

2007 DRAFTING REQUEST

Bill

Received: 02/08/2008

Received By: mshovers

Wanted: As time permits

Identical to LRB:

For: J.A. Hines (608) 266-7746

By/Representing: BJ

This file may be shown to any legislator: NO

Drafter: mshovers

May Contact:

Addl. Drafters:

Subject: Local Gov't - counties
Local Gov't - munis generally

Extra Copies:

Submit via email: YES

Requester's email: Rep.Hines@legis.wisconsin.gov

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Expand levy limits exception for certain debt related to joint fire departments

Instructions:

See Attached. Levy limit exception for amounts paid to finance debt for a fire station incurred by a joint fire department organized under s. 66.0301 if the agreement obligates the pol. subd. to pay such debts.

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?							S&L
/1	mshovers 02/08/2008	bkraft 02/12/2008	rschluet 02/12/2008		lparisi 02/12/2008	cduerst 02/19/2008	

FE Sent For: "/1" @ intro. 2-22-08 <END>

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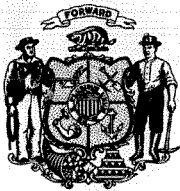
Expand levy limits ^{exception} exemption for certain debt related to joint fire departments

Instructions:

See Attached. Levy limit ^{exception} exemption for amounts paid to finance a debt incurred by a s. 66.0301 commission that provides fire protection services within the municipality

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
1/?	mshovers	1 bjk 2/12					
<p>11 MES 2/8/08</p> <p>FE Sent For:</p> <p style="text-align: right;">2128 <END></p>							



State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-4048 *de*

MES.:.....

bjk
AMR

g
PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

2007 Bill

*wanted:
SOON*

*SA ✓
X-ref ✓*

Open

1 AN ACT ...; **relating to:** expanding an exception to local levy limits for levies for
2 debts incurred by a joint fire department *OK ✓*

Analysis by the Legislative Reference Bureau

Under current law, as created in 2007 Wisconsin Act 20, the biennial budget bill, local levy limits are applied to the property tax levies that are imposed in December 2007 and 2008. 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 greater of either 2 percent or the percentage change in the political subdivision's equalized value due to new construction, less improvements removed, except that for 2007 the levy limit is 3.86 percent. In addition, the calculation of a political subdivision's levy may include any tax increment that is generated by a tax incremental district.

Current law contains a number of exceptions to the levy limit. These exceptions include amounts which may be levied for the following purposes or because of the following situations: political subdivisions that transfer the provision of services to another governmental unit; cities or villages that annex town territory; political subdivisions that levy to pay debt service on debt authorized on or after July 1, 2005; a levy for certain charges assessed by a joint fire department; a county levy that relates to a county children with disabilities education board, bridge and culvert repairs, payments to public libraries, and a countywide emergency medical system; and the amount a village levies to pay for police services, but only for the year after the year in which a town, which did not have a police force, changed to village status.

This bill expands on the current exception to the levy limit for amounts levied by a political subdivision for any revenue shortfall for debt service on a revenue bond issued by the political subdivision. Under the bill this current law exception also applies to amounts levied by a political subdivision to pay for an assessment issued by a joint fire department for a revenue bond issued by the department to pay for a fire station, if the political subdivision is responsible for the joint fire department's debt under an intergovernmental cooperation agreement.

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 (3) (e) 5. of the statutes, as created by 2007 Wisconsin Act
2 20, is amended to read:

3 66.0602 (3) (e) 5. The amount that a political subdivision levies in that year to
4 make up any revenue shortfall for the debt service on a revenue bond issued under
5 s. 66.0621 by the political subdivision or by a joint fire department if the joint fire
6 department uses the proceeds of the bond to pay for a fire station and assesses the
7 political subdivision for its share of that debt, under an agreement entered into
8 under s. 66.0301, which is incurred by the joint fire department but is the
9 responsibility of the political subdivision.

History: 2005 a. 25, 484; 2007 a. 20.

10

(END)

Shovers, Marc

From: Dernbach, BJ
Sent: Tuesday, February 05, 2008 1:41 PM
To: Shovers, Marc
Subject: Drafting Request - Levy Limits - Rush

Importance: High

Attachments: 20080204135625817.pdf; 20080204135632411.pdf; 20080204135651659.pdf

Marc,

I need to put in a rush drafting request regarding a situation regarding the Oxford Fire District and debt payment.

