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# GPR Spending Cap Exemption
# (Budget Management and Compensation Reserves)

[LFB 2003-05 Budget Summary: Page 71, #5]

## CURRENT LAW

Total GPR appropriations for each fiscal year of a succeeding biennium, after excluding specific appropriations or appropriation categories that are enumerated in the statute, may not exceed an amount that results from multiplying the applicable total level of GPR appropriations that are subject to the limit in the base year (second fiscal year of prior biennium) by the projected increase in state personal income for the calendar year which precedes the July 1 of the fiscal year for which the limit is being calculated. For the second year of a forthcoming biennium, the projected percentage increase in state personal income is applied against the limit amount permitted for the first year of the succeeding biennium.

## GOVERNOR

Provide, for the 2003-05 biennium, an additional one-time exclusion from those GPR appropriations that are subject to the overall limit on increases in GPR appropriations for any GPR appropriation that is established for the purpose of making payments to counties, towns, villages and cities under ss. 79.035 (county and municipal aid) and 79.036 (consolidation incentive payment) of the statutes. Under the bill, the only GPR appropriation that this would affect would be the county and municipal aid account appropriation [s. 20.835(1)(db)].

## DISCUSSION POINTS

1. This spending limit provision was established under 2001 Wisconsin Act 16 (the biennial budget) and is first effective for the 2003-05 biennial budget. Under the requirements of

this spending cap limit, the Legislative Fiscal Bureau is required each biennium to determine the amount appropriated in the fiscal year preceding the forthcoming biennial budget period that is subject to this statutory spending limit and report this amount to the Legislature by December 1 of each even-numbered year.

2. Under the statute, to determine the permitted increases in state spending for those GPR appropriations that are subject to the limit, the projected increases in state personal income for calendar years 2003 and 2004 are the relevant percentages that govern the permitted increase levels for the fiscal years 2003-04 and 2004-05 respectively. This office estimated in November of 2002, as required under the statute, that state personal income growth for those two years would be 3.9% for calendar year 2003 and 5.4% for calendar year 2004. Based on those projections, it was then calculated that the total of the GPR appropriations subject to the limit could not increase by more than a total of $189,685,900 in 2003-04 over the base 2002-03 level and by more than a total of $462,570,900 in 2004-05 over the base 2002-03 level.

3. Under the statute, the following GPR appropriations or appropriation categories are excluded from the limit:

- Any appropriation passed by at least a two-thirds vote of each house of the Legislature.

- All appropriations to the following agencies: (1) Higher Educational Aids Board; (2) Department of Public Instruction; and (3) University of Wisconsin System.

- All appropriations for the payment of tax relief under s. 20.835(2) of the statutes.

- Any appropriation for payments of principal and interest on public debt.

- Any appropriation for payments of principal and interest on operating notes.

- Any appropriation for payments to honor statutory moral obligation pledges.

- Any appropriation for payments to the federal government from bond revenues to avoid a designation of state bonds as arbitrage bonds.

- Any appropriation for payments for legal expenses and for the costs of judgments, orders and settlements of actions and appeals incurred by the state.

- Any appropriation for payments to execute a transfer from the general fund to the budget stabilization fund (as required under s. 16.518 of the statutes).

4. The provision in SB 44 would add the above-mentioned exemption relating to payment of aids to counties, towns, villages and cities under ss. 79.035 and 79.036 to that list, but the exemption would be in effect only for the 2003-05 fiscal biennium.

5. When this office provided the required statutory report to the Legislature on the spending limits for the 2003-05 budget, it was noted in that report that among the appropriations subject to this new spending limit were those for shared revenue, county mandate relief, and small municipalities shared revenue. That report further pointed out that, due to the use of proceeds from the tobacco securitization transaction to pay a large portion of the payments for these three purposes in the 2002-03 fiscal year, the GPR base appropriation levels for these purposes in that base year (which is the base year that is used for the spending limit calculation for the 2003-05 budget) is less than the on-going GPR commitments for these programs. A comparison of the 2002-03 GPR funding for these three programs with then current law funding requirements indicated that funding increases of more than $608 million in 2003-04 and almost $570 million in 2004-05 would be required just for continued GPR funding of commitments under those programs under current law.

6. Presumably because of potential concerns about this large fiscal commitment on the administration's ability to have its final budget be within the required spending limit, SB 44 includes statutory language, but with a limited 2003-05 applicability, that would exclude the indicated additional GPR appropriation from the spending limit in 2003-05. As drafted in SB 44, the special exemption would be created to exclude from the limit any GPR appropriations that are for the purpose of making payments to counties, towns, villages and cities under ss. 79.035 and 79.036. Under current law, s. 79.035 relates to payments to counties and municipalities from the county and municipal aid account appropriation. Section 79.036 relates to consolidation incentive payments for certain counties and municipalities who agree to consolidate services, also to be paid out of the county and municipal aid account appropriation.

