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County and Municipal Levy Limits: Repeal of Negative Adjustment for Fees for Covered Services, Exclusions for Cross-Border Transit Routes, and for Joint Emergency Dispatch Centers (Shared Revenue and Tax Relief -- Property Taxation)

[LFB 2019-21 Budget Summary: Page 387, #2; Page 387, #3; and Page 388, #4]

Expenditure Restraint Program -- Definition of Municipal Budget (Shared Revenue and Tax Relief -- Direct Aid Payments)

[LFB 2019-21 Budget Summary: Page 384, #7]

CURRENT LAW

Current law prohibits any county, city, village, or town from increasing its "base" levy in any year by more than the percentage change in the local government's January 1 equalized value due to new construction, less improvements removed ("net new construction"), between the previous year and the current year, but not less than 0%. The base levy is defined as the prior year actual levy for the county or municipality. Increases above the limit can be approved through the passage of a referendum, although towns with a population under 3,000 can exceed the limit by a vote at the annual town meeting or at a special town meeting.

State law provides for adjustments and exclusions to the limit. One existing adjustment requires counties and municipalities to reduce their allowable levies by an amount equal to the estimated fee revenues received in lieu of property taxes for providing a covered service that was funded with the property tax levy in 2013. A "covered service" is defined to mean garbage collection, fire protection, snow plowing, street sweeping, or storm water management, although some specific exceptions exist (garbage collection for any county or municipality that owned and operated a landfill on January 1, 2013, and fire protection services, including the production, storage, transmission, sale and delivery, or furnishing of water for public fire protection services).

GOVERNOR

Repeal of Negative Adjustment for Fees for Covered Services. Repeal the negative levy limit adjustment for fees for covered services, so that counties and municipalities that receive new or additional revenues from fees or payments in lieu of taxes for covered services each year that were previously funded from their levy would no longer be required to reduce their allowable levies by the estimated annual fee revenues.

Exclusion for Cross-Border Transit Routes. Create an exclusion to county and municipal levy limits for amounts levied in a year for operating and capital costs directly related to the provision of new or enhanced transit services across adjacent county or municipal borders. Require that all of the following would have to apply for the exclusion to be taken: (a) the starting date for the new or enhanced transit services occurs after the effective date of the 2019-21 budget bill; (b) the counties or municipalities between which the new or enhanced transit routes would operate have entered into an intergovernmental cooperation agreement to provide for the new or enhanced transit services and the agreement describes the services and the amounts that must be levied to pay for those services; and (c) the intergovernmental cooperation agreement is approved in a referendum by the electors of each local government that is a party to the agreement. Require that the referendum be held at the next succeeding spring primary or election or partisan election which could be held no earlier than 70 days after the adoption of the agreement by all parties. Require the governing body that has proposed the referendum to file the resolution to be submitted to the electors under current law referenda filing procedures.

Exclusion for Joint Emergency Dispatch Centers. Create an exclusion to county and municipal levy limits for the amounts levied above a local government's allowable levy for charges shared among two or more counties or municipalities in the operation of a joint emergency dispatch center. Specify that the amount of a local government's levy that is used to pay for charges assessed by a joint emergency dispatch center, which causes that local government to exceed its allowable levy in that year, would not be subject to the annual levy limit of the affected local governments. Define "joint emergency dispatch center" to mean an operation that serves as the dispatch center for two or more local governments' law enforcement, fire, emergency medical services, or any other emergency services.

Provide that this exclusion would only be allowed if the following apply: (a) the total percentage increase in charges assessed by the joint emergency dispatch center for the current year, relative to the amounts charged for the previous year, is less than or equal to 1% plus the percentage change in the U.S. consumer price index for all urban consumers for the 12 months ending on September 30th of the year of the levy; and (b) the governing body of each local government that is served by the joint emergency dispatch center adopts a resolution in favor of exceeding the levy limit to pay for additional fees charged by the joint emergency dispatch center.

