



Legislative Fiscal Bureau

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May 17, 2023

TO: Members
Wisconsin Legislature

FROM: Bob Lang, Director

SUBJECT: Assembly Amendment 2 to Assembly Bill 245, Relating to Local Government Programming and Funding, Personal Property Tax Repeal, and City and County of Milwaukee Sales and Use Tax Authority and Pension Systems

This memorandum provides a summary of the provisions included in the Assembly Amendment 2 to 2023 Assembly Bill (AB) 245.

Supplemental County and Municipal Supplemental Aid Formula and Amounts

The amendment would increase the total amount of supplemental county and municipal aid provided to municipalities by \$16.3 million from \$176.4 million to \$192.7 million. Specifically, the amendment would create a specific formula for aid to municipalities with 30,000 to 50,000 in population, and would provide an additional \$5.0 million in aid to these municipalities. Compared to AB 245, the amendment would increase the total amount provided to counties by \$18.0 million from \$50 million to \$68 million. No funding would be provided under the AB 245, or the amendment, to fund the \$260.7 million to be distributed under the county and municipal supplemental aid formula.

Under the amendment, a final component of the formula would distribute \$18.0 million in additional funding to counties that received less than a 500% increase in their existing county and municipal aid from the first three components of the formula. For those counties that received less than a 500% increase in their aid payment, a factor would be calculated by dividing their existing county and municipal aid payment by the amount calculated under the first three components of this formula. Each county's factor would then be divided by the sum of all these factors, and this quotient would be multiplied by \$18.0 million in order to determine the amount of aid each county would receive under this component of the formula.

Under AB 245, the supplemental county and municipal aid program would have established a 10% minimum increase in existing county and municipal aid. The amendment would increase this

minimum aid payment amount to 15%, for all municipalities under 110,000 in population. Those municipalities over 110,000 in population (the cities of Madison and Milwaukee) would continue to be provided a minimum aid increase of 10% from the existing aid amount.

In addition to other allowed uses of supplemental county and municipal aid, the amendment would add court costs. Under AB 245, aid payments could only be used for law enforcement, fire protection, emergency medical services, emergency response communications, public works, and transportation.

The attachments to this document indicate the amount of supplemental aid each municipality and county would receive under proposed formulas if the \$260.7 million in funding were provided. In addition, a comparison of the new aid to the amount each municipality and county receives from the existing county and municipal aid program is provided.

Maintenance of Effort Requirement for County and Municipal Aid

AB 245 would create certain maintenance of effort requirements for local governments related to the law enforcement, fire protection and emergency services, which if not met could result in a 15% reduction in the total of existing county and municipal aid and the supplemental county and municipal aid create under the bill. As part of these requirements local governments have to certify that two of four metrics outlined in the bill have been met.

For law enforcement, the amendment would instead require that any of the following have been maintained at the level at least equivalent to the previous year: (a) moneys raised by tax levy by the city, village, or town and expended for employment costs of law enforcement officers; (b) the percentage of tax levies that the city, village, or town expended for employment costs of law enforcement officers; (c) the number of full-time equivalent law enforcement officers, employed by or assigned to the city, village, or town, not including officers whose positions are funded by grants received from the state or federal government. Further, the amendment would specify that person in charge of providing law enforcement service for the city, village, or town may use any reasonable method of estimating the average number of full-time equivalent law enforcement officers employed by or assigned to the city, village, or town for the year, but may consider only positions that are actually filled.

For fire protection and emergency medical services, the requirement that that two of the four metrics would remain, and the metric that the political subdivision must have maintained expenditures, excluding capital expenditures, at the level at least equivalent to the previous year. However, the amendment would also exclude grant moneys received from the state or federal government from the calculation. The amendment would exclude the following from the metric relating to certifying the number of fire fighters and emergency medical services staff within the political subdivision: (a) fire fighters and emergency medical services personnel whose positions are funded by grants received from the state or federal government. Specify that for volunteer fire and emergency medical services, those volunteer fire fighters and emergency medical services personnel who responded to at least 40% of calls to which volunteer fire protective or emergency medical services responded may be counted as full-time equivalent volunteer fire fighters and emergency

medical services personnel. The person in charge of providing fire protective and emergency medical services for the political subdivision would be allowed to any reasonable method of estimating the average number of full-time equivalent fire fighters and emergency medical services personnel employed by or assigned to the political subdivision for the year, but may consider only positions that are actually filled.

