



rewaft

2003 ASSEMBLY JOINT RESOLUTION

*LPS: replace all
"%" signs with
"percent"*

*Friday, if possible
Wed*

and bonding

regrets

1 **To amend** section 8 of article VIII; and **to create** section 8 (3) of article VIII and
2 section 11 of article VIII of the constitution; **relating to:** the vote on bills that
3 would increase certain tax rates or make certain taxing and spending decisions;
4 and elector approval for certain taxing and spending decisions by the state and
5 local governmental units, emergency taxes, required reserves, state mandates,
6 continuation of state payments to other governmental units, refunds of
7 amounts in excess of the approved amounts and reduction of tax rates to reflect
8 the excess of revenues over expenditures (first consideration).

Analysis by the Legislative Reference Bureau

This proposed constitutional amendment, proposed to the 2003 legislature on first consideration, requires elector approval for certain taxing and spending decisions by the state and local governmental units, such as exceeding a spending limit or imposing new taxes, increasing tax rates, extending expiring taxes, or making tax changes causing net tax revenue gains; requires that emergency taxes imposed by the state meet certain conditions; requires governmental units to establish reserves, which may be expended only by a two-thirds vote; prohibits the state from imposing any part of the costs of a new program or service, or an increase in an existing program or service, on local governmental units, unless the state makes an appropriation to pay for those costs; and requires governmental units to

an emergency fund and a budget stabilization fund;

and bonding

refund amounts in excess of the approved amounts and reduce tax rates to reflect the excess of revenues over expenditures.

~~This proposal also requires a two-thirds vote in each house of the legislature to pass a bill to increase the rate of the state sales tax or any of the rates of the income tax or franchise tax or for taxing and spending decisions subject to elector approval under the proposal.~~

A proposed constitutional amendment requires adoption by 2 successive legislatures, and ratification by the people, before it can become effective.

Resolved by the assembly, the senate concurring, That:

SECTION 1. Section 8 of article VIII of the constitution is amended to read:

[Article VIII] Section 8 (1) On the passage in either house of the legislature of any law ~~which~~ that imposes, continues or renews a tax, or increases the rate of the state sales tax or increases any of the rates of the income tax or franchise tax, or exceeds the limit under section 11 (3) (a) of this article or the requirements of section 11 (4) (b) of this article, or creates a debt or charge, or makes, continues or renews an appropriation of public or trust money, or releases, discharges or commutes a claim or demand of the state, ~~the question vote shall be taken by yeas and nays, which shall be duly ayes and noes, and the names of the members voting for, and the names of the members voting against,~~ passage of the bill shall be entered on the journal; and.

(2) ~~For any vote under sub. (1), three-fifths of all the members elected to such the current membership of each house shall in all such cases be required to constitute a quorum therein.~~

SECTION 2. Section 8 (3) of article VIII of the constitution is created to read:

[Article VIII] Section 8 (3) The passage in either house of the legislature of any law to increase the rate of the state sales tax or to increase any of the rates of the income tax or franchise tax or to exceed the limit under section 11 (3) (a) of this article

1 or the requirements of section 11 (4) (b) of this article requires the approval of
2 two-thirds of the members present.

3 SECTION 3. Section 11 of article VIII of the constitution is created to read:

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

5 (a) "Ballot issue" means a question presented pursuant to this section to the
6 electors for approval at an election.

7 (b) "Emergency" means a sudden unexpected happening; an unforeseen
8 occurrence or condition; a perplexing contingency or complication of circumstances;
9 a sudden or unexpected occasion for action; an exigency; or a pressing necessity. The
10 term excludes economic conditions, revenue shortfalls, and salary and fringe benefit
11 increases of a governmental unit. *and (8)*

12 *Subs.* (c) "Fiscal year spending" means all expenditures and reserve increases under
13 ~~sub.~~ (7) of a governmental unit except, as to both, those for refunds made in the
14 current or next fiscal year or those from gifts, federal funds, collections for another
15 governmental unit, pension fund earnings, net proceeds of the state lottery
16 authorized pursuant to section 24 (6) of article IV, reserve transfers or expenditures,
17 damage awards or real property sales.

18 (d) "Governmental unit" means the state; any city, village, town or county; or
19 any school district or special purpose district, other than a sewerage district or water
20 district, authorized by law to levy taxes.

21 (e) "Inflation" means the percentage change in the United States Bureau of
22 Labor Statistics Consumer Price Index for Milwaukee-Racine, all items, all urban
23 consumers, or its successor index.

24 (f) "Population" means either:

*and except for the payment of principal
and interest for bonding authorized pursuant
to sub. (4)(c)*

1 1. For ~~all~~^a governmental units, the periodic census conducted by the United
2 States department of commerce or its successor agency, or the annual update of such
3 census;

4 2. For ~~all~~^a governmental units other than this state, a different measure or index
5 of population adopted by the legislature, by joint resolution, upon the affirmative
6 vote of two-thirds of the members present of each house; or

7 3. For a governmental unit, other than this state, an estimate of the population
8 of the governmental unit adopted upon the affirmative vote of two-thirds of the
9 members present of the governing body of the governmental unit.

10 (g) "Professional drafting agency" means the professional drafting agency of
11 the legislature designated by the legislature by law.

12 (2) (a) This section first applies to a governmental unit on the first day of the
13 first fiscal year of the governmental unit that occurs after the ratification of this
14 paragraph, or as otherwise stated in this section.

15 (b) All provisions of this section are self-executing and severable.

16 (c) Any individual or class of individuals have standing to bring a suit to enforce
17 this section. A court of record shall award a successful plaintiff costs and reasonable
18 attorney fees in the suit, but may not allow a governmental unit to recover costs and
19 reasonable attorney fees unless a suit against it is ruled frivolous.

