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TO: Members
Wisconsin Legislature

FROM: Bob Lang, Director

SUBJECT: Summary of Revenue Limits under ASA 5 to AJR 77

The Assembly adopted Assembly Substitute Amendment 5 to Assembly Joint Resolution 77 on a vote of 50 to 48. ASA 5 to AJR 77 is a substitute amendment that would create a constitutional limitation on state general fund revenues, effective with the budget adopted for the 2009-10 state fiscal year. In addition, the substitute amendment would create a constitutional restriction on unfunded mandates on local governments and restrict the purposes for which the state may borrow.

State Revenue Limit

Under the substitute amendment, if state general fund revenue in 2009-10 exceeds the amount of state general fund revenue in 2008-09 increased by 90% of the three-year rolling average percentage change in statewide personal income, the excess would have to be deposited into an emergency reserve fund. Beginning in 2010-11, if state general fund revenue exceeds the allowable amount of state general fund revenue for the previous year increased by 90% of the three-year rolling average percentage change in statewide personal income, the excess would have to be deposited into an emergency reserve fund.

The Legislature would be required to define "general fund revenue" by law for purposes of the limit, but could not exclude from the definition any moneys raised by the state from taxes, licenses, or fees, except for moneys designated for use through a segregated fund, moneys used to pay a settlement or damage award, moneys used for expenses arising from a natural disaster or attack, moneys received from tuition or fees imposed for university purposes, voluntary fees that do not exceed the cost of the service provided, and moneys held in a fiduciary capacity or in the unemployment reserve fund.

Under current law, all moneys in the state treasury not designated as belonging to any other fund constitute the general fund. As a result, the general fund includes general purpose revenue, program revenue, and federal revenue, unless the federal revenue is designated for a segregated fund.

Expenditures could be made from the emergency reserve fund only for expenses arising from a natural disaster or attack or in a year in which state general fund revenue (as defined for purposes of the limit) is less than the amount of allowable general fund revenue for that year. If the balance of the emergency reserve fund exceeds 2% of state general fund revenue in any year, the excess may be spent for relief from either state taxes or property taxes. If the balance exceeds 6% of state general fund revenue in any year, the excess would have to be returned to the people of the state as tax relief, in a manner prescribed by the Legislature by law.

All revenues deposited into the general fund under the 2001 statutes, except moneys transferred to the general fund from other funds of the state as provided under the 2001 statutes, would be required to remain subject to the state's revenue limit, regardless of whether the Legislature subsequently authorizes the deposit of some or all of such revenues into other state funds. No revenues designated on or after January 1, 2001, for use through a segregated fund could be used for any other purpose. Specifically prohibited would be the use of segregated fund revenue to replace or supplement funding for programs supported by the general fund on or after January 1, 2001.

The state revenue limit could be exceeded by referendum and could be reduced by the Legislature by law.

Prohibition on Unfunded State Mandates

The substitute amendment would specify that a state law or administrative rule that increases a local governmental unit's expenditures for delivery of services could not be enacted or adopted after the proposed amendment is ratified unless the state pays the reasonable costs incurred by the local governmental unit to comply with the law or rule. This prohibition would not apply to a state law or administrative rule enacted or adopted to comply with a requirement of federal law, including a requirement related to the receipt of federal aid.

Limitation on State Borrowing

The substitute amendment would limit the purposes for which the state can borrow money, or another person can borrow money on behalf of the state, to those purposes already specified in the Constitution for the issuance of general obligation bonds. By using the term borrowing, the proposed limitation would affect all types of debt issuance, such as state-issued revenue bonds, excise tax bonds, appropriation obligation bonds, and securitization bonds issued by another person on behalf of the state. Under the substitute amendment, all types of state borrowing would have to conform to the current purposes allowable for general obligation bonds, which include to: (a) "acquire, construct, develop, extend, enlarge or improve land, waters, property, highways, railways, buildings, equipment or facilities for public purposes"; and (b) "make funds available for veterans' housing loans." The substitute amendment would specify that the state could borrow moneys for cash flow purposes if the moneys are fully repaid in the same fiscal year.

The substitute amendment would provide that the state could not refund any type of borrowing if that refunding would increase the state's debt service obligation in any fiscal year. This provision would allow the state to issue refunding bonds for an economic refunding, where higher interest bonds are replaced with lower interest bonds and there is a savings to the state from the lower interest rates. However, the provision would prohibit a structural refinancing, where the state restructures the timing of its debt service payments to save money in the current budget at the cost of higher debt service payments in future years.

The substitute amendment would prohibit the state from entering into agreements and arrangements relating to any type of borrowing (swaps and options), unless the financial benefits from that agreement or arrangement accrue proportionately over the life of the agreement or arrangement. This provision would allow the state to enter into swaps or options agreements relating to its borrowing only if any savings are spread over the life of the agreement, which would prevent the state from front-loading any savings in the current budget.

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