

2023 Wisconsin Act 12

Key Takeaways for County Governments

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Discussion Overview:

1. Changes to Shared Revenue
2. Maintenance of Effort
3. Levy Limit Adjustments
4. Quarries
5. Other Issues



Changes to Shared Revenue

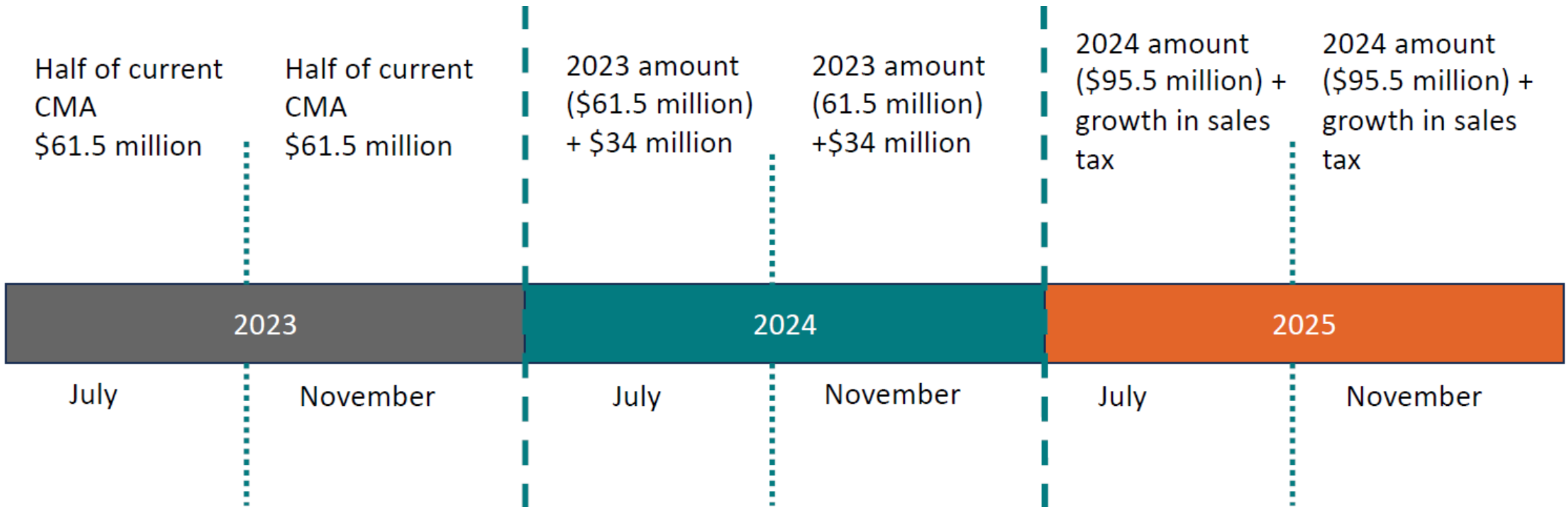
- Creation of trust fund account from which general county and municipal aid payments must be made to counties and other municipalities.
- For 2024, counties and municipalities will receive the same amount of general aid received in 2023.
- Beginning in 2025, the funds in the trust account will be distributed proportionally based on the proportion of aid received by each county and municipality in 2024.
- In addition to regular county and municipal aid, various forms of other aid available including new forms of supplemental county and municipal aid and new innovation grants.



Changes to Shared Revenue (cont'd)

- Separate trust fund account for supplemental aid to counties and municipalities for certain services.
 - Law enforcement
 - Fire protection
 - EMS
 - Emergency response communications
 - Public works
 - Courts
 - Transportation
- Statutory bar on the use of supplemental aid for administrative services.
- For counties the supplemental aid payment equals the greater of (1) 10% of the amount of general aid the county received in 2024 or (2) a statutorily defined formula.





