



State of Wisconsin
2005 - 2006 LEGISLATURE

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**SENATE SUBSTITUTE AMENDMENT 2,
TO 2005 ASSEMBLY JOINT RESOLUTION 77**

May 4, 2006 – Offered by Senator GROTHMAN.

1 **To create** section 11 of article VIII of the constitution; **relating to:** creating a
2 revenue limit for the state and local governmental units, depositing excess
3 revenue into an emergency reserve, returning excess revenue to taxpayers,
4 elector approval for exceeding the revenue limit, state and local governmental
5 approval for reducing the revenue limit, allowing local governmental units to
6 raise revenue to compensate for reductions in state aid, requiring the state to
7 reduce its revenue limit in conjunction with reduction in state aid, reimbursing
8 the reasonable costs of imposing state mandates, standing to bring a suit to
9 enforce the revenue limits, and requiring the approval of only one legislature
10 to amend the revenue limit provisions (first consideration).

11 **Resolved by the assembly, the senate concurring, That:**

12 **SECTION 1.** Section 11 of article VIII of the constitution is created to read:

13 [Article VIII] Section 11 (1) In this section:

1 (a) “Calendar year entity” means a local governmental unit that has a calendar
2 year as its fiscal year.

3 (b) “Fiscal year entity” means the state or a local governmental unit that has
4 a fiscal year that is not a calendar year.

5 (c) “Local governmental unit” means a county, municipality, special purpose
6 district, school district, or technical college district.

7 (d) “Municipal economic development bond” means a bond issued to finance
8 real property improvement that is directly related to economic developments, as
9 defined by the legislature by law.

10 (e) “Municipality” means a city, village, or town, not including a town whose
11 budgeted revenue is less than \$1,000,000 for the 2009 calendar year or, in
12 subsequent calendar years, less than \$1,000,000 increased by the percentage
13 increase, if any, in the consumer price index for Milwaukee–Racine or its successor
14 index from the 2007 calendar year to the calendar year preceding the previous
15 calendar year. “Municipality” includes a district, utility, or other entity that receives
16 moneys from taxes or fees and that is authorized, created, or established by a city,
17 village, or town, regardless of whether the governing body of the city, village, or town
18 retains any authority or control over the district, utility, or other entity. For purposes
19 of this section, the moneys received by such a district, utility, or other entity from
20 taxes or fees shall be considered revenue of the city, village, or town that authorized,
21 created, or established the district, utility, or other entity, unless such moneys would
22 not be revenue under this section if received by the city, village, or town or unless
23 considering them revenue would result in the inclusion of such moneys twice in
24 revenue.

1 (f) “Population” means annual population estimates adjusted by the most
2 recent federal decennial census, as determined by the state.

3 (g) “Revenue” means all moneys received from taxes, fees, licenses, permits,
4 assessments, fines, and forfeitures imposed by the state or a local governmental unit,
5 lottery proceeds net of prizes, tribal gaming proceeds, and all moneys received from
6 bonds, but not including moneys generated from municipal economic development
7 bonds, from the refinancing of bonds, or from short-term cash flow borrowing.
8 “Revenue” includes revenue transferred or spent from a fund under sub. (3), not
9 including moneys transferred or spent for refunds or relief from taxes imposed by the
10 state, and, in the case of the state, the amount of any tax credit enacted into law after
11 December 31, 2008, if the credit percentage exceeds the applicable highest marginal
12 tax rate. “Revenue” does not include excess revenue deposited into a fund under sub.
13 (3), moneys used for debt service on a municipal economic development bond, moneys
14 used to pay a damage award, or moneys received from the federal government, from
15 the state or a local governmental unit providing governmental services to
16 governmental entities, from gifts, from damage awards, or from real property sales
17 to taxable entities, moneys received for the operation of a telephone, gas, electric, or
18 water utility, or moneys received for medical care provided by hospitals, nursing
19 homes, assisted living facilities, or other medical facilities operated by any entity
20 that is subject to the limits imposed under this section, from unemployment
21 insurance taxes, from insurance assessments or premiums, from employee
22 payments for fringe benefits, from governmental property insurance, from
23 investment trusts, from private purpose trusts, from college savings programs, from
24 fees imposed for airport or mass transportation systems, or from tuition or fees
25 imposed on students to support university or technical college functions. The

1 legislature, by law, may exclude from “revenue” moneys generated by a local
2 governmental unit from any source other than taxes, except that the legislature may
3 not exclude any amount of money generated from licenses that exceeds the cost of
4 issuing the license or any amount of money generated by a fee that exceeds the cost
5 of providing the service associated with the fee. For the 2008 calendar year, for
6 calendar year entities, and for the 2009 fiscal year, for fiscal year entities, “revenue”
7 does not include moneys generated from bonds.

8 (h) “Special purpose district” means any entity other than the state, a school
9 district, a technical college district, a county, or a municipality that is authorized to
10 collect taxes or fees.