AB 245 would create an allowance regarding the metrics certified to ensure the maintenance of effort requirement have been met for any political subdivision that has recently consolidated law enforcement, fire protection, and emergency medical services. The amendment would modify that provision to instead specify that a political subdivision that has contracted for such a consolidation of services, or entered into a contract with a private entity to provide fire protective or emergency medical services, would be allowed to provide a certified statement to that effect in lieu of required certification of the metrics for that service. This provision would only apply to the year following consolidation or entry into a contract.

Under AB 245, a political subdivision that has established or joined a newly established law enforcement or fire protection and emergency medical services agency within the previous two years could provide a statement to that effect in lieu of the certifications of metrics for that service. The amendment would include a newly established or joined agency to this provision. The amendment would also delete the reference to the two previous years, and would instead apply the provision to only the year following the establishment of the agency.

Under AB 245, a political subdivision that has established or joined a newly established law enforcement or fire protection and emergency medical service agency within the previous two years could provide a statement to that effect in lieu of the certification. The amendment would delete the reference to in the previous two years and would specify that the provision would only apply to the year following establishment of the agency.

Finally, under AB 245, if law enforcement services in a town are solely provided by a county sheriff on a non-contractual basis, the town may provide a certified statement to that effect for the purposes of making the certification. The amendment provides this same treatment to cities and villages that receive law enforcement services solely from a county sheriff on a non-contractual basis.

Expenditure Restraint Program

AB 245 would create an exclusion or adjustment for any innovation grants or innovation planning grants, as well as any state or federal grants for law enforcement, fire protection, or emergency medical services, from the definition of "municipal budget." In addition, the bill would create an adjustment for amounts levied for charges assessed by a joint fire department or emergency medical services department. The amendment would also exclude sales tax revenues received by the City of Milwaukee from the definition of the municipal budget. Under current law, municipalities with a municipal tax rate of at least five mills that restrict the annual growth in their municipal budgets are eligible to receive a payment from the expenditure restraint program. The proposal would also retitle the program the "expenditure restraint incentive program." DOR's fiscal estimate

to the bill indicates that while this provision would have no overall fiscal effect, but could result in additional municipalities qualifying for the payment and thereby reducing the amount received from the \$58.1 million appropriation by other municipalities.

The amendment would also specify that expenditure restraint program payments in 2025 would equal the payment provided in 2024, rather than the amount calculated under the statutory formula. This provision is intended to ensure that municipalities are not penalized for the expenditure of supplemental county and municipal aid, which would first be received in 2024. In 2026, the current law expenditure restraint formula would again be activated to expend the entire \$58.1 million in existing funding provided the program. As a result, aid would be based on a comparison of 2025 municipal budgets over and 2024 budgets, both of which would include the supplemental aid amounts.

Levy Rates and Limits

The amendment would delete the AB 245 provision that would have eliminated both the negative and positive adjustments to the county tax rate limit and local government levy limit for a county or municipality that transfers (negative adjustment), or receives (positive adjustment), a responsibility for providing a service to another unit of government. Instead, the current law allowance for these adjustments would be modified to provide that the levy rate or levy limit increase adjustments would apply only if the transferor and transferee file a notice of service transfer with DOR.

Local Advisory Referenda

AB 245 would prohibit a county, city, village, or town from holding advisory referenda. The amendment would modify this provision to allow a county, city, village or town to conduct an advisory referendum regarding capital expenditures proposed to be funded from the property tax levy.

Community Youth and Family Aids Account

In addition to other accounts created within the local government fund for existing programs, establish a separate account named the "community youth and family aids account." Specify that the account would be for the improvement and provision of community-based juvenile delinquency-related services and juvenile correctional services specified under current law, and for reimbursement of counties having a population of less than 750,000 for the cost of juvenile court intake services as specified under current law.

