CONCERN:

Consider 2008-09 Tax Levy

DISCUSSION:

The major portion of funding for Kentucky public school districts is from the state level. The Kentucky Education Reform Act (KERA) included significant changes in the state funding program and established a new funding program for elementary and secondary education, the Fund to Support Education Excellence in Kentucky (SEEK).

Under SEEK, every local school district is required to make a uniform tax effort equivalent to 30 cents (KRS 160.470). Local boards may utilize a combination of property tax, utility tax, occupational tax, or an excise tax on income. The yield from the required local effort is deducted from the basic SEEK appropriation. Required local effort is designed to assure that the taxable wealth per pupil of the local district is rendered neutral as a funding factor in the SEEK base. Districts with relatively high taxable wealth per pupil pay a larger share of the base than those with lower taxable wealth per pupil. Franklin County’s 2008-09 tentative working budget included the combination of property and 3% utility tax levy.

Local districts may supplement basic SEEK program funding, within reasonable limits, under a two-tiered process. The first level is called Tier 1. Funding in Tier 1 is at the discretion of the local school board. The maximum level of funding permitted in Tier 1 is 15% above the base, including local effort (KRS 157.440). In the event a local board levies a general tax in Tier 1, the state is to equalize the levy to assure the local district will receive a yield equal to 150% of the mean assessment per pupil for the state. For the 2008-10 biennium the state calculated the equalization level at $713,000 assessed value per pupil. Taxes up to the Tier 1 level may be levied by a local board of education and are not subject to recall. Franklin County's tentative working budget approved by the board in May 2008 included a projected tax rate sufficient for the maximum level of Tier 1.

The second level is called Tier 2. The maximum level of funding permitted in Tier 2 is 30% above the base SEEK plus Tier 1. Funding in Tier 2 is allowed if the district already has a tax rate at this level. However, any new (higher than the 1989/90 equivalent level) tax at this level must be approved by the voters in a referendum. No state equalization is available in Tier 2. Thus, for the most part, the local school board cannot approve an increase in their general fund tax in Tier 2. Franklin County's combined levy in 2007-08 included a small Tier 2 levy that was allowed because of provisions of KRS 160.470.

A local school board must be in receipt of the Kentucky Department of Revenue's certification of the value of property subject to taxation before approval of a tax levy. The certification was received August 6, 2008. Franklin County’s 2008-09 tentative budget was based on projected assessment of property subject to school tax in the amount of $3,127,456,785.

The value certified by the Kentucky Revenue Cabinet was $3,170,851,768. Table A provides more detail on the 2008-09 certification compared to 3 prior years.

## **Table A**

## **Assessment of Taxable Property Certified by Kentucky Revenue Cabinet**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Item** | ***Actual*** | ***Actual*** | ***Actual*** | ***Actual*** |
|  | ***2005-06*** | ***2006-07*** | ***2007-08*** | ***2008-09*** |
| Real Estate - New Property | $47,540,173 | $51,609,198 | $54,046,260 | $45,294,247 |
| *Percentage Of Total Real Estate* | 2.19% | 2.24% | 2.21% | 1.77% |
| Real Estate - *Reassessment Less Homestead* | $40,198,961 | $85,862,424 | $82,385,392 | $62,291,983 |
| *Percentage Of Total Real Estate* | 1.85% | 3.72% | 3.37% | 2.44% |
| *Total Assessment - Real Estate* | $2,170,973,796 | $2,308,445,418 | $2,444,877,070 | $2,552,463,300 |
| *Percentage Change Of Real Estate* | 4.21% | 6.33% | 5.91% | 4.40% |
| Tangible Property | $150,090,171 | $155,100,432 | $176,278,563 | $177,585,910 |
| *Percentage Change* | 2.18% | 3.34% | 13.65% | 0.74% |
| Public Service Real Estate | $11,931,065 | $12,328,662 | $8,214,105 | $8,345,518 |
| *Percentage Change* | 0.00% | 3.33% | -33.37% | 1.60% |
| Public Service Tangible | $48,923,782 | $36,561,072 | $28,382,217 | $25,200,040 |
| *Percentage Change* | -1.17% | -25.27% | -22.37% | -11.21% |
| Distilled Spirits | $80,520,336 | $91,964,625 | $81,081,400 | $97,942,920 |
| *Percentage Change* | 0.00% | 14.21% | -11.83% | 20.80% |
| Motor Vehicle | $281,230,067 | $294,392,415 | $297,532,456 | $309,314,080 |
| *Percentage Change* | 10.92% | 4.68% | 1.07% | 3.96% |
| **Grand Total** | **$2,743,669,217** | **$2,898,792,624** | **$3,036,365,811** | **$3,170,851,768** |
| *Percentage Change* | 4.50% | 5.65% | 4.75% | 4.43% |
| Less Motor Vehicles | $2,462,439,150 | $2,604,400,209 | $2,738,833,355 | $2,861,537,688 |
| *Percentage Change* | 3.81% | 9.34% | 5.16% | 4.48% |

