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Joint Committee on Finance

Paper #492

Revenue Limit Adjustment for Energy Efficiency Measures (Public Instruction -- General School Aids and Revenue Limits)

[LFB 2017-19 Budget Summary: Page 346, #3]

CURRENT LAW

Revenue Limits. Under revenue limits, the amount of revenue a school district can raise from general school aids, computer aid, and property taxes is restricted. A district's base revenue in a given year is equal to the restricted revenues received in the prior school year. Base revenue is divided by the average of the district's enrollments in the prior three years to determine its base revenue per pupil. In 2016-17 and each year thereafter, no per pupil adjustment is made to each district's base revenue per pupil to determine its current year revenue per pupil. Current year revenue per pupil is then multiplied by the average of the district's enrollments in the current and prior two years to determine the district's initial revenue limit. There are several adjustments that are made to the initial revenue limit, such as the declining enrollment adjustment and the adjustment for energy efficiency measures. These adjustments generally increase a district's limit, providing the district with more revenue authority within the calculated limit. A district can also exceed its revenue limit by receiving voter approval at a referendum.

Under the energy efficiency adjustment, a school district's revenue limit is increased by the amount spent by the district in that year on a project to implement energy efficiency measures or to purchase energy efficient products. The project must result in the avoidance of, or reduction in, energy costs or operational costs, and be governed by a performance contract entered into under statutory municipal law provisions. A school board must adopt a resolution to use this adjustment. The adjustment is nonrecurring.

The adjustment may be used for the payment of debt service on bonds and notes issued or state trust fund loans obtained to finance the project. Such bonds or notes may not be issued or loans be obtained for a period exceeding 20 years, and the resolution adopted by a school board

is valid for each year in which the board pays debt service on the bond, note, or state trust fund loan.

If a school district issues a bond or note or obtains a state trust fund loan to finance the project, the amount of debt service included under the adjustment is the amount paid in the calendar year that begins on January 1 of the school year in which the district's revenue limit is increased. If a district issues a bond or note or obtains a state trust fund loan to finance a project and the district's utility costs are measurably reduced as a result of the project, the savings must be used to retire the bond, note, or state trust fund loan.

Under DPI rule, districts may retrofit, replace, or update existing equipment or improve facilities if such improvements result in the avoidance of, or reduction in, energy costs or related operational costs. Expenditures for the expansion of facilities or the addition of equipment are not allowed unless they are necessary to improve the efficiency of the existing facility. The purchase of one-to-one instructional technology devices is not an eligible expenditure.

By rule, the school board resolution to use this adjustment must state the amount to be levied and expended, the specific new expenditures, the performance indicators that will measure the cost savings of the expenditures in an amount equal to or in excess of the expenditures, and a timeline for cost recovery for the expenditures. An evaluation of the performance indicators must also be included in the district's budget summary document in the following year, and in the district's newsletter or in the published minutes of a school board meeting. A district's revenue limit in any year is reduced, on a nonrecurring basis, by the amount levied for which there is not a prior year documented energy expenditure.

Performance Contracting. Under municipal law, a local unit of government may enter into a performance contract for the evaluation and recommendation of energy conservation and facility improvement measures, and for the implementation of these measures, in order to reduce energy or operating costs. The contract must be with a qualified provider who is experienced in the design, implementation, and installation of energy conservation and facility improvement measures, and who has the ability to provide labor and material payment and performance bonds equal to the maximum amount of any payments due under the contract.

Prior to entering into a performance contract, a local unit of government must solicit bids or competitive sealed proposals from qualified providers. The local unit of government must also obtain a report from a qualified provider containing specified information, including an estimate of project costs and a guarantee specifying a minimum amount by which energy or operating costs will be reduced.

If the local unit of government finds that the amount it would spend on the energy conservation measures recommended in the report is not likely to exceed the amount to be saved in energy and operation costs over the remaining useful life of the facility to which the measures apply, the local unit of government may enter into the contract. A governing body must give at least 10 days' notice of the meeting at which it intends to award a performance contract. The notice must include certain specified information related to the contract. A governing body may award the performance contract to the qualified provider that best meets the needs of the local

unit of government, which does not have to be the lowest cost provider.

Energy savings must be guaranteed by the qualified provider for the term of the contract. During the term of the contract, the qualified provider must monitor and periodically report to the local unit of government on the reduction in energy consumption and cost savings attributable to the energy conservation measures installed under the contract.

GOVERNOR

Specify that school districts would not be able to adopt a school board resolution to utilize the energy efficiency adjustment after the effective date of the bill.

DISCUSSION POINTS

1. The energy efficiency adjustment was created in the 2009-11 budget act and was modified in both the 2011-13 and 2013-15 budget acts. As initially created in the 2009-11 budget act, the adjustment was set equal to the amount spent by the district in a school year on energy efficiency measures and renewable energy products that result in avoidance of, or reduction in energy costs, and DPI was required to promulgate rules to implement this adjustment, including eligibility standards for districts.

2. Under the 2011-13 budget act, the adjustment was modified to: (a) specify that the adjustment applied to projects to implement energy efficiency measures or to purchase energy efficiency products, including the payment of debt service; (b) specify that projects could result in the avoidance of, or reduction in, operational costs as well as energy costs; (c) add the performance contracting requirement; (d) add the twenty-year limit on bonds and notes and specify that a resolution would be valid for each year a district pays debt service; and (e) delete the DPI rules requirement.

3. The adjustment was further modified in the 2013-15 budget act to: (a) require that measurable utility savings be used to retire a bond or note issued to finance the project; (b) expand eligibility to debt service on a state trust fund loan; and (c) specify the calendar year treatment of debt service.