Tax Incremental Districts and Levy Limit Adjustments

For a tax incremental district (TID) created after December 31, 2024, if DOR does not certify a value increment for the district for the current year as a result of the district's termination, the levy increase limit otherwise applicable in the current year to the political subdivision in which the district is located is increased by all of the following amounts: (a) an amount equal to the political

subdivision's maximum allowable levy for the immediately preceding year, multiplied by the amount determined by dividing 10% of the equalized value increase of the terminated district by the political subdivision's equalized value, less any value increments, for the previous year, as determined by DOR; and (b) if the life span of the TID was 75% or less of the expected life span of the district, measured as the period between the year the district was created and the expected year of termination, an additional amount equal to the political subdivision's maximum allowable levy for the immediately preceding year, multiplied by the amount determined by dividing 15% of the equalized value increase of the terminated district by the political subdivision's equalized value, less any value increments, for the previous year, as determined by DOR. Specify for the above calculations the equalized value increase is calculated by adding the annual amounts reported of the value of new construction in the district for each year that the district is active.

For a district created after December 31, 2024, if DOR recertifies the tax incremental base of a tax incremental district as a result of the district's subtraction of territory, the levy limit otherwise applicable would be adjusted in the first levy year in which the subtracted territory is not part of the value increment. In that year, the political subdivision in which the district is located shall increase the levy limit otherwise applicable by an amount equal to the political subdivision's maximum allowable levy for the immediately preceding year, multiplied by a percentage equal to 10% of the amount determined by dividing the equalized value increase, attributable to the territory that was subtracted, calculated for the previous year, by the political subdivision's equalized value, exclusive of any value increments, for the previous year, as determined by DOR.

Specify for the above calculations that the equalized value increase would be calculated by adding the annual amounts reported of the value of new construction in the district for each year that the district is active.

For municipalities with a TID created after December 31, 2024, the amendment would modify the current law definition of "valuation factor" for purposes of calculating a local government's levy limit. Under current law, counties and municipalities are allowed to increase their annual levies by the amount of their "valuation factor", which means a percentage equal to the greater of either the percentage change in the political subdivision's January 1 equalized value due to new construction less improvements removed between the previous year and the current year or 0%. The amendment would modify the valuation factor calculated for any affected local government, so that it includes 90% of the equalized value increase due to net new construction that is located in the affected TID, but does not include the value of any improvements removed from that TID.

The amendment would specify that for a TID created after December 31, 2024, at the time of approval of the Joint Review Board, the board would be required to establish the year of expected termination of the district.”

Quarry Permit Continuity after Zoning Administration Changes

Amend AB 245 regarding the effect of local zoning ordinances and the continuation of permits for quarry operations for sites that transition between county- and town-enforced zoning ordinances. Specify that for a town that did not have a zoning ordinance previously enacted but adopts a zoning

ordinance in lieu of a county zoning ordinance to require a conditional use permit for quarry operations in the town, a permit in effect at the time of transition to town zoning remains in effect as if issued by the town following the cessation of the county zoning ordinance's effect in the town. The provision would consider the effective date of the town ordinance's adoption to be the issuance date of the permit, to the extent that the town ordinance adopts requirements included in the county ordinance and conditional use permit. The provision would apply reciprocal treatment to permits that would be assumed by counties following repeal of a town zoning ordinance. In all other instances of a county or town enacting a zoning ordinance that requires a conditional use permit to operate a quarry, the ordinance's date of enactment is the effective date.

Local Review of Stewardship Projects

AB 245 would require the local approval of any project funded by the Warren Knowles-Gaylord Nelson Stewardship program if the project lies north of U.S. Highway 8. Under current law, prior to acquiring land using stewardship program funding, DNR is required to notify each town, village, city and county that contains all or a portion of the land to be acquired. After receiving DNR notification, each local government may pass a resolution supporting or opposing the proposed land acquisition. If a local government submits a resolution to DNR within 30 days after receiving the DNR notification, the Department must consider the resolution before approving or rejecting the proposed land acquisition project.

AB 245 would amend current law such that DNR may not obligate funds for any stewardship-funded project, including land acquisition, local assistance grants, or recreational boating aids, until all local governments that contain any portion of the land on which the project would occur adopt a local resolution approving of the project. Under AB 245, this provision would only apply to proposed projects north of U.S. Highway 8, which runs across the northern portion of the state from St. Croix Falls on the Minnesota border to the Town of Niagara (Marinette County) on the Michigan border.

