



State of Wisconsin  
2007 - 2008 LEGISLATURE

LRB-1170/2

MES:jld:nwn

pmk

DOA:.....Hatch, BB0231 - Modify and extend local levy limits

FOR 2007-09 BUDGET -- NOT READY FOR INTRODUCTION

do not gen

1 AN ACT ...; relating to: modifying and extending levy limits for cities, villages,  
2 towns, and counties.

*Analysis by the Legislative Reference Bureau*

**LOCAL GOVERNMENT**

Current law prohibits a political subdivision (any city, village, town, or county) from increasing its levy by a percentage that exceeds its "valuation factor," which is defined as the percentage change in the political subdivision's equalized value due to new construction, less improvements removed, but not less than 2 percent. In addition, the calculation of a political subdivision's levy does not include any tax increment that is generated by a tax incremental district.

Current law contains exceptions to the levy limit for political subdivisions that transfer the provision of services, for cities or villages that annex town territory, for political subdivisions that levy to pay debt service on debt authorized by referendum on or after July 1, 2005, for certain joint fire departments, and for a county levy that relates to a county children with disabilities education board.

Also under current law, a political subdivision's levy limit is increased if the amount of debt service in the current year exceeds the amount in the prior year for debt that was approved by the governing body before July 1, 2005. The levy limit may also be exceeded if a political subdivision's resolution to do so is approved in a referendum. If a political subdivision exceeds the levy limit, creating a "penalized excess," DOR is required to reduce the political subdivision's local aid payments in an equal amount. The levy limit does not apply beginning on January 1, 2007.

This bill extends the levy limit on political subdivisions through 2009, modifies the calculation of the limit, and creates a number of new exceptions to the limit. The bill changes the definition of "valuation factor" to be the greater of either 4 percent or the percentage change in the political subdivision's equalized value due to new construction, less improvements removed. Also under the bill, the base amount of a political subdivision's levy, on which the levy limit is imposed, is the maximum allowable levy for the immediately preceding year.

The bill creates ~~two~~ <sup>three</sup> new exceptions to the levy limit for political subdivisions: county levies for certain bridge and culvert construction and repairs; ~~and~~ certain levies for fire departments from any combination of cities, villages, and towns that have entered into a contract to jointly provide fire protection services; <sup>and county levies for library services</sup>

Under this bill, DOR may not reduce a political subdivision's aid payments unless its penalized excess is at least \$500, but, if the amount of a political subdivision's penalized excess exceeds its aid payments in the following year, DOR must carry forward the unused penalized excess and deduct it from aid payments for future years until the penalized excess amount is fully deducted from local aid payments in future years. Also under the bill, a political subdivision will not be liable for a penalty for a penalized excess if DOR determines that the penalized excess is directly caused by DOR assessment errors or because of an error in preparing or delivering the tax roll by the taxation district clerk or county clerk.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

payments to adjacent counties for  
and county levies for library services

***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

1           **SECTION 1.** 66.0602 (1) (am) of the statutes is created to read:

2           66.0602 (1) (am) "Joint fire department" means a joint fire department  
3 organized under s. 61.65 (2) (a) 3. or 62.13 (2m), or a joint fire department organized  
4 by any combination of 2 or more cities, villages, or towns under s. 66.0301 (2).

5           **SECTION 2.** 66.0602 (1) (b) of the statutes is amended to read:

6           66.0602 (1) (b) "Penalized excess" means the levy, in an amount that is at least  
7 \$500 over the limit under sub. (2) for the political subdivision, not including any  
8 amount that is excepted from the limit under subs. (3), (4), and (5).

9           **SECTION 3.** 66.0602 (1) (d) of the statutes is amended to read:

1           66.0602 (1) (d) "Valuation factor" means a percentage equal to the greater of  
2 either 4 percent or the percentage change in the political subdivision's January 1  
3 equalized value due to new construction less improvements removed between the  
4 previous year and the current year, but not less than 2. ~~Except as provided in subs.~~  
5 ~~(3), (4), and (5), no political subdivision may increase its levy in any year by a~~  
6 ~~percentage that exceeds the political subdivision's valuation factor. In determining~~  
7 ~~its levy in any year, a city, village, or town shall subtract any tax increment that is~~  
8 ~~calculated under s. 60.85 (1) (L) or 66.1105 (2) (i).~~

9           **SECTION 4.** 66.0602 (2) of the statutes is created to read:

10           66.0602 (2) LEVY LIMIT. Except as provided in subs. (3), (4), and (5), no political  
11 subdivision may increase its levy in any year by a percentage that exceeds the  
12 political subdivision's valuation factor. The base amount in any year, to which the  
13 limit under this section applies, shall be the maximum allowable levy for the  
14 immediately preceding year. In determining its levy in any year, a city, village, or  
15 town shall subtract any tax increment that is calculated under s. 60.85 (1) (L) or  
16 66.1105 (2) (i).

17           **SECTION 5.** 66.0602 (3) (h) 1. of the statutes is amended to read:

18           66.0602 (3) (h) 1. Subject to subd. 2., the limit otherwise applicable under this  
19 section does not apply to the amount that a city, village, or town levies in that year  
20 to pay for charges assessed by a joint fire department organized under s. 61.65 (2)  
21 (a) 3. or 62.13 (2m), but only to the extent that the amount levied to pay for such  
22 charges would cause the city, village, or town to exceed the limit that is otherwise  
23 applicable under this section.

24           **SECTION 6.** 66.0602 (3) (i) of the statutes is created to read:

Sec. #; Ch. 66.0602(3)(j) The limit otherwise applicable under this section does not apply to the amount that a county levies in that year to make payments to an adjacent county, under s. 43.12(1), for library services.

**SECTION 6**

1       66.0602 (3) (i) The limit otherwise applicable under this section does not apply  
 2       to the amount that a county levies in that year under s. 82.08 (2) for bridge and  
 3       culvert construction and repair.