Here is some background below.

Pretty much the short version, during the budget, there was a clause exemption joint fire depts. from debt service. In efforts to secure a new fire station, the Oxford fire department received funds from the USDA to build the new station. In the fire districts eyes, the payments from the municipality to pay the debt service of the joint fire department from the bonds they received from the USDA should be exempted from the caps. DOR has stated in their response that since the fire district is not subject to levy limits, the townships making payments for the debt service cannot claim an exemption. The fire district is working to try to get DOR to change their position, but have been unsuccessful. Below is a copy of the response from DOR, and the letters from Fiscal Bureau and the joint fire department clarifying the situation.



200802041356258120080204135632412008020413565165
7.pdf (215 KB)... 1.pdf (113 KB)... 9.pdf (55 KB)

We are looking at drafting a bill that would say that the payments a municipality makes to a joint fire department that are used to pay off debt to the federal government exempt from the caps. We don't want to make a new exemption, rather to clarify the joint fire department statues.

Please contact Rick Olin, he has been our point man in fiscal bureau and knows how to help draft this legislation.

BJ Dernbach
Legislative Assistant
Representative J.A. "Doc" Hines
Phone: (608) 266-7746
Fax: (608) 282-3642

Current Folder: **Sent-mail**[Sign Out](#)[Compose](#) [Addresses](#) [Folders](#) [Options](#) [Search](#) [Help](#)[Message List](#) | [Delete](#) | [Edit](#)
[Message as New](#)[Previous](#) | [Next](#)[Forward](#) | [Forward as Attachment](#) | [Reply](#) | [Reply All](#)**Subject:** Oxford Fire District**From:** oxlaw@maqs.net**Date:** Wed, October 10, 2007 10:57 am**To:** kschuck@revenue.state.wi.us**Priority:** Normal**Read receipt:** requested**Options:** [View Full Header](#) | [View Printable Version](#)

Dear Mr. Schuck:

Attached, please find my response to your e-mail from October 8, 2007.

[Download this as a file](#)**Attachments:**

100907_e-mail_schuck.htm

16k

[text/html]

[Download](#) | [View](#)

I received your e-mail on Monday indicating that your initial impression from the letter from the USDA was that the municipalities are guarantors as opposed to borrowers. It is apparent we are not having a meeting of the minds on this issue and I will therefore start from the beginning.

The Towns of Jackson and Oxford are obligated under 60.55 Wis. Stats. to provide fire protection to their residents. In order to meet that obligation the towns have agreed with the Village of Oxford to create a fire district, an intergovernmental cooperative unit pursuant to Sec. 66.0301 Wis. Stats. I have previously e-mailed you a copy of the agreement the three municipalities executed to form the district. The district is governed by a commission which consists of a majority of the town boards of the Towns of Jackson and Oxford as well as representatives from the Village of Oxford Village Board. The commission is vested with the authority to adopt a budget, which shall include a sum sufficient to timely pay all debt service (Article VIII Sec. B). The agreement also provides that each municipality shall contribute funds to the fire district budget (Article VIII Sec. B). Further, the agreement requires each municipality to levy a tax sufficient for the purpose of repaying revenue bonds (Article VII Sec. A). Also, I would note that the agreement states that it shall "absolutely bind" the municipalities so long as any revenue bonds remain outstanding (Article XIII Sec A.).

For various public safety reasons, the Fire District Commission has decided to replace the existing undersized and outdated fire station in the Village with a modern, centrally located fire station in the Town of Oxford. The United States Department of Agriculture Rural Development Program has agreed to facilitate the lending for the new fire station. I have previously provided you with a copy of a letter from Julie Giese of the USDA clarifying that the USDA will require each municipality to pledge its full faith and credit in order for the lending to occur.

The repayment of the financing for the new fire station will obviously require increased payments from the municipalities. The issue at hand is whether the increase in the levies of the three municipalities that will be requisite to making such payments will qualify for the debt service exemption that will likely be part of the levy limit that will almost certainly be adopted when the new State budget is approved. The initial, informal opinion of your department as expressed by you during a September 12, 2007 telephone conference with me was that the exemption would not apply because there was no "pass through" of the debt liability. I subsequently provided you with the aforementioned letter from the USDA; I have already noted what your initial response to that letter was.