7. Under SB 44 however, among other changes, s. 79.036 relating to consolidation incentive payments beginning in calendar year 2004 would be repealed, as would the reference to payments for that purpose coming from the county and municipal aid account. The Committee should make a technical correction to the bill to delete the references in the proposed exemption to s. 79.036 (unless that provision is retained as a result of other Committee action).

8. Under SB 44, the proposed GPR funding level in the county and municipal aid account appropriation (which is a sum sufficient appropriation) is estimated at zero in 2003-04 and $641,336,600 GPR in 2004-05. No funding was included in the 2002-03 adjusted base for this appropriation. Therefore, the effect of the Governor's proposed change is to allow an additional $641,336,600 GPR to be outside the spending limit for 2004-05.

9. This office has reviewed SB 44 with regard to the amount of GPR spending increase that would be provided for those appropriations that are subject to the spending cap under SB 44 compared to the levels that are allowed under the spending cap. The results of that analysis are shown in the following table.

**Limit Amounts and Comparison with SB 44 Levels**

**2003-04**

| | |
|---|---|
| FY 2002-03 GPR Capped Spending Base | $4,863,740,100 |
| Allowed Increase in 2003-04 | 189,685,900 |
| Maximum 2003-04 Level | $5,053,426,000 |
| Actual SB 44 Total 2003-04 Capped Appropriations Total | 4,476,203,700 |
| Plus Compensation Reserves and Transfers | 131,158,000 |
| | $4,607,361,700 |
| Over/(Under) Limit | -$446,064,300 |

**2004-05**

| | |
|---|---|
| FY 2002-03 GPR Capped Spending Base | $4,863,740,100 |
| Allowed Increase in 2003-04 | 189,685,900 |
| Allowed Increase in 2004-05 | 272,885,000 |
| Maximum 2004-05 Level | $5,326,311,000 |
| Actual SB 44 Total 2004-05 Capped Appropriations Total | $5,359,002,400 |
| Plus Compensation Reserves and Transfers | 191,704,700 |
| | $5,550,707,100 |
| Over/(Under) Limit | $224,396,100 |

10. As shown in the table, under SB 44 the total level of 2003-04 GPR appropriations that are subject to the spending cap is well within the increase permitted under current law ($446 million under the cap). However, for 2004-05, those GPR appropriations subject to the limit would exceed the permitted spending limit by more than $224 million. Under the SB 44 proposed additional exemption from the spending cap however, the remaining appropriations would be almost $417 million under the cap.

11. One item for the Committee to consider with regard to this issue is whether it wants to start a precedent of allowing one-time exemptions to the spending limit. Some would argue that there already exist a large number of permanent exclusions and this could be seen as precedent setting in that every time the limit starts to be hit, the answer would be to provide an additional exemption. The alternative argument would be that the nature of the budget for the 2001-03 biennium involved a number of unusual one-time funding arrangements involving non-GPR funds

that resulted in unusually larger increases in required 2003-05 GPR spending.

12. A second item for consideration would be that the examination of the implications of the current law spending limit on appropriations under SB 44 that are subject to the cap reveals that the bill easily complies with the limit for 2003-04 but is substantially above the limit in fiscal year 2004-05. If the net offset of Committee's actions on SB 44 were to be such that at least $225 million ($224,396,100 exactly) in spending reductions in 2004-05 under the total of those appropriations that are subject to the cap are made, there would be no need for any exemption from the cap. However, the reductions have to occur in that year. Spending reductions in 2003-04 may increase the general fund balance, but have no effect on keeping 2004-05 appropriations under the spending cap.

13. A third item for consideration is that, even though the exemption has a limiting reference making it applicable for the 2003-05 fiscal biennium only, it has been drafted into the permanent statutes. However, it would be possible to partially veto the 2003-05 limitation to thereby make the exemption permanent.

14. A fourth item for consideration is that the spending cap limitations do not apply just to the biennial budget act. The cap is an absolute limit on GPR spending for the indicated fiscal year.

15. The Committee could delete the proposed exemption. However the Committee would then have to make reductions to keep the appropriations total under the required level.

16. Alternatively, the Committee could provide a different exemption mechanism to permit the limit to be exceeded by only up to $225,000,000 in 2004-05. That would be a fixed dollar exemption, even if the year reference were to be subsequently item-vetoed.

17. The Committee could include the Governor's recommendation as submitted, with the needed technical correction.

18. The Committee could modify the Governor's recommendation to create an exemption as session law language instead of, as drafted, a change to the statutory spending cap law and to provide that the exemption be created as a general notwithstanding provision.

## ALTERNATIVES

1. Approve the Governor's recommendation, with a technical correction to eliminate the statutory reference to s. 79.036.

2. Modify the Governor's recommendation to provide the proposed exemption as session law language by specifying that, notwithstanding the statutory spending cap provision, that spending cap is not applicable for purpose of the GPR appropriations levels for 2004-05 as established under the biennial budget act.

3. In lieu of the Governor's proposed exemption language, adopt exemption language as a session law provision that would specify that for fiscal year 2004-05, notwithstanding the provisions of the spending cap law, the GPR spending limit for that year may be exceeded by not more than $225,000,000.

4. Maintain current law.

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