



Budgeting and Levy Limits

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Wisconsin cities, villages, towns, and counties have operated under levy limits since the 2006 budget year. With its numerous adjustments, the impact of levy limits on individual local government units has varied considerably. Prior to developing budgetary goals and objectives, it is important to understand what constraints your projected allowable levy poses. The following is an overview of the levy limit law, commonly used adjustments, and new adjustments.

Base Increase to Allowable Levy

The first step in determining the allowable increase to the levy for the next year's budget is to calculate the prior year's *adjusted actual levy*. The adjusted actual levy is the prior year's total levy decreased by any amounts claimed in that year for:

- Payment of general obligation debt authorized after July 1, 2005.
- Payment of unreimbursed emergency expenditures.
- Utility revenue bond or special assessment B bond payment shortfalls.
- A one-time (non-recurring) increase approved by referendum.

The following is an example of this calculation as it appears on the levy limit worksheet (DOR Form SL-202m for cities, villages, and towns):

Example:

1	2018 payable 2019 actual levy (not including tax increment) NOTE: Town, village or city taxes do not include county or state special charges for purposes of calculating levy limits.	\$ 3,500,000
2	Exclude prior year levy for unreimbursed expenses related to an emergency	\$ 0
3	Exclude 2018 levy for new general obligation debt authorized after July 1, 2005	\$ 500,000
4	2018 payable 2019 adjusted actual levy	\$ 3,000,000

The adjusted actual levy is then increased by a percentage based on net new construction as determined by the Wisconsin Department of Revenue. Net new construction is the amount of new construction that occurred within the municipality in the prior year less the value of any demolition. This net amount is divided by the prior year's total equalized value to determine the applicable percentage. This percentage, along with any increase that may result from terminating or removing territory from a tax incremental financing district, determines the levy limit before adjustment as shown below.

Example:

4	2018 payable 2019 adjusted actual levy	\$ 3,000,000
5	0.00% growth plus terminated TID% (0.000) plus TID subtraction % (0.000) applied to the 2018 adjusted actual levy	\$ 3,000,000
6	Net new construction % (2.000) plus terminated TID% (0.000) plus TID subtraction % (0.000) applied to the 2018 adjusted actual levy	\$ 3,060,000
7	Greater of Line 5 of Line 6	\$ 3,060,000
8	2019 levy limit before adjustments	\$ 3,060,000

In this example, the governmental unit would be permitted to increase its levy by \$60,000 over the prior year before claiming any adjustments. Lines 1-8 on the levy limit worksheet are calculated and pre-filled on the worksheet by the Department of Revenue, but these calculations should be checked for accuracy.

Debt Service Adjustments

The adjustments pertaining to general obligation (G.O.) debt service can offer significant levy limit flexibility depending on a local government's specific circumstances. The law treats G.O. debt service differently depending on the date on which the debt was authorized (the date the governing body adopted an initial or authorizing resolution):

- Debt service (principal and interest payments) due on G.O. debt authorized **on or after** July 1, 2005 is exempt from levy limits. A municipality may claim as an adjustment up to the full amount of the debt service payment, however, whatever amount is claimed is deducted in the following year. As such, it is essential that this adjustment not be overstated: claiming an adjustment but not actually levying the full amount will result in a permanent reduction in levy capacity.

In some cases, a local government may be paying some or all its post-July 1, 2005 G.O. debt service from within its unadjusted levy base. In such cases, this affords a measure of flexibility as the claimed adjustment amount could be increased. By moving levy for post-July 1, 2005 G.O. debt outside of the base levy by claiming a larger adjustment, a greater amount of levy capacity becomes available to support other types of expenditures. Caution should be exercised, however, when the additional debt service adjustment claimed is being paid from non-tax levy sources such as utility fees or tax increments. Relying on such an adjustment to support ongoing operating expenses such as staff costs will result in

an eventual budget deficit if the non-levy paid debt service diminishes or is retired. This exposure does not occur if the entire amount of the debt adjustment claimed is fully levied for, or if the increased capacity is used to fund non-recurring or non-operating expenses such as capital equipment purchases and projects.

- For G.O. debt authorized **prior** to July 1, 2005, a municipality may increase its levy limit by the amount of any increase in the debt service payment over the prior year. If the debt service levy decreases from the prior year, the amount of that decrease must be taken as a reduction to the levy limit. (A previously permitted exception from the required reduction was eliminated by the Legislature as part of the 2017-19 State budget.) An important distinction to note is that positive adjustments are based on comparing the debt service payment amounts whereas negative adjustments are based on the debt service levy amounts. In many cases these amounts may be the same, but if debt service payments are being partially or wholly abated by application of other revenues such as utility fees or tax increments, the levy amount will be less than the payment amount. Debt authorized prior to July 1, 2005 that is subsequently refinanced is treated as debt authorized on or after July 1, 2005.