I trust that you can appreciate the frustration these municipalities are experiencing. The Statutes do not authorize a cooperative unit, such as the Oxford Fire District, to levy taxes on their own. The Statutes and the Oxford Fire District Operating Agreement both envision that the participating municipalities will levy taxes sufficient to pay all obligations of the district including debt service. Indeed, as noted earlier herein, the agreement requires the municipalities to do so. It is difficult to conceive, therefore, how

it could reasonably be determined that there is no "pass through" of the debt liability or that the municipalities are simply the guarantors of the borrowing. The municipalities are not simply guaranteeing debt service payments; they are obligated to make those payments. Indeed, the municipalities and their levying authority are the only sources for funds to make the debt service payments.

Ultimately, the issue is whether the levy limit exemption for debt service applies to the increased payments made by the municipalities to the fire district for the payment on the debt service associated with the new fire station. I note that Sec. 66.0602 (3) (d) 2 Wis. Stats. currently provides that the levy limit does not apply to amounts levied for payment of debt service secured by the full faith and credit of the political subdivision. Therefore, there are essentially two requirements for the levy limit exemption to apply. The first is that the amount levied be for the payment of debt service. The second requirement is that the debt be secured by the full faith and credit of the political subdivision. The second requirement is clearly met as the USDA letter clarifies that one of the requirements for the financing is a pledge from the municipalities of their full faith and credit. It seems the issue, therefore, is in regard to whether the levy increases that will be necessary for the increased payments to the fire district for the new fire station are payments for debt service. Sec. 66.0602 (1) (a) defines debt service as including the refunding of outstanding municipal obligations. As noted earlier herein, the municipalities are absolutely obligated to fund the debt service pursuant to the terms of the fire district operating agreement. Further, given that the Wisconsin Statutes authorize the creation of cooperative units such as the fire district and grant such units the authority to borrow money but do not grant them the authority to levy taxes on their own to repay the borrowed money, I believe it is apparent from the statutory scheme that the increased payments associated with payment of the debt service should be exempt from the levy limit. The only other possible issue I can conceive of is whether the increased payments from the municipalities to the fire district for the debt service can be quantified. I have been advised that each of the three municipalities have, as part of their preliminary budget planning, created separate line items in their budgets directly associated with each municipality's share of the fire district's debt service payments. If you would like more information in that regard, please advise.

I respectfully request that the department reexamine the facts in this matter and reconsider its initial opinion that the exemption does not apply. Please advise as to the outcome of that evaluation. If the department decides to maintain its original position, it would be most appreciated if you would provide me with the name and telephone number for the staff attorney issuing that opinion.

Thank you in advance for your attention to this matter.

Daniel G. Wood, Attorney At Law

Cc: Tim Houslet



State of Wisconsin • DEPARTMENT OF REVENUE

DIVISION OF STATE AND LOCAL FINANCE • BUREAU OF PROPERTY TAX • MADISON, WI

ADDRESS MAIL TO:

Area 6-97
2135 Rimrock Road, 6th Floor • P.O. Box 8971
Madison, WI 53708-8971
TELEPHONE: (608) 261-5350
FAX: (608) 264-6897

November 28, 2007

Attorney Daniel G. Wood
407 Main Street
PO Box 98
Friendship, WI 53934

Dear Mr. Wood:

The Department of Revenue has reviewed the material you provided regarding the Oxford Fire District, including the memo from Rick Olin of the Legislative Fiscal Bureau to Representative J. A. "Doc" Hines. The levy limit statutes were amended by 2007 Wisconsin Act 20 (the State Budget) and provide that the limit otherwise applicable under that section of the statutes does not apply to several items. One of the items listed is "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".

Section 66.0621 Wis. Stats., includes a definition of "municipality" that includes many entities, including a commission created by contract under s. 66.0301. Therefore, we agree that the Oxford Fire District may be able to incur debt by issuing revenue bonds.

However, the definition of "political subdivision" in sec. 66.0602(1)(c), Wis. Stats. is limited to a city, village, town and county. The many entities defined as "municipality" in sec. 66.0621, Wis. Stats., are not all subject to levy limits, only towns, villages, cities and counties. Since a commission created by contract under sec. 66.0301, Wis. Stats., namely, the Oxford Fire District, is not subject to local levy limits under sec. 66.0602, Wis. Stats., the revenue shortfall exception does not apply.

