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

March 4, 2002 | Joint Committee on Finance | Paper #1239

County and Municipal Operating Levy Limit (Shared Revenue and Tax Relief)

[LFB Summary of the Governor's Budget Reform Bill: Page 80, #2]

CURRENT LAW

Each county is subject to a tax rate limit on the general operations portion of its levy. For purposes of the control, each county's total tax levy and rate are separated into two components. The debt levy and debt levy rate are comprised of amounts for debt service on state trust fund loans, general obligation bonds and long-term promissory notes, while the operating levy and operating rate are comprised of all other taxes. Each county's operating levy is limited to no more than an amount based on its prior year's allowable levy plus an adjustment equal to the percent change in the county's equalized value. For example, if a county's equalized value increases, or decreases, by 5%, its allowable levy will increase, or decrease, by 5%. Unless a county has claimed an adjustment to its levy, this mechanism has the effect of limiting each county's tax rate to the rate that was in effect in 1992(93), the year before the tax rate limit took effect.

Municipalities are not subject to a mandatory fiscal control. However, as a condition for receiving aid under the expenditure restraint program, municipalities must limit the year-to-year growth in their budgets to a percentage determined through a statutory formula. The statutes define municipal budget as the municipality's budget for its general fund exclusive of principal and interest payments on long-term debt. The percentage limitation on budgets equals the change in the Consumer Price Index (CPI) plus an adjustment based on growth in the municipality's property value.

GOVERNOR

Prohibit any political subdivision, defined as a city, village, town or county, whose total property tax levy rate is greater than or equal to one mill ($1 per $1,000 of value), from increasing its operating levy in each year by a percentage that exceeds the sum of: (a) the percentage increase in inflation from June of the preceding year to June of the current year; and (b) the percentage increase in population in the political subdivision from the preceding year to the current year.

Define "operating levy" as the total political subdivision levy minus any portion of the total levy attributable to the political subdivision's levy for debt service on loans provided to the political subdivision by the Board of Commissioners of Public Lands or bonds or promissory notes issued by the political subdivision, less any revenues that abate the debt service levy. Specify that the "total levy rate" equals the total levy divided by the equalized value of the political subdivision, exclusive of any tax incremental district value increment. Specify that, for the purpose of this provision, "inflation" is the percentage change in the U.S. Bureau of Labor Statistics consumer price index for Milwaukee and Racine, all items, all urban consumers, or its successor index. Specify that "population" means the number of persons residing in the political subdivision, as determined by DOA under current law provisions.

Specify that the levy limit shall be adjusted, as determined by DOR, as follows: (a) if a political subdivision transfers to another governmental unit responsibility for providing any service that the political subdivision provided in the preceding year, the levy increase limit otherwise applicable to the political subdivision is decreased to reflect the cost that the political subdivision would have incurred to provide the service; or (b) if a political subdivision increases the services that it provides by adding responsibility for providing a service transferred to it from another governmental unit in any year, the levy increase limit otherwise applicable to the political subdivision in the current year is increased to reflect the cost of that service.

Require DOR, not later than August 15 of each year, to notify every political subdivision of the increase in inflation and population that applies to the political subdivision.

Create a procedure under which a political subdivision may exceed its operating levy limit if the governing body of the political subdivision adopts a resolution to that effect and the electors of the political subdivision approve the resolution in a referendum. Specify that the resolution adopted by the governing body shall specify the operating levy and the percentage increase in the levy that the governing body wishes to impose. Require the governing body, in the event it adopts such a resolution, to call a special election for the purpose of submitting the resolution to the electors for a referendum on approval or rejection, or, in lieu of a special election, allow the governing body to specify that the referendum be held at the next succeeding spring primary or election or September primary or general election to be held not earlier than 42 days after the adoption of the resolution by the governing body. Require the governing body to file the resolution to be submitted to the electors according to current law requirements for referenda petitions or questions.