20 (3) (a) The maximum annual percentage change in fiscal year spending by the
21 state equals inflation in the ~~prior~~^{PREVIOUS} calendar year as compared to the year ~~prior~~^{PREVIOUS} to that
22 year, plus the percentage change in the state population in the ~~prior~~^{PREVIOUS} calendar year
23 if a positive number, adjusted for revenue changes approved by the electors under
24 this section after the year in which the ratification of this paragraph occurs.

or technical college district

1 (b) The maximum annual percentage change in fiscal year spending by a school
2 district equals inflation in the ^{previous} prior calendar year, plus the percentage change in its
3 pupil enrollment in the ^{previous} prior calendar year as compared to the year ^{previous} prior to that year
4 if a positive number, adjusted for revenue changes approved by the electors under
5 this section after the year in which the ratification of this paragraph occurs.

6 (c) The maximum annual percentage change in fiscal year spending by a
7 governmental unit, other than the state of a school district, ^{or a technical college district} equals inflation in the
8 ^{previous} prior calendar year, plus the percentage change in the ^{real property in} ~~population~~ of the
9 governmental unit in the ^{previous} prior calendar year as compared to the year prior to that
10 year if a positive number, adjusted for revenue changes approved by the electors
11 under this section after the year in which the ratification of this paragraph occurs.

12 (d) Population under this subsection shall be adjusted to match the population
13 under each federal decennial census. Notwithstanding par. (c), if a governmental
14 unit, other than this state of a school district, ^{or a technical college district} overestimates its population and
15 increases its spending accordingly, it may not increase its fiscal year spending until
16 its spending limit reaches the amount determined under par. (c) according to sub. (1)

17 (f) 1. or 2. For this paragraph, population increases are limited to the average yearly
18 increase in the governmental unit's population between the ^{previous} 2 prior censuses.

19 (e) The legislature, by law, shall provide a mechanism to adjust the amount of
20 a limitation under this section to reflect any subsequent transfer of all or any part
21 of the cost of providing a governmental function. The mechanism shall adjust the
22 amount of a limitation so that total costs are not increased as a result of the transfer.
23 The adjustment mechanism provided for in this paragraph shall be used in
24 determining a limitation under this section beginning with the fiscal year
25 immediately following the transfer.

of, new construction and improvements to, ~~and~~ ~~reconstruction~~ ~~and~~ ~~and~~
existing construction of

1 (f) The legislature, by law, shall provide a mechanism to adjust the amount of
2 a limitation under this section to reflect any subsequent annexation; creation of a
3 new governmental unit; or consolidation, or change in the boundaries, of a
4 governmental unit. The adjustment mechanism provided for in this paragraph shall
5 be used in determining a limitation under this section beginning with the fiscal year
6 immediately following the annexation, creation of a new governmental unit, or
7 consolidation or change in the boundaries of a governmental unit.

8 (4) Beginning on the first day that occurs after the ratification of this
9 paragraph, a governmental unit must have elector approval under this section in
10 advance for any of the following:

11 (a) Exceeding a spending limit under this section, but no approval may be given
12 under this section for exceeding a spending limit on a permanent basis.

13 (b) Unless it is an emergency tax meeting the requirements of sub. (6) (b), a new
14 tax, tax rate increase, extension of an expiring tax, or a tax change causing a net tax
15 revenue gain to the governmental unit, including one required under section 5 of this
16 article, section 4 of article X or section 3 (3) or (4) of article XI.

17 (5) (a) A ballot issue may be submitted only at an election at which either
18 members of the legislature or members of the judiciary are regularly elected or at a
19 primary election held to nominate candidates to be voted for at such an election, or
20 on the Tuesday next succeeding the first Monday of November in odd-numbered
21 years.

22 (b) At least 15 days before a ballot issue election, the governmental unit shall
23 mail a titled notice or set of notices addressed to “All Qualified Electors” at each
24 address of one or more residents of the governmental unit. A notice shall have this

INCREASE BONDING

1 order of preference: "NOTICE OF REFERENDUM TO EXCEED SPENDING
2 LIMITS/INCREASE TAXES." A notice shall include only:

3 1. The election date and hours, the ballot title and text and the address and
4 telephone number of the election office of the governmental unit;

5 2. For a proposed increase in spending or taxation, the total or estimated total
6 of fiscal year spending by the governmental unit for the current year and each of the
7 *previous* ~~past~~ 4 years, and the overall percentage and dollar change of the proposed increase
8 over the *previous* ~~past~~ 4 years;

7-12

9 3. For the first full fiscal year of each proposed tax increase, an estimate of the
10 maximum dollar amount of each increase by the governmental unit and an estimate
11 of the maximum dollar amount of fiscal year spending by the governmental unit
12 without the increase; ~~the~~

13 *5* 4. Two summaries, up to 500 words each, one for and one against the ballot
14 issue.

15 (c) The summaries under par. (b) *5* shall be prepared for this state by the
16 professional drafting agency and, for a governmental unit other than this state, by
17 a person designated by the governing body of the governmental unit. The summaries
18 under par. (b) *5* may not mention the name of a person or group or an endorsement
19 of, or a statement or position against, the ballot issue.

20 (d) A ballot question for an increase in spending or taxation shall begin "SHALL
21 (GOVERNMENTAL UNIT) SPENDING LIMITS BE EXCEEDED BY (full fiscal
22 year dollar amount in excess of the limit)?" or "SHALL (GOVERNMENTAL UNIT)
23 TAXES BE INCREASED BY (first, or, if phased in, final, full fiscal year dollar
24 increase) ANNUALLY?"

25 (6) (a) This section does not grant new taxing power.

all caps

or SHALL (GOVERNMENTAL UNIT) BONDING BE INCREASED BY (increase)?"

1 (b) Any emergency tax imposed by the state must meet all of the following
2 conditions:

3 1. Two-thirds of the members elected to each house of the legislature must
4 declare the emergency and impose the tax by separate recorded roll call votes.

5 2. Emergency tax revenue may be spent only after the reserve under sub. ~~(7)~~ (8)
6 is depleted, and must be refunded under this section within 180 days after the
7 emergency ends if not spent on the emergency. *four percent*

8 3. An emergency tax that is not approved at the first election permitted under
9 sub. (5) (a) that occurs at least 60 days after the declaration shall expire at the end
10 of the taxable year in which the election is held.

