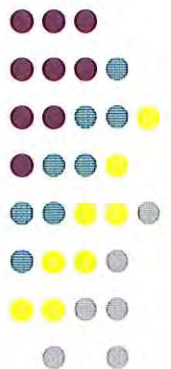




# Local Government Expenditure and Revenue Limits

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# Local Government Expenditure and Revenue Limits

This paper describes the five methods by which the state imposes fiscal controls on local units of government:

- Revenue limits on school districts
- Levy rate limit on technical college districts
- Levy rate limit on counties
- Expenditure restraint program for municipalities
- Levy limit on counties and municipalities

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## School District Revenue Limits

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The 1993-95 state budget (1993 Act 16) imposed revenue limits on school districts for the five-year period 1993-94 through 1997-98. The revenue limits were modified and made permanent in the 1995-97 state budget (1995 Act 27). Under revenue limits, the amount of revenue a district can raise from general school aids, computer aid, and property taxes is restricted. The following sections describe, in more detail, the various components of the revenue limit.

### Definition of Revenues Subject to the Limit

The limit is on the amount of revenue obtained through the combination of general school aids, computer aid, and the property tax levy. Actual general school aids, computer aid, and property tax revenues received by a district in the prior school year are used to establish the base year amount in order to compute the district's allowable revenue for the current school year.

The general school aids appropriation funds equalization aid, integration (Chapter 220) aid, and special adjustment aid. An appropriation for high

poverty aid was created in the 2007-09 state budget (2007 Act 20), which provides additional general aid to eligible districts. In 2010-11, these aids represent 88% of the funds provided as state aid to school districts.

In 2008-09 and 2009-10, federal funding from the state fiscal stabilization fund under the American Recovery and Reinvestment Act was distributed to school districts as equalization aid. The 2009-11 state budget (2009 Act 28) specified that this funding was subject to revenue limits.

Under 1997 Act 237, a property tax exemption was provided for certain kinds of computer equipment. The state now makes annual payments to local units of government, including school districts, equal to the amount of property tax that would have otherwise been paid on the exempt equipment. Computer aid paid to school districts is considered to be state aid for revenue limit purposes.

On October 15 of each year, the Department of Public Instruction (DPI) provides school districts with an estimate of their general school aid payment for the current school year. The difference between a district's revenue limit and the October 15th general school aid estimate, less the district's computer aid and high poverty aid eligibility, determines the maximum amount of revenue that the district is allowed to raise through the property tax levy.

Special provisions apply to the treatment of property tax levies for debt service and for community service activities. In addition, school districts may be eligible for various adjustments to the revenue limit. These provisions are described in subsequent sections of this paper.

## Definition of Pupil Enrollment

A three-year rolling average of a school district's pupil enrollment is used to calculate the district's revenue limit. Specifically, the number of pupils is based on the average of a district's membership count taken on the third Friday in September for the current and two preceding school years. For example, for the 2010-11 revenue limit, the average of the 2007, 2008, and 2009 September memberships is used to calculate the 2009-10 base year revenue per pupil. Then, the average of the 2008, 2009, and 2010 September memberships is used to determine the 2010-11 current year revenue per pupil. Districts can count 40% of the full-time equivalent (FTE) summer school enrollment in classes taught by licensed teachers in the membership counts in each year of the three-year average. Districts are also able to count in membership students attending the Challenge Academy program operated by the Department of Military Affairs.

Only those pupils who are residents of the district are counted for membership purposes. Pupils who transfer between districts under the state's public school open enrollment program are counted by the resident district, rather than the district of attendance. The statutes specify that any net transfer of equalization aid between districts under the open enrollment program does not affect the definition of state aid for purposes of revenue limits. As a result, a transfer of aid received by a district does not count against its revenue limit and a district that has a net transfer of equalization aid to other districts cannot increase its property tax levy to offset this aid loss.

Pupils who transfer between school districts under the integration (Chapter 220) program are counted in the membership of the sending district and not the receiving district. However, only 75% of pupils who transfer between school districts are counted in the membership of the sending district.

Pupils attending schools in the Milwaukee parental choice program and the Milwaukee-

Racine charter school program are excluded from the revenue limit membership of the Milwaukee Public Schools and the Racine Unified School District.

