

2005 DRAFTING REQUEST

Senate Amendment (SA-SB19)

Received: 04/28/2005

Received By: jkreye

Wanted: Soon

Identical to LRB:

For: Ted Kanavas (608) 266-9174

By/Representing: jeremey

This file may be shown to any legislator: NO

Drafter: jkreye

May Contact:

Addl. Drafters:

Subject: Tax, Other - sales

Extra Copies:

Submit via email: YES

Requester's email: Sen.Kanavas@legis.state.wi.us

Carbon copy (CC:) to: joseph.kreye@legis.state.wi.us

Pre Topic:

No specific pre topic given

Topic:

Sunset the taxes imposed by a local professional baseball park district; bond retirement

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/1	jkreye 05/16/2005	jdyer 05/16/2005	rschluet 05/16/2005	_____	sbasford 05/16/2005	sbasford 05/16/2005	

FE Sent For:

<END>

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/1	jkreye	15/16 jld					

FE Sent For:

5165
<END>

Kreye, Joseph

From: Shepherd, Jeremy
Sent: Tuesday, April 26, 2005 3:52 PM
To: Kreye, Joseph
Cc: Manley, Scott
Subject: Amendment to SB 19 - relating to Miller Park tax sunset

Joe,

Senator Kanavas would like an amendment drafted to Senate Bill 19, that would add the following provisions to the original bill:

- 1.) Don't allow any new debt, including any extension of the life of debt (allow the Board to do things that will save money, i.e. refundings and credit swaps, but stop them from pledging any further taxes to new bonds)
- 2.) Limit the amount for the maintenance fund *Frank Hodley*
- 3.) Make the Board develop a plan that defeases the bonds by 2014 *not effective date*

Thanks!

Let me know if you have any questions, comments or concerns...

*board counsel DOA answer
6-2305*

Jeremy J. Shepherd
Office of Senator Ted Kanavas
Wisconsin 33rd Senate District
Room 10 South, State Capitol
Madison, WI 53707-7882
(608) 266-9174

*- concern that state will be used because of sunset date - impairment of contracts
- tighten up my draft*

4/27/05

Frank - ① \$ limit would be appropriate - but not sure what that would be - excluding any interest on it

② no limit on amount of bonds that can be issued (but upon effective date - distinct (see email) calculated for pledging taxes towards debt/bonds except for bonds for savings - etc.

prohibit issuing debt bonds secured by the taxes signed, except that bonds that would

③ develop a plan

- 229.68 (8) = leave alone*
- 229.685 (2) - "fund for maintenance cost"*
- 229.75 - create new sub (4) - \$ limit for the limiting language*

** stay out of 229.74 - not used/included in reality*

Kreye, Joseph

From: Hoadley, Frank
Sent: Wednesday, April 27, 2005 11:53 AM
To: Kreye, Joseph
Subject: FW: SB 19

From: Hoadley, Frank
Sent: Tuesday, March 29, 2005 5:18 PM
To: Shepherd, Jeremy
Subject: RE: SB 19

Mr. Shepherd -

Just as a reminder, while the use of the State's moral obligation as a backing for the Stadium District's bonds was authorized by the authorizing legislation, the District chose to issue the bonds without the State's moral obligation, so the State has no responsibility for the bonds. As a result of not being responsible, we do not have ready access to the debt structure of the District and provisions of the bonds they actually sold.

I have a general understanding that the maturity date of some of the bonds sold is later than the December 2014 sunset date established by SB 19. Some, if not all of those bonds may be "non-callable." While the tax revenue cash flow between now and 2014 may be sufficient to retire the debt, that may be difficult if procedures to tender or defease bonds due after 2014 are not implemented.

I am concerned that the portion of the bill that provides an absolute sunset date on the tax could be an action by the State that constitutes an impairment of the contract between the stadium district and bondholders. The legislation that permitted creation of the district and the issuance of bonds contains a provision that the State will not impair the bondholders' contract and obviously bondholders relied on this provision in purchasing the bonds. The 2014 sunset could rattle bondholders, even in the absence of a fall-off in revenues, and bondholders could conceivably find a cause of action against the State that the sunset date was an impairment.

An alternate approach to the same end would be to prohibit the district from making any further pledges of the taxes to new bonds or extending the life of the existing debt - while still keeping the provision that the tax sunsets when the bonds are paid off. It may be prudent that such a restriction not apply to refundings, credit facilities and swaps, provided that the concept that there is no extension of the amount or final maturity of the debt is maintained.

Frank Hoadley 266-2305

From: Shepherd, Jeremy [<mailto:Jeremy.Shepherd@legis.state.wi.us>]
Sent: Monday, March 28, 2005 12:04 PM
To: Hoadley, Frank
Subject: SB 19

Frank,

Senate Bill 19 - relating to sun setting the Miller Park Stadium tax is going to be heard in Senator Kanavas' Job Creation Committee this Thursday. In speaking with Mike Duckett of the Southeast Wisconsin Professional Baseball Park District, he suggested getting your thoughts on what effect this legislation could have on the bond houses.