11 (i) “State aid” means all of the following, as defined by the legislature by law,
12 but does not include a one-time grant:

- 13 1. Shared revenue.
- 14 2. Equalization aids.
- 15 3. Community aids that are used to provide social services.
- 16 4. General transportation aids.
- 17 5. Categorical school aids.
- 18 6. Aid to technical college districts.

19 (2) (a) Subject to subs. (3), (4), and (6) to (8), for the 2009 calendar year, for
20 calendar year entities, and for the 2010 fiscal year, for fiscal year entities, the state
21 or a local governmental unit may not collect more in revenue than the amount it
22 collected in the previous calendar year, for calendar year entities, or in the previous
23 fiscal year, for fiscal year entities, increased by the percentage that is the average of
24 the annual percentage increases, if any, in the consumer price index for
25 Milwaukee–Racine, or its successor index, for each of the 3 calendar years preceding

1 the previous calendar year, for calendar year entities, or for each of the 3 fiscal years
2 preceding the previous fiscal year, for fiscal year entities, but not to exceed the
3 annual percentage increase, if any, in state personal income from the 2006 calendar
4 year to the 2007 calendar year, for calendar year entities, or from the 2007 calendar
5 year to the 2008 calendar year, for fiscal year entities, plus:

6 1. For the state, a special purpose district, a county, or a technical college
7 district, the percentage increase from the first to the 2nd of the 2 years preceding the
8 previous year in the population of the state, special purpose district, county, or
9 technical college district, respectively.

10 2. For a school district, the percentage that is the average of the annual
11 percentage increases, if any, for each of the 3 years preceding the previous year in
12 enrollment of students in 5-year-old kindergarten through the 12th grade.

13 3. For a municipality, 60 percent of the percentage increase from the first to the
14 2nd of the 2 previous years in property values attributable to new construction, less
15 the value of any property removed or demolished, in the municipality.

16 (b) Subject to subs. (3), (4), and (6) to (8), for calendar years beginning in 2010,
17 for calendar year entities, and for fiscal years beginning in 2011, for fiscal year
18 entities, the state or a local governmental unit may not, in any calendar year or in
19 any fiscal year, as applicable, collect more in revenue than the maximum amount
20 that it was permitted to collect in the previous calendar year, for calendar year
21 entities, or in the previous fiscal year, for fiscal year entities, under this subsection,
22 increased by the percentage that is the average of the annual percentage increases,
23 if any, in the consumer price index for Milwaukee–Racine, or its successor index, for
24 each of the 3 calendar years preceding the previous calendar year, for calendar year
25 entities, or for each of the 3 fiscal years preceding the previous fiscal year, for fiscal

1 year entities, but not to exceed the annual percentage increase, if any, in state
2 personal income from the 3rd calendar year preceding the current calendar year, for
3 calendar year entities, or preceding the end of the current fiscal year, for fiscal year
4 entities, to the 2nd calendar year preceding the current calendar year, for calendar
5 year entities, or preceding the end of the current fiscal year, for fiscal year entities,
6 plus the applicable percentage increase under par. (a) 1., 2., or 3.

7 (3) (a) If the revenue received by the state in any state fiscal year exceeds its
8 limit under this section, the state shall deposit into an emergency reserve fund all
9 of the excess revenue, except that the total amount in the emergency reserve fund
10 may not exceed an amount that is equal to 8 percent of the state's total revenue in
11 the previous state fiscal year.

12 (b) The state may make expenditures from its emergency reserve fund only by
13 a majority vote of the members of each house of the legislature, and only for relief
14 from taxes imposed by the state or in a fiscal year in which the amount of the state's
15 limit determined under this section is greater than the amount of the state's revenue.

16 (4) If a local governmental unit receives state aid in any calendar year, in the
17 case of calendar year entities, or in any fiscal year, in the case of fiscal year entities,
18 in an amount that is less than the amount of state aid that it received in or after the
19 2008 calendar year, for calendar year entities, or in or after the 2009 fiscal year, for
20 fiscal year entities, the local governmental unit may collect additional revenue in the
21 current calendar year or current fiscal year, as applicable, in an amount not to exceed
22 the greatest amount of state aid received by the local governmental unit in or after
23 the 2008 calendar year, for calendar years entities, or in or after the 2009 fiscal year,
24 for fiscal year entities, minus the current year's state aid. Any additional revenue
25 collected under this paragraph shall not be included in determining the local

1 governmental unit's limit under this section. A local governmental unit may not
2 collect additional revenue under this paragraph for a reduction in state aid if a
3 program or function for which the state aid is provided is eliminated or
4 commensurately reduced in scope or applicability, as determined by the legislature.

5 (5) (a) The state shall return to the taxpayers the amount of any excess revenue
6 received in any fiscal year that is not deposited into an emergency reserve fund under
7 sub. (3) (a).

8 (b) If the revenue received by a local governmental unit in any calendar year,
9 for calendar year entities, or in any fiscal year, for fiscal year entities, exceeds the
10 local governmental unit's limit under this section, it shall return to the taxpayers the
11 amount of the excess revenue received in that calendar year or fiscal year, as
12 applicable.

