Legislative Fiscal Bureau

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May 12, 2011 Joint Committee on Finance Paper #610

Levy Limit for Counties and Municipalities
(Shared Revenue and Tax Relief -- Property Taxation)

[LFB 2011-13 Budget Summary: Page 402, #1]

CURRENT LAW

The 2009-11 biennial budget act (2009 Wisconsin Act 28) recreated the levy limit program that was originally created in the 2005-07 biennial budget act (2005 Wisconsin Act 25). The Act 25 limitation only applied to county and municipal property tax levies for 2005(06) and 2006(07), but the limitation was extended by 2007 Wisconsin Act 20 to apply to taxes levied for 2007(08) and 2008(09) and by 2009 Wisconsin Act 28 to apply to taxes levied for 2009(10) and 2010(11). In addition, 2009 Wisconsin Act 28 sunset the levy limit provisions, so that they do not apply to levies imposed after December, 2010. Therefore, county and municipal property tax levies, as of 2011(12), will not be subject to a levy limit unless the 2011-12 Legislature recreates the program.

GOVERNOR

Modify the levy limit program by: (a) changing the program's sunset from December, 2010, to December, 2012, so that the program extends to levies for 2011(12) and 2012(13); (b) changing the base year levy, which is used to calculate allowable levy increases, from the prior year's maximum allowable levy to the prior year's actual levy; and (c) changing the minimum allowable levy increase under the inflation factor from 3% to 0%. Require a county or municipality to decrease its allowable levy if its current year levy for debt service on debt issued before July 1, 2005, is less than its prior year levy for debt service on such debt, by an amount equal to the decrease. As modified, the levy limit for 2011(12) and 2012(13) would be structured as follows:

Imposition. Prohibit any political subdivision, defined as a city, village, town, or county, from increasing its base municipal or county tax levy by more than a percentage that exceeds the local government's valuation factor. Define the base levy as the local government's actual levy for the immediately preceding year. Define the valuation factor as the percentage equal to the greater of 0% or the percentage change in the local government's equalized value due to new construction, less improvements removed, as determined for January 1 equalized values in the year of the levy. [The prior law levy limit had a 3% floor for the allowable increase and based the limit on the maximum allowable levy for the prior year, rather than the actual levy.]

Exclusions. Exclude from the limitation any amounts levied: (a) as tax increments by a city, village, or town; (b) for the payment of any general obligation debt service on debt authorized on or after July 1, 2005, and secured by the full faith and credit of the city, village, town, or county; (c) for a county children with disabilities education board by a county; (d) for school purposes by a first class city; (e) for town bridge and culvert construction and repair by a county; (f) for payment by a county to an adjacent county for library services; (g) for a countywide emergency medical system by a county; (h) for any revenue shortfall for debt service on a revenue bond issued by a political subdivision; (i) for any revenue shortfall for debt service on a revenue bond issued by a joint fire department if the joint fire department uses the bond proceeds to pay for a fire station, if the joint fire department assesses the political subdivision its share of the debt under an intergovernmental cooperation agreement, and if the political subdivision is responsible for the repayment of the debt, even though the debt was incurred by the joint fire department; (j) for the payment of debt service on appropriation bonds issued to fund a county or municipal employee retirement system liability by a county having a population of 500,000 or more or by a first class city; (k) for police protection services by a village in the year immediately after the village's incorporation, provided the village did not have a police force when it was a town; (l) for unreimbursed expenses related to a declared emergency, including any amount levied to replenish cash reserves used to pay those unreimbursed expenses, provided the amount is levied in the year the emergency occurred or in the next year; or (m) for fire charges assessed by a joint fire department that would cause the municipality to exceed its allowable levy, provided that the joint fire department's total charges increase relative to the prior year by a rate less than or equal to 2% plus the percentage change in the consumer price index and the governing body of each municipality served by the joint fire department adopts a resolution in favor of the municipality exceeding its limit. Define joint fire department, by way of cross-reference, as a joint fire department created by a village with a population of 5,000 or more with a city or town or with another village, by a city with another city, or by a municipality with another governmental unit or Indian tribe through an intergovernmental cooperation contract. [All of these exclusions were included under prior law.]

