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County and Municipal Levy Limit Carry Forward Adjustment (Shared Revenue and Tax Relief -- Property Taxation)

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CURRENT LAW

Since the 2005(06) property tax year, the Department of Revenue (DOR) has administered a levy limit program that restricts the year-to-year increases in county and municipal property tax levies. The limits for 2005(06) and 2006(07) were imposed under provisions created by 2005 Wisconsin Act 25, but those provisions were sunset on January 1, 2007. The limits were re-imposed for 2007(08) and 2008(09) by 2007 Wisconsin Act 20 and for 2009(10) and 2010(11) by 2009 Wisconsin Act 28. Both acts included provisions that repealed or sunset the limits after the specified years. Provisions in 2011 Wisconsin Act 32 extended the levy limit program on a permanent basis.

The Act 32 provisions prohibit any county, city, village, or town from increasing its "base" levy in any year by more than the percentage change in the local government's January 1 equalized value due to new construction, less improvements removed, between the previous year and the current year, but not less than zero percent. The base levy is defined as the prior year actual levy for the county or municipality. Act 32 also provides for adjustments and exclusions to the limit.

GOVERNOR

Modify the levy limit adjustment that allows a portion of the prior year unused levy authority to be carried forward to the succeeding year by requiring a supermajority vote of the local governing body as a condition for claiming the adjustment. Repeal the current law provision that excludes local governments who did not use the carry forward adjustment in 2011 from the negative levy limit adjustment that is triggered by a reduction in debt service on general obligation bonds issued before July 1, 2005. The carry forward and debt service reduction adjustments were created by Act 32. The Act requires a supermajority vote of the local governing body for carry forward adjustments claimed in 2011 and 2012, but the Act does not require a supermajority vote of the local governing body in succeeding years. This provision would extend the supermajority requirement to carry forward adjustments claimed in 2013 and thereafter. A supermajority is: (a) three-quarters of the governing body for cities, villages, and counties with governing bodies comprised of five or more members; (b) two-thirds of the governing body for cities, villages, and counties with governing bodies comprised of less than five members; and (c) two-thirds for town boards, followed by a majority vote at the annual or a special town meeting.

DISCUSSION POINTS

1. As noted above, the state has imposed a levy limit on municipalities and counties since 2005, but the limit was sunset every two years until 2011 Wisconsin Act 32 extended the limit on a permanent basis. Due to the limit's temporary nature, papers in prior budgets dealt with how the limit should be structured. Since Act 32 made the limit permanent, this paper will instead focus on providing information so legislators can assess if the limit is producing the desired results. In addition, this paper addresses issues related to two adjustments to the limit where the bill proposes modifications.

2. Table 1 summarizes the change in estimated tax bills for a median-valued home taxed at statewide average tax rates over the preceding eight years when levy limits were in effect. In addition, the table reports tax bill estimates based on estimated statewide tax levies over the next two years based on the provisions in AB 40. The tax bill estimates for 2013(14) and 2014(15) were previously provided in an April 11, 2013, memorandum from this office entitled, "Property Tax Estimates Under Assembly Bill 40."

TABLE 1

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

	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%

	Estimates Based on Actual Tax Levies		Estimates Based on AB 40	
	2011(12)	2012(13)	2013(14)	2014(15)
Home Value	$157,692	$151,148	$152,400	$154,800
Type of Tax				
School	$1,552	$1,541	$1,552	$1,552
Municipal	822	828	838	846
County	659	657	662	665
Technical College	258	260	263	262
Other	60	59	60	61
Gross Tax	$3,351	$3,345	$3,375	$3,386
Tax Credits	-398	-401	-406	-399
Net Tax Bill	$2,953	$2,944	$2,969	$2,987
Change from Prior Year				
Amount	-$10	-$9	$25	$18
Percent	-0.3%	-0.3%	0.8%	0.6%

3. Table 1 displays that the tax bill changes during 2011(12) and 2012(13) were lower than those during any of the three other two-year periods where levy limits were in effect. The tax bill decreases were due primarily to the school portion of the tax bill and reflect the policies embodied under school revenue limits. While school taxes comprise 46% of gross taxes, municipal and county taxes, combined, account for 44% of gross taxes and are the second most significant tax bill component. The combined change in municipal and county taxes during 2011(12) and 2012(13) was also lower than for any other two-year period displayed in Table 1.