**SECTION 7.** 66.0602 (4) (a) of the statutes is amended to read:

4       66.0602 (4) (a) A political subdivision may exceed the levy increase limit under  
 5       sub. (2) if its governing body adopts a resolution to that effect and if the resolution  
 6       is approved in a referendum. The resolution shall specify the proposed amount of  
 7       increase in the levy beyond the amount that is allowed under sub. (2), and shall  
 8       specify whether the proposed amount of increase is for the next fiscal year only or if  
 9       it will apply on an ongoing basis. With regard to a referendum relating to the 2005  
 10      levy, or any levy in an odd-numbered year thereafter, the political subdivision may  
 11      call a special referendum for the purpose of submitting the resolution to the electors  
 12      of the political subdivision for approval or rejection. With regard to a referendum  
 13      relating to the 2006 levy, or any levy in an even-numbered year thereafter, the  
 14      referendum shall be held at the next succeeding spring primary or election or  
 15      September primary or general election.

**SECTION 8.** 66.0602 (4) (d) of the statutes is amended to read:

16      66.0602 (4) (d) Within 14 days after the referendum, the clerk of the political  
 17      subdivision shall certify the results of the referendum to the department of revenue.  
 18      The levy increase limit otherwise applicable to the political subdivision under this  
 19      section is increased in the next fiscal year by the percentage approved by a majority  
 20      of those voting on the question. If the resolution specifies that the increase is for one  
 21      year only, the amount of the increase shall be subtracted from the base used to  
 22      calculate the limit for the 2nd succeeding fiscal year.

**SECTION 9.** 66.0602 (5) of the statutes is amended to read:

25

1           66.0602 (5) EXCEPTION, CERTAIN TOWNS. A town with a population of less than  
2           2,000 may exceed the levy increase limit otherwise applicable under this section to  
3           the town if the town board adopts a resolution supporting an increase and places the  
4           question on the agenda of an annual town meeting or a special town meeting and if  
5           the annual or special town meeting adopts a resolution endorsing the town board's  
6           resolution. The limit otherwise applicable to the town under this section is increased  
7           in the next fiscal year by the percentage approved by a majority of those voting on  
8           the question. Within 14 days after the adoption of the resolution, the town clerk shall  
9           certify the results of the vote to the department of revenue.

10           **SECTION 10.** 66.0602 (6) (intro.) of the statutes is amended to read:

11           66.0602 (6) PENALTIES. (intro.) If Except as provided in sub. (6m), if the  
12           department of revenue determines that a political subdivision has a penalized excess  
13           in any year, the department of revenue shall do all of the following:

14           **SECTION 11.** 66.0602 (6) (c) of the statutes is amended to read:

15           66.0602 (6) (c) Ensure that the amount of the penalized excess is not included  
16           in determining the limit described under sub. (2) for the political subdivision for the  
17           following year.

18           **SECTION 12.** 66.0602 (6) (d) of the statutes is created to read:

19           66.0602 (6) (d) Ensure that, if a political subdivision's penalized excess exceeds  
20           the amount of aid payment that may be reduced under par. (a), the excess amount  
21           is subtracted from the aid payments under par. (a) in the following years,  
22           notwithstanding the sunset date in sub. (7), until the total amount of penalized  
23           excess is subtracted from the aid payments.

24           **SECTION 13.** 66.0602 (6m) of the statutes is created to read:



**Shovers, Marc**

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**From:** Hanaman, Cathlene  
**Sent:** Wednesday, January 24, 2007 4:28 PM  
**To:** Shovers, Marc  
**Subject:** FW: LRB Draft: 07-1170/3 Modify and extend local levy limits

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**From:** Hatch, Nikki - DOA  
**Sent:** Wednesday, January 24, 2007 4:26 PM  
**To:** Schlueter, Ron  
**Cc:** Koskinen, John - DOA; Hanaman, Cathlene; Palchik, Laurie A - DOA  
**Subject:** RE: LRB Draft: 07-1170/3 Modify and extend local levy limits

Please make the following modification to this draft:

Add to the list of exemptions from levy limits amounts needed to make up any revenue shortfall for the debt service on revenue bond debt. Here's a brief write up I received on this matter:

*This affects Community Development Authority or Redevelopment Authority Lease Revenue Bonds where the current pledge is to annually appropriate any funds needed to make up a difference in TID revenues and the actual debt service. This appropriation should be excluded from the levy limits the same as GO debt.*

*Similarly for Water, Sewer or Stormwater Revenue Bonds there is a similar pledge in all bond covenants that requires the community to appropriate any funds needed to cover shortfall revenues needed for debt payments.*

*The previous levy limit law did not exclude such levies from the limit.*

Thank you,

Nikki Hatch

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**From:** Schlueter, Ron [mailto:Ron.Schlueter@legis.wisconsin.gov]  
**Sent:** Tuesday, January 23, 2007 1:15 PM  
**To:** Hatch, Nikki - DOA  
**Cc:** Koskinen, John - DOA; Hanaman, Cathlene - LEGIS; Palchik, Laurie A - DOA  
**Subject:** LRB Draft: 07-1170/3 Modify and extend local levy limits

*Following is the PDF version of draft 07-1170/3.*



State of Wisconsin  
2007 - 2008 LEGISLATURE

LRB-1170/3

MES:jld:rs

pmr

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Current law contains exceptions to the levy limit for political subdivisions that transfer the provision of services, for cities or villages that annex town territory, for political subdivisions that levy to pay debt service on debt authorized by referendum on or after July 1, 2005, for certain joint fire departments, and for a county levy that relates to a county children with disabilities education board.

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*political subdivision levies for a revenue shortfall for the debt service on a revenue bond*

This bill extends the levy limit on political subdivisions through 2009, modifies the calculation of the limit, and creates a number of new exceptions to the limit. The bill changes the definition of "valuation factor" to be the greater of either 4 percent or the percentage change in the political subdivision's equalized value due to new construction, less improvements removed. Also under the bill, the base amount of a political subdivision's levy, on which the levy limit is imposed, is the maximum allowable levy for the immediately preceding year.

*several*

The bill creates ~~new~~ *new* exceptions to the levy limit for political subdivisions: county levies for certain bridge and culvert construction and repairs; certain levies for fire departments from any combination of cities, villages, and towns that have entered into a contract to jointly provide fire protection services; and county levies for payments to adjacent counties for library services.

Under this bill, DOR may not reduce a political subdivision's aid payments unless its penalized excess is at least \$500, but, if the amount of a political subdivision's penalized excess exceeds its aid payments in the following year, DOR must carry forward the unused penalized excess and deduct it from aid payments for future years until the penalized excess amount is fully deducted from local aid payments in future years. Also under the bill, a political subdivision will not be liable for a penalty for a penalized excess if DOR determines that the penalized excess is directly caused by DOR assessment errors or because of an error in preparing or delivering the tax roll by the taxation district clerk or county clerk.