11 (7) (a) Each governmental unit shall reserve for the first fiscal year that occurs
12 after the ratification of this paragraph ~~1%~~ *one percent* or more, for the 2nd fiscal year that occurs
13 after the ratification of this paragraph ~~2%~~ *two percent* or more, for the 3rd fiscal year that occurs
14 after the ratification of this paragraph ~~3%~~ *three percent* or more, and for all later fiscal years,
15 except as provided in par. (b), ~~4%~~ *but not more than 15%* or more, of its fiscal year estimated spending. *in a budget stabilization fund*

16 (b) Unused reserves become part of the next year's reserve. *under this subsection* *in the budget stabilization fund*

17 (c) If the use of the reserve *under this subsection* decreases the reserve below ~~4%~~ *four percent* in the 4th fiscal year,
18 that occurs after the ratification of this paragraph or a later year, the governmental
19 unit, beginning in the 4th fiscal year that occurs after the ratification of this
20 paragraph, shall reserve, in addition to the unused reserve from the ~~prior~~ *previous* year, ~~1%~~ *one*
21 or more for the first year after the reserve is decreased below ~~2%~~ *four percent*, ~~2%~~ *two percent* or more for the
22 2nd year after the reserve is decreased below ~~4%~~ *four percent*, ~~5%~~ *two percent* or more for the 3rd year after
23 the reserve is decreased below ~~4%~~ *three percent* and ~~4%~~ *three percent* or more for the 4th year after the reserve
24 is decreased below ~~4%~~ *four percent*

9-5

1 (d) Money reserved under this subsection may not be expended by the state
2 unless two-thirds of the members elected to each house of the legislature, or by a
3 governmental unit other than the state unless two-thirds of the members of the
4 governing body of the governmental unit, declare the necessity for the expenditure
5 and make the expenditure by separate recorded roll call votes.

6 ~~(8) This state shall not impose upon any other governmental unit any part of
7 the total costs of a new program or service, or an increase in the costs of an existing
8 program or service, unless a specific appropriation is made sufficient to pay the
9 governmental unit for those costs.~~

10 ~~(9) (a) Except as provided in par. (b), the proportion of costs of all other
11 governmental units, taken as a group, that the state pays shall not be reduced below
12 that proportion in effect on the first day that occurs after the ratification of this
13 section.~~

14 ~~(b) The state is not required to pay, but may pay, in whole or in part, an amount
15 or proportion of costs of all other governmental units, taken as a group, or of any type
16 of other governmental unit, taken as a group, that are in excess of the limitations
17 under this section and attributable to elector approval under this section.~~

18 (9) ~~(10)~~ (a) If a tax increase or fiscal year spending exceeds an estimate in sub. (5)
19 (b) 3. for the same fiscal year, the tax increase is thereafter reduced by the proportion
20 that the increase is of the combined dollar excess, and the combined excess revenue
21 shall be refunded in the next fiscal year.

22 (b) A governmental unit shall reduce tax rates for the next tax year to reflect
23 the excess of revenues over expenditures in a tax year, unless the electors under this
24 section approve a taxing or spending change.

1 (c) A governmental unit shall refund revenue collected, kept or spent in
 2 violation of this section since 4 full fiscal years before a suit is filed with ~~10%~~ *ten percent* annual
 3 simple interest from the date of the initial violation. Notwithstanding section 1 of
 4 this article, a governmental unit may use any reasonable method for a refund under
 5 this section, including a temporary tax credit or rate reduction, and a refund need
 6 not be proportional when prior payments are impractical to identify or return.

7 **SECTION 4. Numbering of new provisions.** ~~(1)~~

~~(1) The new subsection (3) of
 8 section 8 of article VIII of the constitution created in this joint resolution shall be
 9 designated by the next higher open whole subsection number in that section in that
 10 article if, before the ratification by the people of the amendment proposed in this joint
 11 resolution, any other ratified amendment has created a subsection (3) of section 8 of
 12 article VIII of the constitution of this state. If one or more joint resolutions create
 13 a subsection (3) of section 8 of article VIII simultaneously with the ratification by the
 14 people of the amendment proposed in this joint resolution, the subsections created
 15 shall be numbered and placed in a sequence so that the subsections created by the
 16 joint resolution having the lowest enrolled joint resolution number have the numbers
 17 designated in that joint resolution and the subsections created by the other joint
 18 resolutions have numbers that are in the same ascending order as are the numbers
 19 of the enrolled joint resolutions creating the subsections.~~

No 8

20 **(2)**

The new section 11 of article VIII of the constitution created in this joint
 21 resolution shall be designated by the next higher open whole section number in that
 22 article if, before the ratification by the people of the amendment proposed in this joint
 23 resolution, any other ratified amendment has created a section 11 of article VIII of
 24 the constitution of this state. If one or more joint resolutions create a section 11 of
 25 article VIII simultaneously with the ratification by the people of the amendment

1 proposed in this joint resolution, the sections created shall be numbered and placed
2 in a sequence so that the sections created by the joint resolution having the lowest
3 enrolled joint resolution number have the numbers designated in that joint
4 resolution and the sections created by the other joint resolutions have numbers that
5 are in the same ascending order as are the numbers of the enrolled joint resolutions
6 creating the sections.

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

10

(END)

7-12

¶ 4. For a proposed increase in bond^{ing},
the amount of the bond^{ing}, the amount of
~~annual~~ ^{PRY} ~~payment~~ interest
and principal required to be
repaid annually; the effect
of the payment on the tax
~~state~~; the total debt; ~~of the~~
~~governmental unit~~; the amount
of interest and principal on
all debt required to be
repaid annually, and
the total debt of the governmental
unit for debt ^{having} ~~the~~ ^{during} ~~the~~ ^{same}
purpose as the proposed bond^{ing} ^{and}

~~14~~

6-17

~~(a) Amending~~

9 (c) Authorizing ^{new} bonding.

9-5

1 (b) Any emergency tax imposed by the state must meet all of the following
2 conditions:

two percent

one percent

three percent

3 1. Two-thirds of the members elected to each house of the legislature must
4 declare the emergency and impose the tax by separate recorded roll call votes.