## Allowable Revenue Increases

A district's base revenue per pupil is increased by a per pupil adjustment amount to determine its current year revenue per pupil. Prior to the 2009-11 budget (2009 Act 28), the per pupil adjustment was indexed for inflation each year. Act 28 set the per pupil adjustment at \$200 in 2009-10 and 2010-11 and \$275 in 2011-12, and specified that the per pupil adjustment would again be indexed for inflation beginning in 2012-13. The inflation increase is the percentage change, if not negative, in the consumer price index for all urban consumers between the preceding March and second-preceding March. Table 1 summarizes the per pupil increases allowed under the limit since 1993-94.

**Table 1: Allowable Revenue Increase**

	Per Pupil
1993-94	\$190.00
1994-95	194.37
1995-96	200.00
1996-97	206.00
1997-98	206.00
1998-99	208.88
1999-00	212.43
2000-01	220.29
2001-02	226.68
2002-03	230.08
2003-04	236.98
2004-05	241.01
2005-06	248.48
2006-07	256.93
2007-08	264.12
2008-09	274.68
2009-10	200.00
2010-11	200.00
2011-12	275.00

Prior to 1995-96, school districts had the option of increasing their revenues by either the per pupil adjustment or the rate of inflation, whichever resulted in the higher revenue amount for the district. For 1993-94, the inflation rate option was 3.2% and for 1994-95 it was 2.3%. The inflation option was eliminated by 1995 Act 27.

**Sample Calculation of Revenue Limit**

Table 2 provides an example of how the revenue limit is calculated, based on the 2010-11 limit. (For the purposes of illustration, it is assumed that the district shown in Table 2 does not have any summer school enrollment and does not receive computer aid.)

**Treatment of Debt Service Levies**

Whether or not debt service is subject to the limit depends on when and how a school district's borrowing decisions were made. Specifically, the following debt service is not subject to the limit:

- Revenues needed for the payment of any general obligation debt service, including refinanced

debt, authorized by a resolution of the school board only (that is, without a referendum) prior to August 12, 1993, which was the effective date of 1993 Act 16.

- Revenues needed for the payment of any general obligation debt service, including refinanced debt, approved by referendum at any time.

In other words, borrowing authorized by school board resolution only (without a referendum) after August 12, 1993, is subject to the revenue limit. In addition, the revenue limit is structured in such a way that if a school district's excluded debt service is declining, the district is not able to transfer the cost reductions to its operating budget.

**Treatment of Community Service Levies**

School districts can establish a separate fund for community service activities. The fund is used to account for activities that are not elementary and secondary educational programs but have the primary function of serving the community, such as adult education, community recreation programs (such as evening swimming pool operation and softball leagues), elderly food service programs, non-special education preschool or day care

**Table 2: Sample Calculation of Revenue Limits for 2010-11**

	Sept. 2007	Sept. 2008	Sept. 2009	Sept. 2010
Enrollment	1,000	1,012	1,036	1,024

2007 thru 2009 Average Pupils = 1,016  
 2008 thru 2010 Average Pupils = 1,024

2009-10 Base Revenue = \$10,000,000  
 2010-11 General School Aid = \$6,000,000

Step 1: 2009-10 Base Revenue ÷ 2007 thru 2009 Average Pupils = Base Revenue Per Pupil  
 $\$10,000,000 \div 1,016 = \$9,842.52$

Step 2: Base Revenue Per Pupil + Allowable Increase = Current Revenue Per Pupil  
 $\$9,842.52 + \$200.00 = \$10,042.52$

Step 3: Current Revenue Per Pupil x 2008 thru 2010 Average Pupils = 2010-11 Maximum Revenue  
 $\$10,042.52 \times 1,024 = \$10,283,540$

Step 4: 2010-11 Maximum Revenue - General School Aid = Maximum Limited Property Tax Levy  
 $\$10,283,540 - \$6,000,000 = \$4,283,540$

services. School districts are allowed to adopt a separate tax levy for this fund.

Prior to 2001-02, this community service levy was included under revenue limits. The 2001-03 state budget (2001 Act 16) removed community service levies from revenue limits and partial school revenues, beginning in 2001-02. Under the provisions of Act 16, a district may levy any amount for community service activities irrespective of the district's revenue limit. The Act 16 exclusion of the community service levy from partial school revenues meant that this levy was excluded when calculating the cost of state two-thirds funding of partial school revenues. The state's two-thirds funding commitment was repealed in the 2003-05 budget (2003 Act 33).