Half of current
CMA
\$61.5 million

Half of current
CMA
\$61.5 million

2023 amount
(\$61.5 million)
+ \$34 million

2023 amount
(61.5 million)
+\$34 million

2024 amount
(\$95.5 million) +
growth in sales
tax

2024 amount
(\$95.5 million) +
growth in sales
tax

2023

2024

2025

July

November

July

November

July

November

Current CMA
 $\$61.5 + \$61.5 = \$123$ million

Supplemental CMA
 $\$34 + \$34 = \$68$ million

New "base"
 $\$95.5 + \$95.5 = \$191$ million
plus a percentage growth equal
to percentage growth in sales
tax from 2023-2024



Changes to Shared Revenue (cont'd)

- Three-year innovation grant program under which additional funds may be available to counties or municipalities that agree to transfer certain services to other counties, municipalities, nonprofit organizations, or private entities.
- Imposes various requirements on the contents of service transfer agreements regarding costs associated with transferred services, length of transfer, payments between municipalities, and grant allocations.
- Transfer must realize a projected savings of at least 10 percent of the total cost of providing the service.
- Prioritizes grants for plans involving public safety, fire protection, and emergency services.
- Imposes caps on total amount of grants to be awarded and amount of grants per county or municipality.
- Innovation planning grants available to municipalities < 5,000 in population to cover costs of personnel and consultants to plan for a transfer of one or more of the specified services.



Changes to Shared Revenue (cont'd)

- Act 12 adds additional exclusions to the calculation for determining eligibility for expenditure restraint grants under s. 79.05 (existing program).
 - Grants received from the state or federal government for the purpose of providing law enforcement, fire protection, or EMS
 - Innovation grant payments



Maintenance of Effort Requirements

- Beginning July 1, 2024, counties must make annual maintenance of effort certifications regarding EMS (and any fire protective services the county may provide):

“A political subdivision shall certify to the department of revenue that the political subdivision has maintained a level of fire protective and emergency medical service that is at least equivalent to that provided in the political subdivision in the previous year. The certification shall include a statement under par. (b) 2. from the person in charge of providing fire protective and emergency medical services for the political subdivision, or for the political subdivision under contract to provide this service.”

- **Note:** Law enforcement maintenance of effort requirements apply only to cities, villages, and towns. Section 59 of Act 12.
- Failure to satisfy maintenance of effort requirement will result in 15% reduction of shared revenue. Section 215 of Act 12.



Maintenance of Effort Requirements (cont'd)

- Generally, with some statutorily delineated exceptions, a statement must certify that any 2 of the following have been maintained at a level at least equivalent to the previous year:
 - “The political subdivision’s expenditures, not including capital expenditures or expenditures of grant moneys received from the state or federal government, for fire protective and emergency medical services.”
 - “The number of full-time equivalent fire fighters and emergency medical services personnel employed by or assigned to the political subdivision, not including fire fighters and emergency medical services personnel whose positions are funded by grants received from the state or federal government.”
 - “The level of training of and maintenance of licensure for fire fighters and emergency medical services personnel providing fire protective and emergency medical services within the political subdivision.”
 - “Response times for fire protective and emergency medical services throughout the political subdivision, adjusted for the location of calls for service.”



Maintenance of Effort Requirements (cont'd)

- If a county has consolidated EMS with another political subdivision OR entered into a contract with a private entity for EMS, the county may provide a certified statement to that effect in lieu of the required certification.
- If a county has newly established or joined a newly established EMS agency, the county may provide a certified statement to that effect in lieu of the required certification.
- Cities, villages or towns that receive law enforcement services solely from the county sheriff on a noncontractual basis may certify such.



Transfer of Services Levy Limit Adjustments

- State law provides for increases or decreases in county levy rate limit upon the transfer of the responsibility for providing a service between county and another governmental unit.
- Under Act 12, such levy rate limit adjustments apply only if both the county and the other governmental unit file a notice of service transfer with DOR.