Under the current law exclusion for charges assessed by joint fire departments, reduce the permitted annual increase of total charges assessed by a joint fire department for the purpose of calculating an allowable levy to be less than or equal to 1% (rather than 2%, as under current law) plus the annual percentage change in the consumer price index.

Expenditure Restraint Program -- Definition of Municipal Budget. Specify that for the purpose of determining eligibility for an expenditure restraint payment, the definition of "municipal budget" would not include amounts levied above a municipality's allowable levy for charges shared among local governments operating a joint emergency dispatch center.

DISCUSSION POINTS

Levy Limit History

1. Since the 2005(06) property tax year, the Department of Revenue (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 re-imposed for 2007(08) and 2008(09) by 2007 Wisconsin Act 20 and for 2009(20) and 2010(11) by 2009 Wisconsin Act 28. Both acts included provisions that repealed or sunset the limits after the specified years. 2011 Wisconsin Act 32 extended the levy limit program on a permanent basis.

2. Factors in addition to levy limits affect individual tax bills. For example, some types of property have been exempted through state law changes, which shifts the property tax to the remaining taxable properties. Also, property has been added or removed from property tax rolls, and properties appreciate in value at different rates, both of which affect the distribution of levies among properties within a taxing jurisdiction. Furthermore, the entire municipal and county levy is not subject to the levy limit because current law allows for adjustments and exclusions to the allowable levy. Nonetheless, the levy limit has effectively controlled tax bill increases in recent years.

3. As a result of the levy limit and increased state funding for property tax relief since 2005(06), the estimated tax bill for a median-valued home taxed at statewide average tax rates has increased at an average, annual rate of only 0.4%. Over the same 13-year period, the consumer price index (CPI) has increased at an average, annual rate of 2.0%. If the median-valued home's estimated taxes had increased at the same rate as inflation, the estimated 2018(19) tax bill would be $639 higher (22.3%), and the home's owner would have paid $3,891 in more taxes over the 13 years.

4. Each year, some taxes are borne by the value resulting from new construction of all types of property, which causes the statewide municipal and county tax levies to increase at slightly higher average rates than the estimated tax bill for the statewide median-valued home. The average annual rate of change between 2014(15) and 2020(21) is projected to equal 3.1% for the statewide municipal levy and 2.4% for the statewide county levy under AB 56/SB 59. In comparison, the average annual rate of change between 2014(15) and 2020(21) is projected to equal 2.9% for the statewide municipal levy and 2.2% for the statewide county levy under current law.

5. State law provides for adjustments and exclusions to the levy limit. When the levy for a designated purpose is an adjustment to the limit, the allowable levy is increased or decreased 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. 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.

6. Adjustments and exclusions appear to have had a limited impact on the statewide change in levies in recent years. Since 2011(12), adjustments and exclusions have comprised over half of the statewide increase in municipal levies, and over 40% of the statewide increase in county levies. Table 1 displays the change in statewide municipal and county tax levies due to adjustments and exclusions to the levy limit from 2011(12) through 2018(19).

TABLE 1

Percentage Change in Statewide Municipal and County Levies
Due to Adjustments and Exclusions, 2011(12) - 2018(19)

Tax Year	Municipalities	Counties
2011(12)	1.0%	0.5%
2012(13)	0.8	0.1
2013(14)	1.1	0.4
2014(15)	1.3	0.9
2015(16)	1.0	1.0
2016(17)	1.7	1.0
2017(18)	1.7	1.7
2018(19) (preliminary)	1.3	0.1

Repeal of Negative Adjustment for Fees for Covered Services

7. The 2013-15 biennial budget act (2013 Act 20) created the negative adjustment for fees for covered services. Under this adjustment, levy authority is reduced when a local government imposes fees or payments in lieu of taxes for certain services that were funded with property tax revenues in 2013. The negative adjustment equals the amount of fees or payments in lieu of taxes that are estimated to be received by the local government to pay for the service in an amount not to exceed the amount funded by the levy in 2013. Services subject to the adjustment include garbage collection, fire protection, snow plowing, street sweeping, and storm water management. The adjustment does not apply if the governing body of the local government adopts a resolution stating that the levy limit should not be reduced and if the resolution is approved in a referendum.

