



EXCESS TAX LEVY (OPT-OUT)

If the school district cannot operate on the revenues generated by the maximum levy for general fund and monies from state aid as determined by the funding formula, then the school district may choose to “opt-out” of the levy limitations.

School districts may opt out for general fund only. Opting out is to impose an excess levy. The excess levy shall maintain the same proportion represented in the mathematical relationship at the maximum levy.

If a taxing entity, including a school district, opts out of the tax limitation, they need to send the County Auditor a copy of the “opt out” resolution along with copies of the minutes of the meeting at which the opt out took place. Proof of publication/notification also needs to be sent. If the opt out is referred to a vote, the finance officer of the taxing district must certify the outcome of the election to the Country Auditor.

For all entities, including school districts, “opting out” requires a two-thirds vote of the governing body on or before July 15th. Decision to opt-out must be published within ten days of decision. That decision may be referred upon a petition signed by at least five percent of the registered voters in the taxing district and filed with the governing body within twenty days of the publication. Election must be held on or before October 1st.

Any opt out passed July, 2002 or after must specify in the resolution the year or number of years the excess tax levy will be applied. There are also certain requirements concerning the publication of the opt out resolution.

For the first year and subsequent years, the taxing entity has up to that opt out amount to use. If the entity decides to use all, some, or none at all, in years following, that opt out amount is still accessible to the taxing entity. This applies to all opt outs, even those passed July 1, 2002 and after. The only exception is those passed July 1, 2002, the “years following” are the years designated by the opt out resolution.

Opt Out Timeframe

An opt out should not be done until January 1 or after of the year prior to the year the taxes are payable, but must be done on or before July 15 of the year prior to the year the taxes are payable.

If the opt out decision has been referred to a vote and has been defeated, the governing board may opt out again IF done so prior to July 15 of the year prior to the year the taxes are payable.

The decision to opt out may be rescinded IF done so prior to July 15 of the year prior to the year the taxes are payable. EXCEPT – If the opt out decision was referred to a vote and withstood the vote, meaning the voters supported the opt out, the governing body CANNOT rescind the opt out. They just do not have to ask for the amount of the opt out.