PROPERTY TAXES (MILLAGE)

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2 TOWNSHIP REVENUE OPTIONS

- A tax, i.e., a township **property tax**, can be used to raise revenues over and above the actual costs of a program or service.
- But a tax must (almost) always be approved by the voters.

3 TOWNSHIP MILLAGES

Townships impose *ad valorem* property taxes on real and personal property.

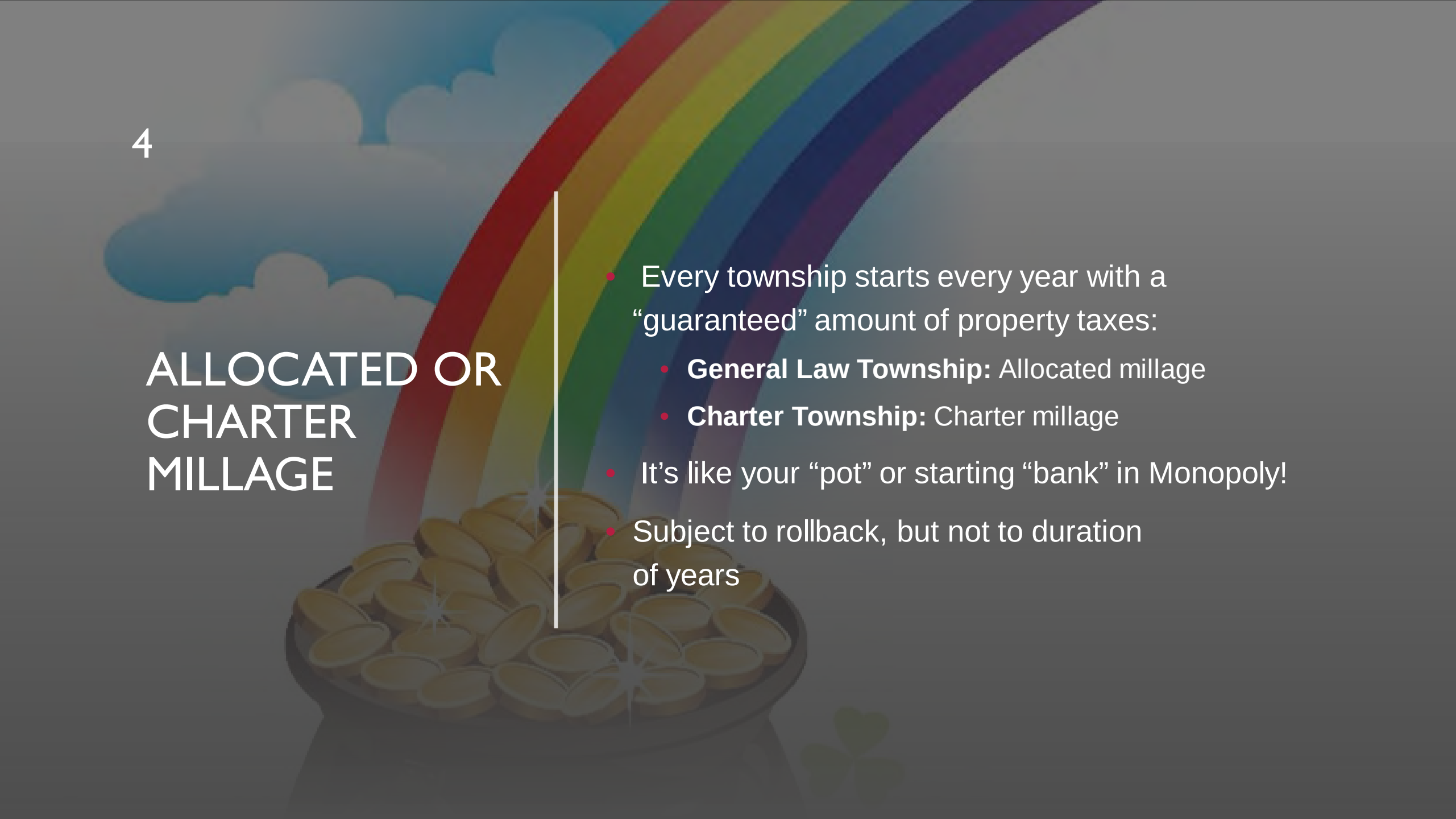
"*Ad valorem*" means the taxes are based on the value of the property (as opposed to a uniform or flat rate).

