



WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

2015 Senate Bill 209

**Senate
Amendment 1, as Amended**

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Senate Amendment 1 makes various changes to 2015 Senate Bill 209, a bill relating to the construction of a basketball arena and related facilities.¹

2015 SENATE BILL 209

Senate Bill 209 provides for financing and agreements relating to the development and construction of a new basketball arena and related facilities (together, “arena facilities”) in the City of Milwaukee. Among other provisions, the bill modifies the powers and composition of the Wisconsin Center District and requires the district to enter into a development agreement with a professional basketball team or its affiliate for the development and construction of arena facilities.²

SENATE AMENDMENT 1

Key changes made by Senate Amendment 1, as amended by Senate Amendment 1 to Senate Amendment 1 and adopted by the Senate, are described below.

Collection of County Debt and County Contribution

The bill requires Milwaukee County to enter into an agreement with the Department of Revenue (DOR) no later than October 5, 2015 for the collection of the county’s debt, and it

¹ For additional description of the amendment, see the Legislative Fiscal Bureau memorandum prepared on July 16, 2015 and available at the following link:
http://legis.wisconsin.gov/lfb/publications/Documents/2015_07_16%20WILeg_Bucks.pdf.

² A July 2, 2015 memorandum, prepared by the Legislative Fiscal Bureau and available at the following link, provides a comprehensive description of the bill, as introduced:
http://legis.wisconsin.gov/lfb/publications/Miscellaneous/Documents/2015_07_02%20Milwaukee%20Sports%20Arena.pdf.

provides various procedures relating to that agreement and debt collection. The revenues from such debt collection must be deposited in an appropriation account created by the bill.

As one component of financing for arena facilities, the bill then requires \$4 million per year of such revenues to be transferred to the Wisconsin Center District. In any year in which DOR's collection of county debt is less than \$4 million, the bill provides for a reduction in the county's municipal aid payment in the amount necessary to provide the transfer of \$4 million to the Wisconsin Center District.

The amendment removes all provisions of the bill relating to the collection of Milwaukee County's debts by DOR. Under the amendment, the county's municipal aid payment must be reduced by \$4 million per year during the 20-year period for financing arena facilities. The amendment retains the transfer of that \$4 million per year to the Wisconsin Center District as one component of financing for the arena facilities.

Ticket Surcharge

The bill does not provide for ticket surcharges relating to events held at the arena facilities authorized to be constructed under the bill.

The amendment requires the Wisconsin Center District board to require the sponsor of an event held at an arena constructed under the bill to impose a \$2 surcharge on each ticket sold for the event. Under the amendment, 25% of the revenues received as a result of the surcharge must be deposited into the state's general fund, and the Wisconsin Center District retains the remaining 75% of the revenues.

Wisconsin Center District Board Composition

Under **current law**, the Wisconsin Center District is governed by a 15-member board, composed of members in specified categories. [s. 229.42 (4), Stats.]

The bill retains a 15-member board but modifies the composition of the board and provides for the replacement of members who are currently serving on the board. Under the bill, the Wisconsin Center District would be led by a new, interim board during the period when the arena facilities are under construction, and it would be led by a new, different board after the construction of arena facilities is completed. Among other modifications, under the bill, the Speaker of the Assembly and the Majority Leader of the Senate, or their designees, replace the Co-Chairs of the Joint Committee on Finance as members of the board.

The amendment adds the minority leaders of the Assembly and Senate, or their designees, as members of the board. Under the amendment, the board would have 17 members.

In addition, **the bill** specifies that the appointments of certain board members would be certified when the DOA Secretary certifies that the construction of the arena facilities is complete.

The amendment modifies the timing for certifying the appointment of a board member, appointed by the Milwaukee County Executive, who is the executive officer of a municipality

that contributes a minimum percentage of room tax revenues to a tourism entity. Specifically, under the amendment, that appointment would not be automatically certified when the DOA makes the certification of completion. Instead, the Milwaukee County Executive could make the appointment after the arena facilities' completion is certified.

Definition of "Sports and Entertainment Arena Facilities"

The bill defines the arena facilities authorized under the bill to mean a sports and entertainment arena and various other land and other types of property used to support the operation of the arena, located on land not to exceed nine contiguous acres in area. **The amendment** modifies that definition to specify that, in addition to nine acres of contiguous land and structures, the arena facilities include land adjacent to the arena and a parking structure.

Exemption from Property Taxes

Current law provides a property tax exemption for property owned by the Wisconsin Center District. **The bill** specifies that the exemption generally applies to arena facilities authorized to be constructed under the bill, except that it does not apply to arena facilities that are regularly open to the general public, including at times when other arena facilities are closed to the public, and are used, leased, or subleased for use as a restaurant or for any use for which an alcohol beverage license is required.