### **Adjustments to the Revenue Limit**

*Transfer of Service and Boundary Changes.* Adjustments involving increases and decreases to the limit are allowed for transfers of service responsibilities between a school district and another governmental unit (including another school district) or for changes in a school district's boundaries. The approval and determination of these adjustments based on the increase or decrease in costs is made by DPI.

If a district assumes responsibility for a special education pupil or a limited-English proficient pupil, its revenue limit is increased by the estimated cost of providing service less the estimated amount of categorical aid that the district will receive for the pupil in the following school year, as determined by the State Superintendent.

*Low-Revenue Districts.* Any school district with base revenue per pupil that was less than the low revenue ceiling of \$9,000 per pupil in 2009-10 and 2010-11 and \$9,800 per pupil in 2011-12 and each year thereafter is allowed to increase its per pupil revenues up to the low revenue ceiling. Base revenue per pupil is determined by: (a) calculating the sum of the district's prior year general school

aid, computer aid, and property tax levy (excluding levies exempted from the limit); (b) dividing the sum under (a) by the average of the district's September membership for the three prior school years; and (c) adding the allowable per pupil revenue increase (\$200 in 2010-11) to the result. If a school district has resident pupils who were solely enrolled in a county children with disabilities education board program, costs and pupils related to that program are factored into the district's base revenue calculation.

*Carryover of Unused Revenue Authority.* A school district is not required to levy the maximum property tax amount allowed under its revenue limit. If a school district does not levy the maximum amount allowed in a given school year, the district's revenue limit in the following year is increased by an amount equal to the underlevy in the prior year. This adjustment is reduced by the amount of any nonrecurring revenue limit authority from the prior year.

*Declining Enrollment.* Prior to the 2007-09 budget (2007 Act 20), if a school district's three-year rolling average pupil enrollment was less than the prior year three-year rolling average, the district received a one-year nonrecurring adjustment to its revenue limit in a dollar amount equal to 75% of what the decline in the three-year rolling average memberships would have generated. Act 20 increased the declining enrollment adjustment from 75% to 100%, beginning in the 2007-08 school year.

*Prior Year Base Revenue Hold Harmless.* Under 2007 Act 20, an additional adjustment was created for districts with severe declining enrollment, beginning in the 2007-08 school year. Under this adjustment, a school district's initial revenue limit for the current year is, in certain cases, set equal to its prior year's base revenue. This hold harmless applies if a district's initial revenue limit in the current year, after consideration of the per pupil adjustment and low-revenue ceiling, but prior to any other adjustments, is less than the district's

base revenue from the prior year. This adjustment is nonrecurring. For some districts with relatively large declines in enrollment, the initial revenue limit for the current year can still be less than the district's prior year base revenue, even after the per pupil adjustment and low revenue ceiling adjustment are calculated.

*Federal Impact Aid.* If a school district received less federal impact aid than it received in the previous school year, the revenue limit otherwise applicable to the district in the subsequent school year is increased by an amount equal to the reduction in such aid. Federal impact aid provides assistance to districts that lose property tax revenues due to the presence of tax-exempt federal property within their boundaries and that have costs associated with federally-connected children enrolled in the district.

*School District Consolidation.* School districts which consolidate are entitled to receive additional general school aid for a five-year period. This additional aid is excluded from the general school aid definition, which places this additional aid outside of revenue limits.

*School District Reorganization.* Under 1997 Act 286, procedures were established under which a school district can be created out of the territory of existing school districts. That act, as modified by 2005 Act 219, established special provisions that govern the initial calculation of revenue limits for a new school district. The funds needed to pay the debt service of certain debt associated with reorganizations under these provisions are not subject to revenue limits. Also, each school district from which territory is detached to create a school district will have its revenue limit increased in the year that the reorganization takes effect by 5% of its general school aid.

*Capital Improvement Fund.* Under 1999 Act 17, a school district's revenue limit could be increased by an amount equal to the amount deposited into a capital improvement fund created under the

provisions of that act. Act 17 specified that a school board, by a two-thirds vote, could create a capital improvement fund before July 1, 2000, for the purpose of financing the cost of acquiring and improving sites, constructing school facilities, and major maintenance of, or remodeling, renovating, and improving school facilities. The fund could only be created if: (a) a tax incremental district (TID) that is located in the school district terminates before the maximum number of years that it could have existed; and (b) the value increment of the TID exceeds \$300 million. In each year until the year in which the TID would have been required to terminate, the school board could deposit in the fund an amount equal to that portion of the school district's positive tax increment of the TID, as calculated by the Department of Revenue, with the balance of the positive tax increment used to reduce the tax levy. Monies could not be expended or transferred to any other fund without voter approval of a referendum.