Adjustments. Specify that the levy limit shall be adjusted, as determined by the Department of Revenue (DOR), as follows: (a) if a municipality or county transfers to another governmental unit responsibility for providing any service that it provided in the preceding year, the levy increase limit otherwise applicable to the municipality or county is decreased to reflect the cost that the municipality or county would have incurred to provide the service; (b) if a municipality or county increases the services that it provides by adding responsibility for providing a service transferred to it from another governmental unit, the levy increase limit otherwise applicable to the municipality or county is increased to reflect the cost of providing that service; (c) if a service has been provided in part of the county by the county and in part of the county by a separate governmental unit and the provision of the service is consolidated at the county level, the levy increase limit otherwise applicable to the county is increased to reflect the total cost of providing the service; (d) if a city or village annexes property from a town, the annexing municipality's levy increase limit is increased by an amount equal to the town levy on the annexed territory in the preceding year and the levy increase limit for the town from which the property was annexed is decreased by the same amount; (e) if two political subdivisions enter an intergovernmental cooperation agreement to jointly provide a service on a consolidated basis and if one subdivision agrees to increase its levy and the other subdivision agrees to decrease its levy by the same amount to achieve a more equitable distribution of payments for the service, then the levy increase limits for the two subdivisions are increased and decreased by the agreed amounts; (f) if the amount of a lease payment related to a lease revenue bond in the preceding year is less than the amount of the lease payment needed in the current year, as the result of the issuance of a lease revenue bond before July 1, 2005, the levy increase limit is increased by the difference between the two amounts; (g) if the amount of debt service in the preceding year is less than the amount of debt service needed in the current year, as the result of the city, village, town, or county adopting a resolution before July 1, 2005, authorizing the issuance of debt, the levy increase limit is increased by the difference between the two amounts; and (h) if the amount of debt service in the preceding year on debt originally issued before July 1, 2005, is more than the amount of debt service needed in the current year for such debt, the levy increase limit is decreased by the difference between the two amounts. Specify that debt service includes debt service on debt issued or reissued to fund or refund outstanding obligations, interest on outstanding obligations, or the payment of related issuance costs or redemption premiums. Finally, provide an adjustment to the levy limit of a political subdivision if the subdivision contained a tax increment district for the immediately preceding year and DOR does not certify a value increment for the district in the current year because of the district's termination. Set the adjustment equal to the political subdivision's allowable levy for the preceding year multiplied by a percentage equal to half of the tax increment district's value increment in the previous year divided by the political subdivision's equalized value in the previous year. [The adjustment under (h) was not included under the prior law levy limit. All of the other adjustments were included under prior law.]

Referendum. Create a procedure under which a city, village, town, or county may exceed its levy increase limit if the local government's governing body adopts a resolution to that effect and the electors of the municipality or county approve the resolution in a referendum. Require the resolution and referendum to specify the proposed amount of the levy increase above the limit and whether the amount of the proposed increase is for a single year only or is ongoing. Authorize the local government to hold a special referendum, with regard to a referendum relating to the levy in an odd-numbered year. Require the local government to hold a referendum at the same time as the next spring primary or election or September primary or general election, with regard to a referendum relating to the levy in an even-numbered year. Require the referendum to be held in accordance with current law provisions enumerated in chapters 5 to 12 of the state statutes.

Require the referendum question to be submitted to the electors as follows: "Under state law, the increase in the levy of the …. (name of county or municipality) for the tax to be imposed for the next fiscal year, …. (year), is limited to ….%, which results in a levy of $…. Shall the …. (name of the county or municipality) be allowed to exceed this limit and increase the levy for the next fiscal year, …. (year), by a total of ….%, which results in a levy of $….?". Specify that a town with a population below 2,000 may exceed its levy increase limit if the annual town meeting or a special town meeting adopts a resolution to that effect and if the town board has adopted a resolution supporting the increase and placing the question on the meeting's agenda. Require the clerk of the municipality or county to publish notices regarding the referendum or town meeting prior to the time it is held and to certify the results of the referendum or town resolution to DOR within 14 days of the referendum or meeting. [The referendum and town meeting provisions are the same as those under the prior law levy limit.]

Penalty. Require DOR to reduce the county and municipal aid payment of any municipality or county that imposes a tax levy in excess of the amount allowed under these provisions. Establish the reduction as the amount equal to the excess tax levy, but exclude levies that exceed the allowable levy by less than $500 from the penalty. Provide that the aid reduction be imposed in the year after the excess amount is levied, but specify that the amount of any penalty exceeding a local government's succeeding aid payment be applied to aid payments in subsequent years until the total penalty is subtracted. Provide that any withheld state aid amounts be lapsed to the general fund. Authorize DOR to waive penalties if it determines that a penalized excess is caused by a clerical error. Define clerical error as a penalized excess caused by DOR, through mistake or inadvertence, assessing to a county or a municipality in the current or previous year a greater or lesser valuation than should have been assessed, or by a county or municipal clerk, through mistake or inadvertence, in preparing or delivering the tax roll. [The penalty provisions are the same as those under the prior law levy limit.]

Sunset. Provide that the levy limit would not apply to levies imposed after December, 2012.