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8 amount that is excepted from the limit under subs. (3), (4), and (5).

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4           previous year and the current year, but not less than 2. ~~Except as provided in subs.~~  
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7           ~~its levy in any year, a city, village, or town shall subtract any tax increment that is~~  
8           ~~calculated under s. 60.85 (1) (L) or 66.1105 (2) (i).~~

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11           subdivision may increase its levy in any year by a percentage that exceeds the  
12           political subdivision's valuation factor. The base amount in any year, to which the  
13           limit under this section applies, shall be the maximum allowable levy for the  
14           immediately preceding year. In determining its levy in any year, a city, village, or  
15           town shall subtract any tax increment that is calculated under s. 60.85 (1) (L) or  
16           66.1105 (2) (i).

17           **SECTION 5.** 66.0602 (3) (h) 1. of the statutes is amended to read:

18           66.0602 (3) (h) 1. Subject to subd. 2., the limit otherwise applicable under this  
19           section does not apply to the amount that a city, village, or town levies in that year  
20           to pay for charges assessed by a joint fire department organized under s. 61.65 (2)  
21           (a) 3. or 62.13 (2m), but only to the extent that the amount levied to pay for such  
22           charges would cause the city, village, or town to exceed the limit that is otherwise  
23           applicable under this section.

24           ~~**SECTION 6.** 66.0602 (3) (i) of the statutes is created to read:~~

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3/16

1 ~~66.0602 (3) (i) The limit otherwise applicable under this section does not apply~~  
2 ~~to the amount that a county levies in that year under s. 82.08 (2) for bridge and~~  
3 ~~culvert construction and repair.~~

4 SECTION 7. 66.0602 (3) (j) of the statutes is created to read:

5 66.0602 (3) (j) The limit otherwise applicable under this section does not apply  
6 to the amount that a county levies in that year to make payments to an adjacent  
7 county, under s. 43.12 (1), for library services.

8 SECTION 8. 66.0602 (4) (a) of the statutes is amended to read:

9 66.0602 (4) (a) A political subdivision may exceed the levy increase limit under  
10 sub. (2) if its governing body adopts a resolution to that effect and if the resolution  
11 is approved in a referendum. The resolution shall specify the proposed amount of  
12 increase in the levy beyond the amount that is allowed under sub. (2), and shall  
13 specify whether the proposed amount of increase is for the next fiscal year only or if  
14 it will apply on an ongoing basis. With regard to a referendum relating to the 2005  
15 levy, or any levy in an odd-numbered year thereafter, the political subdivision may  
16 call a special referendum for the purpose of submitting the resolution to the electors  
17 of the political subdivision for approval or rejection. With regard to a referendum  
18 relating to the 2006 levy, or any levy in an even-numbered year thereafter, the  
19 referendum shall be held at the next succeeding spring primary or election or  
20 September primary or general election.

21 SECTION 9. 66.0602 (4) (d) of the statutes is amended to read:

22 66.0602 (4) (d) Within 14 days after the referendum, the clerk of the political  
23 subdivision shall certify the results of the referendum to the department of revenue.  
24 The levy increase limit otherwise applicable to the political subdivision under this  
25 section is increased in the next fiscal year by the percentage approved by a majority

1 of those voting on the question. If the resolution specifies that the increase is for one  
2 year only, the amount of the increase shall be subtracted from the base used to  
3 calculate the limit for the 2nd succeeding fiscal year.

4 **SECTION 10.** 66.0602 (5) of the statutes is amended to read:

5 66.0602 (5) EXCEPTION, CERTAIN TOWNS. A town with a population of less than  
6 2,000 may exceed the levy increase limit otherwise applicable under this section to  
7 the town if the town board adopts a resolution supporting an increase and places the  
8 question on the agenda of an annual town meeting or a special town meeting and if  
9 the annual or special town meeting adopts a resolution endorsing the town board's  
10 resolution. The limit otherwise applicable to the town under this section is increased  
11 in the next fiscal year by the percentage approved by a majority of those voting on  
12 the question. Within 14 days after the adoption of the resolution, the town clerk shall  
13 certify the results of the vote to the department of revenue.

14 **SECTION 11.** 66.0602 (6) (intro.) of the statutes is amended to read:

15 66.0602 (6) PENALTIES. (intro.) If Except as provided in sub. (6m), if the  
16 department of revenue determines that a political subdivision has a penalized excess  
17 in any year, the department of revenue shall do all of the following:

18 **SECTION 12.** 66.0602 (6) (c) of the statutes is amended to read:

19 66.0602 (6) (c) Ensure that the amount of the penalized excess is not included  
20 in determining the limit described under sub. (2) for the political subdivision for the  
21 following year.

22 **SECTION 13.** 66.0602 (6) (d) of the statutes is created to read:

23 66.0602 (6) (d) Ensure that, if a political subdivision's penalized excess exceeds  
24 the amount of aid payment that may be reduced under par. (a), the excess amount  
25 is subtracted from the aid payments under par. (a) in the following years,

1 notwithstanding the sunset date in sub. (7), until the total amount of penalized  
2 excess is subtracted from the aid payments.

3 **SECTION 14.** 66.0602 (6m) of the statutes is created to read:

4 66.0602 (6m) MISTAKES IN LEVIES. The department of revenue may issue a  
5 finding that a political subdivision is not liable for a penalty that would otherwise  
6 be imposed under sub. (6) if the department determines that the political  
7 subdivision's penalized excess is caused by one of the following clerical errors:

8 (a) The department, through mistake or inadvertence, has assessed to any  
9 county or taxation district, in the current year or in the previous year, a greater or  
10 less valuation for any year than should have been assessed, causing the political  
11 subdivision's levy to be erroneous in a way that directly causes a penalized excess.

12 (b) A taxation district clerk or a county clerk, through mistake or inadvertence  
13 in preparing or delivering the tax roll, causes a political subdivision's levy to be  
14 erroneous in a way that directly causes a penalized excess.

15 **SECTION 15.** 66.0602 (7) of the statutes is amended to read:

16 66.0602 (7) SUNSET. This section does not apply beginning January 1, 2007  
17 2009.