Specify that the question submitted at the referendum shall be as follows: "Under state law, the operating levy increase for the [name of political subdivision], for the tax to be imposed for the year [year], is limited to [percentage limit calculated for the political subdivision]% that results in an operating levy of $….. Notwithstanding the operating levy increase limit, shall the [name of political subdivision] be allowed to exceed this operating levy increase limit such that the operating levy increase for the year [year] will be [the amount specified in the governing body's resolution]% that results in an operating levy of $….?"

Specify that, if such a resolution is approved by the majority of those voting on the question, the political subdivision may exceed the operating levy increase limit otherwise applicable to it in that year, but that the operating levy increase may not exceed the percentage approved in the referendum. Specify that the operating levy that results from approval of the referendum shall be the base levy to which the levy limit is applied in the following year.

Require the clerk of the political subdivision in which such a referendum is held to certify the results of the referendum to DOR, immediately after expiration of the time allowed to file a petition for a recount. Specify that, if a petition for a recount is filed, the clerk shall make this certification immediately after the recount has been completed and the time allowed for filing an appeal has passed or, if appealed, immediately after the appeal is decided.

Specify that the operating levy limit calculated under these provisions does not apply to any county in which that levy exceeds the operating levy that the county may impose under current law county levy rate limit provisions. Specify that the limit imposed under these provisions does not apply to any increase in a political subdivision's operating levy that results from complying with a court order.

Specify that these provisions first apply to property tax assessments as of January 1, 2002.

DISCUSSION POINTS

1. The Governor's bill would retain the county tax rate limit program, but would eliminate the expenditure restraint program for municipalities in 2004. The bill does not provide additional personnel for the Department of Revenue to administer the proposed program. The objectives of the current tax rate limit and proposed levy limit programs would be somewhat duplicative, so both programs may not be needed.

2. It could be argued that neither of the existing programs has provided an effective control for property tax increases. Over the five-year period from 1996 to 2000, statewide tax levy increases for both counties and municipalities outpaced the change in the CPI by considerable margins. Municipalities that received expenditure restraint payments in both of the corresponding years averaged a lower rate of increase than other municipalities, but even that rate was slightly more than double the inflation rate. However, it should be acknowledged that funding for the shared revenue program remained unchanged over this period. Due to funding increases for programs related to the shared revenue program, state assistance under the combined programs increased by 0.3% for counties and 1.2% for municipalities over the five-year period.

TABLE 1

Comparison of Statewide Tax Increases for Counties and Municipalities to Inflation 1996 to 2000

	Total Change	Average, Annual Change
Consumer Price Index (CPI-U)	9.8%	2.4%
County Levies	29.3	6.6
Municipal Levies	26.7	6.1
Recipients of ERP in both years	21.4	5.0
Other Municipalities	39.0	8.6

3. The CPI is calculated by the U.S. Department of Labor and measures changes in the prices of a set market basket of goods. The index for urban consumers (CPI-U) measures goods consumed by households in 87 urban areas and covers approximately 80% of the U.S. population. Separate indices are also published for various regions of the country and for 26 local areas. The CPI for Milwaukee-Racine is one such index and is published semiannually.

4. Because the CPI for Milwaukee-Racine is published in two specific months, it can result in larger or smaller percentage changes than is indicative of the general rate of inflation. Prior to 1991, the inflation measure used in the expenditure restraint program relied on the December CPI. To avoid unintended fluctuations in the index, the measure was changed to the average index for the 12 months ending in September of the year prior to the budget year. Table 2 compares the change in the Milwaukee-Racine CPI to the CPI used under the expenditure restraint program for the 1991 to 2001 period.