In May, 2000, the Board of the Kenosha School District adopted a resolution creating a capital improvement fund to utilize the value increment from the Village of Pleasant Prairie's TID. No other district in the state created a capital improvement fund under the provisions of Act 17. Through 2010-11, the Kenosha School District has not utilized the revenue limit increase allowed under these provisions.

*Energy Efficiency Measures.* The 2009-11 budget (2009 Act 28) created a nonrecurring adjustment for energy efficiency measures, beginning in the 2009-10 school year. Under the adjustment, a school district's revenue limit is increased by the amount spent by the district in that school year on energy efficiency measures and renewable energy products that result in avoidance of, or reduction in, energy costs. A school board must adopt a resolution to use this adjustment.

Act 28 required DPI to promulgate rules to implement this adjustment, including eligibility standards for districts. Under the DPI rules, the school

board resolution to use this adjustment must include the amount to be levied and expended, the cost recovery performance indicators that will measure the cost savings of each expenditure in an amount equal to the exemption request, and a timeline for cost recovery for each expenditure. An evaluation of the performance indicators must also be included in the district's budget summary document in the following year, and in the district's newsletter or in the published minutes of a school board meeting.

*School Safety Expenditures.* Under 2009 Act 28, a nonrecurring adjustment for school safety expenditures was created, beginning in the 2011-12 school year. The amount of the adjustment will be equal to \$100 times the number of pupils enrolled in the district or \$40,000, whichever is greater. To receive the adjustment, a school board must: (a) adopt a resolution to increase its limit using the adjustment; (b) jointly develop an expenditure plan with a local law enforcement agency that specifies the purposes of the additional revenue and is consistent with the broader school safety plan required of districts; and (c) submit the expenditure plan to DPI. A school district may use funding generated by the adjustment to purchase school safety equipment, fund the compensation costs of security officers, or fund other expenditures consistent with its school safety plan.

*School Nurse Compensation Costs.* A nonrecurring adjustment for the compensation costs of school nurses was created under 2009 Act 28, beginning in the 2011-12 school year. The adjustment will be equal to the amount spent by a district in the second-previous year for the salary and fringe benefits costs of school nurses employed by the district and of school nurses providing nursing services in the district under contract with the board. A school board must adopt a resolution to increase its revenue limit using the adjustment.

*Above-Average Transportation Costs.* Under 2009 Act 28, a nonrecurring adjustment for above-average pupil transportation costs was created. The adjustment will be based on the difference, if posi-

tive, between the average amount spent by the district per pupil on transportation in the second-previous year and the statewide average amount per pupil spent on transportation in the second-previous year, multiplied by the district's pupil membership in the second-previous year. The revenue limit adjustment will be equal to 50% of that amount in 2011-12 and 100% of that amount in 2012-13 and each year thereafter. A school board must adopt a resolution to use this adjustment.

### **Override by Referendum**

A school district can exceed its revenue limit by receiving voter approval at a referendum. The school board must approve a resolution supporting inclusion in the school district budget of an amount which exceeds the revenue limit. The resolution must specify whether the proposed excess revenue is for a recurring or nonrecurring purpose, or both.

The school board can either call a special referendum or hold the referendum at the regular primary or general election dates. The vote may not be held sooner than 42 days after filing of the board's resolution. If the resolution is approved by a majority of those voting on the question, the school board can exceed the limit by the amount approved. Only excess revenues approved for a recurring purpose can be included in a district's base for determining the revenue limit for the next school year.

### **Penalties for Exceeding the Limit**

If a school district exceeds its maximum allowable revenue without referendum approval, DPI must reduce the district's state equalization aid payment by the excess revenue amount. The penalty is imposed in the same school year in which the district raised the excess revenue. The withheld aid amount lapses to the state's general fund. In cases where a school district's equalization aid is less than the penalty amount, DPI must reduce the district's other state aid payments until the remaining excess revenue is covered. If the aid reduction is still insufficient to cover the excess revenues, the



school board would be ordered by the State Superintendent to reduce the property tax levy by an amount equal to the remainder of the excess amount or refund the amount with interest, if taxes have already been collected. This provision does not apply to property taxes levied for the purpose of paying the principal or interest on valid bonds or notes issued by a school board. If the board violates the order, any resident of the district could seek injunctive relief. The excess revenue is not included in determining the district's limits for subsequent years.