18 (END)

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FROM THE  
LEGISLATIVE REFERENCE BUREAU

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**SECTION 1.** 66.0602 (3) (e) <sup>X</sup> of the statutes is renumbered 66.0602(3) (e) (intro.)  
and amended to read:

66.0602 (3) (e) <sup>(intro.)</sup> The limit otherwise applicable under this section does not apply  
to the amount that a county levies in that year for a county children with disabilities  
education board. any of the following: ✓

History: 2005 a. 25, 484.

**SECTION 2.** 66.0602 (3) (e) 1. <sup>X</sup> of the statutes is created to read:

66.0602 (3) (e) 1. The amount that a county levies in that year for a county  
children with disabilities education board. ✓

**SECTION 3.** 66.0602 (3) (e) 2. <sup>X</sup> of the statutes is created to read:

66.0602 (3) (e) 2. The amount that a 1st class city <sup>✓</sup> levies for school purposes.

**SECTION 4.** 66.0602 (3) (e) 3. <sup>X</sup> of the statutes is created to read:

66.0602 (3) (e) 3. The amount that a county levies in that year under s. 82.08  
(2) <sup>✓</sup> for bridge and culvert construction and repair.

**SECTION 5.** 66.0602 (3) (e) 4. <sup>X</sup> of the statutes is created to read:

66.0602 (3) (e) 4. The amount that a county levies in that year to make  
payments to an adjacent county, under s. 43.12 (1) <sup>✓</sup>, for library services.

**SECTION 6.** 66.0602 (3) (e) 5. <sup>X</sup> of the statutes is created to read:

66.0602 (3) (e) 5. The amount that a political subdivision levies in that year to  
make up any revenue shortfall for the debt service on a revenue bond issued under  
s. 66.0621. <sup>✓</sup>

**Shovers, Marc**

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**From:** Hatch, Nikki - DOA  
**Sent:** Wednesday, January 31, 2007 4:06 PM  
**To:** Schlueter, Ron; Shovers, Marc  
**Subject:** RE: LRB Draft: 07-1170/4 Modify and extend local levy limits

- Hi Marc,  
I have these late comment from DOR about technical aspects of this draft:
1. Section 9 of the bill creates an exception to the levy limits for "county levies ... to make payments to an adjacent county, under s. 43.12 (1), for library services". Section 13 of the bill creates an exception that, on the surface, appears to exclude the same levies from the levy limit. I do not understand why both sections are needed.
  2. The exceptions to the levy limit under section 6 (county children with disabilities education boards), section 8 (county levies for bridge and culvert construction and repair), section 9 (levies for library services paid to another county), and section 10 (levies to make up a shortfall for the debt service on certain revenue bonds) all contain the phrase "in that year". However, the exception to the limit created under section 7 (school levies for 1st class cities) does not contain this phrase. It is not clear why this differential treatment is needed. It was our understanding that these levies are to be fully excluded for levy limit purposes, meaning that they are outside the levy limits for purposes of (a) determining whether a locality has exceeded its limit and (b) for purposes of calculating the base from which the levy limit is calculated. Some clarification on this matter is needed.
  3. Some "initial applicability" language is needed to clarify (a) to which year's levy the new and amended exceptions and the changes regarding penalties for excess levies first apply, and (b) if any of the exceptions [notably the one for joint fire departments] are to be applied retroactively Nikki's note: effective date should be for December 2007 levies and thereafter, with nothing applied retroactively.

-Nikki

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**From:** Schlueter, Ron [mailto:Ron.Schlueter@legis.wisconsin.gov]  
**Sent:** Thursday, January 25, 2007 4:03 PM  
**To:** Hatch, Nikki - DOA  
**Cc:** Koskinen, John - DOA; Hanaman, Cathlene - LEGIS; Palchik, Laurie A - DOA  
**Subject:** LRB Draft: 07-1170/4 Modify and extend local levy limits

*Following is the PDF version of draft 07-1170/4.*

**Shovers, Marc**

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**From:** Shovers, Marc  
**Sent:** Wednesday, January 31, 2007 5:33 PM  
**To:** Hatch, Nikki - DOA  
**Subject:** RE: LRB Draft: 07-1170/4 Modify and extend local levy limits

Hi Nikki:

As to DOR's first point, that's just a typo. Bill section 13 was supposed to have been removed in the /4.

As to their 2nd point, I don't think it matters whether the phrase "in that year" is used or not. The levy limit changes every year, so it makes no sense to argue that, with regard to 1st class city school districts, the exception could apply to some other year's levy because the phrase "in that year" is absent. I don't think that there have been any problems with s. 66.0602 (3) (f), 2005 stats. For the sake of consistency, though, I see no reason not to add the phrase in this bill.

With regard to DOR's 3rd point, the general rule is that no statute ever has retroactive applicability unless the legislature explicitly states that a bill applies retroactively. Therefore, none of the bill's provisions have retroactive applicability.

There is, however, some uncertainty as to whether the penalty provisions in s. 66.0602 (6), 2005 stats., apply to a political subdivision that exceeds the levy limit for the December 2006 tax levy. If DOR attempts to impose a penalty in 2007, based on a political subdivision exceeding the December 2006 levy, the political subdivision could argue that the penalty provision, like the rest of s. 66.0602, does not apply beginning on January 1, 2007. I think that DOR has maintained that the limits and penalties relating to the levy that is imposed in December 2006 should be interpreted to mean that DOR may impose penalties in 2007 that relate to the December 2006 levy, but that no levy limits apply to the levy that will be imposed in December 2007. I don't know whether DOR is right; if the department does try to impose such a penalty in 2007, the issue would have to be resolved in court.

As we discussed on the phone, to avoid this uncertainty in the future I will repeal the sunset provision and, in s. 66.0602 (2), I will reword the limit so that it states ". . . no political subdivision may increase its levy in 2007 or 2008 . . ." instead of the current language, which states ". . . no political subdivision may increase its levy in any year . . ." This way it is clear that even though the levy limit does not apply to any levy that is imposed after 2008, the penalty provisions will continue to apply to a political subdivision that exceeds the 2008 limit in 2009.

