies 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.