8. The statutes relating to the negative adjustment for fees for covered services have been amended twice since the adjustment was created in 2013. The 2015-17 biennial budget act (2015 Act 20) modified the definition of "covered service" to exclude any garbage collection by a county or municipality that owned and operated a landfill on January 1, 2013, beginning with taxes levied for 2015(16). Furthermore, the 2017-19 biennial budget act (2017 Act 59) modified statutes so that the

adjustment would not apply to the production, storage, transmission, sale and delivery, or furnishing of water for public fire protection purposes, beginning with taxes levied for 2017(18).

9. Table 2 compares the total statewide municipal levies to the total statewide negative adjustments for fee revenues for covered services that were claimed each year. Also provided is the total number of municipalities that claimed this adjustment each year. No county has claimed the negative adjustment for fees for covered services since it first applied to property taxes levied for 2014(15).

TABLE 2

Municipal Levies and Negative Adjustments for Fees for Covered Services

Tax Year	Statewide Municipal Levies	Total Adjustment Amounts	Total Adjustment Counts
2014(15)	$2,610,999,227	-$834,035	17
2015(16)	2,668,304,435	-518,890	11
2016(17)	2,749,869,155	-633,612	13
2017(18)	2,839,227,306	-297,416	10
2018(19)*	2,922,062,429	-85,671	5
Average	$2,758,092,510	-$473,925	11

*Amounts are preliminary.

10. As Table 2 shows, the total annual amounts of statewide reductions to municipal levies as a result of this adjustment were small relative to the total municipal statewide levies. Table 2 also shows that this negative adjustment has been claimed by a small number of municipalities each year and that the annual adjustment amount has declined since 2014(15). Over the past five years since the adjustment was created, the average negative adjustment claimed was -$473,925, which would comprise 0.02% of the five-year average statewide municipal property tax levy.

11. The administration summarized its reasons for proposing to repeal the negative adjustment for fees for covered services in the Governor's Budget in Brief: "User fees are an appropriate way for local governments to match payments for certain services with the beneficiaries of the services. Decisions of how to finance local government between user fees and property taxes should be a local decision and not set at the state level." Those who agree with the administration contend that requiring local governments to reduce their allowable levies by the estimated fee revenues for providing a covered service prevents local governments from transitioning to such user fees when it makes sense to charge the user of the service. For example, a local government may determine that a creating a user fee for a covered service would be the most appropriate way to fund that particular government service. However, the local government may be dissuaded from creating that fee because doing so would result in a corresponding reduction to the local government's allowable levy, resulting in no financial incentive to remove that service from the property tax levy. Consequently, users of the service are less likely to see the actual cost to the municipality of providing

that service and, therefore, may over-consume that service over time [Alternative A1].

12. Repealing this negative adjustment is estimated to have no effect on statewide county levies, but is estimated to increase statewide municipal levies by $400,000 in each year of the biennium. However, this estimated increase in statewide municipal levies would be too small to change the estimated municipal property tax levied on the statewide median-valued home. Therefore, the Governor's proposal would have a neutral effect on the statewide estimated property tax bill.

13. The current law adjustment for fees for covered services results in a dollar-for-dollar reduction to a local government's allowable levy by the estimated amount of fee revenues. Therefore, repealing the negative adjustment for fees for covered services could result in local governments receiving fee revenues for providing a covered service as well as the property tax levy that would have otherwise funded that service. For example, if a local government estimates receiving $10,000 in a given year in fee revenues for a covered service, it would currently have to reduce its levy by $10,000 in that year. If the negative adjustment for such fees is repealed, that local government would no longer be required to reduce their allowable levy by the $10,000 of fee revenues. Therefore, the local government would receive $10,000 in fee revenues and could continue to levy the $10,000 in property taxes that had previously been used to support that service. If the Committee believes local governments should continue to be required to reduce their allowable levies by the estimated fee revenues, it could take no action on the Governor's recommendation to repeal this negative adjustment to the levy limit [Alternative A2].

