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**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

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1 **AN ACT** to renumber 66.066 (5); to renumber and amend 704.31 (3); to amend  
2 13.94 (4) (a) l., 13.94 (lo), 16.70 (14), 18.03 (5s), 19.42 (13) (a), 19.59 (1) (a),  
3 19.59 (1) (g) 1. a., 25.50 (1) (d), 66.066 (1) (a), 66.066 (1) (c), 66.067, 66.30 (1) (a),  
4 71.26 (1) (bm), 71.26 (1m) (g), 71.36 (lm), 71.45 (It) (g), 77.70, 77.705 (title),  
5 77.707, 77.71, 77.76 (3m) and 77.76 (4); and to **create 20.566** (1) (ge), 20.835 (4)  
6 (ge), 20.867 (5), 24.61 (2) (a) 8., 25.17 (3) (b) ll., 66.04 (2) (a) 3q., 66.066 (5) (b),  
7 71.05 (1) (c) 5., 77.54 (45), 77.706, 77.76 (3p), 219.09 (1) (d), subchapter IV of  
8 chapter 229 [precedes 229.820], 704.31 (3) (a) and 704.31 (3) (b) of the statutes;  
9 - **O - R** .  
**relating to:** creating a local professional football stadium district and making  
10 ~~an~~ appropriatio<sup>ns</sup><sub>4</sub>

5

**Analysis by the Legislative Reference Bureau**

**CREATION AND DISSOLUTION OF A DISTRICT**

This bill creates a professional football stadium district, which is a special purpose district, in each county with a population of more than 150,000 that includes the site of an existing or to be constructed league-approved home stadium for a professional football team that is a member of a league of teams that have home

stadiums in at least ten states and a collective average attendance for all league members of at least 40,000 per game over the five years immediately preceding the year in which a district is created. A district is a local unit of government that is a body corporate and politic and that is separate and distinct from, and independent of, the state and the political subdivisions within its jurisdiction. A district's jurisdiction remains fixed even if population or attendance figures subsequently decline below the minimums described, ~~or if the stadium moves to another county.~~

the

a sales tax and a use  
Under the bill, a

In connection with football stadium facilities, the powers of a district include the construction, maintenance, management and acquisition of the football stadium and facilities; the issuance of bonds and imposition of taxes to finance the stadium and facilities; and the authority to enter into partnerships, joint ventures, common ownership or other arrangements with other persons to further the district's purposes. Before taxes imposed by a district may take effect, however, the district's action must be approved by the electors in an election in the district's jurisdiction.

A district does not have jurisdiction over any re-located stadium whether or not the stadium is

A district may also set standards governing the use of, and the conduct within, the stadium and facilities, and may set and collect fees for the use of the facilities or for the right to purchase tickets to events at the stadium. If a district enters into a lease with a professional football team for the use of a football stadium, the team, or a subsidiary of the team, may acquire and construct all or any portion of the football stadium improvements that are to be leased.

is approved by the league

The district is governed by a board that consists of two persons appointed by the governor, two persons appointed by the chief elected official of the most populous city within the district's jurisdiction, two persons appointed by the chief elected official of the county in which the football stadium is located and, if such a situation exists, one person appointed by the chief elected official of each city, village or town (municipality) within the district's jurisdiction, other than the most populous city within the district's jurisdiction, that has a boundary at the time of the district's creation that is contiguous to a boundary of the site of the football stadium.

A district may dissolve by action of the district board, subject to payment of the district's bonds and fulfillment of its other contractual obligations. If a district is dissolved, its property must be transferred to the municipalities and county in the district's jurisdiction in proportions determined by the secretary of administration, based on the contributions of each municipality and county to the development of the football stadium facilities.

Under the bill, a municipality or county within the district's jurisdiction may make grants or loans, or lease or transfer property, to a district; expend public funds to subsidize a district; or borrow money to fund grants, loans or subsidies to a district. With the consent of a district, such a municipality or county may also establish and collect fees or other charges applicable only to a football stadium for the right to purchase tickets to events at the stadium.

or improvement

### BONDING

This bill grants a district the power to issue revenue bonds for purchasing, acquiring, leasing, constructing, extending, adding to, improving, conducting, controlling, operating or managing a local professional football stadium district. Under the bill, the bonds issued by the district must be secured by the district's

in a referendum

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interest in any football stadium facilities, by income from these facilities, by proceeds of bonds issued by the district and by other amounts placed in a special redemption fund and investment earnings on such amounts, including any taxes that the district is authorized to impose. The bill specifically provides that the district may not pledge its full faith and credit on the bonds and that the bonds are not a general obligation liability of the district.