DISCUSSION POINTS

1. This office has presented papers to each of the last three Legislatures (2009-11 LFB Paper #715, 2007-09 LFB Paper #725, and 2005-07 LFB Paper #685) on proposals to create or extend a levy limit program for counties and municipalities. The pros and cons of creating a limitation are discussed in those papers. Rather than repeating those arguments, this paper focuses on the differences between the existing and proposed limitations and the impact that specific features of the proposal may have on tax levies and tax bills. If the Committee does not want to continue the levy limit program, Alternative 2 would delete the Governor's recommendation, and the current program would be repealed and would not apply to county and municipal tax levies for 2011(12) and thereafter.

2. On April 15, 2011, this office issued estimates of statewide property tax levies based on provisions proposed in SB 27/AB 40. The memorandum estimated that statewide gross property tax levies would increase by 1.2% in 2011(12) and 1.3% in 2012(13), and statewide net property tax levies would increase by 1.5% in 2011(12) and 1.4% in 2012(13). In 2010(11), school district taxes represented the largest share of statewide property tax levies (45%) and school tax levies are

estimated to increase by 0.3% in 2011(12) and 0.4% in 2012(13). Municipal tax levies (23%) and county tax levies (19%) comprised the two next largest components. Statewide municipal and county tax levies are estimated to increase by 2.0% in 2011(12) and 2.3% in 2012(13). Except for 2010(11), when municipal tax levies increased by 2.1% and county levies increased by 1.9%, the estimated increases in statewide municipal and county tax levies are lower than in any year since levy limits were imposed. Table 1 summarizes the change in estimated tax bills for a median-valued home taxed at statewide average tax rates over the preceding six years when levy limits were in effect and over the next two years based on the provisions in SB 27/AB 40.

TABLE 1

Estimated Property Tax Bills for a Median-Valued Home Based on Statewide Average Tax Rates

Tax Bill Estimates Based on Actual Tax Levies

	2004(05)	2005(06)	2006(07)	2007(08)	2008(09)	2009(10)	2010(11)
Home Value	$142,814	$153,525	$164,118	$170,305	$171,840	$167,974	$161,355
Type of Tax							
School	$1,351	$1,324	$1,364	$1,436	$1,475	$1,537	$1,575
Municipal	730	748	756	777	793	804	813
County	605	616	621	636	640	649	655
Technical College	221	229	234	240	246	252	254
Other	61	62	62	62	62	61	61
Gross Tax	$2,968	$2,979	$3,037	$3,151	$3,216	$3,303	$3,358
Tax Credits	-262	-249	-304	-315	-360	-384	-395
Net Tax Bill	$2,706	$2,730	$2,733	$2,836	$2,856	$2,919	$2,963
Change from Prior Year							
Amount		$24	$3	$103	$20	$63	$44
Percent		0.9%	0.1%	3.8%	0.7%	2.2%	1.5%

Tax Bill Estimates Based on SB 27/AB 40

	2011(12)	2012(13)
Home Value	$158,128	$158,128
Type of Tax		
School	$1,567	$1,559
Municipal	823	834
County	663	672
Technical College	258	257
Other	61	62
Gross Tax	$3,372	$3,384
Tax Credits	-386	-385
Net Tax Bill	$2,986	$2,999
Change from Prior Year		
Amount	$23	$13
Percent	0.8%	0.4%

3. As Table 1 shows, over the next two years, the property tax bill on a median-valued home taxed at statewide average tax rates would increase from $2,963 in 2010(11) to $2,986 in 2011(12) and $2,999 in 2012(13). These increases equal $23, or 0.8%, in 2011(12), and $13, or 0.4%, in 2012(13). These estimated increases are lower than in four of the six years since levy limits

were imposed. In 2006(07), the estimated increase equaled only 0.1%, and in 2008(09), the estimated increase equaled 0.7%, which is lower than the 0.8% increase estimated for 2011(12) but not lower than the 0.4% increase estimated for 2012(13).

4. The municipal component of these tax bills is estimated to increase from $813 in 2010(11) to $823 in 2011(12) and $834 in 2012(13), and the county component of the tax bills is estimated to increase from $655 in 2010(11) to $663 in 2011(12) and $672 in 2012(13).

Base Levy for Fiscal Control

5. Under SB 27/AB 40, the base for calculating future levy increases would be the local government's actual tax levy in the immediately preceding year. This treatment differs from the levy limit created under 2009 Act 28, which established the prior year allowable levy as the base for calculating future levy increases. Prior to Act 28, the base levy equaled the local government's actual tax levy, as proposed by SB 27/AB 40. That treatment was criticized by some because local governments that did not levy the full amount allowable under the limit were penalized for their restraint. Meanwhile, local governments that levied to their allowable limit were allowed a higher base year levy in the succeeding year. SB 27/AB 40 would define base levy in the same way that was employed before Act 28, so that local governments that levy below the limit would permanently lose their unused levying capacity.