Sincerely,

Daniel A. Davis, Director
Bureau of Property Tax
Division of State and Local Finance

cc: Kenneth Schuck
Representative J.A. Hines



Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873

October 25, 2007

TO: Representative J.A. Hines
Room 10 West, State Capitol

FROM: Rick Olin, Fiscal Analyst

SUBJECT: Levy Limit Provisions Related to Joint Fire Districts

At your request, this memorandum provides information regarding levy limit provisions in Enrolled Senate Bill 40 (the 2007-09 budget bill) that may affect three municipalities in your district that have formed a joint fire department.

The enrolled bill would extend and modify the levy limit program that was created by 2005 Wisconsin Act 25 (the 2005-07 budget). Generally, municipalities and counties would be prohibited from increasing their levies in 2007 and 2008 by a percentage that exceeds the greater of 2% or the change in the jurisdiction's tax base due to net new construction. Local governments would be permitted additional increases in their levies based on exclusions and adjustments in the enrolled bill.

The Village of Oxford and the towns of Oxford and Jackson have formed a joint fire district, named the Oxford Fire District, under the state's intergovernmental cooperation statute (s. 66.0301). This statute authorizes two or more municipalities to enter contracts for the joint exercise of powers or provision of services. Because state law does not authorize the fire district to raise revenue on its own, the district is funded through contributions from the three member municipalities based on a formula specified in their agreement that considers population, equalized value, and the number of fires in the last three years.

The enrolled bill authorizes two exclusions from the levy limitation that the three municipalities served by the Oxford Fire District may be able to utilize. The first exclusion would extend to charges assessed by a joint fire department to a municipality, subject to three provisions. First, the exclusion would extend only to the portion of the charge that causes the municipality to exceed its levy limit. The administration of this provision is subject to interpretation by the Department of Revenue (DOR). Second, the fire district's total charges cannot increase relative to

the prior year by more than the percentage change in the consumer price index plus 2%. For 2007 levies, this increase is estimated at 4.3% (2.3% + 2.0%). Third, the governing body of each municipality served by the fire district must adopt a resolution in favor of any other municipality exceeding its levy limitation.

The second exclusion would pertain to revenue bonds. Section ¹⁸⁸⁹1899 of the enrolled bill would create s. 66.0602 (3) (e) 5., of the state statutes, which would exclude amounts levied to make up any shortfall for debt service on a revenue bond issued under s. 66.0621.

The Oxford Fire District is in the process of replacing its fire station and has secured financing from the rural development program operated by the United States Department of Agriculture (USDA). The intergovernmental agreement creating the Oxford Fire District authorizes the district to incur debt under the state's revenue obligation statute (s. 66.0621). The agreement indicates that debt obtained under the USDA program constitutes a revenue obligation under s. 66.0621. Because the fire district is not authorized to raise revenues except through contributions from its member municipalities, a revenue shortfall, as required under the enrolled bill, would occur relative to the USDA obligation. Therefore, it could be argued that the debt service on the obligation would qualify for exclusion from the levy limitation under section 1889 of the enrolled bill. It should be noted that the USDA obligation could be construed as a loan, as opposed to a bond, as specified in the enrolled bill. As a result, the member municipalities of the Oxford Fire District should consult with legal counsel and DOR before claiming the exclusion.

If you have any questions on this information, please let me know.

RO/bh



State of Wisconsin
LEGISLATIVE REFERENCE BUREAU

RESEARCH APPENDIX -
PLEASE DO NOT REMOVE FROM DRAFTING FILE

Date Transfer Requested: 02/19/2008 (Per: MES)



☞ Appendix A

☞ The 2007 drafting file for LRB-4048/1
has been copied/added to the drafting file for

2007 LRB-4124

☞ The attached 2007 draft was incorporated into the new 2007 draft listed above. For research purposes, this cover sheet and the attached drafting file were copied, and added, as an appendix, to the new 2007 drafting file. If introduced this section will be scanned and added, as a separate appendix, to the electronic drafting file folder.

☞ This cover sheet was added to rear of the original 2007 drafting file. The drafting file was then returned, intact, to its folder and filed.

Duerst, Christina

From: Dernbach, BJ
Sent: Tuesday, February 19, 2008 11:51 AM
To: LRB.Legal
Subject: Draft Review: LRB 07-4048/1 Topic: Expand levy limits exception for certain debt related to joint fire departments

Please Jacket LRB 07-4048/1 for the ASSEMBLY.