5 2. Emergency tax revenue may be spent only after the reserve under sub. (7)
6 is depleted, and must be refunded under this section within 180 days after the
7 emergency ends if not spent on the emergency.

3%

8 3. An emergency tax that is not approved at the first election permitted under
9 sub. (5) (a) that occurs at least 60 days after the declaration shall expire at the end
10 of the taxable year in which the election is held.

11 (7) (a) Each governmental unit shall reserve for the first fiscal year that occurs
12 after the ratification of this paragraph ~~1%~~ ^{but not} more, for the 2nd fiscal year that occurs
13 after the ratification of this paragraph ~~2%~~ ^{but not} more, for the 3rd fiscal year that occurs
14 after the ratification of this paragraph ~~3% or more~~, and for all later fiscal years,
15 except as provided in par. (b), ~~2% or more~~, of its fiscal year estimated spending.

in an emergency fund

but not

than 3%

than 3% three percent

16 (b) Unused reserves become part of the next year's reserve.

with this subsection

in the emergency fund

17 (c) If the use of the reserve decreases the reserve below ~~1%~~ in the 4th fiscal year
18 that occurs after the ratification of this paragraph or a later year, the governmental
19 unit, beginning in the ~~4th~~ ^{3rd} fiscal year that occurs after the ratification of this

three percent 3rd

20 paragraph, shall reserve, in addition to the unused reserve ~~from~~ ^{from} the prior year, ~~1%~~
21 or more for the first year after the reserve is decreased below ~~1%~~, ~~2%~~ ^{three percent} or more for the
22 2nd year after the reserve is decreased below ~~1%~~, ~~3%~~ ^{three percent} or more for the 3rd year after

three percent 3rd one percent

23 the reserve is decreased below ~~1%~~ and ~~2%~~ or more for the 4th year after the reserve
24 is decreased below ~~1%~~.

three percent

3rd

three percent

but the emergency fund may ^{not} exceed ~~3%~~ ^{three percent}

9-5 -9- cont

1 (d) Money reserved under this subsection may not be expended by the state
 2 unless ~~two-thirds~~ *a majority* of the members elected to each house of the legislature, or by a
 3 governmental unit other than the state unless ~~two-thirds~~ *a majority* of the members of the
 4 governing body of the governmental unit, declare the necessity for the expenditure
 5 and make the expenditure by separate recorded roll call votes.

6 (8) ~~This state shall not impose upon any other governmental unit any part of~~
 7 ~~the total costs of a new program or service, or an increase in the costs of an existing~~
 8 ~~program or service, unless a specific appropriation is made sufficient to pay the~~
 9 ~~governmental unit for those costs.~~

10 (9) (a) Except as provided in par. (b), the proportion of costs of all other
 11 governmental units, taken as a group, that the state pays shall not be reduced below
 12 that proportion in effect on the first day that occurs after the ratification of this
 13 section.

14 (b) The state is not required to pay, but may pay, in whole or in part, an amount
 15 or proportion of costs of all other governmental units, taken as a group, or of any type
 16 of other governmental unit, taken as a group, that are in excess of the limitations
 17 under this section and attributable to elector approval under this section.

18 (9) (a) If a tax increase or fiscal year spending exceeds an estimate in sub. (5)
 19 (b) 3. for the same fiscal year, the tax increase is thereafter reduced by the proportion
 20 that the increase is of the combined dollar excess, and the combined excess revenue
 21 shall be refunded in the next fiscal year.

22 (b) A governmental unit shall reduce tax rates for the next tax year to reflect
 23 the excess of revenues over expenditures in a tax year, unless the electors under this
 24 section approve a taxing or spending change.

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2003 ASSEMBLY JOINT RESOLUTION

Friday

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1 **To amend** section 8 of article VIII; and **to create** section 8 (3) of article VIII and
 2 section 11 of article VIII of the constitution; **relating to:** elector approval for
 3 certain taxing, spending, and bonding decisions by the state and local
 4 governmental units, emergency taxes, required reserves, refunds of amounts
 5 in excess of the approved amounts, and reduction of tax rates to reflect the
 6 excess of revenues over expenditures (first consideration).

Analysis by the Legislative Reference Bureau

This proposed constitutional amendment, proposed to the 2003 legislature on first consideration, requires elector approval for certain taxing, spending, and bonding decisions by the state and local governmental units, such as exceeding a spending limit or imposing new taxes, increasing tax rates, extending expiring taxes, or making tax changes causing net tax revenue gains; requires that emergency taxes imposed by the state meet certain conditions; requires governmental units to establish an emergency fund and a budget stabilization fund; and requires governmental units to refund amounts in excess of the approved amounts and reduce tax rates to reflect the excess of revenues over expenditures.

A proposed constitutional amendment requires adoption by 2 successive legislatures, and ratification by the people, before it can become effective.

7

Resolved by the assembly, the senate concurring, That:

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

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

3 (a) “Ballot issue” means a question presented pursuant to this section to the
4 electors for approval at an election.

5 (b) “Emergency” means a sudden unexpected happening; an unforeseen
6 occurrence or condition; a perplexing contingency or complication of circumstances;
7 a sudden or unexpected occasion for action; an exigency; or a pressing necessity. The
8 term excludes economic conditions, revenue shortfalls, and salary and fringe benefit
9 increases of a governmental unit.

10 (c) “Fiscal year spending” means all expenditures and reserve increases under
11 subs. (7) and (8) of a governmental unit except, as to both, those for refunds made in
12 the current or next fiscal year or those from gifts, federal funds, collections for
13 another governmental unit, pension fund earnings, net proceeds of the state lottery
14 authorized pursuant to section 24 (6) of article IV, reserve transfers or expenditures,
15 damage awards, or real property sales, and except for the payment of principal and
16 interest for bonding authorized pursuant to sub. (4) (c).

17 (d) “Governmental unit” means the state; any city, village, town or county; or
18 any school district or special purpose district, other than a sewerage district or water
19 district, authorized by law to levy taxes.

20 (e) “Inflation” means the percentage change in the United States Bureau of
21 Labor Statistics Consumer Price Index for Milwaukee–Racine, all items, all urban
22 consumers, or its successor index.

