



Legislative Fiscal Bureau

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TO: Representative Mark Pocan
Room 322 West, State Capitol

FROM: Rick Olin, Fiscal Analyst

SUBJECT: Act 25 Levy Limit Provisions

At your request, this memorandum provides information on the 2005 Wisconsin Act 25 levy limit provisions as they relate to 2006(07) property tax levies.

As you know, the Act imposes a limitation on property tax increases of municipalities and counties and directs the Department of Revenue (DOR) to decrease state aid payments to municipalities and counties that exceed the limitation. The Legislature adopted a three-year limit for the 2005(06), 2006(07) and 2007(08) property tax years, but the Governor modified the enrolled bill through partial veto to apply only to the 2005(06) and 2006(07) levies. This was accomplished by deleting the Legislature's sunset date and vetoing several unrelated bill sections, except for the date "January 1, 2007". This has the effect of establishing January 1, 2007, as the sunset date for the levy limitation. Since the aid penalty associated with an excess levy for 2006(07) would occur in either July or November of 2007 and DOR may not know whether an excess levy occurred until after January 1, 2007, it appears that the sunset date created by the Governor's veto could preclude the imposition of any penalty for excess levies occurring in 2006(07). This possibility is not addressed in the Governor's veto message, but is reflected in Item F-11 on pages 80 through 82 of this office's Summary of Partial Vetoes of 2005 Wisconsin Act 25.

Regardless of the status of the penalty for 2006(07) tax levies, the Act imposes a limitation on 2006(07) municipal and county levy increases. Aggrieved parties, including taxpayers, have the ability to challenge levies in violation of the limitation by making a claim against the local government or through a judicial proceeding. These remedies would have been the mechanisms for challenging levies under the two previous levy limit proposals adopted by the Legislature since neither 2003 Senate Bill 44 nor 2005 Assembly Bill 58 included an aid penalty. Finally, it should be noted that DOR may choose to impose an aid penalty in 2007. If the statutory language governing

the penalty's imposition is found to be ambiguous, DOR could maintain that its action reflects the Legislature's intent in establishing the penalty.

If you have any questions regarding this information, please let me know.

RO/sas