We also decided to remain silent on the issue of whether DOR could impose the penalties under current law, in 2007, on a political subdivision that exceeds the limits in the levy imposed in 2006. If an explicit statement that DOR could do so is drafted, but is then later removed by the legislature, that legislative action would undermine DOR's argument that it could impose a penalty in 2007 based on a political subdivision exceeding the levy limit relating to the levy that's imposed in December 2006.

Marc

01/31/2007

Marc E. Shovers

Senior Legislative Attorney  
Legislative Reference Bureau  
Phone: (608) 266-0129  
Fax: (608) 264-8522  
e-mail: marc.shovers@legis.state.wi.us

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**From:** Hatch, Nikki - DOA  
**Sent:** Wednesday, January 31, 2007 4:06 PM  
**To:** Schlueter, Ron; Shovers, Marc  
**Subject:** RE: LRB Draft: 07-1170/4 Modify and extend local levy limits

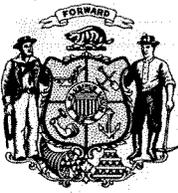
- Hi Marc,  
I have these late comment from DOR about technical aspects of this draft:
1. Section 9 of the bill creates an exception to the levy limits for "county levies ... to make payments to an adjacent county, under s. 43.12 (1), for library services". Section 13 of the bill creates an exception that, on the surface, appears to exclude the same levies from the levy limit. I do not understand why both sections are needed.
  2. The exceptions to the levy limit under section 6 (county children with disabilities education boards), section 8 (county levies for bridge and culvert construction and repair), section 9 (levies for library services paid to another county), and section 10 (levies to make up a shortfall for the debt service on certain revenue bonds) all contain the phrase "in that year". However, the exception to the limit created under section 7 (school levies for 1st class cities) does not contain this phrase. It is not clear why this differential treatment is needed. It was our understanding that these levies are to be fully excluded for levy limit purposes, meaning that they are outside the levy limits for purposes of (a) determining whether a locality has exceeded its limit and (b) for purposes of calculating the base from which the levy limit is calculated. Some clarification on this matter is needed.
  3. Some "initial applicability" language is needed to clarify (a) to which year's levy the new and amended exceptions and the changes regarding penalties for excess levies first apply, and (b) if any of the exceptions [notably the one for joint fire departments] are to be applied retroactively Nikki's note: effective date should be for December 2007 levies and thereafter, with nothing applied retroactively.

-Nikki

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**From:** Schlueter, Ron [mailto:Ron.Schlueter@legis.wisconsin.gov]  
**Sent:** Thursday, January 25, 2007 4:03 PM  
**To:** Hatch, Nikki - DOA  
**Cc:** Koskinen, John - DOA; Hanaman, Cathlene - LEGIS; Palchik, Laurie A - DOA  
**Subject:** LRB Draft: 07-1170/4 Modify and extend local levy limits

*Following is the PDF version of draft 07-1170/4.*



State of Wisconsin  
2007 - 2008 LEGISLATURE

LRB-1170/4

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Eigt

DOA:.....Hatch, BB0231 - Modify and extend local levy limits  
FOR 2007-09 BUDGET -- NOT READY FOR INTRODUCTION

Don't Gen

1 AN ACT ...; relating to: modifying and extending levy limits for cities, villages,  
2 towns, and counties.

*Analysis by the Legislative Reference Bureau*

**LOCAL GOVERNMENT**

Current law prohibits a political subdivision (any city, village, town, or county) from increasing its levy by a percentage that exceeds its "valuation factor," which is defined as the percentage change in the political subdivision's equalized value due to new construction, less improvements removed, but not less than 2 percent. In addition, the calculation of a political subdivision's levy does not include any tax increment that is generated by a tax incremental district.

Current law contains exceptions to the levy limit for political subdivisions that transfer the provision of services, for cities or villages that annex town territory, for political subdivisions that levy to pay debt service on debt authorized by referendum on or after July 1, 2005, for certain joint fire departments, and for a county levy that relates to a county children with disabilities education board.

Also under current law, a political subdivision's levy limit is increased if the amount of debt service in the current year exceeds the amount in the prior year for debt that was approved by the governing body before July 1, 2005. The levy limit may also be exceeded if a political subdivision's resolution to do so is approved in a referendum. If a political subdivision exceeds the levy limit, creating a "penalized excess," DOR is required to reduce the political subdivision's local aid payments in an equal amount. The levy limit does not apply beginning on January 1, 2007.

only applies to the 2007 and 2008 levies,

This bill extends the levy limit on political subdivisions through 2009, modifies the calculation of the limit, and creates a number of new exceptions to the limit. The bill changes the definition of "valuation factor" to be the greater of either 4 percent or the percentage change in the political subdivision's equalized value due to new construction, less improvements removed. Also under the bill, the base amount of a political subdivision's levy, on which the levy limit is imposed, is the maximum allowable levy for the immediately preceding year.

The bill creates several new exceptions to the levy limit for political subdivisions: county levies for certain bridge and culvert construction and repairs; certain levies for fire departments from any combination of cities, villages, and towns that have entered into a contract to jointly provide fire protection services; political subdivision levies for a revenue short fall for the debt service on a revenue bond; and county levies for payments to adjacent counties for library services.

Under this bill, DOR may not reduce a political subdivision's aid payments unless its penalized excess is at least \$500, but, if the amount of a political subdivision's penalized excess exceeds its aid payments in the following year, DOR must carry forward the unused penalized excess and deduct it from aid payments for future years until the penalized excess amount is fully deducted from local aid payments in future years. Also under the bill, a political subdivision will not be liable for a penalty for a penalized excess if DOR determines that the penalized excess is directly caused by DOR assessment errors or because of an error in preparing or delivering the tax roll by the taxation district clerk or county clerk.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

---

***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

1           **SECTION 1.** 66.0602 (1) (am) of the statutes is created to read:

2           66.0602 (1) (am) "Joint fire department" means a joint fire department  
3 organized under s. 61.65 (2) (a) 3. or 62.13 (2m), or a joint fire department organized  
4 by any combination of 2 or more cities, villages, or towns under s. 66.0301 (2).

5           **SECTION 2.** 66.0602 (1) (b) of the statutes is amended to read:

6           66.0602 (1) (b) "Penalized excess" means the levy, in an amount that is at least  
7 \$500 over the limit under sub. (2) for the political subdivision, not including any  
8 amount that is excepted from the limit under subs. (3), (4), and (5).