6. Both the SB 27/AB 40 and 2009 Act 28 treatments can be argued to produce higher property tax levies, by either allowing larger increases compared to the prior year actual levy (Act 28) or by encouraging local governments to levy to the maximum allowed, so they do not lose this ability in future years (SB 27/AB 40). Conflicting evidence suggests either approach may produce a more effective fiscal control. Table 2 reveals that the levy limit authorized under 2009 Act 28, which included a base levy equal to the prior year allowable levy and a 3% minimum allowable increase, resulted in lower year-to-year statewide levy increases than the levy limit authorized under 2007 Act 20, which included a base levy equal to the prior year actual levy and a minimum allowable increase of 3.86% for 2007(08) and 2% for 2008(09), or the levy limit authorized under 2005 Act 25, which included a base levy equal to the prior year actual levy and a minimum allowable increase of 2%. The Act 28 treatment is presented as Alternative 3.

TABLE 2

**Statewide County and Municipal Tax Levy Increases
Under Levy Limits Authorized By Three Budget Acts**

	2005 Wisconsin Act 25		2007 Wisconsin Act 20		2009 Wisconsin Act 28	
	2005(06)	2006(07)	2007(08)	2008(09)	2009(10)	2010(11)
Counties	3.5%	3.2%	4.5%	3.1%	3.1%	1.9%
Municipalities	4.1	3.5	4.9	4.4	3.2	2.1

7. On the other hand, local governments would possess a considerable amount of unused levy capacity, on a statewide basis, if the base levy for 2011(12) and 2012(13) was set equal to the allowable levy for the prior year. A comparison of actual levies for 2010(11) and the levy limit worksheets for all 72 counties and 101 of the state's 1,851 municipalities reveals that 54% of the counties and 76% of the municipalities that were examined had unused levy capacity relative to their 2010(11) tax levies. By extrapolating from the observed counties and municipalities, the statewide base levy would be an estimated 8% higher ($350 million) if the base levy for 2011(12) was set equal to the prior year allowable levy, rather than the prior year actual levy. Table 3 reports the unused levy capacity as a percentage of 2010(11) actual tax levies for all 72 counties and the 101 sampled municipalities.

TABLE 3

Unused Levy Capacity as a Percent of 2010(11) Actual Tax Levies
All 72 Counties and 101 Sampled Municipalities

	Counties	Towns	Villages	Cities
No Unused Capacity	33	13	12	0
1.0% or Less	7	5	4	0
1.0% to 2.0%	2	1	3	2
2.0% to 3.0%	2	3	0	3
3.0% to 4.0%	3	4	2	3
4.0% to 5.0%	4	1	2	1
5.0% or More	21	9	12	21
Total Examined	72	36	35	30

8. A middle ground could be fashioned by permitting local governments to carry forward a portion of their unused, allowable increase to the next year. For example, the base levy could be set equal to the prior year's allowable levy, but that amount could be limited to no more than 101% of the prior year's actual levy. This would allow a levy increase of up to 1%, provided the local government had unused levy capacity from the prior year, before the application of the automatic adjustment factor or any exclusions and adjustments. Other carry forward percentages, such as 2% or 3% of the prior year's actual levy, could also be employed. This treatment is presented as Alternative 4.

9. If this option is pursued, it should be developed in conjunction with the automatic adjustment factor, because when combined, the two provisions could allow larger levy increases than might be intended. As noted above, past automatic adjustment factors have been structured to allow increases based on new construction with a minimum guarantee. If the minimum guarantee is set at 3%, as in 2009 Act 28, and the base levy is set at the prior year's allowable levy, but no more than 103% of the prior year's actual levy, then levy increases of up to 6% would be authorized. As noted below, the automatic adjustment factor in SB 27/AB 40 would utilize a minimum guarantee of 0%.

Automatic Adjustment Factor

10. SB 27/AB 40 would allow every county and municipality to increase its levy by the greater of 0% or the percentage change in the local government's tax base due to net, new construction for the preceding year. Net, new construction means the value of new construction less the value of demolitions. The 0% minimum guarantee would prevent the levy limitation from causing local governments to reduce their tax levies if the value of demolitions exceeds the value of new construction.

11. The initial levy limit authorized in 2005 Wisconsin Act 25 allowed a basic increase equal to the greater of 2% or the local government's new construction rate. However, the 2005 Legislature proposed a limitation based only on new construction. Conceptually, that approach would have kept tax bills on existing properties constant and caused newly constructed properties to bear the entire increase in tax levies. Through partial veto, Governor Doyle modified this limitation by creating the 2% minimum guarantee. One could argue that the intent of the minimum percentage guarantee is to allow every local government some increase in its levy to fund inflationary expenditure increases.

12. In the 2007-09 biennial budget bill, the Legislature voted to continue a limit equal to the greater of the new construction rate or 2%, but a partial veto by Governor Doyle increased the minimum to 3.86% for 2007(08) tax levies. This higher 2007(08) minimum guarantee coincided with the largest percentage increases in statewide municipal and county levies over the preceding six years, as reported in Table 2. Also during this six-year period, the largest increases in statewide gross tax levies, statewide net tax levies, and estimated tax bills occurred in 2007(08). While part of these increases was due to a 7.4% increase in statewide school tax levies, higher county and municipal levy increases also contributed to the increases.

