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## WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

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**2005 Assembly Joint  
Resolution 77**

**Assembly Substitute  
Amendment 5**

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### **INTRODUCTION**

Assembly Substitute Amendment 5 to 2005 Assembly Joint Resolution 77 (“the constitutional amendment”) would: (1) impose annual limits on revenue growth of the state; (2) restrict state borrowing; (3) limit use of state segregated funds; and (4) prohibit state laws or administrative rules that increase a local governmental unit’s expenditures for delivery of services unless the state pays the local governmental unit the reasonable costs to comply with the law or the rule.

### **MECHANICS OF APPROVAL**

The constitutional amendment is before the Legislature on first consideration. Before it can become effective, it must be:

1. Passed during the current legislative session (2005-06) by a majority of the members elected to each of the two houses;
2. Published in the official state newspaper the first Tuesday of August, September, and October immediately preceding the next general election on November 7, 2006;
3. Passed during the next legislative session (2007-08) by a majority of the members elected to each of the two houses in a second joint resolution that embodies the identical constitutional text. The second joint resolution specifies the wording of the ballot question or questions and sets the referendum date; and
4. Ratified by a majority of those casting ballots in a statewide referendum vote.

All of these steps are mandatory. If they are not complied with, the amendment does not become part of the Constitution.

**STATE GENERAL FUND REVENUE LIMITS**

The constitutional amendment places annual limits on state general fund revenue growth, beginning in fiscal year 2009-10. It provides that if state general fund revenue in fiscal year 2009-10 exceeds state general fund revenue in fiscal year 2008-09, increased by 90% of the three-year rolling average percentage change in state personal income, the excess shall be deposited into an emergency reserve fund.

In subsequent fiscal years, the revenue limit is the prior year's revenue limit, increased by 90% of the three-year rolling average percentage change in state personal income. Amounts in excess of the revenue limit for these years also must be deposited into an emergency reserve fund.

Revenue limits imposed under the constitutional amendment may be exceeded by referendum and may be reduced by the Legislature by law.

**PERMITTED USES OF EMERGENCY RESERVE FUND**

The constitutional amendment provides that expenditures may be made from the emergency reserve fund for expenses arising from a natural disaster or attack or in a year in which the state's revenue limit under the constitutional amendment is greater than the state's general fund revenue.

If the balance of the fund exceeds two percent of the state's general fund revenue in any year, the excess may be spent for relief from taxes imposed by the state or from property taxes. If the balance of the fund exceeds six percent of the state's general fund revenue in any year, the excess shall be returned to the people of the state as tax relief, in a manner prescribed by the Legislature by law.

**DEFINITION OF GENERAL FUND REVENUE SUBJECT TO THE LIMITS**

The constitutional amendment provides that the Legislature shall define "general fund revenue" that is subject to the constitutional revenue limits by law. However, it provides that the Legislature may not exclude from the definition moneys raised by the state from taxes, licenses, or fees, except that the Legislature may exclude:

1. Moneys designated for use through a segregated fund.
2. Moneys used to pay a settlement or damage award.
3. Moneys used for expenses arising from a natural disaster or attack.
4. Moneys received from tuition or fees imposed for university purposes.
5. Voluntary fees that do not exceed the cost of the service provided.
6. Moneys held in a fiduciary capacity or in the unemployment reserve fund.

The constitutional amendment provides that all revenues deposited into the general fund under the 2001 statutes, except moneys transferred to the general fund from other funds of the state as provided under the 2001 statutes, shall remain subject to the revenue limit established under the

constitutional amendment, regardless of whether the Legislature by law authorizes the deposit of some or all of such revenues into other funds of the state.

### **RESTRICTIONS ON USE OF SEGREGATED REVENUES**

The constitutional amendment provides that no revenues designated on or after January 1, 2001, for use through a segregated fund may be used for any other purpose. No segregated fund revenue may be used to replace or supplement funding for programs supported by the general fund on or after January 1, 2001.

Under current law, segregated funds are enumerated in chapter 25 of the statutes, and include the conservation fund, the state building trust fund, the transportation fund, the veteran's trust fund, the environmental improvement fund, the waste management fund, and a number of other funds.

### **STATE MANDATES ON LOCAL GOVERNMENTS**

The constitutional amendment provides that a state law or administrative rule that increases a local governmental unit's expenditures for delivery of services may not be enacted or adopted on or after the ratification of the constitutional amendment unless the state pays the reasonable costs incurred by the local governmental unit to comply with the law or rule. This provision does not apply to any law or rule that is enacted or adopted in order to comply with a requirement of federal law, including a requirement related to receiving federal aid.

### **RESTRICTIONS ON STATE BORROWING**

The constitutional amendment provides that all moneys received by the state, or by another person on behalf of the state, from any type of borrowing may be used only for a purpose specified in s. 7 (2) (a), art. VIII of the Wisconsin Constitution, except that the state may borrow moneys for cash flow purposes if the moneys are fully repaid in the same fiscal year in which they are borrowed. The purposes specified in s. 7 (2) (a), art. VIII are to acquire, construct, develop, extend, enlarge, or improve land, waters, property, highways, railways, buildings, equipment, or facilities for public purposes, and to make funds available for veterans housing loans.

In addition, the constitutional amendment provides that the state may not refund any type of borrowing if that refunding would increase the state's debt service obligation in any fiscal year. Also, the state may not enter into an agreement or arrangement relating to any type of borrowing unless the financial benefits from an agreement or arrangement accrue proportionately over the life of the agreement or arrangement.

### **Legislative History**

On April 27, 2006, Assembly Substitute Amendment 5 to 2005 Assembly Joint Resolution 77 was offered by Representatives Albers and Wood and 2005 Assembly Joint Resolution 77, as amended, was adopted by a vote of Ayes, 50; Noes, 48.

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