TABLE 2

Comparison of Two Inflation Measures

	Milwaukee-Racine Index		Expenditure Restraint	
	July Index	Change	12-Month Avg.	Change
1991	131.0		135.2	
1992	135.9	3.7%	139.3	3.0%
1993	140.5	3.4	143.5	3.0
1994	146.0	3.9	147.3	2.6
1995	150.6	3.2	151.4	2.8
1996	153.7	2.1	155.6	2.8
1997	157.6	2.5	159.8	2.7
1998	159.6	1.3	162.4	1.6
1999	162.7	1.9	165.5	1.9
2000	167.6	3.0	170.8	3.2
2001	171.8	2.5	176.3	3.2
Total Change		31.1%		30.4%

5. The inflation measure under the Governor's proposal would be adjusted to reflect the percentage change in each county's or municipality's population. Many municipal government services are provided to properties. In recognition of this, the inflation measure in the expenditure restraint program is adjusted to include a percentage equal to 60% of the percentage change in the municipality's equalized value due to new construction. The inflation measure can be increased by no more than 2% under this adjustment. The adjustment recognizes municipalities' need to extend services to new properties and reflects that not all new development is accompanied by population gains. Only 60% of the change is included to reflect the distinction between fixed costs and variable costs. A population-based adjustment may be more appropriate for counties because a significant portion of their expenditures are for human services.

6. If the expenditure restraint program is retained and the Governor's proposed levy limit program is adopted, two separate measures of inflation, with adjustments, would be tracked for municipalities. Although this is not difficult, it is unnecessary and could lead to confusion regarding which measure relates to which program. An alternative would be to use the same measure for both programs. A separate adjustment technique could be employed for counties, but the CPI measure could be the same for counties and municipalities.

7. Local officials are elected to make decisions to establish spending priorities and to determine appropriate taxation levels within their communities. The bill would replace this discretion with a statewide policy that mandates how much can be raised and spent within each local government. The bill would allow local officials to regain some of the lost autonomy through referendum. However, the cost of holding a referendum may discourage its use if there is an environment of limited local resources. Some autonomy could be preserved by also allowing

increases beyond the limit, if adopted by three-fourths of the members-elect of the local governing body. A similar provision could be extended to the electors of a town in attendance at the town's annual meeting. The municipal levy for towns is set at the annual town meeting, although the meeting can delegate that authority to the town board.

8. In the bill, the Governor proposes to reduce state aid to counties and municipalities under the shared revenue, expenditure restraint, county mandate relief and small municipalities shared revenue programs by $350 million in 2002 and by $360 million in 2003 and to eliminate state aid under those programs in 2004. In the Governor's summary of the bill, the rationale for the proposed levy limit is to eliminate "the need for tax increases to offset the aid reduction." Thus, the proposal is intended to have the effect of forcing counties and municipalities to reduce their current expenditure levels.

9. The impact of the proposed levy limit will increase over time. On a statewide basis, county tax levies increased by rates ranging from 3.6% to 8.1% and municipal tax levies have increased by rates ranging from 3.6% to 7.9% between 1996(97) and 2000(01). Over this period, the annualized rate of change in statewide levies has averaged 6.6% for counties and 6.1% for municipalities. This compares to a combined percentage change in the CPI and the state's population that has averaged 3.0% annually. The tax levies of individual counties and municipalities between 1996(97) and 2000(01) were examined without regard for any distinction between operating and debt levies and assuming no referenda would be successful. Under those parameters, county and municipal tax levies would have been allowed to increase in aggregate by only 12.5% and 12.4%, respectively. Thus, for taxes levied in 2000(01), the limit would have reduced county levies by $174.1 million (-13.2%) and municipal levies by $202.0 million (-12.7%). Table 3 displays the distribution for counties and municipalities by percentage reduction, relative to their actual 2000(01) levies.