13. Subsequently, 2009 Act 28 set the minimum guarantee at 3% for levies in 2009(10) and 2010(11). As noted above, statewide county and municipal levy increases were lower during this two-year period than either of the two preceding two-year periods when levy limits were in effect.

14. One policy objective of an adjustment factor may be to allow inflationary increases to all local governments, but to allow somewhat larger increases to local governments experiencing more rapid development. The consumer price index (CPI) is the most widely recognized measure of inflation, and over the last six years, the change in the CPI has averaged 2.4%, ranging from -0.4% in 2009 to 3.8% in 2008. During this period, fluctuations in energy prices had a significant impact on the inflation rate as the energy component of the CPI increased 13.9% from 2007 to 2008 and decreased 18.4% from 2008 to 2009. Since then, inflation has subsided and IHS Global Insight Inc.'s April, 2011, forecast predicts inflation rates of 2.8% in 2011 and 1.9% in 2012. However, in its release of the CPI for March, 2011, the U.S. Bureau of Labor Statistics reports, "The all items index rose 2.7 percent in the last 12 months, the largest increase since December 2009. The energy index has now risen 15.5 percent over the last 12 months, with the gasoline index up 27.5 percent." Continued increases in energy prices could cause an upward revision in inflation forecasts.

15. The CPI is intended to reflect the cost of a "market basket" of goods purchased by typical households and may not accurately reflect inflationary pressures experienced by local governments. Labor costs are not included as an expenditure category in the CPI calculation, and the governmental finances data series for 2007-08, compiled by the U.S. Bureau of the Census, indicates that salaries and wages comprised 35% of Wisconsin local government direct expenditures in that year. The U.S. Department of Labor maintains an employment cost index that reflects an employer's cost of employee wages, salaries, and benefits. Separate indices are maintained for different types of employers, including one for state and local governments. Since 2004, the annual increase in the fourth quarter index for total compensation for state and local governments has ranged from 1.8% to 4.1% (Table 4). Over that period, increases in employer costs of employee benefits have outpaced increases in wages and salaries.

TABLE 4

Annual Change in Compensation Costs for State and Local Governments, 2004 - 2010*

	Total Compensation	Wages & Salaries	Total Benefits
2004	3.6%	2.1%	6.7%
2005	4.1	3.1	6.3
2006	4.1	3.5	5.2
2007	4.1	3.5	5.5
2008	3.0	3.1	2.9
2009	2.3	1.9	3.1
2010	1.8	1.2	2.9

* Source: Bureau of Labor Statistics, U.S. Department of Labor (fourth quarter index, not seasonally adjusted).

16. Loss of state aid could also put pressure on county and municipal levies. The Budget in Brief (page 41) identifies $163 million in state aid reductions proposed in SB 27/AB 40. The proposed reductions would be made to the county and municipal aid, general transportation aid, mass transit assistance, payments for municipal services, and youth aids programs. Although the bills also propose state aid reductions in other programs, many of the other reductions are accompanied by proposals to eliminate related state mandates, such as for recycling. The Budget in Brief indicates that these aid cuts would be offset by "projected compensation savings" realized by counties and municipalities through employee contributions for retirement and health insurance that are authorized by 2011 Wisconsin Act 10.

17. On April 6, 2011, the League of Wisconsin Municipalities released an analysis based on a survey of 35 large municipalities that found estimated expenditure reductions would not completely offset those municipalities' estimated state aid reductions. The League found that not all of the expenditure reductions estimated by the Governor from employee retirement and health insurance contributions would be realized because some municipalities had previously negotiated contributions and because contributions from municipal utility employees accrue to enterprise funds rather than the municipality's general fund. The League estimated that the expenditure reductions

cover only 61% of the estimated aid loss, but the League analysis includes recycling grants. If those grants are excluded, the percentage would increase to 73%.

18. At the request of this office, the Wisconsin Counties Association contacted its members and asked them to conduct an analysis similar to the municipal analysis. By May 4, 19 counties had responded. Like the municipalities, most counties indicated that they would not be able to achieve the same level of expenditure reductions from employee retirement and health insurance contributions that the Governor projected. Reductions may not be realized because employees already contribute to their retirement or health insurance benefits or because existing contracts "lock in" employer-employee contribution levels through 2012. Most counties included a variety of aid programs in their analysis, and based on that data, 13 of the 19 counties project that some portion of their aid reduction would be unfunded. The unfunded portion of these counties' aid reductions range from 1% to 75%. However, if the aid reductions are limited to county and municipal aid, general transportation aid, court-related aid programs, youth aids, and child support aids, seven of the 18 counties would have some portion of their aid reduction unfunded, and the percentage of unfunded aid reductions range from 2% to 64%. Finally, if the aid reductions are limited to county and municipal aid and general transportation aid, only three of the 18 counties would have a portion of their aid reductions unfunded, and the percentage of unfunded aid would range from 18% to 58%.