What's a "millage"? It's just the way we describe the rate, in mills, of a property tax.

A millage rate is applied to a property's taxable value.

One mill is 1/10th of a cent and will generate $1 per $1,000 of taxable value.

ALLOCATED OR CHARTER MILLAGE



- Every township starts every year with a "guaranteed" amount of property taxes:
  - **General Law Township:** Allocated millage
  - **Charter Township:** Charter millage
- It's like your "pot" or starting "bank" in Monopoly!
- Subject to rollback, but not to duration of years

5 GENERAL LAW TOWNSHIP ALLOCATED MILLAGE

- A general law township is authorized to levy a minimum of **one mill** for general operating purposes. (MCL 211.211(4))
- Allocated millage is **unrestricted general operating revenue** that the township board may use for any lawful purpose.
- Allocated to townships in one of two ways:
  - **1) Allocated by Fixed ("pegged") Millage Established by Vote of the Electors:**
  - The allocated millage (separate tax limitation) may be established by the electors, up to an 18-mill limit. The ballot question for this vote is submitted by the county board of commissioners to the county clerk for a countywide ballot (MCLs 211.204a to 211.205l)



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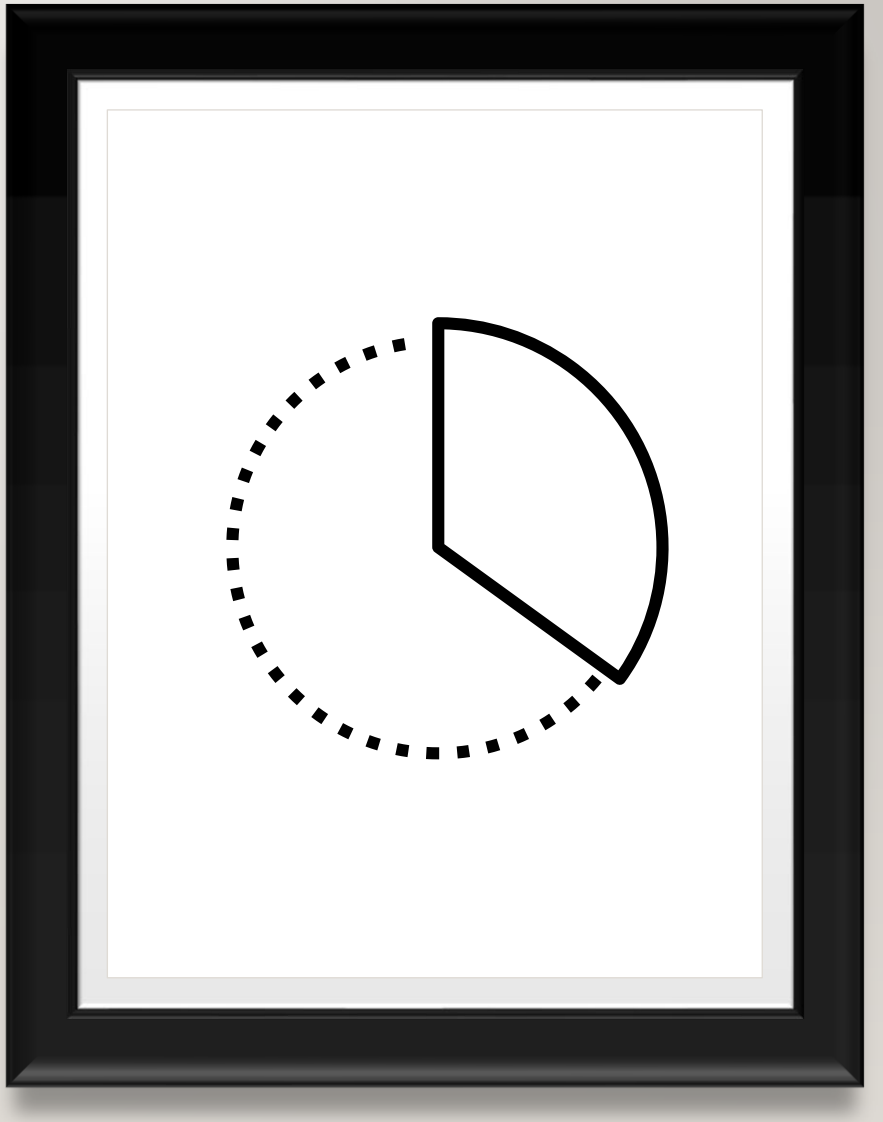
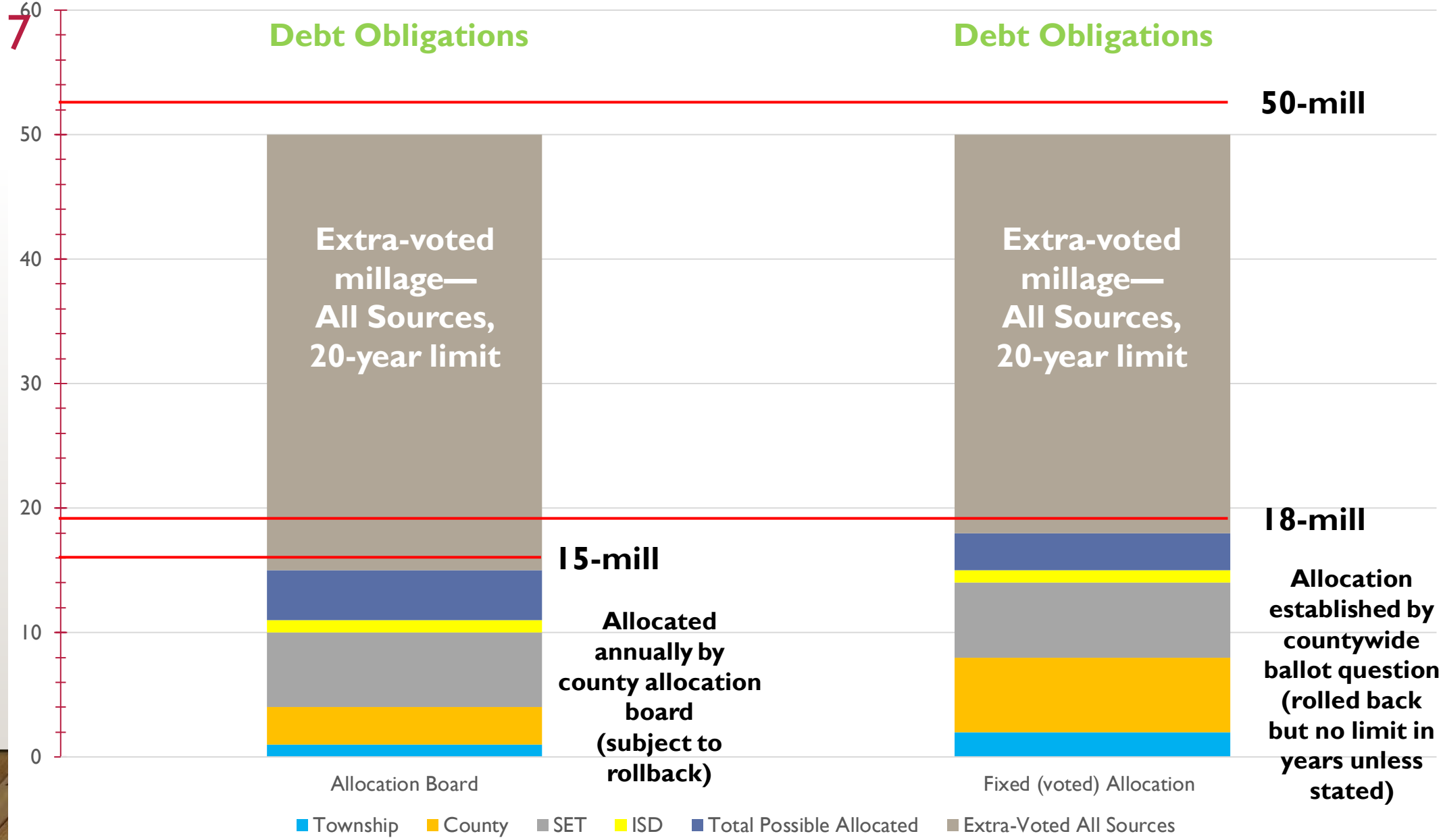
- Allocated to townships in one of two ways:
  - **2) Allocated by County Allocation Board:**
    A county allocation board establishes allocated tax rates up to a 15-mill limit. As of 2003, 10 counties had allocation boards. (MCLs 211.208 to 211.217a)



