

Budget Tidbits... just the facts

Senate Republican Caucus

Budget Brief #6: (2/26/07)

Initiative 747 -- Need for Legislative Action

A look at the need for legislative action to re-affirm Initiative 747's property tax limits.

A. Status of Initiative 747: In Limbo

I-747, approved by 58 percent of voters in 2001, limited taxing districts' annual property tax revenue growth to 1 percent plus the value of any new construction. Revenue increases above this required voter approval.

In June 2006, a King County Superior Court judge declared I-747 unconstitutional.¹ Not because there were any constitutional infirmities with a 1 percent revenue growth limit – there are not. Rather the judge found I-747 amended a statute that had been declared void by the time voters voted. The court ruled I-747's failure to put forth the correct version of the statute being amended resulted in voters potentially being misled as to the effects of I-747 and rendered the measure invalid.

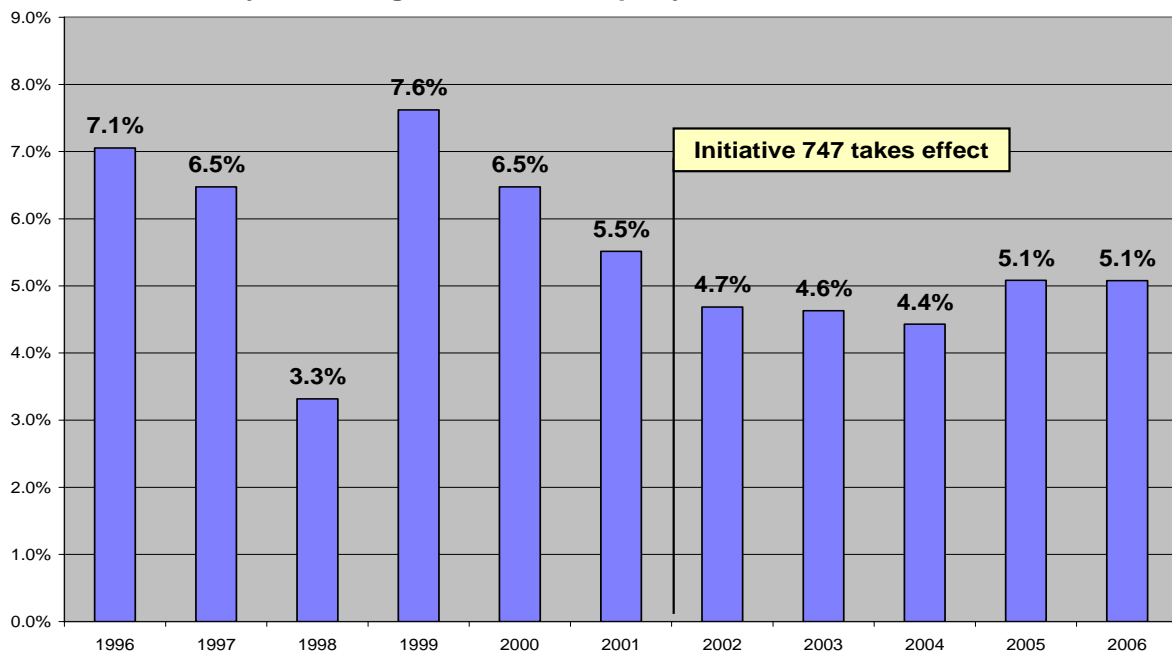
The case has been appealed to the state Supreme Court, where oral arguments are set for May. Because the infirmity with I-747 – if there is one – is technical and not a flaw with a 1 percent limit itself, the issue can be rendered moot by legislative action this session amending the proper statute.

B. Effect of Initiative 747: \$1.5 Billion in Property Tax Relief & Counting

I-747 is estimated to have reduced the growth of property taxes by \$1.5 billion since its enactment.²

At the same time, due to new construction and voter-approved increases above the limit, property tax revenue growth statewide has still grown at a decent rate.

Yearly Percentage Growth in Property Tax Levies -- Statewide



Source: Department of Revenue -- Property Tax Statistics 2006 (Table 26)

C. The Governor Says Higher Property Tax Growth Should Be Allowed

Governor Gregoire did not propose a legislative fix to I-747. **In fact, she's on record that "revenue should be allowed to grow by more than 1 percent annually."**³ **That position equates to support for higher property taxes.**

Similar resistance to re-affirming the 1 percent limit appears amongst Democrat leadership. House Speaker Chopp has said the legislature should wait for the court ruling before acting.⁴ Meanwhile, Senate Bill 5001, which would re-institute the 1 percent limit, has languished without a public hearing in the Senate.

D. What's at Stake

If the court rules I-747 void from its inception, the result will be the prior statute – authorizing 6 percent annual revenue growth – will be the law. And, more importantly, it will be deemed to have been in place since 2001, *meaning taxing districts will have \$1.5 billion in banked capacity, i.e., the ability to raise taxes by that amount without going to a vote of the people.*

What's clear is the legislature could act now to re-affirm the 1 percent limit and render the issue moot. The legislature has broad discretion pending final court action to enact laws clarifying and reaffirming statutes and legislative intent.⁵ Conversely case law is equally clear that the legislature is generally prohibited from retroactively changing the law *after* final court action.⁶ Thus, the legislature's options may be severely hamstrung or curtailed if it waits to act until after the Supreme Court's decision.

Legal issues aside, the policy question remains, "Why wait to re-affirm I-747?" The only conceivable answer is if someone believes the limit is too restrictive on government and property tax collections should be permitted to be higher. Advocates of this position should be upfront about their reason, rather than hide behind the veil of the need to await court action.

Bottom Line

Should the legislature act now to re-affirm Initiative 747's property tax limits?

1. Washington Citizens Action vs. State, King County Superior Ct. Case No. 05-2-02052-1 (2006).
2. Dept. of Revenue forecasted estimate of I-747's state & local government impact for CY 02-07 (prepared in 2001).
3. "2007 Legislature – Back to School, Vancouver Columbian (1/8/2007), citing Gov. Gregoire (emphasis added)
4. Id.
5. McGee Guest Home, Inc. v. Department of Soc. & Health Servs., 142 Wn.2d 316,326 (Wash. 2000).
6. Id.