

of state government as the legislature shall determine provided that such transfer take place not sooner than January 1, 1965.

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TAXATION: Property Tax Limitation — Separate tax limitations.
ELECTIONS: Elective franchise.

Adoption in a county of the 18-mill limitation as authorized by Article IX, Section 6, Constitution of 1963, requires only a majority vote of the electors qualified under Article II, Section 1 of the Constitution, such electors all being qualified voters in the county.

Increases beyond the basic 15-mill or the basic 18-mill limitation, applicable within a county as the case may be, where such increase is for a period of more than 5 years, require for adoption the approval of a majority of the electors residing in and who have property assessed for ad valorem taxes in any part of the district or territory to be affected by the result of such election or electors who are the lawful husbands or wives of such persons so entitled to vote thereon.

No. 4243

February 20, 1964.

Hon. James N. Folks, Chairman
General Taxation Committee
House of Representatives
State Capitol
Lansing, Michigan

You have requested answer to questions dealing with separate tax limitations authorized by Art. IX, § 6 of the Constitution of 1963, which section reads in part as follows:

“Except as otherwise provided in this constitution, the total amount of general ad valorem taxes imposed upon real and tangible personal property for all purposes in any one year shall not exceed 15 mills on each dollar of the assessed valuation of property as finally equalized. Under procedures provided by law, which shall guarantee the right of initiative, separate tax limitations for any county and for the townships and for school districts therein, the aggregate of which shall not exceed 18 mills on each dollar of such valuation, may be adopted and thereafter altered by the vote of a majority of the qualified electors of such county voting thereon, in lieu of the limitation hereinbefore established. These limitations may be increased to an aggregate of not to exceed 50 mills on each dollar of valuation, for a period of not to exceed 20 years at any one time, if approved by a majority of the electors, qualified under Section 6 of Article II of this constitution, voting on the question.”

Your first question reads:

“1. May proposals for increases in aggregate tax limitations up to 18 mills be made without any specification of the period during which

they are to be effective or must a definite period of time (presumably years) be specified?"

Initially, it should be noted that the language contained in Article IX, section 6 of the Constitution of 1963, quoted above, does not provide for "increases" in the limitation on the amount of property tax. This section contemplates that the 15-mill limitation on property taxes which was present in the Constitution of 1908 will be continued, but under the Constitution of 1963 an alternate 18-mill limitation is permissible. Where the 15-mill limitation remains in effect, the 15 mills must be allocated among the units subject to the limitation, with the allocation being made by the county tax allocation board. Under the Constitution of 1963, pursuant to procedures provided by law, which shall guarantee the right of initiative, separate tax limitations for any county and for the townships and for the school districts therein may be adopted by a vote of the people subject only to the condition that the aggregate of such separate tax limitations shall not exceed 18 mills. In any county where a majority of the people vote in favor of separate tax limitations for county, townships and school districts, it will not be necessary to allocate millage annually among the various units since it is the purpose of the people's vote to fix the separate tax rate limitation applicable to each class. The separate division of millage among the county, townships and schools may be changed from time to time by a majority vote of the people as long as the aggregate millage does not exceed the 18-mill limitation and shall remain in effect until altered by vote of the electors.

Under Article IX, Section 6, it is necessary for the legislature to provide by law the procedure to be followed in submitting to the people the question of adopting in their county the 18-mill limitation plan. But once the procedures have been established, it is the prerogative of the people to decide for themselves how the millage shall be allocated among the county, the townships and the school districts within their county. Where this plan is adopted, the county tax allocation board no longer allocates the millage between these units. Under this plan the people may still, by their vote, limit the aggregate millage to be allocated to 15 mills, or less, but they are at liberty to increase the aggregate millage to be allocated to a higher amount as long as such aggregate does not exceed the constitutional limitation of 18 mills.

By a second question you ask:

"If the proposals may be made without any specification of a period of effectiveness, are they deemed to be for a period of more than 5 years so that under Section 6 of Article II only property owners and spouses may vote, or are they deemed to be for 5 years or less in which case all electors may vote?"

As quoted above, Article IX, Section 6 of the Constitution of 1963, in part provides:

"* * * These limitations may be increased to an aggregate of not to exceed 50 mills on each dollar of valuation, for a period of not to exceed 20 years at any one time, if approved by a majority of the

electors, qualified under Section 6 of Article II of this constitution, voting on the question."

As hereinbefore stated, when the vote in the county is upon the adoption of the alternative plan to fix the basic tax limitations with an aggregate not exceeding 18 mills, the vote is by the people, meaning thereby, as the Constitution says, "the vote of a majority of the qualified electors of such county voting thereon * * *." The term "qualified electors" is defined in Article II, Section 1 of the Constitution of 1963 as being every citizen of the United States who has attained the age of 21 years and who has resided in the state six months and who meets the requirements of local residence as provided by law. However, a different requirement is imposed when the vote is on the question of increasing the 15-mill or 18-mill limitation not to exceed 50 mills for a period not to exceed 20 years at any one time. There, the Constitution requires the vote to be by electors qualified under Article II, Section 6 of the Constitution. It is there provided that:

"Whenever any question is required to be submitted by a political subdivision to the electors for the increase of the ad valorem tax rate limitation imposed by Section 6 of Article IX for a period of more than five years, or for the issue of bonds, only electors in, and who have property assessed for any ad valorem taxes in, any part of the district or territory to be affected by the result of such election or electors who are the lawful husbands or wives of such persons shall be entitled to vote thereon. All electors in the district or territory affected may vote on all other questions."

Your last question relates to the possibility of multiple proposals appearing upon the ballot which you envision may require separate votes by the two classes of electors. For example, proposals might come up for vote at the same time; one involving increasing the tax rate limitation for more than 5 years and the other involving an increase for less than the 5 year period. What has heretofore been said makes clear that the situation which is the premise of your inquiry will not arise. Therefore, we are not responding specifically to the conditions which you have described.

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