Carryover

If the actual amount levied in the prior year was less than the allowable levy as was calculated on Line 8 of the levy limit worksheet, a carryover will be available. This residual unused

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levy capacity can be claimed and used in the next budget cycle, but is limited to the actual unused amount, or 1.5 percent of the prior year's actual levy, whichever is less. Claiming the carryover requires governing body action. For a carryover of up to 0.5 percent, approval by a simple majority vote is required. To carry over a greater amount (up to the 1.5 percent maximum), approval requires a three-fourths super majority vote, or a two-thirds super majority if the governing body has fewer than five members. The state's 2015-2017 budget further modified the carryover provision to permit unused levy capacity to be carried forward for a period of up to five years. This multi-year carryover is subject to a cap of 5 percent and can only be claimed if the local government did not increase its total outstanding G.O. debt principal in the year the carryover is claimed, as compared to the prior year. If available, a municipality may claim the prior year carryover, or the multi-year carryover, but not both in the same year. If a carryover is available, it is important to ensure that the carryover was not artificially created by claiming an unnecessarily large adjustment for G.O. debt in the previous year (Adjustment E on the levy limit worksheet). If a municipality is claiming Adjustment E, it should only claim the exact amount needed to cause its calculated allowable levy to equal what it plans to levy. If this guidance is used to determine the amount claimed for Adjustment E, no carryover should be available.

Covered Services Negative Adjustment

The law specifies that a local government must reduce its levy limit if, on or after July 2, 2013, it puts into place a user fee for garbage collection (excludes recycling), fire protection (excludes public fire protection charge), snow plowing, street sweeping, or stormwater management. It must also be the case that the service for which the user fee is implemented was funded in whole or in part by the tax levy in the 2013 budget year. A negative adjustment may also apply when a user fee for any of the listed services is subsequently increased. The amount of the negative adjustment is equal to the projected revenue resulting from the implementation of a user fee, or the increase in the user fee amount, however, 2017 Wisconsin Act 317 limits the required negative adjustment to no more than the amount of total levy support provided for that covered service in the 2013 budget year. While the negative adjustment applies in the case of a fee increase (subject to the maximum adjustment limitation), it does not apply if revenues increase because of additional service units, but the fee remains the same. The following table provides additional clarification based on the four possible scenarios:

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Date User Fee First Enacted for Covered Service	Were tax levy dollars used to fund this service in part or in whole in 2013?	Negative Adjustment Applicable to Initial User Fee	Negative Adjustment Applicable to Subsequent Fee Increases
Prior to July 2, 2013	No, 100% user fee funded.	No	No
Prior to July 2, 2013	Yes, funded partially with user fees and partially with tax levy	No	Yes
On or After July 2, 2013	Yes, levy funded prior to enactment of user fee	Yes	Yes
On or After July 2, 2013	No, service was not provided prior to enactment of user fee, or was funded fully with other non-tax levy sources	No	No

The effect of this provision is to preclude a local government from implementing a new user fee for any of the five covered services to free up levy limit capacity to fund other operating purposes. Note again, however, that the total negative adjustment cannot exceed the amount of levy support that the covered service received in the 2013 budget. Once an initial conversion to a covered service user fee is made, the limitation on the total negative adjustment will afford a municipality additional flexibility in the future.

Workforce Housing Adjustment: New for 2020

2017 Wisconsin Act 243 created a new adjustment for creation of workforce housing that will first be available on the 2019 levy limit worksheet for the 2020 budget year. Municipalities will be permitted to increase their levy limit by \$1,000 for each new single-family residential dwelling unit issued an occupancy permit in the preceding year if the following are also the case:

- The dwelling unit is located on a parcel of no more than ¼ acre.
- The dwelling is sold for not more than 80 percent of the median price of a new residential dwelling unit within the municipality.

The additional amount the municipality can levy under this provision must be used to pay for the cost of police protective services, fire protective service, or emergency medical services, and the municipality may not decrease the amount it spends for these services as compared to the preceding year.

For Further Information

A variety of additional levy limit adjustments are available for circumstances such as annexations, transfer of services, and joint fire departments. For a full treatment of all adjustments as well as additional discussion of levy limit strategies, please refer to the presentation materials located at the following address: <https://www.lwm-info.org/574/Municipal-Budgeting-Toolkit>

This article originally appeared in the July 2015 edition of *The Municipality*. It has been updated by the author to include additional information and to reflect changes to the levy limit law that have been enacted since the original publication date.

About the Author:

Todd joined Ehlers in 2003 after serving eight years as the Administrator for the Village of Bellevue. He previously held positions with the Waukesha Housing Authority and the Village of Sussex. His prior local government experience provides him a first-hand understanding of how local governments operate, the challenges they face, and an ability to relate on a personal level with local government staff and officials, all insights that help Todd craft recommendations and plans that are tailored to his client's specific circumstances and needs. Today, Todd is a Senior Municipal Advisor with the firm and is the Principal of our Wisconsin region.

Todd lives in Sussex with his wife and two sons. Todd served for 23 years in the Wisconsin Army National Guard retiring in 2008 at the rank of Lieutenant Colonel. He is also an Operation Iraqi Freedom combat veteran. Contact Todd at ttaves@ehlers-inc.com



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