9           **SECTION 3.** 66.0602 (1) (d) of the statutes is amended to read:

1           66.0602 (1) (d) "Valuation factor" means a percentage equal to the greater of  
2           either 4 percent or the percentage change in the political subdivision's January 1  
3           equalized value due to new construction less improvements removed between the  
4           previous year and the current year, ~~but not less than 2. Except as provided in subs.~~  
5           ~~(3), (4), and (5), no political subdivision may increase its levy in any year by a~~  
6           ~~percentage that exceeds the political subdivision's valuation factor. In determining~~  
7           ~~its levy in any year, a city, village, or town shall subtract any tax increment that is~~  
8           ~~calculated under s. 60.85 (1) (L) or 66.1105 (2) (i).~~

9           **SECTION 4.** 66.0602 (2) of the statutes is created to read:

10           66.0602 (2) LEVY LIMIT. Except as provided in subs. (3), (4), and (5), no political  
11           subdivision may increase its levy in <sup>2007 or 2008</sup> ~~any year~~ by a percentage that exceeds the  
12           political subdivision's valuation factor. The base amount in any year, to which the  
13           limit under this section applies, shall be the maximum allowable levy for the  
14           immediately preceding year. In determining its levy in any year, a city, village, or  
15           town shall subtract any tax increment that is calculated under s. 60.85 (1) (L) or  
16           66.1105 (2) (i).

17           **SECTION 5.** 66.0602 (3) (e) of the statutes is renumbered 66.0602 (3) (e) (intro.)  
18           and amended to read:

19           66.0602 (3) (e) (intro.) The limit otherwise applicable under this section does  
20           not apply to the amount that a county levies in that year for a county children with  
21           ~~disabilities education board.~~ any of the following:

22           **SECTION 6.** 66.0602 (3) (e) 1. of the statutes is created to read:

23           66.0602 (3) (e) 1. The amount that a county levies in that year for a county  
24           children with disabilities education board.

25           **SECTION 7.** 66.0602 (3) (e) 2. of the statutes is created to read:

1 66.0602 (3) (e) 2. The amount that a 1st class city levies <sup>in that year</sup> for school purposes.

2 SECTION 8. 66.0602 (3) (e) 3. of the statutes is created to read:

3 66.0602 (3) (e) 3. The amount that a county levies in that year under s. 82.08  
4 (2) for bridge and culvert construction and repair.

5 SECTION 9. 66.0602 (3) (e) 4. of the statutes is created to read:

6 66.0602 (3) (e) 4. The amount that a county levies in that year to make  
7 payments to an adjacent county, under s. 43.12 (1), for library services.

8 SECTION 10. 66.0602 (3) (e) 5. of the statutes is created to read:

9 66.0602 (3) (e) 5. The amount that a political subdivision levies in that year to  
10 make up any revenue shortfall for the debt service on a revenue bond issued under  
11 s. 66.0621.

12 SECTION 11. 66.0602 (3) (f) of the statutes is repealed.

13 SECTION 12. 66.0602 (3) (h) 1. of the statutes is amended to read:

14 66.0602 (3) (h) 1. Subject to subd. 2., the limit otherwise applicable under this  
15 section does not apply to the amount that a city, village, or town levies in that year  
16 to pay for charges assessed by a joint fire department ~~organized under s. 61.65 (2)~~  
17 ~~(a) 3. or 62.13 (2m)~~, but only to the extent that the amount levied to pay for such  
18 charges would cause the city, village, or town to exceed the limit that is otherwise  
19 applicable under this section.

20 SECTION 13. 66.0602 (3) (j) of the statutes is created to read:

21 66.0602 (3) (j) The limit otherwise applicable under this section does not apply  
22 to the amount that a county levies in that year to make payments to an adjacent  
23 county, under s. 43.12 (1), for library services.

24 SECTION 14. 66.0602 (4) (a) of the statutes is amended to read:

1           66.0602 (4) (a) A political subdivision may exceed the levy increase limit under  
2 sub. (2) if its governing body adopts a resolution to that effect and if the resolution  
3 is approved in a referendum. The resolution shall specify the proposed amount of  
4 increase in the levy beyond the amount that is allowed under sub. (2), and shall  
5 specify whether the proposed amount of increase is for the next fiscal year only or if  
6 it will apply on an ongoing basis. With regard to a referendum relating to the 2005  
7 levy, or any levy in an odd-numbered year thereafter, the political subdivision may  
8 call a special referendum for the purpose of submitting the resolution to the electors  
9 of the political subdivision for approval or rejection. With regard to a referendum  
10 relating to the 2006 levy, or any levy in an even-numbered year thereafter, the  
11 referendum shall be held at the next succeeding spring primary or election or  
12 September primary or general election.

13           **SECTION 15.** 66.0602 (4) (d) of the statutes is amended to read:

14           66.0602 (4) (d) Within 14 days after the referendum, the clerk of the political  
15 subdivision shall certify the results of the referendum to the department of revenue.  
16 The levy increase limit otherwise applicable to the political subdivision under this  
17 section is increased in the next fiscal year by the percentage approved by a majority  
18 of those voting on the question. If the resolution specifies that the increase is for one  
19 year only, the amount of the increase shall be subtracted from the base used to  
20 calculate the limit for the 2nd succeeding fiscal year.

21           **SECTION 16.** 66.0602 (5) of the statutes is amended to read:

22           66.0602 (5) EXCEPTION, CERTAIN TOWNS. A town with a population of less than  
23 2,000 may exceed the levy increase limit otherwise applicable under this section to  
24 the town if the town board adopts a resolution supporting an increase and places the  
25 question on the agenda of an annual town meeting or a special town meeting and if

1 the annual or special town meeting adopts a resolution endorsing the town board's  
2 resolution. The limit otherwise applicable to the town under this section is increased  
3 in the next fiscal year by the percentage approved by a majority of those voting on  
4 the question. Within 14 days after the adoption of the resolution, the town clerk shall  
5 certify the results of the vote to the department of revenue.

6 **SECTION 17.** 66.0602 (6) (intro.) of the statutes is amended to read:

7 66.0602 (6) PENALTIES. (intro.) If Except as provided in sub. (6m), if the  
8 department of revenue determines that a political subdivision has a penalized excess  
9 in any year, the department of revenue shall do all of the following:

10 **SECTION 18.** 66.0602 (6) (c) of the statutes is amended to read:

11 66.0602 (6) (c) Ensure that the amount of the penalized excess is not included  
12 in determining the limit described under sub. (2) for the political subdivision for the  
13 following year.