Exclusion for Cross-Border Transit Routes

14. The Governor's proposal to create an exclusion to the levy limit for new or enhanced cross-border transit routes would give counties and municipalities additional levy authority to fund the operational or capital costs directly related to those routes. Under the proposal, amounts levied to fund new or enhanced cross-border transit routes would be excluded from a local government's allowable levy under levy limits.

15. With regard to this proposed exclusion to the levy limit, the administration states in the Governor's Budget in Brief, "Encouraging cooperation between local governments is an important way to save taxpayers money through the more efficient provision of public services." As this statement implies, this proposed exclusion to the levy limit is intended to encourage local governments to share transit services, which in theory could result in cost savings for the participating local governments. Also, by giving local governments the authority to levy for such routes outside of the levy limit, this proposed exclusion could encourage some local governments to create new or to extend existing cross-border transit routes into jurisdictions that would otherwise provide limited or no transit services.

16. Suburban employers experiencing worker shortages could possibly benefit from cross-border transit routes, which could be designed to transport employees from their urban-area homes to suburban job centers. For example, through the end of 2018, Milwaukee County Transit System operated two bus routes under a program called JobLines. This program was designed to provide access to suburban job locations in Waukesha and Washington counties for inner-city Milwaukee residents. Local funding for JobLines expired at the end of 2018, but the Milwaukee County Board of Supervisors extended funding for a modified version of the more heavily used of the two former

routes through August, 2019. While the future of the JobLines program is currently uncertain, the Governor's proposed exclusion to levy limits for new or enhanced cross-border transit routes could be one potential solution that could allow urban-suburban cooperation in levying property taxes to fund this particular transit program [Alternative B1].

17. Of the 75 transit systems that operate statewide, 10 systems operate on a county-wide basis, 39 systems do not operate on a county-wide basis but do operate in multiple municipalities, eight systems operate in multiple counties, six systems operate in just one municipality but in multiple counties, and 12 systems operate in just one municipality. These counties and municipalities that currently operate transit systems, in addition to any that create new transit systems, would be eligible for the proposed exclusion to the levy limit, provided they enhance existing routes or create new routes that cross adjacent county or municipal borders and meet all of the proposed requirements for claiming the exclusion.

18. The number of counties and municipalities that would claim this proposed exclusion to the levy limit and the additional amounts those jurisdictions could levy to fund such transit routes is not known. Therefore, the effect of this proposed exclusion on statewide municipal and county property tax levies and its effect on the estimated tax bill for the statewide median-valued home is indeterminate. However, because of its likely narrow application, this proposed exclusion to the levy limit would not have much of an effect on property tax levies. Furthermore, the Governor's proposed requirement that the intergovernmental cooperation agreement between each local government sharing in the transit route be approved in a referendum could prevent some local governments from claiming this exclusion. These cross-border transit routes are often used by only a small portion of the local government's total population. As a result, support for a new or enhanced cross-border transit routes may be limited.

19. Some may view the Governor's proposed requirement that the intergovernmental cooperation agreement between each participating local government be approved in a referendum as a potential impediment to some local governments seeking to add service and claim this proposed exclusion to the levy limit. If the Committee supports such intergovernmental cooperation on transit options, but believes it could be claimed more frequently without the referendum requirement, the Governor's recommendation could be modified to eliminate the requirement that the intergovernmental cooperation agreement be approved in a referendum [Alternative B2].

