

## **KENTUCKY DEPARTMENT OF EDUCATION STAFF NOTE**

**Topic:** Approval of Jefferson County Public Schools 2020-2021 Local District Tax Rate

**Date:** June 2021

**Action Requested:** ☐ Review ☐ Action/Consent ☒ Action/Discussion

**Held in:** ☐ Full Board ☐ Curriculum, Instruction and Assessment ☒ Operations

### **SUMMARY OF ISSUE BEFORE THE BOARD:**

To approve Jefferson County Public Schools (JCPS) 2020-2021 Local District Tax Rate Levied of 80.6 cents per \$100 of assessed property value.

### **COMMISSIONER'S RECOMMENDATION:**

The Commissioner recommends that the KBE approve the JCPS 2020-2021 Local District Tax Rate Levied in accordance with KRS 160.470.

### **APPLICABLE STATUTE OR REGULATION:**

KRS 160.470

### **BACKGROUND:**

#### *Existing Policy:*

Upon receipt of certified property assessments from the Department of Revenue, the Commissioner of Education certifies the local ad valorem tax rates and revenue to the district boards of education in accordance with KRS 132.0225, 134.590(7), 157.440, 160.470, and 160.473. The district board of education has 45 days from the certification of assessment data to establish tax rates. Districts are required to levy an ad valorem tax within the limits prescribed by KRS 160.470 that obtains for the school district the amount of money needed as shown in the district's general school budget. KRS 160.470 requires the Kentucky Board of Education (KBE) to annually approve or disapprove school district tax rates.

#### *Summary of Issue:*

The KBE previously approved tax rates for 170 school districts. JCPS's rate is the only outstanding 2020-2021 unapproved district tax rate. In May 2020, JCPS approved a rate of 80.6 cents per \$100 of assessed property value. Because the adopted tax rate resulted in more than four percent (4%) additional revenue above the compensating tax rate, it was subject to a recall petition challenge.

In order to challenge an increased tax rate, five voters must form a petition committee and file certain documents with the county clerk within 50 days of the district taking action to adopt the increased rate. "The petition shall be signed by a number of registered and qualified voters residing in the affected jurisdiction equal to at least ten percent (10%) of the total number of votes cast in the last preceding presidential election." KRS 130.017(2)(d)(6). Upon receipt of a petition, the county clerk must determine within 30 days whether the petition contains enough signatures of qualified voters to place the tax increase issue on the ballot for a vote.

The Jefferson County Clerk determined the recall petition contained the required signatures and was otherwise sufficient to place the issue on the ballot. The Jefferson County Board of Education (JCBE) filed suit in Jefferson Circuit Court challenging the County Clerk's petition sufficiency determination. Ultimately, on October 30, 2020, the Jefferson Circuit Court determined that the petition was invalid based on issues with signatures collected. The Court found that the petition did not contain sufficient signatures of registered and qualified voters to place the issue before the voters. At the time of the Circuit Court's order, ballots for the upcoming election were already printed and included the tax recall question. Therefore, the court ordered that the ballots be retained, but not tabulated regarding the JCBE tax recall. The Jefferson Circuit Court's order was appealed and is pending review by the Kentucky Supreme Court.

Upon the filing of a recall petition with the county clerk, the subject tax shall be suspended from going into effect until after the election is held, "or until the petition is *finally determined* to be insufficient." KRS 130.017(2)(e). "A *final determination* of the sufficiency of a petition shall be subject to *final review* by the Circuit Court [...], and shall be limited to the validity of the county clerk's determination." KRS 132.170(2)(i). Therefore, in the case of JCBE, the tax was suspended from going into effect until October 30, 2020, the date the Jefferson Circuit Court found the recall petition invalid. KRS 132.017 provides that if a district "has not established a final tax rate as of September 15, due to [tax recall provisions], regular tax bills shall be prepared as required in KRS 133.220 [...]; and a second set of bills shall be prepared and collected in the regular manner, according to the provisions of KRS Chapter 132, upon establishment of final tax rates..."


When the Jefferson Circuit Court found the recall petition invalid on October 30, 2020, tax bills were finalized without including the new increased tax rate. This is consistent with KRS 132.017. KDE understands that JCBE has worked with the local Sheriff to send a second set of bills as anticipated in KRS 132.017 as a separate line item on the November 2021 tax bills. Furthermore, it is noted that Kentucky law anticipates a district moving forward with tax collection, despite pending litigation over the tax. "If a taxpayer pays [school district] ad valorem taxes to a [school district] when no taxes were due or the amount paid exceeded the amount finally determined to be due, the taxes shall be refunded to the person who paid the tax." KRS 134.590(3). "No refund shall be made unless each taxpayer individually applies within two (2) years from the date payment was made. If the amount of taxes due is in litigation, the taxpayer shall individually apply for refund within two (2) years from the date the amount due is finally determined." Refund mechanisms set forth in state law are risks assumed by the district.

The recommendation for the KBE to approve the tax rate is consistent with state law. Pursuant to KRS 132.017, the tax was only suspended from going into effect until a final determination of the sufficiency of the petition by the circuit court. The Jefferson County Circuit Court determined the petition to be insufficient on October 30, 2020. Further, state law contains specific provisions for refunding a tax collected which is the subject of litigation. Therefore, it is recommended that the KBE approve the 2020-21 local district tax rate levied by JCBE.

*Budget Impact:* There is no budget impact at the state level.

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**Commissioner of Education**

Category:	<input type="checkbox"/> Educator Workforce Diversity	<input type="checkbox"/> Portrait of a Graduate Partnerships	<input type="checkbox"/> Racial Equity
	Commitment	<input type="checkbox"/> Student-Centered Accountability System	<input type="checkbox"/> Early Childhood <input checked="" type="checkbox"/> District Support