The simple amendment would clarify that current law provisions would still apply south of U.S. Highway 8. Local governments south of the highway would not be required to affirmatively approve of a project before DNR could obligate stewardship funding, or notify the Joint Committee on Finance of the project, if applicable. Additionally, the simple amendment would clarify that the provision only applies to the acquisition of land in fee title or easements. AB 245 would require local approval of all stewardship projects, including recreational boating aids, DNR property development, and local assistance grants.

Powers of Local Public Health Officers

AB 245 would prohibit a local public health officer from issuing a mandate to close any business in response to an outbreak or epidemic of communicable disease for longer than 14 days, unless the governing body of the political subdivision in which the order is intended to apply approves the extension of the order. Specify that each extension of the order may not exceed 14 days. A "political subdivision" would be defined as a city, village, town, or county.

The amendment would prohibit a local public health officer from issuing a mandate to close

any business in response to an outbreak or epidemic of communicable disease for longer than 30 days. Additionally, the local governing board may only extend the order once, for a period of up to 30 days. The amendment would also specify that any such mandate may not distinguish between essential and nonessential businesses.

Statistics and Reporting of High School Incidents

For the statewide reporting of certain alleged crimes that occur at high schools, the amendment would specify that statistics relating to incidents must be documented and reported if the incident occurred during school hours, during a school-sanctioned event that occurred before or after school hours, or during the transportation of pupils to or from school, rather than between 6 a.m. and 10 p.m. Monday to Friday.

Milwaukee Sales and Use Taxes and Retirement Systems

Municipal Sales and Use Tax Revenues. The amendment would clarify that, in any year in which growth in municipal sales and use tax revenues makes available moneys for increasing law enforcement and fire department staff and for paying the ongoing cost of such increases, the revenue must be used to increase or maintain, rather than only increase, the number of law enforcement officers or daily staffing level of the fire department. Under the amendment and the bill, the requirement to increase law enforcement and fire department staff would apply until the City employs 1,725 law enforcement officers (including 175 detectives) and 218 daily staff of the fire department.

In addition, the amendment would clarify that the growth in municipal sales and use tax revenues, to be used to increase or maintain increases in the number of law enforcement officers or daily staffing level of the fire department, is applicable after the first full calendar year in which the municipal sales and use tax is imposed.

City of Milwaukee Maintenance of Effort. With regard to bill provisions that specifically require the City of Milwaukee to maintain a level of law enforcement and fire protective and emergency medical service that is at least equivalent to that provided in the City in the previous year (beginning with maintaining the level of service provided on April 1, 2023), the amendment would specify that: (a) the maintenance of effort requirement would exclude positions funded by grants received from the state or federal government; and (b) the City may use any reasonable method of estimating the number of full-time equivalent law enforcement officers employed by the City and the daily staffing level of the fire department for the prior year, but may only consider filled positions in doing so.

Milwaukee County Employee Contributions. The amendment would specify that employee contributions for the retirement system of Milwaukee County would be calculated as half of actuarially required normal cost contributions. Under current law, employees in the County system must pay half of actuarially required contributions, including contributions associated with both normal costs and unfunded actuarial accrued liability.

Calculation of Employer Contributions. The amendment would specify that the required annual employer contributions for the City of Milwaukee and Milwaukee County retirement systems, if municipal and additional county sales and use taxes are imposed, must be calculated using not more than a 30-year amortization period, rather than specifying that the contributions be calculated using a 30-year amortization period.

The amendment would clarify that the annual investment return assumption for the required annual employer contribution for the City and County retirement systems calculated under the bill refers to the assumption applicable to actively participating WRS employees.

The amendment would specify that no trustee or administrator of the City or County retirement systems would be subject to liability for complying with the provisions in the bill relating to calculating the required annual employer contribution for the City and County retirement systems.

Employer Stable Contribution Policy. The amendment would specify that, if a first-class city (the City of Milwaukee) has enacted an ordinance regarding the City retirement system that requires an actuary to periodically reset the actuarial contribution rate, the City may not impose a municipal sales and use tax unless the City repeals the ordinance.

City Agencies. The amendment would include the Milwaukee Metropolitan Sewerage District (MMSD) in the definition of "city agency."

Prohibited Subjects of Bargaining. The amendment would specify that, for City and County public safety employees, prohibited subjects of collective bargaining would include, with respect to the City and County retirement systems: any terms of such retirement systems, including but not limited to the costs, payments, contributions, benefits, or design, including all impacts or effects that any changes made to the retirement system might have upon the wages, hours, or conditions of employment.