As noted above the actual assessed value of property was higher than projected in the tentative working budget. Because of the equalizing features of SEEK, this means that required local effort from the 30 cent levy and the local share of Tier 1 will be higher; which will decrease projected receipts from the state through SEEK. Projected 2008-09 GF state general fund SEEK revenue to Franklin County Schools in the May Tentative Budget, including the FSPK match, was $18,257,179. With the higher assessment 2008-09 GF SEEK (with lower final ADA for 07-08 and no projected ADA growth during the first 2 months of 08-09) is now expected to be $17,963,588, a decrease of $293,591.

The Kentucky Revenue Cabinet submits the certified assessment for each local district to the Kentucky Department of Education. Upon receipt of the certified assessment the Kentucky Department of Education calculates permissible tax levies pursuant to two different statutes. The first permissible tax rate calculation is pursuant to KRS 160.470 (House Bill 44) and generates three possible tax levies. First, KRS 160.470 provides that a local taxing authority may levy a tax rate that will produce the same revenue as received the prior year, exclusive of new property, without conducting a public hearing and not subject to recall. This rate is referred to as the compensating rate. Second, KRS 160.470 provides that a local taxing authority may levy a tax rate that will produce 4% more revenue than was received the prior year, exclusive of new property, provided the taxing authority conducts a public hearing following advertisement pursuant to said statute. After conducting a public hearing the taxing authority may levy a rate that will generate a 4% increase in revenue, exclusive of new property, that is not subject to recall. This rate is referred to as the 4% increase rate.

The final rate allowed by KRS 160.470 is pursuant to subsection (1) of the statute. This rate is essentially based on the rate that could have been levied in 1978/79 to the 1978/79 assessment. This rate is referred to as the subsection (1) rate. If the subsection (1) rate is higher than the 4% rate it may be levied under the public hearing requirements for the 4% rate; however, the levy is subject to recall and the taxing authority levying such a rate is required to follow statutory requirements for public notice that a rate subject to recall has been levied. The notice must include instructions on how a recall may be obtained.

The second permissible tax rate is pursuant to KRS 157.440, the law that established the SEEK program. Application of KRS 157.440 generates the required equivalent tax levy for the base SEEK and permissible equivalent tax rates for Tier 1 of SEEK and the school facility tax (FSPK). No public hearing is required to levy the tax rates allowed pursuant to KRS 157.440 and the levy is not subject to recall even if the rates are higher than the subsection (1) rate.

Sometimes the district has the option to levy a small tax to offset lost revenue from exonerations of the prior year. The exoneration allowance also allows the district to recover from higher local effort because exonerations were included in the equivalent rate used to calculate prior year required local effort. Franklin County has this option in 2008-09 for a recovery rate of 0.1 cent (see “Recover Exn Rate” in Table B). The 2008-09 rates calculated by the KDE for Franklin County are displayed in Table B.