23 (f) “Population” means either
24 1. For a governmental unit, the periodic census conducted by the United States
25 department of commerce or its successor agency, or the annual update of such census.

1 2. For a governmental unit, other than this state, a different measure or index
2 of population adopted by the legislature, by joint resolution, upon the affirmative
3 vote of two-thirds of the members present of each house; or

4 3. For a governmental unit, other than this state, an estimate of the population
5 of the governmental unit adopted upon the affirmative vote of two-thirds of the
6 members present of the governing body of the governmental unit.

7 (g) "Professional drafting agency" means the professional drafting agency of
8 the legislature designated by the legislature by law.

9 (2) (a) This section first applies to a governmental unit on the first day of the
10 first fiscal year of the governmental unit that occurs after the ratification of this
11 paragraph, or as otherwise stated in this section.

12 (b) All provisions of this section are self-executing and severable.

13 (c) Any individual or class of individuals have standing to bring a suit to enforce
14 this section. A court of record shall award a successful plaintiff costs and reasonable
15 attorney fees in the suit, but may not allow a governmental unit to recover costs and
16 reasonable attorney fees unless a suit against it is ruled frivolous.

17 (3) (a) The maximum annual percentage change in fiscal year spending by the
18 state equals inflation in the previous calendar year as compared to the year previous
19 to that year, plus the percentage change in the state population in the previous
20 calendar year if a positive number, adjusted for ~~revenue~~ ^{spending} changes approved by the
21 electors under this section after the year in which the ratification of this paragraph
22 occurs.

23 (b) The maximum annual percentage change in fiscal year spending by a school
24 district or technical college district equals inflation in the previous calendar year,
25 plus the percentage change in its pupil enrollment in the previous calendar year as

1 compared to the year previous to that year if a positive number, adjusted for ~~revenue~~ ^{spending}
2 changes approved by the electors under this section after the year in which the
3 ratification of this paragraph occurs.

4 (c) The maximum annual percentage change in fiscal year spending by a
5 governmental unit, other than the state, a school district, or a technical college
6 district, equals inflation in the previous calendar year, plus the percentage change
7 in new construction and improvements and additions to, and reconstructions of,
8 existing construction of real property in the governmental unit in the previous
9 calendar year as compared to the year previous to that year if a positive number,
10 adjusted for ~~revenue~~ ^{spending} changes approved by the electors under this section after the
11 year in which the ratification of this paragraph occurs.

12 (d) Population under this subsection shall be adjusted to match the population
13 under each federal decennial census. Notwithstanding par. (c), if a governmental
14 unit, other than this state, a school district, or a technical college district,
15 overestimates its population and increases its spending accordingly, it may not
16 increase its fiscal year spending until its spending limit reaches the amount
17 determined under par. (c) according to sub. (1) (f) 1. or 2. For this paragraph,
18 population increases are limited to the average yearly increase in the governmental
19 unit's population between the 2 previous censuses.

20 (e) The legislature, by law, shall provide a mechanism to adjust the amount of
21 a limitation under this section to reflect any subsequent transfer of all or any part
22 of the cost of providing a governmental function. The mechanism shall adjust the
23 amount of a limitation so that total costs are not increased as a result of the transfer.
24 The adjustment mechanism provided for in this paragraph shall be used in

The mechanism shall adjust the amount of limitation so that total costs are not increased as a result of the annexation, creation, consolidation, or change in determining a limitation under this section beginning with the fiscal year

immediately following the transfer.

function on account of

(f) The legislature, by law, shall provide a mechanism to adjust the amount of a limitation under this section to reflect any subsequent annexation, creation of a new governmental unit; or consolidation, or change in the boundaries, of a governmental unit. The adjustment mechanism provided for in this paragraph shall be used in determining a limitation under this section beginning with the fiscal year immediately following the annexation, creation of a new governmental unit, or consolidation or change in the boundaries of a governmental unit.

(4) Beginning on the first day that occurs after the ratification of this paragraph, a governmental unit must have elector approval under this section in advance for any of the following:

(a) Exceeding a spending limit under this section, but no approval may be given under this section for exceeding a spending limit on a permanent basis.

(b) Unless it is an emergency tax meeting the requirements of sub. (6) (b), a new tax, tax rate increase, extension of an expiring tax, or a tax change causing a net tax revenue gain to the governmental unit, including one required under section 5 of this article, section 4 of article X or section 3 (3) or (4) of article XI.

(c) Authorizing ~~new~~ bonding.

other than bonding to refund or refinancing outstanding bonds

(5) (a) A ballot issue may be submitted only at an election at which either members of the legislature or members of the judiciary are regularly elected or at a primary election held to nominate candidates to be voted for at such an election, or on the Tuesday next succeeding the first Monday of November in odd-numbered years.

1 (b) At least 15 days before a ballot issue election, the governmental unit shall
2 mail a titled notice or set of notices addressed to "All Qualified Electors" at each
3 address of one or more residents of the governmental unit. A notice shall have this
4 order of preference: "NOTICE OF REFERENDUM TO EXCEED SPENDING
5 LIMITS/INCREASE TAXES/INCREASE BONDING." A notice shall include only:

6 1. The election date and hours, the ballot title and text, and the address and
7 telephone number of the election office of the governmental unit;

8 2. For a proposed increase in spending or taxation, the total or estimated total
9 of fiscal year spending by the governmental unit for the current year and each of the
10 previous 4 years, and the overall percentage and dollar change of the proposed
11 increase over the previous 4 years;

12 3. For the first full fiscal year of each proposed tax increase, an estimate of the
13 maximum dollar amount of each increase by the governmental unit and an estimate
14 of the maximum dollar amount of fiscal year spending by the governmental unit
15 without the increase;

16 4. For a proposed increase in bonding, the amount of the bonding; the amount
17 of interest and principal required to be paid annually; the effect of the payment on
18 the tax rate; the total debt; the amount of interest and principal on all debt required
19 to be repaid annually; and the total debt of the governmental unit for debt having the
20 same purpose as the proposed bonding; and

21 5. Two summaries, up to 500 words each, one for and one against the ballot
22 issue.