### 2010-11 Allowable Revenue Per Pupil

Table 3 shows the distribution of school districts by allowable revenue per pupil under revenue limits, including all adjustments, in 2010-11. As shown in Table 3, revenue per pupil ranges from \$9,397 (Oostburg) to \$23,804 (North Lakeland), with a statewide average of \$10,316. The fact that the median revenue per pupil (\$10,281) is lower than the average indicates a concentration of districts below the statewide average. Eighty percent of all districts have revenue per pupil of between \$9,552 and \$11,889.

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### Technical College District Tax Rate Limit

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District boards in the Wisconsin Technical College System (WTCS) are subject to a limit on the rate of property taxation for all purposes except debt service. Each of the 16 WTCS districts cannot exceed a tax rate of \$1.50 per \$1,000 (1.5 mills) of its equalized property valuation. In 2010-11, three districts (Milwaukee, Southwest Wisconsin, and Western) were at the 1.5 mill limit and an additional three districts (Chippewa Valley, Fox Valley, and Northcentral) exceeded 1.4 mills. From 2000-01 through 2010-11, the WTCS tax levy has increased by an average of 5.0% annually due to growth in equalized valuations, the exclusion of debt from the limit, and limited increases in state general aid

**Table 3: Distribution of School Districts by Allowable Revenue per Pupil in 2010-11 School Year**

Revenue Per Pupil	Number of School Districts	Percent of Total	Cumulative Percent of Total
\$9,500 and Under	27	6.4%	
\$9,501 to \$10,000	130	30.7	37.1%
\$10,001 to \$10,500	90	21.3	58.4
\$10,501 to \$11,000	72	17.0	75.4
\$11,001 to \$11,500	33	7.8	83.2
\$11,501 to \$12,000	31	7.3	90.5
\$12,001 to \$13,000	17	4.0	94.6
\$13,001 to \$14,000	10	2.4	96.9
Over \$14,000	<u>13</u>	<u>3.1</u>	100.0
	423	100.0%	

Median	\$10,281	10 <sup>th</sup> Percentile	\$9,552
Average	\$10,316	90 <sup>th</sup> Percentile	\$11,889
Lowest	\$9,397	Highest	\$23,804

\*Except for the average, the Norris School District has been excluded.

for WTCS districts. While there is no limit on the debt levy rate, major building projects (\$1,500,000 or more) are generally subject to referendum approval. Further information regarding WTCS funding is provided in the Legislative Fiscal Bureau's informational paper entitled, "Wisconsin Technical College System."

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### County Tax Rate Limit

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The 1993-95 state budget (1993 Wisconsin Act 16) imposed a tax rate limit on the general operations portion of each county's levy beginning with the 1993 tax levy (payable in 1994). For purposes of the control, each county's total tax levy and rate are separated into two components. The debt levy and debt levy rate are comprised of amounts for debt service on state trust fund loans, general obligation bonds, appropriation bonds (for payment of employee retirement system liability by Milwaukee County), and long-term promissory

notes, while the operating levy and operating rate are comprised of all other taxes. Each county's operating levy is limited to no more than an amount based on its prior year's allowable levy plus an adjustment equal to the percent change in the county's equalized value. For example, if a county's equalized value increases, or decreases, by 5%, its allowable levy will increase, or decrease, by 5%. This mechanism has the effect of limiting each county's tax rate to the rate that was in effect in 1992(93), the year before the tax rate limit took effect, unless a county has claimed an adjustment to its levy.

Two statutory adjustments to operating levies are allowed. First, adjustments to the operating levy are allowed for services transferred between the county and other local governments. Second, a county may increase its operating levy above the allowable amount if that increase is approved through referendum.