19. To the extent that a municipality or county has an aid reduction in excess of its fringe benefit savings, it could decide to cut expenditures, raise revenues through fees, or raise its property tax levy, to the extent allowed. A higher minimum guarantee for the levy adjustment factor would allow more of any unmitigated aid reduction to be recovered through the levy.

20. The change in statewide equalized values due to net new construction averaged 2.7% from 2001 to 2006. The final two years of this period were the first two years that levy limits were imposed, when the statewide average tax base gain due to new construction equaled 2.8% in 2005 and 2.9% in 2006. The rate of increase declined to 2.4% in 2007, 1.9% in 2008, 1.3% in 2009, and 0.8% in 2010, reflecting the downturn in the housing market related to the recession. Over the last six years, Table 5 indicates that the number of local governments with equalized value increases due to net, new construction that exceed 1% has declined each year (although the number of cities with increases above 1% increased slightly from 2005 through 2007, and the number of villages with increases exceeding 1% increased slightly from 2005 to 2006).

TABLE 5

Percentage of Municipalities and Counties with Net, New Construction Percentages Exceeding 1%

	2005	2006	2007	2008	2009	2010
- Towns	89.3%	87.4%	80.3%	70.1%	51.9%	30.0%
- Villages	73.3	74.3	66.1	59.2	42.8	23.8
- Cities	83.2	84.2	85.3	75.3	54.7	32.6
Municipalities	85.1	84.2	77.7	68.3	50.2	28.9
Counties	100.0	97.2	97.2	94.4	65.3	25.0

21. Over the next two years, the state's equalized value is estimated to increase due to new construction by 0.9% in 2011 and 1.2% in 2012. Since these increases would approximate the changes that occurred in 2010 and 2009, respectively, the distributions portrayed in Table 5 for those years may illustrate the effect of the levy limit proposal over the next two years. If new construction mirrors 2009, about 50% of all municipalities and 35% of all counties would have an adjustment factor of less than 1%. If new construction mirrors 2010, those percentages increase to about 70% of all municipalities and 75% of all counties.

22. Some local governments did not increase their levies to their allowable limits in 2010(11), and this practice would be expected to continue under SB 27/AB 40. However, the proposed change in the treatment of the base levy and the elimination of the minimum guarantee would likely result in more local governments setting their levies at their maximum allowable amounts. As stated above, SB 27/AB 40 would result in statewide county and municipal levy increases estimated at 2.0% in 2011(12) and 2.3% in 2012(13). Because some local governments would experience tax base growth due to new construction in excess of 1% or 2% over the next two years and because some local governments are unlikely to levy their entire allowable amount, a minimum guarantee of 1% or 2% would be unlikely to result in tax levies that are either 1% or 2% higher than the estimates cited above. Instead, a minimum guarantee of 1% would result in statewide county and municipal levy increases estimated at 2.6% in 2011(12) and 2.7% in 2012(13). A 2% guarantee would result in statewide increases estimated at 3.3% in each year. Alternative 5 would set the minimum guarantee at one of these percentages.

Exclusions and Adjustments

23. For 2010(11), the new construction factor and 3% minimum guarantee, combined, are estimated to explain 40% to 50% of the increase in municipal and county levies. The remainder of the increase is due to items excluded from the limit or due to adjustments to the limit. Exclusions and adjustment affect the final levy differently. Exclusions represent amounts not subject to the limitation. These amounts are removed from the base levy and result in a lower automatic adjustment than would otherwise occur. Adjustments are additions or subtractions to the allowable levy that are reflected after the automatic adjustment factor has been applied. Adjustments permanently increase or decrease the base levy in future years.

24. For 2009(10) and 2010(11), the levy limit law offered 12 exclusions and eight adjustments. For some adjustments, such as for service transfers, a local government may not claim a positive adjustment unless another local government claims a negative adjustment.

25. Last session, 2009 Act 28 created four new exclusions or adjustments for the levy limit program. These include: (a) an exclusion for the City of Milwaukee's debt service on appropriation bonds issued to fund a municipal employee retirement system liability (a similar exclusion existed previously for Milwaukee County); (b) an exclusion for amounts levied to pay unreimbursed expenses related to a declared emergency; (c) an adjustment for amounts levied to fulfill certain obligations under an intergovernmental cooperation agreement; and (d) an adjustment allowing the carry-forward of unused levying capacity from the 2007(08) levy to the 2009(10) levy. Because the final adjustment [Item (d)] applied only to levies for 2009(10), it is no longer necessary and could be repealed. Alternative 6 would repeal this provision.