23 (c) The summaries under par. (b) 5. shall be prepared for this state by the
24 professional drafting agency and, for a governmental unit other than this state, by
25 a person designated by the governing body of the governmental unit. The summaries

letter
16

Barbonding

1

1 under par. (b) 5. may not mention the name of a person or group or an endorsement
2 of, or a statement or position against, the ballot issue.

3 (A) A ballot question for an increase in spending or taxation shall begin "SHALL
4 (GOVERNMENTAL UNIT) SPENDING LIMITS BE EXCEEDED BY (full fiscal
5 year dollar amount in excess of the limit)?"; or "SHALL (GOVERNMENTAL UNIT)
6 TAXES BE INCREASED BY (first, or, if phased in, final, full fiscal year dollar
7 increase) ANNUALLY?"; or "SHALL (GOVERNMENTAL UNIT) BONDING BE
8 INCREASED BY (INCREASE)?".

9 (6) (a) This section does not grant new taxing power.

10 (b) Any emergency tax imposed by the state must meet all of the following
11 conditions:

12 1. Two-thirds of the members elected to each house of the legislature must
13 declare the emergency and impose the tax by separate recorded roll call votes.

14 2. Emergency tax revenue may be spent only after the reserve under sub. (8)
15 is depleted, and must be refunded under this section within 180 days after the
16 emergency ends if not spent on the emergency.

17 3. An emergency tax that is not approved at the first election permitted under
18 sub. (5) (a) that occurs at least 60 days after the declaration shall expire at the end
19 of the taxable year in which the election is held.

20 (7) (a) Each governmental unit shall reserve in a budget stabilization fund for
21 the first fiscal year that occurs after the ratification of this paragraph one percent
22 or more, for the 2nd fiscal year that occurs after the ratification of this paragraph two
23 percent or more, for the 3rd fiscal year that occurs after the ratification of this
24 paragraph three percent or more, and for all later fiscal years, except as provided in

3

1 par. (b), ~~four~~⁴ percent but not more than ~~fifteen~~¹⁵ percent, of its fiscal year estimated
2 spending.

3 (b) Unused reserves under this subsection become part of the next year's
4 reserve in the budget stabilization fund.

5 (c) If the use of the reserve under this subsection decreases the reserve below
6 ~~four~~⁴ percent in the 4th fiscal year that occurs after the ratification of this paragraph
7 or a later year, the governmental unit, beginning in the 4th[✓] fiscal year that occurs
8 after the ratification of this paragraph, shall reserve, in addition to the unused
9 reserve from the previous year, ~~one~~¹ percent or more for the first year after the reserve
10 is decreased below ~~four~~⁴ percent, ~~two~~² percent or more for the 2nd[✓] year after the reserve
11 is decreased below ~~four~~⁴ percent, ~~three~~³ percent or more for the 3rd[✓] year after the
12 reserve is decreased below ~~four~~⁴ percent, and ~~four~~⁴ percent or more for the 4th[✓] year
13 after the reserve is decreased below ~~four~~⁴ percent.

14 (d) Money reserved under this subsection may not be expended by the state
15 unless two-thirds of the members elected to each house of the legislature, or by a
16 governmental unit other than the state unless two-thirds of the members of the
17 governing body of the governmental unit, declare the necessity for the expenditure
18 and make the expenditure by separate recorded roll call votes.

19 (8) (a) Each governmental unit shall reserve in an emergency fund for the first
20 fiscal year that occurs after the ratification of this paragraph ~~one~~¹ percent but not
21 more than ~~three~~³ percent, for the 2nd fiscal year that occurs after the ratification of
22 this paragraph ~~two~~² percent but not more than ~~three~~³ percent, and for all later fiscal
23 years, except as provided in par. (b), ~~three~~³ percent, of its fiscal year estimated
24 spending.

1 (b) Unused reserves under this subsection become part of the next year's
2 reserve in the emergency fund.

3 (c) If the use of the reserve under this subsection decreases the reserve below
4 ~~three~~³ percent in the 3rd fiscal year that occurs after the ratification of this paragraph
5 or a later year, the governmental unit, beginning in the 3rd fiscal year that occurs
6 after the ratification of this paragraph, shall reserve, in addition to the unused
7 reserve from the previous year, ~~one~~¹ percent or more for the first year after the reserve
8 is decreased below ~~three~~³ percent, ~~two~~² percent or more for the 2nd year after the
9 reserve is decreased below ~~three~~³ percent, and ~~three~~³ percent for the 3rd year after the
10 reserve is decreased below ~~three~~³ percent but the emergency fund may not exceed
11 ~~three~~³ percent.

12 (d) Money reserved under this subsection may not be expended by the state
13 unless a majority of the members elected to each house of the legislature, or by a
14 governmental unit other than the state unless a majority of the members of the
15 governing body of the governmental unit, declare the necessity for the expenditure
16 and make the expenditure by separate recorded roll call votes.

17 (9) (a) If a tax increase or fiscal year spending exceeds an estimate in sub. (5)
18 ~~(a) 3~~ for the same fiscal year, the tax increase is thereafter reduced by the proportion
19 that the increase is of the combined dollar excess, and the combined excess revenue
20 shall be refunded in the next fiscal year.

21 (b) A governmental unit shall reduce tax rates for the next tax year to reflect
22 the excess of revenues over expenditures in a tax year, unless the electors under this
23 section approve a taxing or spending change.

24 (c) A governmental unit shall refund revenue collected, kept, or spent in
25 violation of this section since 4 full fiscal years before a suit is filed with ~~ten~~¹⁰ percent

10

1 annual simple interest from the date of the initial violation. Notwithstanding
2 section 1 of this article, a governmental unit may use any reasonable method for a
3 refund under this section, including a temporary tax credit or rate reduction, and a
4 refund need not be proportional when ^{previous} ~~prior~~ payments are impractical to identify or
5 return.

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

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

21 (END)

Emery, Lynn

From: Burri, Lance
Sent: Wednesday, September 24, 2003 8:34 AM
To: Emery, Lynn
Subject: New 0667 draft

Is there an electronic version of LRB 0667/4 available?