Transfer of Services Levy Limit Adjustments (cont'd)

- 59.605(3)(c)1.: If a county transfers to another governmental unit responsibility for providing any service that the county provided in the preceding year, the levy rate limit otherwise applicable under this section to the county in the current year is decreased to reflect the cost that the county would have incurred to provide that service, as determined by the department of revenue. The levy rate limit adjustment under this subdivision applies only if the county and transferee governmental unit file a notice of service transfer with the department of revenue.
- 59.605(3)(c)2.: If a county increases the services that it provides by adding responsibility for providing a service transferred to it from another governmental unit in any year, the levy rate limit otherwise applicable under this section to the county in the current year is increased to reflect the cost of that service, as determined by the department of revenue. The levy rate limit adjustment under this subdivision applies only if the county and transferor governmental unit file a notice of service transfer with the department of revenue.
- Effective July 1, 2024.
- **CONSIDER:** With the innovation grant fund available to counties, when would it be appropriate to file such a statement?



Preemption of Local Regulation of Non-Metallic Quarries

- Act 12 imposes limits on the ability of municipal governments (including counties) to regulate certain nonmetallic quarry operations involving the extraction of nonmetallic minerals (e.g., soil, clay, sand, gravel, and construction aggregate) that are used primarily for a public works project or a private construction or transportation project.
- Municipalities cannot require CUPs or a nonmetallic mining licensing permit to conduct quarry operations unless prior to the establishment of operations the political subdivision enacts an ordinance that requires the permit.



Preemption of Local Regulation of Non-Metallic Quarries (cont'd)

- Municipalities cannot apply new permitting and licensing requirements in such an ordinance to certain already existing or expanding quarry operations.
- Municipalities cannot apply new permitting and licensing requirements in such an ordinance if the requirements pertain to a matter already regulated by a zoning ordinance or addressed via an already-issued and effective CUP.
- **Licensing** permits must have a duration of at least 5 years.
- Licensing permit conditions must “relate[] to the purpose of the ordinance requiring the nonmetallic licensing permit and shall be based on substantial evidence.”



Preemption of Local Regulation of Non-Metallic Quarries (cont'd)

- Cannot limit the times of quarry operations if the materials produced by the quarry “will be used in a public works project that requires construction work to be performed during the night or an emergency repair.”
- Imposes specific limitations on the ability to regulate blasting at a quarry.



Financial Reporting

- Act 12 retains prior requirements that DOR collect finance information from counties and other municipal entities under Wis. Stat. § 73.10.
- Act 12 requires DOR to “annually produce a comparative local government spending report from information received under s. 73.10 and to create and maintain a web page on its Internet site to display the information contained in the report.” Section 153 of Act 12.



Ban on Preferences In Hiring and Contracting

- Section 47 of Act 12 creates Wis. Stat. § 66.0145, which provides in relevant part:
 - “Unless required to secure federal aid, no political subdivision may discriminate against, or grant preferential treatment on the basis of, race, color, ancestry, national origin, or sexual orientation in **making employment decisions** regarding employees of a political subdivision or **contracting for public works.**” § 66.0145(2).
- Counties are included in the definition of political subdivision. § 66.0145(1).
- Effective as of June 22, 2023.



Ban on Advisory Referenda

- Amends Wis. Stat. § 59.52(25) as follows:

The board may conduct a countywide referendum ~~for advisory purposes or~~ for the purpose of ratifying or validating a resolution adopted or ordinance enacted by the board contingent upon approval in the referendum. The board may not conduct a referendum for advisory purposes, except as provided under s. 66.0305 (6) or for an advisory referendum regarding capital expenditures proposed to be funded by the county property tax levy.

- S. 66.0305(6) allows for advisory referenda on revenue sharing agreements between political subdivisions.
- Effective as of June 22, 2023.