26. The exclusion with the largest impact on municipal and county levies is for debt service on debt authorized on or after July 1, 2005. Because debt service in the prior year is excluded from the base levy, this exclusion does not result in tax levy increases unless the debt service for the current year is higher than the debt service in the prior year. For 2010(11) levies, increases in debt service payments caused levy increases estimated at 1.0% for municipalities and 0.8% for counties on a statewide basis. This exclusion comprised almost 50% of the total increase in municipal levies and almost 40% of the total increase in county levies. When the levy limit program was originally enacted, this exclusion was created because legal counsel argued that investors would be unwilling to purchase municipal and county obligations if the ability to repay that debt was impeded in any way. Due to this concern, any desire to limit the effects of debt service on tax levies should be addressed through changes to the procedures for issuing new debt, rather than through changes to the levy limit program. When the Legislature adopted the county tax rate limit in 1993, it also adopted procedures which counties must follow to authorize more debt. These procedures may partially explain why counties utilize the debt service exclusion less than municipalities. Another reason may be that municipalities' service mix is more infrastructure-related, while counties' service mix is more related to human services.

27. Under SB 27/AB 40, both municipalities and counties would be allowed to claim an adjustment to the limitation that has been allowed since the original levy limit law. Levies could be increased by an amount equal to the increase in debt service on debt issued before July 1, 2005. Limiting or removing this adjustment could adversely affect the sale of municipal or county debt on the secondary market, thereby making investors reluctant to purchase newly issued debt. This adjustment had a more significant impact on tax levies under previous versions of the levy limit law than under the version enacted as part of 2009 Act 28.

28. SB 27/AB 40 would create a new adjustment that would result in a decrease in a local government's allowable levy if the debt service on debt issued before July 1, 2005, is less in the current year than in the previous year. This is the only change that SB 27/AB 40 would make to the exclusions and adjustments offered under prior law. This provision would structure the treatment of debt service for debt issued before July 1, 2005, similarly to the treatment of debt service on debt issued after July 1, 2005. The Department of Administration indicates that the provision is intended to "ensure that property taxes levied by local governments do not exceed the necessary costs of government. Without the negative adjustment, county and municipal governments can effectively transfer levy authority for covering debt related to capital projects onto the general operating levy. The provision under current law increases the tax burden on local taxpayers and is unfair to governments that did not see adjustments in their levy authority due to older debt service." On the other hand, the overall limit proposed by the Governor offers little flexibility to local governments. Retaining the current law treatment would provide additional levy flexibility to those local governments with older debt that is expiring. Alternative 7 would delete the proposed adjustment for decreasing debt service from the levy limit proposal.

29. In 2010(11), adjustments, in total, caused levy increases estimated at just over 0.1% for municipalities and almost 0.3% for counties. Adjustments had a less significant impact on levies than in prior years due to the change in the definition of the base year levy. That change allowed local governments to carry-forward prior-year, unused levying capacity from past years, offsetting the need to claim adjustments. Because the levy limit proposal in SB 27/AB 40 would use the actual levy from the prior year as the base levy and would not provide a minimum guaranteed increase,

adjustments may once again be more significant.

30. If the Committee believes the levy limit should offer more flexibility to municipalities or counties affected by the proposed aid reductions, that concern could be addressed by creating an adjustment for state aid decreases. As discussed above, SB 27/AB 40 would decrease general aid payments to municipalities and counties by $163 million on a permanent basis. An adjustment could be created to allow governments to recapture some or all of the 2012 aid reductions by increasing their levies in 2011(12). By claiming an adjustment in 2011(12), the adjustment would be incorporated in the local government's base and provide additional levying authority in future years. The portion of the aid loss claimed as an adjustment could be set equal to a uniform percentage of the total loss or it could be set equal to a uniform percentage of the net loss, after accounting for changes in employee payments towards their retirement and health insurance. The adjustment could be extended to both municipalities and counties, or it could be limited to one or the other. It is presented as Alternative 8.

Permanent or Temporary Control

31. Each of the last four Legislatures has adopted a temporary levy limit program for counties and municipalities. The Governor vetoed the levy limit in the 2003-05 biennium, but approved levy limits in each of the past three biennial budgets. Each time, the enacted levy limit covered a two-year period. Similarly, SB 27/AB 40 would sunset the proposed levy limit program in December, 2012, so the proposed levy limit would apply only to the 2011(12) and 2012(13) tax levies. Temporary programs may cause some local governments to use financing procedures in a year before a control is set to expire that the local government would not otherwise use. Such measures might help a local government get to the end of the control period. Further, local governments may defer some expenditures, hoping to make them once the control finally ends, although such a deferral may have negative consequences.