TABLE 3

Distribution of Counties and Municipalities by Estimated 2000(01) Levy Reductions Assuming Initial Imposition of Proposal in 1996(97)

	Counties		Municipalities	
	Number	Percent	Number	Percent
1996 Levies Under One Mill	0	0.0%	140	7.6%
Est. 2000 Levy Lower by:				
No Change	5	6.9%	426	23.0%
Less than 5%	4	5.6	150	8.1
5% to 10%	8	11.1	154	8.3
10% to 20%	29	40.3	317	17.1
Over 20%	26	36.1	663	35.8
Total	72	100.0%	1,850	100.0%

10. If the impact of the proposed levy limits is combined with the elimination of shared revenue and its related programs, counties and municipalities will be confronted with considerable service reductions over the coming years. If additional flexibility in the program seems warranted, local governments could be allowed to carry-forward some of their unused allowable increase from one year to the next. This could remove some of the incentive for each government to levy up to its maximum allowable amount each year. In its deliberations on Act 16, the Senate included a change to the expenditure restraint budget test that would have provided an adjustment to the allowable increase in budgets equal to 50% of the difference between the prior year's allowable and adopted budgets. This provision was deleted by the Conference Committee.

11. The Governor's proposals to impose a levy limit and to reduce shared revenue funding would require counties and municipalities to reduce their 2003 expenditure amounts. Based on statewide estimates of current county and municipal property taxes and shared revenue payments, 2003 expenditures funded from those revenues would have to be reduced, on average, by 7.2% for counties and 6.2% for municipalities. If there is a desire to avoid reductions of that magnitude, the Governor's proposal could be modified to allow local governments to recapture part of the loss in state aid through property tax increases.

ALTERNATIVES TO BILL

1. Approve the Governor's recommendation to prohibit any political subdivision, defined as a city, village, town or county, whose total property tax levy rate is greater than or equal to one mill ($1 per $1,000 of value), from increasing its operating levy in each year by a percentage that exceeds the sum of: (a) the percentage increase in inflation from June of the preceding year to June of the current year; and (b) the percentage increase in population in the political subdivision from the preceding year to the current year.

2. Repeal the county tax rate limit authorized under current law, effective with taxes levied in 2002 (payable in 2003). [The current law provisions pertaining to the conditions for debt issuance by counties would be retained (s. 67.045 of the state statutes).]

3. Repeal the eligibility requirement for receiving an aid payment under the expenditure restraint program that is based on the year-to-year increase in a municipality's general fund budget, effective with aid payments for 2004.

4. Modify the Governor's recommendation by changing the definition of "inflation" to mean a percentage equal to the average, annual percentage change in the U.S. consumer price index for all urban consumers, U.S. city average, as determined by the U.S. Department of Labor, for the 12 months ending on September 30 of the year of the levy. Modify the date by which DOR would notify political subdivisions from August 15 to November 1. [This is the same measure used for the expenditure restraint program.]

5. Modify the Governor's recommendation by replacing the municipal adjustment to the inflation measure based on population with an adjustment set at a percentage equal to 60% of

the percentage change in the jurisdiction's equalized value due to new construction, less improvements removed, between the year before the year of the levy and the previous year, but not less than 0% nor greater than 2%. [This is the same measure used for the expenditure restraint program.]

6. Modify the Governor's recommendation to authorize levy increases in excess of the limit if approved by referendum to also apply to increases approved by one of the following [this would not delete the referendum provision, but would be an alternative to increases allowed through referendum]:

a. at least three-fourths of the members-elect of the governing body; or

b. at least three-fourths of the electors in attendance at the annual town meeting, if the levy is set by the meeting.

7. Modify the Governor's recommendation by authorizing an additional adjustment to the allowable increase calculated for each county and municipality. Set the adjustment equal to 50% of the difference between the prior year's allowable and adopted levy.

8. Modify the Governor's recommendation by authorizing an additional adjustment to the allowable increase calculated for each county and municipality. Set the adjustment equal to one of the following percentages of the difference between the local government's estimated state aid for 2002 under the shared revenue, expenditure restraint, county mandate relief and small municipalities shared revenue programs, as determined by DOR in September, 2001, and the amount the local government is expected to receive in 2003:

a. 25%;

b. 50%; or

c. 75%.

9. Delete the Governor's recommendation to impose a levy limit on counties and municipalities.

Prepared by: Rick Olin