## **Table B - Permissible Tax Rates Certified by Kentucky Department of Education**

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
|  | SEEK | Compensating | Subsection (1) | 4% Increase |  |
|  | s/ | 1/ | 2/ | 3/ |  |
| Real Estate Rate | $0.414 | $0.509 | $0.576 | $0.529 |  |
| Real Estate Revenue | $10,601,749 | $13,034,517 | $14,750,259 | $13,546,679 |  |
| Tangible Rate | 0.509 | 0.509 | 0.576 | 0.529 |  |
| Tangible Revenue | $1,245,018 | $1,530,710 | $1,732,198 | $1,590,856 |  |
| Subtotal Revenue | **$11,846,767** | **$14,565,227** | **$16,482,457** | **$15,137,535** |  |
| Recover Exn Rate | 0.001 | 0.001 | 0.001 | 0.001 |  |
| Revenue | $28,615 | $28,615 | $28,615 | $28,615 |  |
| **Total Revenue** | **$11,875,382** | **$14,593,842** | **$16,511,072** | **$15,166,150** |  |
| s/ | No hearing required – no recall KRS 157.440 (1)(b) | | | |  |
| 1/ | No hearing required – no recall (cannot be levied if higher than Subsection 1). KRS 160.470 (2) | | | | |
| 2/ | Hearing required if this rate exceeds the compensating rate; subject to recall if exceeds 4 percent. KRS 160.470 (1) | | | | |
| 3/ | Hearing, - no recall (can not be levied if higher than Subsection 1). KRS 160.470 (7) | | | | |
|  | Exoneration rate; KRS 134.590 | | |  |  |

The highest permissible tax rate **not subject to recall** for Franklin County in 2007 is the 4% rate. This rate can only be levied after a public hearing because it is more than the compensating rate. The 4% rate for 2008-09 provides for maximum Tier 1 participation, retains the small Tier 2 tax levy and is not subject to recall. The Board has indicated their intention to levy a rate increase subject to recall in order to restore classified positions that were cut in May 2008 plus some other instructional improvements. The additional revenue that could be generated from the Subsection 1 tax rate would be about $1,345,000.

The Kentucky Department of Education also calculates the minimum building tax levy necessary to receive state equalization on the building tax. The calculation for 2008-09 was 5.7 cents for each equivalent nickel of building tax or recallable nickel dedicated to building purposes (5.7 x 2 = 11.4 total). The Tentative Budget was based on a building tax rate of 11.8 cents.

The 2007-08 real property tax levy was $0.521 (cents) per $100 assessed value for real property and tangible property. The 4% rate for 2008-09 is $0.529 (cents) per $100 assessed value for real property and tangible property. All of these rates exclude the permitted exoneration allowance of $0.001 (cent). Local tax revenue for Franklin County Schools in 2008-09 would be $16,743,652 based on an overall $0.529 + $0.001 (cents) tax rate on real estate and tangible property, $0.51 (cents) on motor vehicles and projected revenue from the 3% utility tax. With the 4% tax levy, local tax revenue would increase $1,079,818 in 2008-09 over 2007-08 revenue. However, this calculation is based on receiving 100% of taxes billed. The historical average is about 94% to 95% paid. **If 95% is received in 2008-09 this would be $837,000 less** than 100%. Since 2008-09 assessment is higher than projected SEEK revenue will decrease. The decrease in GF SEEK compared to the tentative budget is projected to be $293,591.

## **Table C - Projected Local Tax Revenue with 4% Tax Rate + Subsection 1**

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| Revenue Code | Description | **Actual** | **Projected** | **$ Change** | **% Change** |
| **2007-08** | **2008-09** |
| 1111-GF | General Property Tax | $9,264,936 | $10,357,204 | $1,092,269 | 11.8% |
| 1111T-GF | General Pers. Prop Tax Tang | $931,578 | $941,205 | $9,627 | 1.0% |
| 1113-GF-1 | Pub Serv Tax | $17,756 | $44,231 | $26,476 | 149.1% |
| 1113T-GF | Pub Serv Pers. Tax Tang | $124,016 | $133,560 | $9,544 | 7.7% |
| 1114-GF-1 | Public Service Pers. Tax | -$1,424 | $0 | $1,424 | -100.0% |
| 1115-GF-1 | Delinquent Tax | $305,181 | $0 | -$305,181 | -100.0% |
| 1116-GF-1 | Distilled Spirits Tax | $413,985 | $519,097 | $105,112 | 25.4% |
| 1117-GF-1 | Motor Vehicle Tax | $1,571,342 | $1,577,502 | $6,160 | 0.4% |
| 1111-BF 320 | Building Fund Tax | $3,036,464 | $3,170,851 | $134,387 | 4.4% |
| **Subtotal Gen. Fund at 4% Rate** | | **$15,663,834** | **$16,743,652** | **$1,079,818** | **6.9%** |
| Additional GF Revenue Subsection 1 Rate | |  | $1,344,922 |  |  |
| **Grand Total (4% Rate + Subsec 1 Rate** | | **$15,663,834** | **$18,088,574** | **$2,424,740** | **15.5%** |