14 **SECTION 19.** 66.0602 (6) (d) of the statutes is created to read:

15 66.0602 (6) (d) Ensure that, if a political subdivision's penalized excess exceeds  
16 the amount of aid payment that may be reduced under par. (a), the excess amount  
17 is subtracted from the aid payments under par. (a) in the following years,  
18 ~~notwithstanding the sunset date in sub. (m)~~ until the total amount of penalized  
19 excess is subtracted from the aid payments.

20 **SECTION 20.** 66.0602 (6m) of the statutes is created to read:

21 66.0602 (6m) MISTAKES IN LEVIES. The department of revenue may issue a  
22 finding that a political subdivision is not liable for a penalty that would otherwise  
23 be imposed under sub. (6) if the department determines that the political  
24 subdivision's penalized excess is caused by one of the following clerical errors:

1 (a) The department, through mistake or inadvertence, has assessed to any  
2 county or taxation district, in the current year or in the previous year, a greater or  
3 less valuation for any year than should have been assessed, causing the political  
4 subdivision's levy to be erroneous in a way that directly causes a penalized excess.

5 (b) A taxation district clerk or a county clerk, through mistake or inadvertence  
6 in preparing or delivering the tax roll, causes a political subdivision's levy to be  
7 erroneous in a way that directly causes a penalized excess.

8 **SECTION 21.** <sup>RP</sup> 66.0602 (7) of the statutes is amended to read:

9 66.0602 (7) SUNSET. This section does not apply beginning January 1, 2007  
10 2009.

11 (END)

change component  
8  
9  
10



State of Wisconsin  
2007 - 2008 LEGISLATURE

LRB-1170/5  
MES:jld&kjf:jf

DOA:.....Hatch, BB0231 - Modify and extend local levy limits

FOR 2007-09 BUDGET -- NOT READY FOR INTRODUCTION

- 1     **AN ACT ...; relating to:** modifying and extending levy limits for cities, villages,  
2           towns, and counties.

---

*Analysis by the Legislative Reference Bureau*

**LOCAL GOVERNMENT**

Current law prohibits a political subdivision (any city, village, town, or county) from increasing its levy by a percentage that exceeds its "valuation factor," which is defined as the percentage change in the political subdivision's equalized value due to new construction, less improvements removed, but not less than 2 percent. In addition, the calculation of a political subdivision's levy does not include any tax increment that is generated by a tax incremental district.

Current law contains exceptions to the levy limit for political subdivisions that transfer the provision of services, for cities or villages that annex town territory, for political subdivisions that levy to pay debt service on debt authorized by referendum on or after July 1, 2005, for certain joint fire departments, and for a county levy that relates to a county children with disabilities education board.

Also under current law, a political subdivision's levy limit is increased if the amount of debt service in the current year exceeds the amount in the prior year for debt that was approved by the governing body before July 1, 2005. The levy limit may also be exceeded if a political subdivision's resolution to do so is approved in a referendum. If a political subdivision exceeds the levy limit, creating a "penalized excess," DOR is required to reduce the political subdivision's local aid payments in an equal amount. The levy limit only applies to the 2007 and 2008 levies.

This bill extends the levy limit on political subdivisions through 2009, modifies the calculation of the limit, and creates a number of new exceptions to the limit. The bill changes the definition of "valuation factor" to be the greater of either 4 percent or the percentage change in the political subdivision's equalized value due to new construction, less improvements removed. Also under the bill, the base amount of a political subdivision's levy, on which the levy limit is imposed, is the maximum allowable levy for the immediately preceding year.

The bill creates several new exceptions to the levy limit for political subdivisions: county levies for certain bridge and culvert construction and repairs; certain levies for fire departments from any combination of cities, villages, and towns that have entered into a contract to jointly provide fire protection services; political subdivision levies for a revenue short fall for the debt service on a revenue bond; and county levies for payments to adjacent counties for library services.

Under this bill, DOR may not reduce a political subdivision's aid payments unless its penalized excess is at least \$500, but, if the amount of a political subdivision's penalized excess exceeds its aid payments in the following year, DOR must carry forward the unused penalized excess and deduct it from aid payments for future years until the penalized excess amount is fully deducted from local aid payments in future years. Also under the bill, a political subdivision will not be liable for a penalty for a penalized excess if DOR determines that the penalized excess is directly caused by DOR assessment errors or because of an error in preparing or delivering the tax roll by the taxation district clerk or county clerk.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

---

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

1           **SECTION 1.** 66.0602 (1) (am) of the statutes is created to read:  
2           66.0602 (1) (am) "Joint fire department" means a joint fire department  
3 organized under s. 61.65 (2) (a) 3. or 62.13 (2m), or a joint fire department organized  
4 by any combination of 2 or more cities, villages, or towns under s. 66.0301 (2).

5           **SECTION 2.** 66.0602 (1) (b) of the statutes is amended to read:  
6           66.0602 (1) (b) "Penalized excess" means the levy, in an amount that is at least  
7 \$500 over the limit under sub. (2) for the political subdivision, not including any  
8 amount that is excepted from the limit under subs. (3), (4), and (5).

9           **SECTION 3.** 66.0602 (1) (d) of the statutes is amended to read:

1           66.0602 (1) (d) "Valuation factor" means a percentage equal to the greater of  
2 either 4 percent or the percentage change in the political subdivision's January 1  
3 equalized value due to new construction less improvements removed between the  
4 previous year and the current year, but not less than 2. ~~Except as provided in subs.~~  
5 ~~(3), (4), and (5), no political subdivision may increase its levy in any year by a~~  
6 ~~percentage that exceeds the political subdivision's valuation factor. In determining~~  
7 ~~its levy in any year, a city, village, or town shall subtract any tax increment that is~~  
8 ~~calculated under s. 60.85 (1) (L) or 66.1105 (2) (i).~~

9           **SECTION 4.** 66.0602 (2) of the statutes is created to read:

10           66.0602 (2) LEVY LIMIT. Except as provided in subs. (3), (4), and (5), no political  
11 subdivision may increase its levy in 2007 or 2008 by a percentage that exceeds the  
12 political subdivision's valuation factor. The base amount in any year, to which the  
13 limit under this section applies, shall be the maximum allowable levy for the  
14 immediately preceding year. In determining its levy in any year, a city, village, or  
15 town shall subtract any tax increment that is calculated under s. 60.85 (1) (L) or  
16 66.1105 (2) (i).