32. Making the levy limit program permanent would give counties and municipalities more certainty in managing their levies and other finances on a year-to-year basis. Both the school district revenue limit and the technical college district 1.5 mill rate limit are "permanent" fiscal controls, in that they will continue to apply unless repealed or modified. Alternative 9 would make the levy limit program permanent by removing the Governor's proposed sunset. Deleting the proposed levy limit program in its entirety (Alternative 2) would also provide certainty to local governments.

33. If the levy limit program is made permanent, an argument could be made to eliminate the county tax rate limit program. Created in 1993 Wisconsin Act 16, the tax rate limit prohibits each county from increasing its tax levy for operations to an amount that would cause the county's tax rate to exceed the rate imposed in 1992(93), unless the county has claimed certain adjustments allowed under state law.

34. Due to new construction and the substantial appreciation in property values that has occurred since 1992, the tax rate limit does little to constrain most counties' taxes. For 2010(11), allowable county operating levies equaled $2,136.0 million on a statewide basis, but actual operating levies totaled only $1,673.3 million. Thus, the $462.7 million in unused levy capacity represents 27.7% of actual, total operating levies. Nonetheless, the county tax rate limit may pose a constraint for some counties. Columbia and Kewaunee counties essentially levied the maximum

allowable amount in 2010(11), with total levies changing by -1.4% and 4.0%, respectively, compared to the statewide average of 1.9%. Unused levy capacity represents 5% or less of the actual 2010(11) operating levy for five other counties -- Fond du Lac (2%), La Crosse (4%), Rock (5%), Waupaca (5%), and Winnebago (1%). While each of the seven counties had above-average levy increases between 1992(93) and 2010(11), equalized values grew more slowly than for the state, as a whole, in five of the seven counties. If 2011 equalized values decline in these counties, as occurred in 2010, they could be required to reduce their operating levies, depending on the magnitude of the change in value. Even though the tax rate limit may constrain these counties, the levy limit program is also intended to control levy increases. Making the levy limit program permanent and repealing the tax rate on county operating levies is Alternative 10.

ALTERNATIVES

1. Approve the Governor's recommendation to extend levy limits to counties and municipalities in the 2011(12) and 2012(13) tax years, with a 0% minimum guaranteed allowable levy increase and the computation of the allowable increase using the prior year's actual levy.

2. Delete provision and repeal the statutory provisions authorizing the levy limitation. Create a nonstatutory provision directing the Department of Revenue to administer the levy limit penalty, as authorized under 2009 Wisconsin Act 28, with respect to property levies imposed in prior years.

Base Levy for Fiscal Control

3. Modify the Governor's recommendation pertaining to the base levy for calculating the limit by changing the base levy to the prior year's allowable levy, as under current law.

4. Modify the Governor's recommendation pertaining to the base levy for calculating the limit by changing the base year levy to the prior year's allowable levy, but no more than one of the following percentages of the prior year's actual levy:

a. 101%;

b. 102%; or

c. 103%.

Automatic Adjustment Factor

5. Modify the Governor's recommendation by changing the minimum guaranteed allowable levy increase from 0% to one of the following amounts (different guarantees could apply to municipalities and counties):

a. 1.0%; or

b. 2.0%

Exclusions and Adjustments

6. Repeal the adjustment created by 2009 Wisconsin Act 28 that extended to levies in 2009 and equaled the amount by which a local government's 2007 allowable levy exceeded its 2007

actual levy.

7. Delete the proposed adjustment that would equal the decrease from the prior year to the current year in the amount of debt service on debt issued before July 1, 2005.

8. Create an additional adjustment for state aid reductions from 2011 to 2012. Specify that if a state agency does not supply an estimate of the local government's 2012 aid payment by the date on which the local government determines its levy, the local government may utilize its own estimate of the aid reduction. Require any government that utilizes its own estimate to make an additional adjustment to its 2012(13) levy equal to the difference between its estimated aid reduction and its actual aid reduction. Extend the adjustment to the following state aid programs (the adjustment could extend either to municipalities or counties, or both):

a. county and municipal aid;

b. general transportation aid;

c. payments for municipal services;

d. youth aids; or

e. all of the above.

Apply one of the following percentages to the aid loss to compute the allowable levy adjustment:

f. 100%;

g. 75%;

h. 50%; or

i. 25%

Apply the preceding percentage to either:

j. the total aid loss; or

k. the total aid loss minus the difference between employee payments for retirement and health insurance in 2010 and estimates of these amounts for 2011.

Permanent or Temporary Control

9. Delete the SB 27/AB 40 provision that would sunset the levy limit program after levies are imposed for the 2012(13) property tax year, thereby making the control permanent.

10. Delete the SB 27/AB 40 provision that would sunset the levy limit program after levies are imposed for the 2012(13) property tax year, thereby making the control permanent, and repeal the tax rate limit program for county operating levies.

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