*reserve fund to meet*

The bill authorizes a district to establish a special debt service reserve fund, subject to certain findings of the secretary of administration. The special debt service reserve fund is significant, because if the special debt service reserve fund requirement for such a fund is not met, the legislature expresses its expectation and aspiration that, if certain conditions are met, the legislature would appropriate to the district the funds necessary to restore the moneys in the fund to an amount equal to its special debt service reserve fund requirement. This expression of legislative expectation and aspiration has been referred to as a "state moral obligation pledge". The special debt service requirement is determined in the bond resolution authorizing the issuance of bonds.

*established in the bill*  
*in the amount*

*state moneys*

In order to create a special debt service reserve fund backed up by the state moral obligation pledge, however, the secretary of administration must find that the bond proceeds will be used in connection with a football stadium facility, that there is a reasonable likelihood that the bonds will be repaid without the necessity of drawing on funds in the special debt service reserve fund; that the amount of all bonds that would be secured by all special debt service reserve funds of the district does not exceed \$XXXXX; and that the bonds, other than refunding bonds, will be issued no later than December 31, XXXX.

*for purposes related to the facilities*

*will*

In addition to creating a state moral obligation pledge to appropriate to the district the funds necessary to restore the special debt service reserve fund to an amount equal to its special debt service reserve fund requirement, the bill provides that the state pledges that it will not limit or alter the rights vested in a district under the bill before the district has fully performed its contracts and has fully met and discharged its bonds.

*and local government*

Finally, the bill contains provisions authorizing certain state funds and certain regulated financial institutions to invest in bonds issued by the district; provides that all moneys received by a district, including proceeds from the sale of bonds, are trust funds to be held and applied solely for the purposes provided in the bill; and limits the personal liability of members of a district's board of directors with respect to the issuance of bonds.

PROVISION OF FINANCIAL SERVICES

This bill permits the building commission, upon request of a district, to serve as a financial consultant to the district for the purpose of assisting with and coordinating the issuance of bonds by the district.

FINANCE

This bill permits the legislative audit bureau to audit the records of a district. Under the bill, the joint legislative audit committee may review a district's performance.

### ETHICS

Members of a district board are subject to the statutory code of ethics for local public officials. In addition, board members are subject to other standards of conduct that apply to state public officials. However, like other local public officials, district board members are not subject to periodic reporting requirements.

### APPLICABILITY OF OTHER LAWS

Numerous laws that apply to special purpose districts and local units of government apply to a local professional football district, including, among others:

1. The district is subject to laws requiring, with certain exceptions, public notice of and access to meetings of the district board and public access to the district's records.
2. The district is subject to worker's compensation, unemployment insurance, state minimum wage an hour and family and medical leave laws.
3. The district is subject to the law requiring the payment of prevailing wages on local government public works projects.
4. The district is governed by laws regulating municipal administrative procedures and rights.
5. The district is subject to laws restricting employers from testing employes and prospective employes for human immunodeficiency virus (HIV) or an antibody to HIV.
6. The district is subject to the tort and antitrust liability limitation that currently applies to actions brought against local governmental units of \$50,000 per occurrence, and persons attempting to sue the district are subject to a requirement to file notice of their claims within 120 days of their occurrence.
7. The district's ownership interest in any professional football stadium or related facilities is exempt from the property tax.
8. The district is subject to laws regulating buildings and safety.
9. The district may exercise eminent domain powers for public purposes, upon a showing of necessity
10. Purchases made by the district are subject to the sales tax and use tax and the property of the district is subject to special assessment levies.
11. The district is subject to laws regulating the ways in which its funds may be invested.

Under the bill, the <sup>state-administered</sup> district may participate in the state public employe retirement plan and ~~state~~ plans for deferred compensation, health ~~and long term~~ <sup>care</sup> ~~benefits~~ disability and survivor benefits ~~and employe-funded reimbursement~~ <sup>accounts.</sup> ~~and~~

The bill also provides that the district may:

1. Contract with municipalities and federally recognized Indian tribes and bands in this state for the receipt or furnishing of services or the joint exercise of powers or duties.
2. Participate in the state-operated local government pooled-investment fund.
3. Participate in the local government property insurance fund.