4. On a statewide basis, the estimates assume that municipal levies will increase by 1.8% in 2013(14) and 2.0% in 2014(15) and that county levies will increase by 1.3% in 2013(14)

and 1.5% in 2014(15). Table 2 displays the yearly change in statewide municipal and county levies since the enactment of levy limits in 2005.

TABLE 2

Statewide Municipal and County Tax Levy Increases Under Levy Limits

	2005(06)	2006(07)	2007(08)	2008(09)	2009(10)	2010(11)	2011(12)	2012(13)
Municipalities	4.1%	3.5%	4.9%	4.4%	3.2%	2.1%	1.7%	1.5%
Counties	3.5	3.2	4.5	3.1	3.1	1.9	1.1	0.7

5. Although the levy limit would be structured almost the same in the next two years as in the last two years, the statewide levy increases for municipalities and counties are estimated to be slightly higher in 2013(14) and 2014(15) than in 2011(12) and 2012(13). Several factors may be responsible for the additional increase. For example, tax base growth due to new construction is expected to be slightly higher over the next two years than in the prior two years. This both allows larger initial increases (before adjustments and exclusions) under the limit and results in the need to extend local government services to newly-constructed properties.

6. Another reason that municipal and county levies might be somewhat higher in the next two years relates to their spending levels. These governments were able to reduce some employee-related expenditures due to provisions in 2011 Wisconsin Acts 10 and 32 concerning collective bargaining and employee fringe benefits. Because these governments' labor agreements did not expire at the same time as the acts' effective dates, the expenditure reductions for some local governments were reflected in their 2011(12) tax levies, and the reductions for other local governments were reflected in their 2012(13) tax levies. Currently, most of the expenditure reductions have been incorporated into base levy amounts, and levy increases should be somewhat higher in the coming years than in the past two years, even though the reductions have lowered the ongoing expenditures and tax levies of municipalities and counties.

7. Finally, inflation exerts upward pressure on local government expenditures and the taxes that fund those expenditures. The most commonly used measure of inflation is the consumer price index for all urban consumers (CPI-U), which is compiled by the Bureau of Labor Statistics (BLS) within the U.S. Department of Labor. The index includes some items that local governments purchase, such as gasoline, but the index does not include labor costs. The BLS maintains a separate index on employment costs 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. Table 3 reflects that annual changes in inflation and compensation costs have approximated the year-to-year changes in statewide municipal and county tax levies. One exception occurred in 2009 when the national economic downturn resulted in deflation. Another exception was in 2011 and 2012 when the Act 10 and Act 32 policies noted above were reflected in municipal and county tax levies. For the 2013-15 period, IHS Global Insight forecasts changes in the CPI-U ranging from 1.5% to 1.7% and changes in compensation costs ranging from 2.0% to 2.5%.

TABLE 3

Annual Change in the Consumer Price Index and in State and Local Government Compensation Costs (4th Quarter) as Reported by the U.S. Bureau of Labor Statistics

	2005	2006	2007	2008	2009	2010	2011	2012
CPI-U	3.4%	3.2%	2.9%	3.8%	-0.4%	1.6%	3.2%	2.1%
Compensation Costs	3.6	4.1	4.1	3.0	2.3	1.8	1.3	1.9

8. The more modest statewide levy increases that have occurred over the last two years are, in part, a reflection of changes to the structure of the levy limit. Act 32 eliminated a provision that allowed each municipality and county a minimum levy increase of at least 3%, changed the base for calculating the limit from the prior year allowable levy to the prior year actual levy, and created an adjustment requiring levy reductions when debt service on debt issued before 2005 decreased from the prior year debt service amount. In addition, the national economic downturn has resulted in the percentage gain in tax base due to new construction over the last two years being at its lowest level since 1990.