Although the focus of the control is the operating levy, the debt levy is indirectly controlled. Each county is prohibited from issuing new debt that would be repaid from the county's debt levy, unless one of the following conditions is met:

- the debt does not cause the county's debt levy rate to exceed the prior year's allowable debt levy rate, which is derived from the county's actual 1992(93) tax rate, based on the "reasonable expectation" of the county board;
- the debt is approved through referendum if it would cause the county's debt levy rate to exceed the county's allowable debt levy rate;
- the debt was authorized prior to August 12, 1993;
- the debt is used to pay unfunded service liability contributions under the Wisconsin retirement system;
- the debt is used to refund existing debt;

- the debt is authorized by a 75% vote of the county board;
- the debt is issued to comply with court orders and judgments;
- the debt is issued to provide liability insurance and risk management services authorized under state statute; or
- the debt is issued by Milwaukee County to pay unfunded prior service liability with respect to an employee retirement system.

If a county exceeds its operating levy rate, the county's shared revenue or county and municipal aid payments are reduced by the amount of the excess. If the excess exceeds those payments, the county's transportation aid payment is reduced by the remaining amount. The Department of Revenue (DOR) administers the county tax rate limit. Based on unaudited worksheets submitted by counties to DOR, no counties violated the limit with respect to their 2010(11) tax levies.

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### **Municipal Expenditure Restraint Program**

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Municipalities are not subject to a permanent, mandatory fiscal control. However, as a condition for receiving aid under the expenditure restraint program, municipalities must limit the year-to-year growth in their budgets to a percentage determined through a statutory formula. To receive aid, they must also have a municipal purpose tax rate in excess of five mills. Annual funding for the program was set at \$58,145,700 for 2003 and has remained at that level since then.

The statutes define "municipal budget" as the municipality's budget for its general fund exclusive of principal and interest payments on long-term debt. State law provides for the exclusion of four other types of expenditures: (a) amounts paid by municipalities as state recycling tipping fees; (b)

amounts paid by municipalities under municipal revenue sharing agreements; (c) unreimbursed expenses related to emergencies declared under an executive order of the Governor; and (d) expenditures from moneys received pursuant to the federal American Recovery and Revitalization Act of 2009. Finally, adjustments are made for the cost of services transferred to or from the municipality seeking to qualify for a payment. The statutes prohibit municipalities from meeting the budget test by creating other funds, unless those funds conform to generally accepted accounting principles (GAAP). These principles have been adopted by the Governmental Accounting Standards Board to offer governments guidelines on how to maintain their financial records.

For the year prior to the aid payment, the rate of budget growth cannot exceed the inflation rate plus an adjustment based on growth in municipal property values. The inflation rate is measured as the change that occurred in the Consumer Price Index (CPI) in the one-year period ending in September two years prior to the payment year, but not less than 3%. The property value adjustment is unique for each municipality and equals 60% of the percentage change in the municipality's equalized value due to new construction, net of any property removed or demolished, but not less than 0% nor more than 2%. The allowable increase is known at the time when municipal officials set their budgets.

To be eligible for a 2011 payment, municipalities had to limit their 2010 budget increases to 3.0% to 5.0%, depending on individual municipal adjustments due to property value increases. Out of the 401 municipalities that would otherwise have been eligible for a 2011 payment, only 320 met the budget test. The other 81 municipalities either did not meet the test or did not submit budget worksheets to DOR in a timely manner.

This program is described in greater detail in the Legislative Fiscal Bureau's informational paper entitled, "Targeted Municipal Aid Programs."

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## County and Municipal Levy Limit

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Since the 2005(06) property tax year, DOR has administered a levy limit program that restricts the year-to-year increases in county and municipal property tax levies. The limits for 2005(06) and 2006(07) were imposed under provisions created by 2005 Wisconsin Act 25, but those provisions were sunset on January 1, 2007. The limits were reimposed for 2007(08) and 2008(09) by 2007 Wisconsin Act 20 and for 2009(10) and 2010(11) by 2009 Wisconsin Act 28. Both acts included provisions that repealed or sunset the limits after the specified years. Therefore, county and municipal tax levies, as of 2011(12), will not be subject to a levy limit unless the 2011-12 Legislature reauthorizes the program.

The Act 28 provisions prohibit any county, city, village, or town from increasing its "base" levy in either 2009(10) or 2010(11) by more than the percentage change in the local government's January 1 equalized value due to new construction, less improvements removed, between the previous year and the current year, but not less than a statutorily set minimum percentage. The minimum percentage was set at 3.0% for each year. The base levy is defined as the prior year allowable, as opposed to actual, levy for the county or municipality, and for 2009(10) levies, unused levy authority from 2007(08) was also included in the base levy.