The amendment specifies that the exemption from property taxes applies to the outdoor plaza area, even if the area is used as described in the exception above. In addition, the amendment modifies the exception to apply more specifically to restaurants and similar uses that are open to the general public at times when the arena facilities are "not being used for events that involve the arena floor and seating bowl."

Exemption from Sales Taxes

The bill provides an exemption from state sales and use taxes for the sale of and the storage, use, or other consumption of tangible personal property and taxable services used to develop and construct the arena facilities authorized by the bill. However, under the bill, the sales tax exemption no longer applies after the Secretary of the Department of Administration (DOA) certifies that the construction of the arena has been completed.

The amendment extends the time in which the sales and use tax exemption applies up to one year after the DOA Secretary has issued the certification that the arena is completed. In addition, the amendment modifies the exemption to apply specifically to the sale, storage, use, or other consumption of "building materials, supplies, and equipment" and to the sale of certain services specified in ch. 77, Stats., rather than to all "tangible personal property," and it requires that, in order for the exemption to apply, the property or service must be acquired or used solely for (or in) the construction or development of the arena facilities authorized under the bill.

Food and Beverage Tax

Current law, retained without modification by **the bill**, authorizes the Wisconsin Center District to impose a tax on certain retail sales of alcoholic beverages, candy, prepared foods, and soft drinks. [s. 77.98 (1), Stats.]

The amendment generally prohibits the imposition of such taxes beginning a specified time after the bonds issued by the Wisconsin Center District in the mid 1990s are retired, unless the imposition of the taxes is approved by a majority vote of the Wisconsin Center District board.³

In addition, **current law**, retained by **the bill**, requires the Wisconsin Center District to use the revenue from such taxes only for the district's debt service on its bond obligations. **The amendment** requires the district to first use the revenue for its debt service, but authorizes the district to use such revenue for other purposes after its bond obligations are retired.

Prerequisite for Signing Development Agreement

The bill requires the Wisconsin Center District to enter into a development agreement with a professional basketball team or its affiliate for the development and construction of arena facilities, subject to certain requirements. One such requirement is that the professional basketball team must enter into a non-relocation agreement with the district. **The amendment** specifies that the professional basketball team or its affiliate must have entered into that non-relocation agreement before the district may sign the development agreement.

Responsibility for Care of Arena Facilities

The bill requires a lease negotiated by the Wisconsin Center District and the professional basketball team to provide that the professional basketball team or its affiliate is responsible for equipping, maintaining, operating, and repairing the arena facilities.

The amendment adds "improving" the facilities to the list of activities for which the professional basketball team must be responsible under the lease. The amendment also specifies that the Wisconsin Center District may undertake such activities only in the event that the professional basketball team has breached its re-location agreement or lease with the district and only from moneys received from the professional basketball team or its parent company or affiliate.

Remedies in the Event of a Breach of the Development Agreement

The bill authorizes the state, the Wisconsin Center District, the City of Milwaukee, and Milwaukee County to act individually or collectively to enforce the development agreement or

³ As introduced, the amendment prohibited the imposition of such taxes on sales by persons "engaged in retail trade," as defined in the U.S. Census Bureau's industry classification system. Senate Amendment 1 to the amendment clarified that the prohibition applies specifically to "food and beverage stores," as defined in that classification system.

the non-relocation agreement in the event that the professional basketball team or its affiliate breaches either of those agreements. The bill specifies certain remedies to which those entities are entitled if they prevail in such an enforcement action, including injunctive relief and certain liquidated damages.

Under **the amendment**, those remedies are specified with respect to an action to enforce the non-relocation agreement but not with respect to an action to enforce the development agreement.

State Responsibility

The bill provides that the state is not responsible for equipping, maintaining, operating, or repairing the arena facilities authorized under the bill. **The amendment** adds “improving” to the list of activities for which the state has no responsibility with respect to the arena facilities.

State Moral Obligation Pledge

Current law provides a moral obligation pledge, in which the Legislature expresses its expectation and aspiration that, if ever called upon to do so, it will appropriate funds necessary to restore an insufficiency in the special fund used for debt obligations for bonds issued by the Wisconsin Center District. [s. 229.50 (7), Stats.]

The bill provides that the state moral obligation pledge does not apply to reserve fund shortfalls that are related to bonds issued by the Wisconsin Center District to fund the construction of arena facilities.

The amendment further specifies that the state moral obligation also does not apply to any refunding bonds issued by the Wisconsin Center District to fund the construction of arena facilities.

Foreclosure Process in Populous Counties

The bill makes certain generally applicable changes to the procedures for property foreclosures and sheriff’s sales. Instead, **the amendment** makes various changes that are specific to the foreclosure of property in Milwaukee County.

BILL HISTORY

Senator Scott Fitzgerald offered Senate Amendment 1 to Senate Bill 209 and Senate Amendment 1 to Senate Amendment 1 on July 15, 2015. On the same day, the Senate adopted both amendments on voice votes and passed the bill, as amended, on a vote of Ayes, 21; Noes, 10.

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