Lance Burri
Office of Rep. Frank Lasee
888-534-0002 or 608-266-9870
lance.burri@legis.state.wi.us

Emery, Lynn

From: Emery, Lynn
Sent: Wednesday, September 24, 2003 8:46 AM
To: Burri, Lance
Subject: LRB-0667/4 (attached as requested)



03-0667/4

Lynn Emery
Program Assistant
Legislative Reference Bureau
608-266-3561
lynn.emery@legis.state.wi.us

redraft
new

2003 ASSEMBLY JOINT RESOLUTION

8/2/03
Thursday

1 **To create** section 11 of article VIII of the constitution; **relating to:** elector approval
 2 for certain taxing, spending, and bonding decisions by the state and local
 3 governmental units, emergency taxes, required reserves, refunds of amounts
 4 in excess of the approved amounts, and reduction of tax rates to reflect the
 5 excess of revenues over expenditures (first consideration).

Analysis by the Legislative Reference Bureau

This proposed constitutional amendment, proposed to the 2003 legislature on first consideration, requires elector approval for certain taxing, spending, and bonding decisions by the state and local governmental units, such as exceeding a spending limit or imposing new taxes, increasing tax rates, extending expiring taxes, or making tax changes causing net tax revenue gains; requires that emergency taxes imposed by the state meet certain conditions; requires governmental units to establish an emergency fund and a budget stabilization fund; and requires governmental units to refund amounts in excess of the approved amounts and reduce tax rates to reflect the excess of revenues over expenditures.

A proposed constitutional amendment requires adoption by 2 successive legislatures, and ratification by the people, before it can become effective.

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

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

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

2 (a) "Ballot issue" means a question presented pursuant to this section to the
3 electors for approval at an election.

4 (b) "Emergency" means a sudden unexpected happening; an unforeseen
5 occurrence or condition; a perplexing contingency or complication of circumstances;
6 a sudden or unexpected occasion for action; an exigency; or a pressing necessity. The
7 term excludes economic conditions, revenue shortfalls, and salary and fringe benefit
8 increases of a governmental unit.

9 (c) "Fiscal year spending" means all expenditures and reserve increases under
10 subs. (7) and (8) of a governmental unit except, as to both, those for refunds made in
11 the current or next fiscal year or those from gifts, federal funds, collections for
12 another governmental unit, pension fund earnings, net proceeds of the state lottery
13 authorized pursuant to section 24 (6) of article IV, reserve transfers or expenditures,
14 damage awards, or real property sales, and except for the payment of principal and
15 interest for bonding authorized pursuant to sub. (4) (c).

16 (d) "Governmental unit" means the state; any city, village, town^{or} or county; or
17 any school district or special purpose district, other than a sewerage district or water
18 district, authorized by law to levy taxes ^{or} charge fees

19 (e) "Inflation" means the percentage change in the United States Bureau of
20 Labor Statistics Consumer Price Index for Milwaukee-Racine, all items, all urban
21 consumers, or its successor index.

22 (f) "Population" means either the periodic census conducted by the United
23 States department of commerce or its successor agency, or the annual update of such
24 census.

1 (2) (a) This section first applies to a governmental unit on the first day of the
2 first fiscal year of the governmental unit that occurs after the ratification of this
3 paragraph, or as otherwise stated in this section.

4 (b) All provisions of this section are self-executing and severable.

5 (c) Any individual or class of individuals have standing to bring a suit to enforce
6 this section. A court of record shall award a successful plaintiff costs and reasonable
7 attorney fees in the suit, but may not allow a governmental unit to recover costs and
8 reasonable attorney fees unless a suit against it is ruled frivolous.

9 (3) (a) The maximum annual percentage change in fiscal year spending by the
10 state equals inflation in the previous calendar year as compared to the year previous
11 to that year, plus the percentage change in the state population in the previous
12 calendar year if a positive number, adjusted for spending changes approved by the
13 electors under this section after the year in which the ratification of this paragraph
14 occurs.

15 (b) The maximum annual percentage change in fiscal year spending by a school
16 district or technical college district equals inflation in the previous calendar year,
17 plus the percentage change in its pupil enrollment in the previous calendar year as
18 compared to the year previous to that year if a positive number, adjusted for spending
19 changes approved by the electors under this section after the year in which the
20 ratification of this paragraph occurs.

21 (c) The maximum annual percentage change in fiscal year spending by a
22 governmental unit, other than the state, a school district, or a technical college
23 district, equals inflation in the previous calendar year, plus the percentage change
24 in new construction and improvements and additions to, and reconstructions of,
25 existing construction of real property in the governmental unit in the previous

1 calendar year as compared to the year previous to that year if a positive number,
2 adjusted for spending changes approved by the electors under this section after the
3 year in which the ratification of this paragraph occurs.

4 (d) Population under this subsection shall be adjusted to match the population
5 under each federal decennial census.

6 (e) The legislature, by law, shall provide a mechanism to adjust the amount of
7 a limitation under this section to reflect any subsequent transfer of all or any part
8 of the cost of providing a governmental function. The mechanism shall adjust the
9 amount of a limitation so that total costs are not increased as a result of the transfer.
10 The adjustment mechanism provided for in this paragraph shall be used in
11 determining a limitation under this section beginning with the fiscal year
12 immediately following the transfer.

13 (f) The legislature, by law, shall provide a mechanism to adjust the amount of
14 a limitation under this section to reflect the cost of providing a governmental
15 function on account of any subsequent annexation; creation of a new governmental
16 unit; or consolidation, or change in the boundaries, of a governmental unit. The
17 mechanism shall adjust the amount of limitation so that total costs are not increased
18 as a result of the annexation, creation, consolidation, or change in boundaries. The
19 adjustment mechanism provided for in this paragraph shall be used in determining
20 a limitation under this section beginning with the fiscal year immediately following
21 the annexation, creation of a new governmental unit, or consolidation or change in
22 the boundaries of a governmental unit.