Property Tax Rate Limitations and Allocation for General Law Townships



Charter Township "Charter Millage"

- **"Charter Millage":** MCL 42.27 authorizes a charter township board to annually provide for a levy of taxes upon real and personal property that cannot exceed 5 mills. The township board may choose to automatically levy up to the first 5 mills ("charter millage") without additional voter approval, and without limit in the number of years.
- **"Extra-Voted Millage":** The township may then levy up to five additional mills (for a maximum of 10 mills), but only by voter approval and limited to 20 years. (MCL 42.27)
- **Distinguish** "charter millage" from extra-voted millage levied by a charter township. "Charter millage" is similar to general law township allocated millage—no specific term of years.

Charter Township "Charter Millage" *

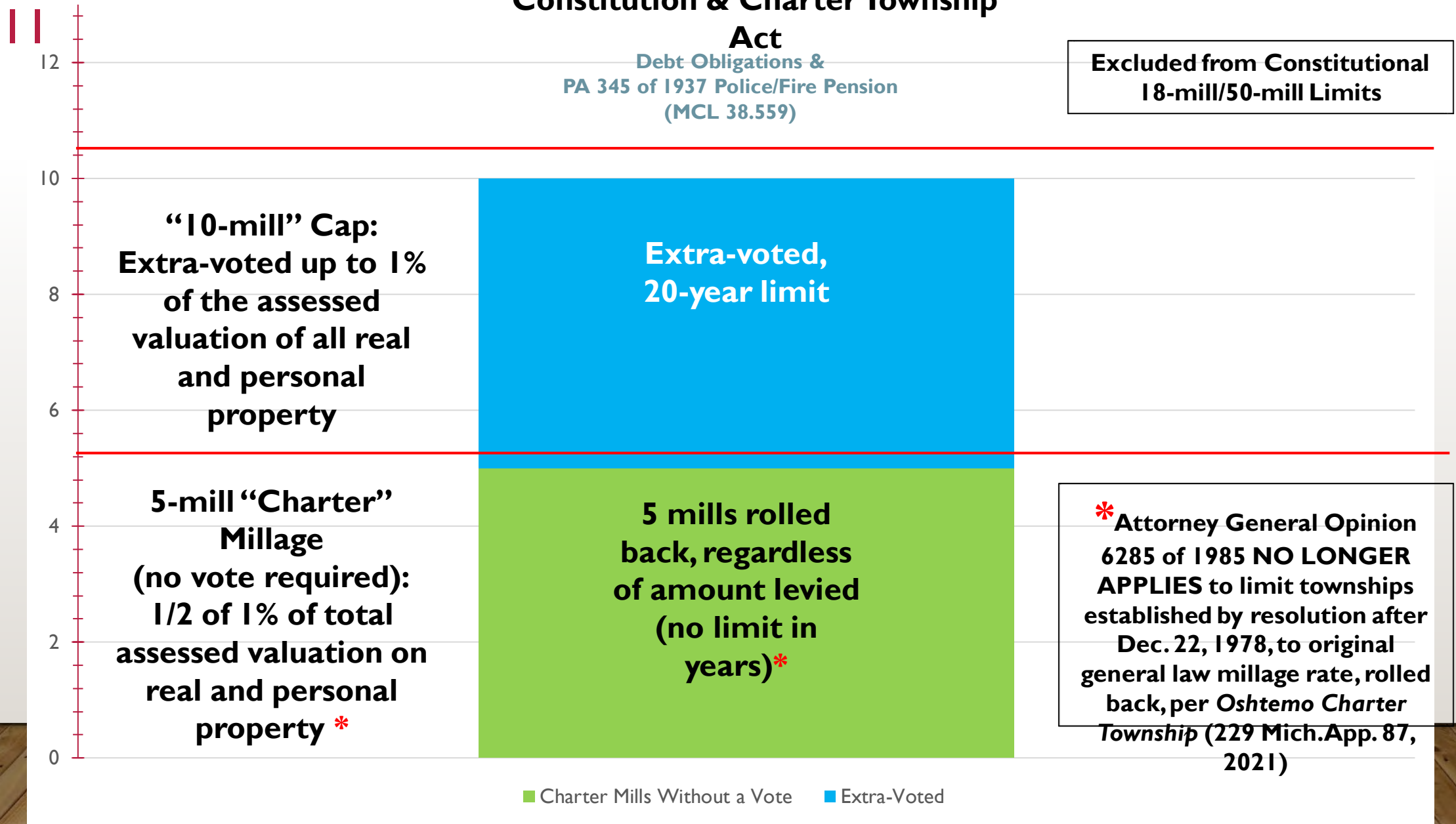
- Following the 1978 Headlee Amendment, Attorney General Opinion 6285 of 1985 stated: "[C]harter townships incorporated after December 22, 1978, … by final resolution of the township board and without an approving vote of the township's electors, are prohibited from levying millage at a charter township rate higher than the township's previously authorized millage limitation as a general law township."
- Based on AGO 6285, MTA Legal Counsel took a "conservative" approach to avoid exposing a township to the risk of litigation and advised that a charter township that incorporated after 1978 by board resolution (not election) has the authority to levy only the total authorized millage rate it had as a general law township when it incorporated (subject to rollbacks) for its authorized charter millage.