20. If the Committee believes counties and municipalities should fund new or enhanced cross-border transit routes under the levy authority provided under current law, it could take no action on the Governor's recommendation to create an exclusion to the levy limit for amounts levied for operating and capital costs directly related to the provision of new or enhanced transit routes across adjacent county or municipal borders [Alternative B3].

Exclusion for Joint Emergency Dispatch Centers

21. The Governor also proposed to create a levy limit exclusion for amounts levied above a local government's allowable levy for charges shared among two or more counties or municipalities in the operation of a joint emergency dispatch center. This proposed exclusion would allow counties and municipalities to increase their allowable levies by up to 1% over the prior year for charges assessed by an emergency dispatch center, plus the annual percentage change in CPI.

22. In general, emergency dispatch centers are the site of a local government's 911 emergency call-taking services. Often, these centers will also answer non-emergency calls and provide dispatch and other support services for medical, fire, and law enforcement agencies. Providing an exclusion to the levy limit for charges assessed by joint emergency dispatch centers could help ensure that such centers are adequately funded. Additionally, the proposed exclusion to the levy limit could result in cost savings among local governments by encouraging them to jointly operate an emergency dispatch center in order to claim the proposed exclusion to the levy limit, which could eliminate potential unnecessary duplication of these services for a given area [Alternative C1].

23. It is not known how many counties or municipalities could claim this proposed exclusion to the levy limit. Also, the additional amounts those jurisdictions would be allowed to levy to cover the charges assessed by a joint emergency dispatch center cannot be predicted. However, it is possible that this proposed exclusion would have a minimal effect on property tax levies over time. The amount of time required to set up a joint emergency dispatch center, which would vary among local governments, may delay the effect of this proposed exclusion on county and municipal levies. Also, any increase to county or municipal levies as a result of this exclusion may be offset by the efficiencies gained from the cooperative provision of the emergency services.

24. Under current law, amounts levied for charges assessed by a joint fire department are excluded from the base levy from which the succeeding year's allowable levy is calculated, if the governing bodies of each local government served by the joint fire department adopt a resolution supporting the municipality exceeding its limit and the total charges assessed by the joint fire department increase on a year-to-year basis by a percentage less than or equal to 2% plus the percentage change in CPI. Based on preliminary reports filed with DOR for tax year 2018(19), 25 municipalities claimed this exclusion to the 2018(19) levy limits for total costs of $356,721 statewide. The Governor's proposal would modify this current law exclusion by reducing the permitted annual increase of total charges assessed by a joint fire department to be less than or equal to 1% (rather than 2%) plus the annual percentage change in CPI. Under this modification, the allowable growth in charges assessed by joint fire departments would be identical to the allowable growth in charges under the proposed exclusion to the levy limit for joint emergency dispatch centers [Alternative C1].

25. If the Committee wants to assist local governments in funding joint emergency dispatch centers, but does not want to amend the amount that a local government may exclude from its levy for charges assessed by a joint fire department under current law, it could modify the Governor's recommendation by eliminating the proposed change to the current law exclusion for charges assessed by joint fire departments by reducing the permitted annual increase of total charges assessed by a joint fire department to be less than or equal to 1% (rather than 2%) plus the annual percentage change in CPI [Alternative C2].

26. If the Committee believes counties and municipalities that create a joint emergency dispatch center should cover the charges for that center under the levy limit provided under current law, it could take no action on the Governor's recommendation to create an exclusion to the levy limit for such charges [Alternative C3]. Under this alternative, the Committee would also take no action on the Governor's proposed modification to the current law exclusion for joint fire departments.