4. Most of the provisions in administrative rule have been in effect since DPI first promulgated rules after passage of the 2009-11 budget act. The rules were modified, effective in May of 2016, to reflect the statutory changes made to the adjustment in subsequent budget acts and to add provisions clarifying eligible expenditures with respect to updating existing facilities and equipment, expanding facilities and adding equipment, and purchasing instructional technology.

5. The following table shows the number of districts eligible for the energy efficiency adjustment each year of its existence and the statewide total revenue limit authority under the adjustment. Also shown is the change to the prior year in total authority, in both dollar and percentage terms. A total of 168 of the 422 districts in the state, or 39.8%, have used the adjustment at least once during its history.

Energy Efficiency Adjustment History

	<u>Number of Districts</u>	<u>Total Adjustments</u>	<u>Change to Prior Year</u>	
			<u>Amount</u>	<u>Percent</u>
2009-10	35	\$5,048,200		
2010-11	25	7,092,900	\$2,044,700	40.5%
2011-12	32	8,876,300	1,783,400	25.1
2012-13	32	8,625,000	-251,300	-2.8
2013-14	53	21,705,100	13,080,100	151.7
2014-15	81	37,137,000	15,431,900	71.1
2015-16	106	48,874,300	11,737,300	31.6
2016-17	120	79,772,400	30,898,100	63.2

6. The \$79.8 million in statewide revenue limit authority under the energy efficiency adjustment in 2016-17 represents 0.9% of the \$8,433.2 million in statewide revenue limit authority for that year prior to adjustments. Of the 120 districts that utilized the adjustment in 2016-17, the adjustment amount ranged from 0.02% to 15.5% of the district's revenue limit prior to adjustments. Eighty percent of the adjustments were between 0.4% and 9.1% of the district's revenue limit prior to adjustments.

7. A significant portion of the growth in the adjustment is due to a limited number of school districts. Three large urban districts (Green Bay, Kenosha, and Racine) were responsible for 40% of the \$71.1 million growth in the statewide total adjustments from 2012-13 to 2016-17, and 56% of the \$30.9 million in growth in the statewide total adjustments from 2015-16 to 2016-17.

8. Information on the level of future expenditures approved under the adjustment indicates that, for resolutions approved in calendar year 2015, a total of \$347.1 million of total expenditures were approved. For resolutions approved in calendar year 2016, a total of \$319.7 million of total expenditures were approved. This would include both single-year cash-funded projects and multiple-year debt-funded projects, but would not include any energy or operating cost savings.

9. A major consideration in judging the appropriateness of the bill provision is whether the school board, or local voters, should approve any additional spending on energy efficiency measures. The bill provision would shift the authority from school boards and to local voters through referendum. Under the bill provision, if a district's revenue limit would not allow it to fund an energy efficiency project, the district would have the option, under current law, to propose a referendum. Using this option would ensure that there is local support of the district's decision to make these types of expenditures, before it can spend or tax at higher levels.

10. Creating a revenue limit adjustment or exclusion arguably increases the incentive for school districts to pursue projects that they otherwise would not undertake if the expenditures were still made from limited revenues under the limit. The increased usage of the energy efficiency adjustment mirrors the increase in usage of the community service levy after it was removed from revenue limits. Prior to 2001-02, the levy used by districts for community service activities (such as

adult education, community recreation programs, and elderly food service programs) was under revenue limits. The 2001-03 budget act removed those levies from under revenue limits. Over the same time period as the energy efficiency adjustment, the number of districts using the community service levy more than doubled (from 119 in 2000-01 to 268 in 2007-08) and the statewide community service levy nearly quadrupled (from \$17.0 million in 2000-01 to \$66.6 million in 2007-08). A temporary limit on community service levies and additional requirements for the use of the levy were put in place in the 2013-15 legislative session.

11. The current law adjustment places the authority to levy and expend funds for energy efficiency projects with school boards. The revenue limit adjustments and exclusions under state law provide for additional revenue limit authority for particular classes of districts (such as declining enrollment, low revenue, and consolidated school districts) or for particular classes of expenditures (energy efficiency measures and community service activities). Eligible school boards have the authority to utilize the additional revenue limit authority from any adjustments or exclusions, or not, without direct voter approval.

12. Proponents of the energy efficiency adjustment argue that it allows districts to undertake projects to reduce energy and overhead costs that might otherwise be deferred, and that the contracting and performance requirements in statute and rule provide a level of transparency for taxpayers in a district to judge the appropriateness of the energy efficiency expenditures.

13. If the Committee chooses to delete the bill provision, the estimated statewide usage of the adjustment would increase. Under the bill, it is estimated that the total adjustment would decrease by \$20 million in 2018-19 compared to current law. If no additional general school aid or school levy tax credit funding is appropriated to mitigate the property tax impact of the additional revenue limit authority, it is estimated that the levy on the median-valued home would increase by \$6 in 2018-19 compared to the bill.

14. In a separate bill provision, the Governor proposed expanding Focus on Energy to include incentives for projects for improving energy efficiency in elementary, secondary, and postsecondary schools, and requiring the Public Service Commission to ensure that the amount spent annually on such incentives is at least \$10 million more than the amount spent on such incentives in 2016-17 and that public elementary and secondary schools are given priority in the spending. On May 11, the Committee removed this provision on a 16-0 vote.

ALTERNATIVES

1. Approve the Governor's recommendation to specify that school districts would not be able to adopt a school board resolution to utilize the energy efficiency adjustment under revenue limits after the effective date of the bill.

2. Delete provision.

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