17           **SECTION 5.** 66.0602 (3) (e) of the statutes is renumbered 66.0602 (3) (e) (intro.)  
18 and amended to read:

19           66.0602 (3) (e) (intro.) The limit otherwise applicable under this section does  
20 not apply to the amount that a county levies in that year for a county children with  
21 disabilities education board. any of the following:

22           **SECTION 6.** 66.0602 (3) (e) 1. of the statutes is created to read:

23           66.0602 (3) (e) 1. The amount that a county levies in that year for a county  
24 children with disabilities education board.

25           **SECTION 7.** 66.0602 (3) (e) 2. of the statutes is created to read:

1           66.0602 (3) (e) 2. The amount that a 1st class city levies in that year for school  
2 purposes.

3           **SECTION 8.** 66.0602 (3) (e) 3. of the statutes is created to read:

4           66.0602 (3) (e) 3. The amount that a county levies in that year under s. 82.08  
5 (2) for bridge and culvert construction and repair.

6           **SECTION 9.** 66.0602 (3) (e) 4. of the statutes is created to read:

7           66.0602 (3) (e) 4. The amount that a county levies in that year to make  
8 payments to an adjacent county, under s. 43.12 (1), for library services.

9           **SECTION 10.** 66.0602 (3) (e) 5. of the statutes is created to read:

10          66.0602 (3) (e) 5. The amount that a political subdivision levies in that year to  
11 make up any revenue shortfall for the debt service on a revenue bond issued under  
12 s. 66.0621.

13          **SECTION 11.** 66.0602 (3) (f) of the statutes is repealed.

14          **SECTION 12.** 66.0602 (3) (h) 1. of the statutes is amended to read:

15          66.0602 (3) (h) 1. Subject to subd. 2., the limit otherwise applicable under this  
16 section does not apply to the amount that a city, village, or town levies in that year  
17 to pay for charges assessed by a joint fire department ~~organized under s. 61.65 (2)~~  
18 ~~(a) 3. or 62.13 (2m)~~, but only to the extent that the amount levied to pay for such  
19 charges would cause the city, village, or town to exceed the limit that is otherwise  
20 applicable under this section.

21          **SECTION 13.** 66.0602 (4) (a) of the statutes is amended to read:

22          66.0602 (4) (a) A political subdivision may exceed the levy increase limit under  
23 sub. (2) if its governing body adopts a resolution to that effect and if the resolution  
24 is approved in a referendum. The resolution shall specify the proposed amount of  
25 increase in the levy beyond the amount that is allowed under sub. (2), and shall

1 specify whether the proposed amount of increase is for the next fiscal year only or if  
2 it will apply on an ongoing basis. With regard to a referendum relating to the 2005  
3 levy, or any levy in an odd-numbered year thereafter, the political subdivision may  
4 call a special referendum for the purpose of submitting the resolution to the electors  
5 of the political subdivision for approval or rejection. With regard to a referendum  
6 relating to the 2006 levy, or any levy in an even-numbered year thereafter, the  
7 referendum shall be held at the next succeeding spring primary or election or  
8 September primary or general election.

9 **SECTION 14.** 66.0602 (4) (d) of the statutes is amended to read:

10 66.0602 (4) (d) Within 14 days after the referendum, the clerk of the political  
11 subdivision shall certify the results of the referendum to the department of revenue.  
12 The levy increase limit otherwise applicable to the political subdivision under this  
13 section is increased in the next fiscal year by the percentage approved by a majority  
14 of those voting on the question. If the resolution specifies that the increase is for one  
15 year only, the amount of the increase shall be subtracted from the base used to  
16 calculate the limit for the 2nd succeeding fiscal year.

17 **SECTION 15.** 66.0602 (5) of the statutes is amended to read:

18 66.0602 (5) EXCEPTION, CERTAIN TOWNS. A town with a population of less than  
19 2,000 may exceed the levy increase limit otherwise applicable under this section to  
20 the town if the town board adopts a resolution supporting an increase and places the  
21 question on the agenda of an annual town meeting or a special town meeting and if  
22 the annual or special town meeting adopts a resolution endorsing the town board's  
23 resolution. The limit otherwise applicable to the town under this section is increased  
24 in the next fiscal year by the percentage approved by a majority of those voting on

1 the question. Within 14 days after the adoption of the resolution, the town clerk shall  
2 certify the results of the vote to the department of revenue.

3 **SECTION 16.** 66.0602 (6) (intro.) of the statutes is amended to read:

4 66.0602 (6) PENALTIES. (intro.) If Except as provided in sub. (6m), if the  
5 department of revenue determines that a political subdivision has a penalized excess  
6 in any year, the department of revenue shall do all of the following:

7 **SECTION 17.** 66.0602 (6) (c) of the statutes is amended to read:

8 66.0602 (6) (c) Ensure that the amount of the penalized excess is not included  
9 in determining the limit described under sub. (2) for the political subdivision for the  
10 following year.

11 **SECTION 18.** 66.0602 (6) (d) of the statutes is created to read:

12 66.0602 (6) (d) Ensure that, if a political subdivision's penalized excess exceeds  
13 the amount of aid payment that may be reduced under par. (a), the excess amount  
14 is subtracted from the aid payments under par. (a) in the following years until the  
15 total amount of penalized excess is subtracted from the aid payments.

16 **SECTION 19.** 66.0602 (6m) of the statutes is created to read:

17 66.0602 (6m) MISTAKES IN LEVIES. The department of revenue may issue a  
18 finding that a political subdivision is not liable for a penalty that would otherwise  
19 be imposed under sub. (6) if the department determines that the political  
20 subdivision's penalized excess is caused by one of the following clerical errors:

21 (a) The department, through mistake or inadvertence, has assessed to any  
22 county or taxation district, in the current year or in the previous year, a greater or  
23 less valuation for any year than should have been assessed, causing the political  
24 subdivision's levy to be erroneous in a way that directly causes a penalized excess.