Expenditure Restraint Program -- Definition of Municipal Budget

27. The Governor's proposal would also modify the current law definition of "municipal budget" for the purpose of determining eligibility for an expenditure restraint program (ERP) payment for municipalities that claim the proposed exclusion to the levy limit for joint emergency dispatch centers. In order to receive an expenditure restraint payment, for the year prior to the aid payment, the municipality's rate of budget growth cannot exceed the inflation rate plus an adjustment based on growth in municipal property values. The property value adjustment is unique for each municipality and equals 60% of the percentage change in the municipality's equalized value due to net new construction, but not less than 0% or more than 2%. For the purpose of determining eligibility for an ERP payment, the Governor's proposal would exclude any growth in a municipality's budget by the amounts levied above the levy limit to pay for charges for a joint emergency dispatch center. For such municipalities, the actual rate of budget growth would be allowed to be greater than the rate of budget growth used to calculate eligibility for an ERP payment by the amounts levied to fund a joint emergency dispatch center.

28. Under the Governor's proposal, "municipal budget" would not include amounts levied above a municipality's allowable levy for charges shared among local governments operating a joint emergency dispatch center. This modification would help ensure that local governments that claim the proposed levy limit exclusion would maintain their eligibility for an ERP payment. If the Governor's recommendation to create an exclusion to the levy limit for joint dispatch centers so as to encourage such cooperation among local governments is adopted, the Committee may also want to consider not hindering those same local governments with regard to their eligibility for an ERP payment [Alternative D1].

29. Local governments that chose to cooperate with each other do so knowing that the existing levy limit is in place. Furthermore, such cooperation is often undertaken as a cost savings measure for the local governments involved. Therefore, it could be argued that all joint emergency dispatch centers' costs should count towards determining municipal eligibility under the expenditure restraint program. Eliminating the Governor's recommendation to exclude amounts levied above a municipality's allowable levy for charges shared among local governments operating a joint emergency dispatch center from the definition of "municipal budget" under the ERP program would treat all of the costs of operating those joint dispatch centers the same as all other municipal costs [Alternative D2].

ALTERNATIVES

A. Repeal of Negative Adjustment for Fees for Covered Services

1. Approve the Governor's recommendation to repeal the negative levy limit adjustment for fees for covered services. Under this alternative, counties and municipalities that receive new or additional revenues from fees or payments in lieu of taxes for providing covered services each year that were previously funded from their levy would no longer be required to reduce their allowable levies by the estimated annual fee revenues.

2. Take no action.

B. Exclusion for Cross-Border Transit Routes

1. Approve the Governor's recommendation to create an exclusion to county and municipal levy limits for amounts levied in a year for operating and capital costs directly related to the provision of new or enhanced transit services across adjacent county or municipal borders if approved at referendum by each jurisdiction.

2. Modify the Governor's recommendation by deleting the requirement that the intergovernmental cooperation agreement between the counties or municipalities between which the new or enhanced transit routes operate be approved in a referendum by the electors of each jurisdiction that is a party to the agreement.

3. Take no action.

C. Exclusion for Joint Emergency Dispatch Centers and Joint Fire Departments

1. Approve the Governor's recommendation to create an exclusion to county and municipal levy limits for amounts levied above a local government's allowable levy for charges shared among two or more counties or municipalities in the operation of a joint emergency dispatch center. Also, approve the Governor's recommendation to modify the current law exclusion for charges assessed by joint fire departments, by reducing the permitted annual increase of total charges assessed by a joint fire department for the purpose of calculating an allowable levy to be less than or equal to 1% (rather than 2%) plus the annual percentage change in the consumer price index.

2. Modify the Governor's recommendation by eliminating the proposed change to the current law exclusion for charges assessed by joint fire departments by reducing the permitted annual increase of total changes assessed by a joint fire department to be less than or equal to 1% plus the annual percentage change in the consumer price index. In addition, approve the Governor's recommendation to create an exclusion to county and municipal levy limits for amounts levied above a local government's allowable levy for charges shared among two or more counties or municipalities in the operation of a joint emergency dispatch center.

3. Take no action.

D. Expenditure Restraint Program -- Definition of Municipal Budget

1. For the purpose of determining eligibility for an expenditure restraint payment, exclude from the definition of "municipal budget" amounts levied above a municipality's allowable levy for charges shared among local governments operating a joint emergency dispatch center.

2. Take no action.

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