13 (c) A refund made under this subsection shall be made in the calendar year, for
14 calendar year entities, or in the fiscal year, for fiscal year entities, immediately
15 following the calendar or fiscal year in which the state or the local governmental unit
16 has the excess revenue.

17 (6) The state or a local governmental unit may reduce the revenue limit
18 imposed under this section by a majority vote of the governing body of the local
19 governmental unit or, in the case of the state, by the vote of a majority of the members
20 elected to each house of the legislature; and may exceed the revenue limit imposed
21 under this section only with the approval of the electors of the state or local
22 governmental unit, respectively, at a referendum. The referendum shall be held in
23 such manner and at such time as the legislature shall prescribe and shall specify
24 whether the increase in the revenue limit is on a recurring or nonrecurring basis.
25 The revenue limit imposed under this section may not be increased on a recurring

1 basis by referendum in any year by more than the greater of \$50,000 or 15 percent
2 of the amount of the revenue limit that is in effect prior to the increase.

3 (7) The legislature may, by law, adjust any limit imposed under this section to
4 accommodate the transfer of services from any entity subject to a limit under this
5 section to any other such entity, including the transfer of services that results from
6 annexation. Any increase to a entity's limit under this subsection shall be offset with
7 a corresponding decrease to the limit of other entities affected by the transfer of
8 services.

9 (8) The state revenue limit under this section for a fiscal year shall be reduced
10 by the amount of any reduction in that fiscal year in the aggregate amount of state
11 aid to local governmental units, as compared to the previous fiscal year. This
12 subsection does not apply to a reduction in state aid if a program or function for which
13 the state aid is provided is eliminated or commensurately reduced in scope or
14 applicability, as determined by the legislature.

15 (9) A state law or administrative rule that requires the expenditure of money
16 by a local governmental unit may not be enacted or adopted on or after the
17 ratification of this subsection unless the state provides for the payment to the local
18 governmental unit of an amount that is equal to the reasonable costs incurred by the
19 local governmental unit to comply with the law or rule. For purposes of this
20 subsection, the legislature shall be the sole determiner of the reasonable costs
21 incurred by a local governmental unit to comply with any law or administrative rule.
22 This subsection does not apply to any state law or administrative rule that is enacted
23 or adopted in order to comply with a requirement of federal law, including a
24 requirement related to receiving federal aid.

1 (10) No provision of this section shall alter or impair the provision, collection,
2 appropriation, pledge, or priority of any revenues for the payment of the principal of
3 or interest on any borrowing by or on behalf of the state or any local governmental
4 unit, including without limitation any revenues of a local governmental unit from a
5 direct annual tax under section 3 (3) of article XI or any revenues of the state from
6 an appropriation under section 7 (2) (f) of article VIII, and no such revenues shall be
7 considered excess revenues.

8 (11) Any individual or class of individuals residing in this state has standing
9 to bring a suit to enforce this section as it relates to the state or to the local
10 governmental unit in which the individual or class of individuals resides or pays
11 property taxes. A court of record shall award a successful plaintiff costs and
12 reasonable attorney fees in the suit, but may not allow the state or a local
13 governmental unit to recover costs and reasonable attorney fees unless a suit against
14 it is ruled frivolous.

15 (12) Any amendment or amendments to this section that are directly related
16 to the revenue limits under this section may be proposed in either house of the
17 legislature, and if the same shall be agreed to by a majority of the members elected
18 to each of the two houses, such proposed amendment or amendments shall be entered
19 on their journals, with the yeas and nays taken thereon; notwithstanding section 1
20 of article XII, it shall then be the duty of the legislature to submit such proposed
21 amendment or amendments to the people in such manner and at such time as the
22 legislature shall prescribe; and if the people shall approve and ratify such
23 amendment or amendments by a majority of the electors voting thereon, such
24 amendment or amendments shall become part to the constitution; provided, that if

1 more than one amendment be submitted, they shall be submitted in such manner
2 that the people may vote for or against such amendments separately.

3 **SECTION 2. Numbering of new provision.** The new section 11 of article VIII
4 of the constitution created in this joint resolution shall be designated by the next
5 higher open whole section number in that article if, before the ratification by the
6 people of the amendment proposed in this joint resolution, any other ratified
7 amendment has created a section 11 of article VIII of the constitution of this state.
8 If one or more joint resolutions create a section 11 of article VIII simultaneously with
9 the ratification by the people of the amendment proposed in this joint resolution, the
10 sections created shall be numbered and placed in a sequence so that the sections
11 created by the joint resolution having the lowest enrolled joint resolution number
12 have the numbers designated in that joint resolution and the sections created by the
13 other joint resolutions have numbers that are in the same ascending order as are the
14 numbers of the enrolled joint resolutions creating the sections.

15 ***Be it further resolved, That*** this proposed amendment be referred to the
16 legislature to be chosen at the next general election and that it be published for 3
17 months previous to the time of holding such election.

18 (END)