Act 28 also provides for adjustments and exclusions to the limit. When the levy for a designated purpose is an adjustment to the limit, the allowable levy is increased by the amount of the levy for the designated purpose. The levy, including the adjusted amount, becomes the base levy from which the succeeding year's allowable levy is calculated. Adjustments can be expressed both as increases or decreases to the allowable levy. For example, Act 28 provides an adjustment equal to any increase in debt service for general obligation debt authorized by a resolution of the local government before July

1, 2005. Exclusions to the levy limit are initially applied identically to an adjustment, in that the allowable levy is increased by the amount of the levy for the purpose designated by the exclusion. However, the levy for the designated purpose is not included in the base levy from which the succeeding year's allowable levy is calculated. For example, Act 28 provides an exclusion for debt service on general obligation debt issued on or after July 1, 2005.

Other adjustments to the levy limit include amounts levied:

- to fund services transferred from (positive) or to (negative) another governmental unit;

- on territory annexed by a city or village (the adjustment is equal to the tax levied by the town on that territory in the preceding year and is a positive adjustment for the annexing city or village and a negative adjustment for the town from which the territory was annexed);

- for any increase in lease payments related to a lease revenue bond issued before July 1, 2005;

- for the cost of consolidating an existing county service by extending the county service to a municipality that provided the same service previously; and

- to jointly provide a service under an intergovernmental cooperation agreement on a consolidated basis with another political subdivision (offsetting positive and negative adjustments).

In addition, a municipality containing a tax increment district that has terminated may adjust its allowable levy in the first year that DOR does not certify a tax increment. Under the adjustment, the percentage increase in the municipality's allowable levy is increased by a percentage equal to 50% of the value of the terminated district in the prior year divided by the municipality's prior year equalized value.

Other exclusions to the levy limit include amounts levied:

- by a municipality as a tax increment;

- by a county for a county children with disabilities education board;

- by a first class city (Milwaukee) for school purposes;

- by a county for town bridge and culvert construction and repair;

- by a county to make payments for public libraries if the county does not maintain a consolidated library system and contains residents who are not residents of a municipality that maintains a public library;

- by a county for a countywide emergency medical services system;

- by a county or municipality to make up for a revenue shortfall for debt service on a revenue bond issued by that local government or by a joint fire department to pay for a fire station;

- by a village to pay for police protection services, but only in the year immediately after the village's incorporation and only if the town which preceded the village did not have a police force;

- by the City of Milwaukee or Milwaukee County for debt service on appropriation bonds (for payment of employee retirement system liability);

- for unreimbursed expenses related to declared emergencies (may be used to replenish cash reserves and be claimed either in the year the emergency is declared or in the following year); and

- for charges assessed by a joint fire department if the charges would cause a municipality to exceed its levy limit, if the other municipalities served by

the joint fire department adopt resolutions supporting the municipality exceeding its limit, and if the total charges assessed by the joint fire department increase on a year-to-year basis by a percentage less than or equal to the percentage change in the consumer price index plus 2%.

Increases above the limit can be approved through the passage of a referendum. The local government's governing body that wishes to exceed its limit must adopt a resolution specifying the amount of the increase and whether the increase is to be extended on a one-time or ongoing basis. Act 28 provides specific wording for the ballot question, which must include the allowable levy and percentage increase without a referendum and the amount of the levy and percentage increase under the referendum.

Certain towns can bypass the referendum procedure. Towns with populations under 2,000 may exceed their levy limits by a vote at the annual

town meeting or at a special town meeting, provided the town board previously adopts a resolution supporting the increase and includes the increase on the agenda for the town meeting.

If a county or municipality imposes a levy exceeding its limit, Act 28 requires DOR to impose a penalty by reducing the local government's next county and municipal aid payment by the amount of the excess. The Department can waive the penalty if it finds that a county or municipality exceeded its limit due to a clerical error resulting from a mistake in the local government's equalized value or in the preparation of the tax roll. Relative to the 2009(10) levy, 18 local governments exceeded the limit and incurred penalties totaling \$232,990. This included total penalties of \$215,918 imposed on 14 towns and \$17,072 imposed on four villages. No cities or counties exceeded their limits or incurred any penalties for their 2009(10) tax levies.