9. The amount of unused levy capacity offers additional evidence that the current levy limit structure exerts greater constraint on levies than the limits authorized prior to Act 32. Based on levy limit reports filed by municipalities and counties with DOR, Table 4 displays that the amount of unused levy capacity has declined by a substantial margin in each of the last two years. If all of the capacity had been used in 2010(11), statewide levy increases would have been higher by 3.3% for municipalities and 3.1% for counties. By 2012(13), those percentages had declined to 0.9% for municipalities and 0.6% for counties. Put another way, the 2012(13) statewide levy increase could have been 2.4% for municipalities, as opposed to 1.5%, and 1.3% for counties, as opposed to 0.7%.

TABLE 4

Statewide Unused Levy Capacity and Unused Capacity as a Percent of Prior Year Levy

	Municipalities		Counties	
	Unused Levy Capacity (in millions)	Pct. of Prior Year Actual Tax Levy	Unused Levy Capacity (in millions)	Pct. of Prior Year Actual Tax Levy
2010(11)	$78.1	3.3%	$59.6	3.1%
2011(12)	26.2	1.1	26.2	1.3
2012(13)	22.8	0.9	11.9	0.6

10. In the March, 2013, edition of The Municipality, the official monthly publication of the League of Wisconsin Municipalities, the League's Executive Director discusses informal surveys of League members that he conducted shortly after the levy limit was created. He reports that, at that time, only 20% to 40% of the League members indicated that their municipality levied the maximum amount allowed. However, for the 2011(12) tax levy, the League reviewed actual

levy limit data compiled by DOR and reports that 74% of the state's cities and villages (440 out of 595) had levies within $1,000 of the maximum allowed.

11. The $1,000 threshold used by the League may be less useful for counties and towns due to the size of their levies. However, if unused capacity equals less than 0.1% of a local government's actual levy, a local government could be considered close to its limit. For 2011(12), 112 of the state's 190 cities (59%), 296 of the state's 405 villages (73%), 947 of the state's 1,255 towns (75%), and 43 of the state's 72 counties (60%) had unused capacity below 0.1% of the government's actual levy. A similar analysis was not repeated for 2012(13) tax levies because some of the needed data is preliminary at this time. The League predicts that for 2012(13), 90% of all cities and villages levied the maximum allowable amount and believes that "(w)ithin a few years, nearly every municipality in the state will be levied out."

12. Act 32 created a levy limit adjustment that allows local governments to carry over any unused levy capacity to future years, but limits the adjustment from causing an additional increase of more than 0.5% in the levy. If the Committee believes that the levy limit should offer municipalities and counties more flexibility, the limit on the carry over adjustment could be increased from 0.5% to 1.0%. This is presented as Alternative 2.

13. In 2011(12) and 2012(13), the carry over adjustment could not be claimed unless approved by a supermajority of the local government's governing body. A supermajority vote means at least three-quarters of the members if the governing body consists of at least five members, two-thirds of the members if the governing body consists of fewer than five members, and a majority vote if a town meeting, provided the town board approved using the adjustment by a vote of at least two-thirds. Act 32 extended the carry over adjustment to future years, but does not require a supermajority vote. AB 40 proposes to extend the supermajority vote requirement to future years, and this is included as Alternative 1.a.

14. If a municipality or county did not claim the carry over adjustment in 2011(12), Act 32 created a provision waiving a negative adjustment that would require the municipality or county to reduce its allowable levy by the amount of any decrease from the prior year in debt service on general obligation debt issued before July 1, 2005. The waiver from the negative adjustment was intended to apply only to the 2011(12) tax levy. However, this provision was drafted in a way that any municipality or county that did not claim the carry over adjustment in 2011(12) is excluded from having to claim the negative adjustment in any future year. AB 40 proposes to repeal the waiver, so that a year-to-year decrease in debt service on all general obligation debt issued before July 1, 2005, would trigger a negative levy limit adjustment, regardless of whether or not the local government claimed the carry over adjustment in 2011(12). This recommendation by the Governor is included as Alternative 1.b.

