State of Wisconsin
2007 - 2008 LEGISLATURE

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2007 ASSEMBLY JOINT RESOLUTION 99

February 13, 2008 – Introduced by Representatives F. LASEE, KRAMER, LOTHIAN, PRIDEMORE, STRACHOTA, VOS, VUKMIR and ZIPPERER, cosponsored by Senators GROTHMAN, KEDZIE and LAZICH. Referred to Committee on Ways and Means.

To create section 11 of article VIII of the constitution; **relating to:** creating fiscal year allowable revenues for the state and local governmental units, returning excess revenue to the taxpayers, requiring electoral approval for certain taxing and spending decisions, and allowing local governmental units to exempt themselves from certain state mandates (first consideration).

Analysis by the Legislative Reference Bureau

This proposed constitutional amendment, proposed to the 2007 legislature on first consideration, provides that the state or a school district, technical college district, or other local governmental unit, not including a town with less than $1,000,000 in allowable revenue, may not collect more in allowable revenue in any fiscal year than the amount of its allowable revenue in the previous year, increased by the lesser of the average percentage increase, if any, in the consumer price index for the three most recent years for which the information is available or the average percentage increase, if any, in state personal income for the three most recent years for which the information is available, plus the following:

1. For the state, the estimated percentage of any increase in state population, corrected over a three-year period.

2. For school districts, the annual percentage increase in student enrollment, if any, averaged over the previous 3 years.

3. For technical college districts and all other local governmental units, the percentage increase, if any, from the previous year in taxable property values attributable to new construction, less the value of any taxable property removed or demolished, in that governmental unit.

Under the proposed amendment, revenues collected in excess of allowable revenue are returned to the taxpayers or, in the case of the state, deposited into a budget stabilization fund. The state may spend moneys from the fund only to provided tax relief, in the case of certain emergencies, or in any fiscal year in which the amount of allowable revenue is greater than the amount of collected revenue.

Under the proposed amendment, elector approval at a referendum is necessary to increase any entity's allowable revenue, incur debt service by an amount that exceeds 7 percent of allowable revenue, or exclude any tax, fee, or charge from allowable revenue. In addition, a local governmental unit may exempt itself from any new mandate imposed by the state that is not fully funded by the state or from any mandate for which the state reduces the percentage of the costs the state pays for the mandate.

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

Resolved by the assembly, the senate concurring, That:

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

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

(a) "Economic development bond" means a bond issued to finance real property improvements that are directly related to economic development.

(b) "Inflation–income factor" means the lesser of the average percentage increase, if any, for the 3 most recent years available in the consumer price index for Milwaukee–Racine, or its successor index, or the average percentage increase, if any, in state personal income for the 3 most recent years available.

(c) "Revenue" means all moneys, except enterprise funds, bonding revenue, moneys used for debt service on a minimum 80 percent self–funding economic development bond, moneys received for the operation of sanitary sewers or a telephone, gas, electric, or water utility, or nongovernmental moneys received for medical care provided by hospitals, nursing homes, assisted living facilities, or other medical facilities operated by any entity subject to this section, moneys received from the federal government, gifts, damage awards, real or personal property sales, unemployment insurance taxes, insurance premiums, employee payments for fringe benefits, governmental property insurance, investment trusts, private purpose trusts, college savings programs, or from tuition or fees paid by or on behalf of students to support university or technical college functions.

(2) Beginning with the first fiscal year 180 days after ratification of this section, the state, or a school district, technical college district, or other local governmental unit that collects revenue, excluding a town that has less than $1,000,000 in allowable revenue, may not collect more in allowable revenue in any fiscal year than the amount of its allowable revenue in the previous year, increased by the inflation–income factor, plus:

(a) For the state, the estimated percentage of any increase in state population, adjusted by the decennial census and corrected over a 3–year period as provided by law.

(b) For school districts, the annual percentage increase in student enrollment, if any, averaged over the previous 3 years available.

(c) For technical college districts and all other local governmental units, as applied to revenues not provided by the state, the percentage increase, if any, from the previous year in taxable property values attributable to new construction, less the value of any taxable property removed or demolished, in that governmental unit.

(3) If the state increases any category of state aid to local governmental units or the university by less than the inflation–income factor, the state's allowable revenue shall be reduced by that amount.

(4) (a) Revenues collected in excess of allowable revenue shall be returned to the taxpayers in the next fiscal year or, in the case of the state, deposited into a budget stabilization fund, not to exceed 7 percent of that fiscal year's allowable revenue.

(b) The legislature by law may spend from the budget stabilization fund only to provide tax relief, for an emergency event that causes real and personal property damage exceeding 1.5 percent of allowable revenue or death, grave bodily harm, or imminent threat of death or grave bodily harm to at least 0.1 percent of the state's population, or in any fiscal year in which the amount of allowable revenue is greater than the amount of collected revenue, but not to exceed allowable revenues.

(6) The legislature by law shall provide for revenue neutral adjustments to allowable revenues to accommodate the transfer of services between and among governmental units, including such transfers that occur as a result of annexation.

(7) Allowable revenues under this section may be reduced by law, ordinance, or resolution, as appropriate, or by initiative and elector approval at a referendum.

(8) The state or any local governmental unit may do any of the following only with the approval of the electorate at a referendum:

(a) Increase allowable revenue under this section. The ballot question shall express the proposed excess as a dollar amount and as a percentage increase compared with allowable revenues and shall indicate whether the excess is recurring or nonrecurring.

(b) Incur debt service by an amount that exceeds 7 percent of allowable revenue. The ballot question shall express the proposed increase as a dollar amount and as a percentage of allowable revenues and shall indicate the time period for which the debt service shall exceed 7 percent of allowable revenue.

(c) Exclude any tax, fee, or charge from allowable revenue. The ballot question shall express the tax, fee, or charge as a dollar amount, as a percentage of allowable revenues, and as estimated revenues for each of the next 3 years and shall indicate the purpose.

(9) A local governmental unit may exempt itself from any new mandate imposed by the state that is not fully funded by the state or from any mandate for which the state reduces the percentage of the costs the state pays for the mandate.

(10) Any resident or any person who pays income or property taxes to this state or to any local governmental unit, may bring a suit to enforce this section.

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

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

(END)