It is important to note that the Board is setting all tax rates and not just the property tax rates. The publication requirement of KRS 160.470 dictates that only the tax rates and revenues from property taxes should be published. As a result, the statutory information in the advertisement may appear to conflict with budgetary information. As noted earlier, the comparison of prior year tax revenue required by the statutory advertisement is actual amount collected which is usually about 95% of the amount billed. However, the amount projected for receipt in the advertisement for the current year is 100% of the amount billed. The 2008-09 Annual Working Budget that will be considered by the Board at a subsequent meeting will show projected net revenue based on historical collection rates which will be lower. Table C also included other types of tax revenue (delinquent tax, motor vehicle tax, and utility tax) not included in the information published in the newspaper.

**What is the impact on residents of the proposed tax rate?**

For a resident owning property with a Taxable Value of $200,000 in both years, the 4% tax rate will result in higher property taxes of $16 compared to last year with no change in assessment. The increase for the subsection 1 rate would be $110 more than 2007.

Required local effort under the SEEK program is expected to increased from $9,109,097 in 2007-08 to $9,512,555 in 2008-09, an increase of $405,458. General fund receipts from the state SEEK program are now estimated to be only $441,036 more than was received in 2007-08. Equalization on the school facility (building fund) tax is expected to be $640,134, up from $532,120 in 2007-08. The primary reason for the increase is the biennial adjustment of the level of equalization based on 150% of the statewide assessment per pupil does not increase the 2nd year of the biennium.

The working budget will be presented at a September meeting with changes in revenue based on the tax levy approved by the board and adjustments in expense based on salary schedule improvements and staff changes since approval of the Tentative Budget in May. Other revenue or expense adjustments may be recommended based on actual prior year expense or other information that was not available in May.

Aircraft should be taxed and watercraft should be exempt from taxation because of the equalizing features of SEEK in Franklin County. The higher overall assessment that would result from taxing watercraft would cause revenue received from equalization on the facility tax to be lower. In order to maximize state equalization revenue, watercraft property should continue to be exempt from taxation.

RECOMMENDATION:

The Board should approve a tax levy per $100 of assessed value for 2008-09 as follows:

Real Estate Tangibles

General Purposes (*including exoneration allowance)* $0.571 (cents) $0.571 (cents)

The above rates include $0.057 (cents) for the FSPK levy and $0.057 (cents) for the recallable levy. The amount of the proposed rate not subject to recall is $0.530 (*including exoneration allowance).*  The amount of the proposed levy subject to recall is $0.049 (cents) and the Board must publish an advertisement within 1-7 days of enactment of a levy subject to recall.

Included in the recommended levy are:

Motor Vehicle Tax of $0.51 (cents)

Three Percent (3%) Utility Tax

Aircraft Property

The Board should continue to exempt watercraft.

NOTICE OF HEARING

FRANKLIN COUNTY BOARD OF EDUCATION

The Franklin County Board of Education will hold a public hearing in the Board Room of the Administration Building at 916 East Main Street in Frankfort, Kentucky on August 25, 2008 at 6:00 p.m. to hear public comment regarding a proposed general fund tax levy of 57.6 cents on real property and 57.6 cents on personal property plus 0.1 cents for recovery of exonerations.

The general fund tax levied in fiscal year 2007-08 was 52.1 cents on real property and 52.1 cents on personal property and produced revenue of $14,092,492.19. The proposed general fund tax rates of 57.1 cents for real property and 57.1 cents for tangible property are expected to produce $16,482,457 for 2008-09, exclusive of revenue from recovery of exonerations. Of this amount, $1,993,093 is from new and personal property. The compensating rate for 2008-09 is 50.9 cents on real property and 50.9 cents on personal property and is expected to produce $14,565,226.83.

The general areas to which revenue of $2,389,965 above 2007-08 revenue is to be allocated are as follows: Tax Collection $20,900, Instruction $2,207,779 and the Building Fund $134,387.

The General Assembly has required publication of this advertisement and the information contained herein.

Hearing Date:

First Ad Monday, August 11

Second Ad Monday, August 18

Hearing Monday, August 25

(not less than 7 or more than 10 days after the second ad)

Ad Notifying Rate Subject to Recall Wednesday, August 27

(See Sample Ad on page 12)

(not less than 1 or more than 7 days after the approval of the tax rate subject to recall)