15. Since the creation of levy limits in 2005, there has been an adjustment for year-to-year increases in debt service on general obligation debt issued before July 1, 2005. The negative adjustment created in Act 32 assumes that if year-to-year changes warrant a positive adjustment, they should also warrant a negative adjustment in years when debt service declines. Prior to the Act 32 creation of the negative debt service adjustment, year-to-year reductions in debt service on general obligation debt issued before July 1, 2005, provided local governments with additional

flexibility in complying with levy limit requirements. As the 2005 benchmark becomes more distant, the impact of the adjustment is likely to increase. If the Committee believes the levy limit should afford municipalities and counties additional flexibility, the negative adjustment could be repealed. This is presented as Alternative 3.

16. Another way to increase the flexibility of the limit would be to base each local government's increase on its new construction, without adjustment for demolitions. This treatment was recently recommended by the League of Wisconsin Municipalities, arguing that subtracting the value associated with demolitions discourages urban redevelopment since such projects often involve the replacement of obsolete buildings. Cities or villages that are surrounded by other incorporated municipalities are unable to annex vacant land for development, so tax base growth from new construction may be limited in these cities and villages to redevelopment and infill. Basing the levy limit's allowable increase calculation on new construction, as opposed to net new construction, would allow additional municipal and county levy increases estimated at 0.07% on a statewide basis. This is presented as Alternative 4.

17. A final way to increase flexibility would be to allow initial levy increases (before adjustments and exclusions) equal to the greater of the new construction percentage or an alternate percentage. This approach was employed for the limits from 2005(06) through 2010(11), when the minimum guarantee ranged from 2.0% to 3.86%. A minimum allowable rate of increase may be particularly helpful for municipalities and counties with little or no tax base growth due to new construction. For 2012, when tax base growth due to net new construction equaled 0.7% on a statewide basis, there were 701 municipalities (38%) and six counties (8%) with percentages that were less than half of the statewide average. The minimum percentage guarantee could approximate the forecasted inflation rate, and be set at 1.5% or 2.0%. This is presented as Alternative 5.

18. Although some have argued for additional flexibility under the levy limits, others have made the point that any increase is already possible if approved through referendum or at a town meeting (for towns with populations under 2,000). Those making this point have argued that continuing to expand the number of adjustments or exclusions or raising the initial allowable levy will eventually defeat the purpose of the limits, which they maintain was to minimize levy increases to levels that could be absorbed by new construction. Maintaining the Governor's recommendations would be consistent with this point of view (Alternative 1).

ALTERNATIVES

1. Approve the Governor's recommendation to modify the levy limit adjustment that allows a portion of the prior year unused levy authority to be carried over to the succeeding year as follows:

a. Extend the provision requiring a supermajority vote of the local governing body as a condition for claiming the adjustment to years after 2012(13); and

b. Repeal the current law provision that excludes local governments who did not use the carry over adjustment in 2011 from the negative levy limit adjustment that is triggered by a reduction in debt service on general obligation bonds issued before July 1, 2005.

2. Modify the levy limit adjustment that allows a portion of the prior year unused levy authority to be carried forward to the succeeding year by increasing the maximum amount that can be applied as an adjustment from 0.5% to 1.0% of the prior year levy, effective with the limit imposed on 2013(14) municipal and county tax levies.

3. Repeal the negative debt service adjustment based on any year-to-year reduction in debt service on general obligation debt issued before July 1, 2005, effective with the limit imposed on 2013(14) municipal and county tax levies.

4. Modify the definition of valuation factor by deleting the phrase "less improvements removed" so that the initial increase in each local government's allowable levy is based on the change in its equalized value due to new construction, as opposed to net new construction, effective with the limit imposed on 2013(14) municipal and county tax levies.

5. Provide a minimum guaranteed rate of increase in the allowable levy, effective with the limit imposed on 2013(14) municipal and county tax levies, and set the guarantee at:

a. 1.5%; or

b. 2.0%.

6. Delete the Governor's recommendation to:

a. Extend the provision requiring a supermajority vote of the local governing body as a condition for claiming the carry over adjustment to years after 2012(13); and/or

b. Repeal the current law provision that excludes local governments who did not use the carry over adjustment in 2011 from the negative levy limit adjustment that is triggered by a reduction in debt service on general obligation bonds issued before July 1, 2005.

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