Charter Township "Charter Millage" *

- **<u>But</u> the Charter Act does not specifically require this restriction**.
- Since that opinion, the Michigan Supreme Court has held in *<u>American Axle and Manufacturing, Inc. v Hamtramck</u>*, 461 Mich 352, p.357 (2000), "that the Headlee exemption of taxes authorized by law when the section was ratified permits the levying of previously authorized taxes even where they were not being levied at the time Headlee was ratified and even though the circumstances making the tax or rate applicable did not exist before that date."
- *Oshtemo Charter Township v. Kalamazoo County and Kalamazoo County Road Commission*, ___ Mich. App. ___ (For publication, decided Sept. 30, 2021, Docket No. 355634)—In this MTA Legal Defense Fund case, the Court of Appeals upheld MTA Legal Counsel's position that a charter township is not limited in the charter millage it can levy based on when or how the township became a charter township.
- Section 31 of the Headlee Amendment states that "Units of Local Government are hereby prohibited from levying any tax *not authorized by law* or charter when this section is ratified or from increasing the rate of an existing tax above that rate authorized by law or charter when this section is ratified, without the approval of a majority of the qualified electors of that unit of Local Government voting thereon." [Const 1963, Art 9, § 31. *Emphasis added*]

Charter Township Property Tax Rate Limitations and "Charter Millage"

Constitution & Charter Township Act



Extra-voted Millage

- Everything **over** current rolled-back allocated or charter millage must be approved by the electors voting on a ballot question at an election*

*Always exceptions

Extra-voted Millage: Exceptions

CONSULT YOUR ATTORNEY FIRST!!!

Exceptions to requirement for voter approval:

- Judgment levies
- Special assessment bonds
- A tax authorized by law or charter before Dec. 23, 1978 may be levied at the rate authorized by law or charter before Dec. 23, 1978 (even if not actually being levied then) (Article 9, Sec. 31, American Axle)
  - Still subject to applicable 15- or 18-mill tax limitations for general law township or 10-mill tax limitation for charter.

Extra-voted Millage: Roads Exception

- A tax authorized by law or charter before Dec. 23, 1978 may be levied at the rate authorized by law or charter before Dec. 23, 1978 (even if not actually being levied then) (Article 9, Sec. 31, American Axle)
- **CONSULT YOUR ATTORNEY FIRST!!!**
  - **MCL 247.670:** Notwithstanding any other provisions of this act the township board of any township may also levy a property tax of not to exceed 3 mills on each dollar of assessed valuation of the township in any year for the maintenance or improvement of county roads within the township or for the widening of state trunk line highways, as aforesaid, without submitting the question to the electors of said township, and pay any sum so raised into the county road fund of the county for the aforesaid purposes pursuant to an agreement with the county road commission… [**State Trunkline Highway System Act, Public Act 51 of 1951]**