23 (4) Beginning on the first day that occurs after the ratification of this
24 paragraph, a governmental unit must have elector approval under this section in
25 advance for any of the following:

1 (a) Exceeding a spending limit under this section, but no approval may be given
2 under this section for exceeding a spending limit on a permanent basis.

3 (b) Unless it is an emergency tax meeting the requirements of sub. (6) (b), a new
4 tax, tax rate increase, extension of an expiring tax, or a tax change causing a net tax
5 revenue gain to the governmental unit, including one required under section 5 of this
6 article, section 4 of article X or section 3 (3) or (4) of article XI.

7 (c) Authorizing bonding other than bonding to refund or refinance outstanding
8 bonds.

9 (5) (a) A ballot issue may be submitted only at an election at which either
10 members of the legislature or members of the judiciary are regularly elected or at a
11 primary election held to nominate candidates to be voted for at such an election, or
12 on the Tuesday next succeeding the first Monday of November in odd-numbered
13 years.

14 (b) A ballot question for an increase in spending, taxation, or bonding shall
15 begin “SHALL (GOVERNMENTAL UNIT) SPENDING LIMITS BE EXCEEDED
16 BY (full fiscal year dollar amount in excess of the limit)?”; or “SHALL
17 (GOVERNMENTAL UNIT) TAXES BE INCREASED BY (first, or, if phased in, final,
18 full fiscal year dollar increase) ANNUALLY?”; or “SHALL (GOVERNMENTAL
19 UNIT) BONDING BE INCREASED BY (INCREASE)?”.

20 (6) (a) This section does not grant new taxing power.

21 (b) Any emergency tax imposed by the state must meet all of the following
22 conditions:

23 1. Two-thirds of the members elected to each house of the legislature must
24 declare the emergency and impose the tax by separate recorded roll call votes.

1 2. Emergency tax revenue may be spent only after the reserve under sub. (8)
2 is depleted, and must be refunded under this section within 180 days after the
3 emergency ends if not spent on the emergency.

4 3. An emergency tax that is not approved at the first election permitted under
5 sub. (5) (a) that occurs at least 60 days after the declaration shall expire at the end
6 of the taxable year in which the election is held.

7 (7) (a) Each governmental unit shall reserve in a budget stabilization fund for
8 the first fiscal year that occurs after the ratification of this paragraph 1 percent or
9 more, for the 2nd fiscal year that occurs after the ratification of this paragraph 2
10 percent or more, for the 3rd fiscal year that occurs after the ratification of this
11 paragraph 3 percent or more, and for all later fiscal years, except as provided in par.
12 (b), 4 percent but not more than 15 percent, of its fiscal year estimated spending.

13 (b) Unused reserves under this subsection become part of the next year's
14 reserve in the budget stabilization fund.

15 (c) If the use of the reserve under this subsection decreases the reserve below
16 4 percent in the 4th fiscal year that occurs after the ratification of this paragraph or
17 a later year, the governmental unit, beginning in the 4th fiscal year that occurs after
18 the ratification of this paragraph, shall reserve, in addition to the unused reserve
19 from the previous year, 1 percent or more for the first year after the reserve is
20 decreased below 4 percent, 2 percent or more for the 2nd year after the reserve is
21 decreased below 4 percent, 3 percent or more for the 3rd year after the reserve is
22 decreased below 4 percent, and 4 percent or more for the 4th year after the reserve
23 is decreased below 4 percent.

24 (d) Money reserved under this subsection may not be expended by the state
25 unless two-thirds of the members elected to each house of the legislature, or by a

1 governmental unit other than the state unless two-thirds of the members of the
2 governing body of the governmental unit, declare the necessity for the expenditure
3 and make the expenditure by separate recorded roll call votes.

4 (8) (a) Each governmental unit shall reserve in an emergency fund for the first
5 fiscal year that occurs after the ratification of this paragraph 1 percent but not more
6 than 3 percent, for the 2nd fiscal year that occurs after the ratification of this
7 paragraph 2 percent but not more than 3 percent, and for all later fiscal years, except
8 as provided in par. (b), 3 percent, of its fiscal year estimated spending.

9 (b) Unused reserves under this subsection become part of the next year's
10 reserve in the emergency fund.

11 (c) If the use of the reserve under this subsection decreases the reserve below
12 3 percent in the 3rd fiscal year that occurs after the ratification of this paragraph or
13 a later year, the governmental unit, beginning in the 3rd fiscal year that occurs after
14 the ratification of this paragraph, shall reserve, in addition to the unused reserve
15 from the previous year, 1 percent or more for the first year after the reserve is
16 decreased below 3 percent, 2 percent or more for the 2nd year after the reserve is
17 decreased below 3 percent, and 3 percent for the 3rd year after the reserve is
18 decreased below 3 percent but the emergency fund may not exceed 3 percent.

19 (d) Money reserved under this subsection may not be expended by the state
20 unless a majority of the members elected to each house of the legislature, or by a
21 governmental unit other than the state unless a majority of the members of the
22 governing body of the governmental unit, declare the necessity for the expenditure
23 and make the expenditure by separate recorded roll call votes.

1 (9) (a) A governmental unit shall reduce tax rates for the next tax year to reflect
2 the excess of revenues over expenditures in a tax year, unless the electors under this
3 section approve a taxing or spending change.

4 (b) A governmental unit shall refund revenue collected, kept, or spent in
5 violation of this section since 4 full fiscal years before a suit is filed with 10 percent
6 annual simple interest from the date of the initial violation. Notwithstanding
7 section 1 of this article, a governmental unit may use any reasonable method for a
8 refund under this section, including a temporary tax credit or rate reduction, and a
9 refund need not be proportional when previous payments are impractical to identify
10 or return.

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

Basford, Sarah

From: Burri, Lance
Sent: Monday, October 20, 2003 9:51 AM
To: LRB.Legal
Subject: Draft review: LRB 03-0667/5 Topic: Elector approval for certain taxing ans spending decisions

It has been requested by <Burri, Lance> that the following draft be jacketed for the ASSEMBLY:

Draft review: LRB 03-0667/5 Topic: Elector approval for certain taxing ans spending decisions