If you have a moment, Senator Kanavas would appreciate your input on SB 19.

Thanks Frank!

Jeremy J. Shepherd
Office of Senator Ted Kanavas

Wisconsin 33rd Senate District
Room 10 South, State Capitol
Madison, WI 53707-7882
(608) 266-9174

Kreye, Joseph

From: Hoadley, Frank
Sent: Wednesday, April 27, 2005 12:33 PM
To: Kreye, Joseph
Subject: FW: SB 19

Some additional language thoughts:

Add to s.229.685 an additional subsection (or 2 or 3) with language to the effect:

- Funding for maintenance costs and future capital improvements from taxes imposed under subch. V of ch. 77, not including interest earnings on such funds is limited to \$_____.
- Upon the effective date of this provision, the district board shall not pledge tax revenues derived from subch. V of ch. 77 to any additional bonds except bonds to fund or refund existing obligations to which tax revenues derived from subch. V of ch. 77 have previously been pledged. Bonds to fund or refund existing obligations to which tax revenues derived from subch. V of ch. 77 have previously been pledged may not be issued to extend the life of the previously issued bonds. Tax revenues derived from subch. V of ch. 77 may continue to be used to provide liquidity and credit facilities, remarketing agreements, insurance policies, guaranty agreements, letter of credit or reimbursement agreements, indexing agreements, interest exchange agreements and currency exchange agreements in connection with previously issued bonds to which the tax revenues have been pledged for as long as such bonds are outstanding or have not been defeased.
- By January 31, 2006, the district board shall prepare or cause to be prepared a plan of finance, utilizing reasonable revenue assumptions, that will demonstrate the earliest possible date at which all bonds to which tax revenues derived from subch. V of ch. 77 have been pledged can be repaid, tendered or defeased and the certification required by s. 229.685 (2) can be provided to the department of revenue. Such plan of finance shall be submitted to ??? (legislature/jfc??), the department of revenue, and the department of administration.

Frank Hoadley 266-2305

From: Hoadley, Frank
Sent: Wednesday, April 27, 2005 11:53 AM
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permitted creation of the district and the issuance of bonds contains a provision that the State will not impair the bondholders' contract and obviously bondholders relied on this provision in purchasing the bonds. The 2014 sunset could rattle bondholders, even in the absence of a fall-off in revenues, and bondholders could conceivably find a cause of action against the State that the sunset date was an impairment.

An alternate approach to the same end would be to prohibit the district from making any further pledges of the taxes to new bonds or extending the life of the existing debt - while still keeping the provision that the tax sunsets when the bonds are paid off. It may be prudent that such a restriction not apply to refundings, credit facilities and swaps, provided that the concept that there is no extension of the amount or final maturity of the debt is maintained.

Frank Hoadley 266-2305

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To: Hoadley, Frank
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Thanks Frank!

Jeremy J. Shepherd
Office of Senator Ted Kanavas
Wisconsin 33rd Senate District
Room 10 South, State Capitol
Madison, WI 53707-7882
(608) 266-9174

Kreye, Joseph

From: Shepherd, Jeremy
Sent: Thursday, May 12, 2005 3:35 PM
To: Kreye, Joseph
Subject: FW: Southeast Wisconsin Professional Baseball Park District

Joe,

Here's some additional information that I got from the SE WI Professional Baseball Park District for the amendment to SB 19...when you get a chance, could you give me a ring?

Thanks!

Jeremy
266-9174

-----Original Message-----

From: Mike Duckett [mailto:mduckett@sewbpbd.com]
Sent: Monday, May 09, 2005 5:20 PM
To: Shepherd, Jeremy
Subject: FW: Southeast Wisconsin Professional Baseball Park District

> -----Original Message-----

> From: Mike Duckett
> Sent: Monday, May 09, 2005 5:18 PM
> To: Jeremy Shepherd (E-mail)
> Cc: Senator Ted Kanavas (E-mail)
> Subject: Southeast Wisconsin Professional Baseball Park District

> Hello, Jeremy:

> Following our conversation last week, and based on a cursory review of
> our records, I have attempted to present a draft listing of the
> obligations of the Southeast Wisconsin Professional Baseball Park
> District. Pursuant to the 1995 Memorandum of Understanding, the
> enabling legislation, bond offering agreements and contracts, the
> Lease Agreement with the Milwaukee Brewers, and other binding
> commitments, the following are some of the pertinent obligations of
> the Southeast Wisconsin Professional Baseball Park District:

- > 1. Annual Maintenance and Repair Contribution
 - > a. \$2,729,222 for lease years 1 through 8
 - > b. \$310,194 for lease years 9 through 30
 - > c. We are currently in lease year number 5
- > 2. Segregated Reserve Fund Contribution
 - > a. \$1,631,881 for lease years 1 through 8
 - > b. \$1,889,806 for lease years 9 through 30
- > 3. Insurance
 - > a. We are obligated to pay 70% of annual insurance premium
> - for property insurance, general liability, terrorism, etc.
 - > b. % to be adjusted when final ownership % is established
 - > c. 2005 budget for insurance is \$800,000
 - > d. Anticipate 1% annual growth over time
- > 4. District operations, management, accounting, financial advisor,
> legal counsel, office expenses, maintenance monitoring, auditing,
> outside services, etc.
 - > a. 2005 budget is \$1,480,000

> b. Anticipate 1% annual growth over time
>
> 5. Debt Service
> a. Varies over life of the bond issues
> b. 2005 budget is \$17,278,419
> c. 2014 budget is \$18,918,400
>
> As you know, our current forecast is to terminate the sales tax in
> Calendar Year 2014. This projection is based on many factors,
> including two significant assumptions:
>
> 1. Net annual sales tax growth rate of 5.50%
> a. We have experienced net annual growth of 5.38% since
> 1997 (the first full year of sales tax collection)
> b. Net annual growth by year has varied from a high of 12.5% (1997
> to 1998) to a low of -7.8% (2003 to 2002)
> c. Sales tax revenues in the first four months of 2005 are nearly
> 2% below the first four months of last year
>
> 2. Interest on fund balances and present value calculations for
> future expenditures rate of 3.50%
> a. Current market conditions are not achieving interest rates of
> 3.5%
>
> I hope all of this draft, unaudited information is helpful as you
> consider the impacts of Senate Bill 19. Please contact me if you
> should have any questions or comments.
> Thanks.
>
> Michael R. Duckett - Executive Director Southeast Wisconsin
> Professional Baseball Park District Miller Park One Brewers Way
> Milwaukee, WI 53214
> Telephone: 414-902-4040
> Cell phone: 414-940-2139



State of Wisconsin
2005 - 2006 LEGISLATURE

LRBa0526/1

JK:.....

JLD

SENATE AMENDMENT,
TO 2005 SENATE BILL 19

in 5-16-05

Today

D-N

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 2, line 25. after "facilities" insert "not to exceed \$XXX,XXX,XXX
3 excluding any interest earned on the fund."

4 **2.** Page 3, line 10: after that line insert:

5 "SECTION 4m. 229.75 (4) of the statutes is created to read:

6 229.75 (4) The district board shall not pledge revenues derived from the taxes
7 imposed under subch. V of ch. 77 to any bonds issued after the effective date of this
8 subsection... [revisor inserts date], except bonds to fund or refund obligations to
9 which revenues derived from the taxes imposed under subch. V of ch. 77 have been
10 pledged prior to the effective date of this subsection... [revisor inserts date]. Bonds
11 to fund or refund obligations to which tax revenues derived from the taxes imposed
12 under subch. V of ch. 77 have been pledged prior to the effective date of this
13 subsection... [revisor inserts date] may not be issued to extend the life of bonds issued

1

prior to the effective date of this subsection... [revisor inserts date]. Beginning on

2

the effective date of this subsection... [revisor inserts date], revenues derived from

3

the taxes imposed under subch. V of ch. 77 may only be used to provide liquidity and

4

credit facilities, remarketing agreements, insurance policies, guaranty agreements,

5

letter of credit or reimbursement agreements, indexing agreements, interest

6

exchange agreements, and currency exchange agreements in connection with

7

previously issued bonds to which the tax revenues have been pledged for as long as

8

such bonds are outstanding or have not been defeased.

9

SECTION 4n. 229.75 (5) of the statutes is created to read:

10

229.75 (5) The district board shall prepare a plan of finance, using reasonable

11

revenue assumptions, that identifies the earliest possible date on which all bonds to

12

which revenues derived from the taxes imposed under subch. V of ch. 77 have been

13

pledged can be repaid, tendered, or defeased and the certification under s. 229.685

14

(2) can be provided to the department of revenue. No later than January 31, ~~2006~~ 2007,

15

the district board shall submit the plan of finance to the legislature, the department

16

of revenue, and the department of administration.".

17

(END)

d-note
↓

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBa0526/1dn

JK.:...

Jld

Senator Kanavas:

Please review this draft carefully to ensure that it is consistent with your intent.

Joseph T. Kreye
Senior Legislative Attorney
Phone: (608) 266-2263
E-mail: joseph.kreye@legis.state.wi.us

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRBa0526/1dn
JK:jld:rs

May 16, 2005

Senator Kanavas:

Please review this draft carefully to ensure that it is consistent with your intent.

Joseph T. Kreye
Senior Legislative Attorney
Phone: (608) 266-2263
E-mail: joseph.kreye@legis.state.wi.us