City and County Retirement Benefits. The amendment would specify that the City and County may not increase or in any way enhance the benefits of employees remaining in the City or County retirement system, except as required for compliance with federal law, rather than specifying that the City and County may not make any changes to the benefits for employees who remain in the system.

Closure of Milwaukee Systems to New Entrants. The amendment would specify that if an individual was not an active employee of the City of Milwaukee or Milwaukee County on December 31 of the year that the municipal or additional county sales and use tax ordinance goes into effect, and is hired after December 31 of the same year, the person would not be considered a participant in the City or County retirement system with respect to the position into which the person was hired, regardless of whether the person had previously been employed by the City or County. A person who had previously been employed by the City or County but was not an active employee on December 31 of the applicable year could not accrue any further service under each respective retirement system.

The amendment would specify that no provision of the bill may be construed or interpreted as effecting a partial termination of the retirement system of the City of Milwaukee or Milwaukee County.

Public Utility Employees. The amendment would specify that the City of Milwaukee and Milwaukee County may not choose to exclude any public utility employees if either entity elects to become a Wisconsin Retirement System (WRS) employer. The provision would be effective January 1 following the year in which an ordinance is adopted imposing either a municipal or additional county sales tax. Under current law, any municipal employer that elects to become a WRS employer may choose not to include any of its public utility employees.

2023 Act 4; County House of Correction. The amendment would specify that, for purposes of determining protective occupation participant status under the WRS and the provisions of 2023 Act 4, a county jailer includes an employee of a county whose principal duties involve supervising, controlling, or maintaining a house of correction or the persons confined in a house of correction, as assigned by a county board of supervisors. The provision would be effective January 1 following the year in which an ordinance is adopted imposing either a municipal or additional county sales tax. Under current law, the definition of county jailer includes such employees with respect to county jails, but does not specifically include employees who work at a county house of correction. Also under current law, and under the bill, the county board of any county may establish, relocate, and maintain within the county a house of correction for the reformation and employment of persons sentenced to confinement therein.

In addition, the amendment would specify that, for the purposes of Act 4, Milwaukee County would be treated as a county that did not classify county jailers as protective occupation participants as of January 1, 2024.

Matters of Statewide Concern. The amendment would specify that the following are matters of statewide concern: the requirement that the Legislative Audit Bureau, once every five years, conduct a financial audit of expenditures of municipal and additional county sales and use tax revenues; authorization provided for the Legislative Audit Bureau to charge the City of Milwaukee and Milwaukee County for the cost of the audits; the definition of county jailer as it relates to WRS protective occupation participants; and the provision relating to public utility employees of the City of Milwaukee or Milwaukee County with respect to inclusion of such employees in the WRS.

Fire and Police Commission

The amendment would specify that a member of the City of Milwaukee Board of Fire and Police Commissioners may not continue in office after the expiration of his or her term unless the member is reappointed to the board and confirmed by the Common Council.

With regard to the bill provision specifying that at least two members of the Board must be selected from lists submitted by the employee associations representing non-supervisory law enforcement officers and fire fighters (one member from each list), the amendment would specify that: each list must each contain three names; the individuals on the lists must be at least five years

removed from service as a law enforcement officer or fire fighter; and the lists must be provided no more than three months after the occurrence of a vacancy in a position that would be filled by selection from one of the lists.

The amendment would additionally specify that the bill provisions relating to the Board would first apply to a vacancy that occurs on the effective date of the bill, except that if the Board has a member with professional law enforcement experience and a member with professional fire fighting experience, the bill provisions would first apply to the vacancies created by the expiration of the terms of those members or a vacancy created by the death, resignation, or removal of those members.

City and County Budgets

The amendment would specify that the provision relating to new program spending and net new positions requiring a two-thirds vote of the City of Milwaukee Common Council or Milwaukee County Board would only apply if the municipal or additional county sales and use tax is being imposed.

School Resource Officers

With regard to school resource officers, the amendment would require that, beginning January 1, 2024, the Milwaukee Public School Board must ensure that the 25 school resource officers complete the 40-hour course sponsored by the National Association of School Resource Officers.

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Attachments