Repeal of Personal Property Tax - MFL

- Amends Wis. Stat. § 77.84(1) as follows:

... Except as provided in this subchapter, no tax may be levied on a managed forest land, except that any building, improvements, and fixtures on managed forest land is subject to taxation as ~~personal~~ real property under ch. 70.

- Applies to assessments as of January 1, 2024.
- (Reminder as to hold harmless appropriate to make up for PPT repeal.)



Restrictions on Power of Local Health Officers

- Creates Wis. Stat. § 252.03(2j):

A local health officer may not issue a mandate to close any business in order to control an outbreak or epidemic of communicable disease for longer than 30 days unless the governing body of the political subdivision in which the order is intended to apply approves one extension of the order, not to exceed 30 days. A mandate to close more than one business as provided under this subsection may not distinguish between essential and nonessential businesses. In this subsection, “political subdivision” means a city, village, town, or county.

- Governing body may grant one extension (up to 30 days).
- Cannot distinguish between essential and nonessential businesses.
- Effective as of June 22, 2023.



Ambulance Staffing and Licensing

- EMS programs may not prohibit employees or volunteers from being employed by or volunteering with another ambulance service provider. Effective January 1, 2024.
 - “An ambulance service provider or emergency medical services program may not prohibit an emergency medical responder or emergency medical services practitioner who is employed by or volunteering with the ambulance service provider or emergency medical services program from being employed by or volunteering with another ambulance service provider or emergency medical services program.”
- Changes staffing requirements for non-emergent interfacility transports. See Section 227 of Act 12.
- Prohibits DHS from requiring rural ambulance service providers to stock certain equipment as a condition of upgrading service level. See Section 228 of Act 12.
- Allows ambulance service providers or EMS programs with which an individual intends to be employed or to volunteer to make the determination whether the individual has obtained the relevant education, training, and experience in connection with military service to be issued a certificate as an emergency medical responder. DHS previously made that determination. See Sections 229-231 of Act 12.
- An ambulance service provider or EMS program may require an emergency medical responder to register with or take the examination of the national registry of emergency medical technicians as a condition of being employed by or volunteering with the provider or program. Section 230 of Act 12.



Changes to Warren Knowles-Gaylord Nelson Stewardship Program

- Allows DNR to use stewardship funds to purchase land and easement additions to state properties to preserve natural areas and habitat and to expand outdoor recreation opportunities.
- Previously, local governments could adopt nonbinding resolutions supporting or opposing the proposed acquisition of land under the program if the land was located within the local government's boundaries. DNR would take the resolution into consideration. This process remains the same for land south of USH 8. Section 7g of Act 12.
- Act 12 changes requirements for land north of USH 8. For such land, the DNR may not approve the use of stewardship funds for acquisitions unless every local government in which the land is located adopts a resolution approving the acquisition. Section 7s of Act 12.



Other Act 12 Provisions of Note

- Wis. Stat. § 70.119(1): The state and the University of Wisconsin Hospitals and Clinics Authority shall make reasonable payments at established rates for water, sewer and electrical services and all other services directly provided by a municipality to state facilities and facilities of the University of Wisconsin Hospitals and Clinics Authority described in s. 70.11(38), including garbage and trash disposal and collection, which are financed in whole or in part by special charges or fees. Such payments for services provided to state facilities shall be made from the appropriations to state agencies for the operation of the facilities.
- After December 31, 2023, counties are not included in the list of municipalities with which DOA will negotiate for the provision of municipal services. See Section 77 of Act 12; Wis. Stat. § 70.119.
- Elimination of certain supplemental payments to local government units for the provision of transportation for medical care to medical assistance recipients.
- Milwaukee County specific requirements.



Other Act 12 Provisions of Note

- Modifications to county levy rate limit statute – Wis. Stat. § 59.605??
 - Amendments were apparently an error as the statute currently states:
 - (6) SUNSET OF THE LIMIT.** This section does not apply to a county's levy that is imposed in December 2011 or any year thereafter.



Questions?