Under the bill, the assets and <sup>obligations of</sup> ~~obligations of~~ a district are not assets or <sup>liabilities</sup> ~~obligations of~~ the county in which the ~~district is~~ located.

Subject to approval by the electors of a district at a referendum

**TAXATION**

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Under the bill, a local professional football stadium district may adopt a resolution to impose a sales tax and a use tax at a rate of no more than 0.5% on the sale or use of tangible personal property or services in the district. ~~The sales tax and the use tax, however, does not take effect in the district until after the electors in the district's jurisdiction approve the resolution to impose the taxes.~~ ~~In addition, a county in which a district sales tax and use tax is in effect may not collect a county sales tax and use tax while the district taxes are in effect.~~ The district tax revenue ~~is~~ used only for purposes related to a professional football stadium. Under the bill, generally, the sales tax and use tax imposed by the district may not be collected after the district has retired its bonds related to the football stadium.

may be

facilities

Under the bill, the income of a local professional football stadium district is exempt from the income tax and the franchise tax, and the income and interest from the district's obligations are exempt from the income tax and the franchise tax.

This bill will be referred to the joint survey committee on tax exemptions for a detailed analysis, which will be printed as an appendix to this bill.

For further information see the **state and local** fiscal estimate, which will be printed as an appendix to this bill.

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what is expected

**The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:**

1           **SECTION 1.** 13.94 (4) (a) 1. of the statutes, as affected by 1999 Wisconsin Act 9,  
2 is amended to read:

3           13.94 (4) (a) 1. Every state department, board, examining board, affiliated  
4 credentialing board, commission, independent agency, council or office in the  
5 executive branch of state government; all bodies created by the legislature in the  
6 legislative or judicial branch of state government; any public body corporate and  
7 politic created by the legislature including specifically a professional baseball park  
8 district, a local professional football stadium district and a family care district  
9 created under s. 46.2895; every Wisconsin works agency under subch. III of ch. 49;  
10 every provider of medical assistance under subch. IV of ch. 49; technical college  
11 district boards; development zones designated under s. 560.71; every county  
12 department under s. 51.42 or 51.437; every nonprofit corporation or cooperative to

1 which moneys are specifically appropriated by state law; and every corporation,  
2 institution, association or other organization which receives more than 50% of its  
3 annual budget from appropriations made by state law, including subgrantee or  
4 subcontractor recipients of such funds.

5 **SECTION 2.** 13.94 (10) of the statutes is amended to read:

6 13.94 (10) ~~FINANCIAL STATUS OF LOCAL CERTAIN PROFESSIONAL BASEBALL PARK~~  
7 ~~SPORTS~~ DISTRICTS. As promptly as possible following the end of each state fiscal  
8 biennium in which there are outstanding bonds or notes issued by a local  
9 professional baseball park district created under subch. III of ch. 229 that are subject  
10 to s. 229.74 (7) or by a local professional football stadium district created under  
11 subch. IV of ch. 229 that are subject to s. 229.830 (7), the legislative audit bureau  
12 shall submit a report to the cochairpersons of the joint committee on finance  
13 concerning the financial status of that district.

14 **SECTION 3.** 16.70 (14) of the statutes is amended to read:

15 16.70 (14) "State" does not include a district created under subch. II ~~or~~, III or  
16 IV of ch. 229.

17 **SECTION 4.** 18.03 (5s) of the statutes is amended to read:

18 18.03 (5s) Upon the request of a local professional baseball park district  
19 created under subch. III of ch. 229 or a local nrofessional football stadium district  
20 created under subch. IV of ch. 229, the commission may serve as financial consultant  
21 to assist and coordinate the issuance of the bonds of a district.

22 **SECTION 5.** 19.42 (13) (a) of the statutes is amended to read:

23 19.42 (13) (a) All positions to which individuals are regularly appointed by the  
24 governor, except the position of trustee of any private higher educational institution  
25 receiving state appropriations ~~and~~, the position of member of the district board of a

1 local professional baseball park district created under subch. III of ch. 229 and the  
2 position of member of the district board of a local professional football stadium  
3 district created under subch. IV of ch. 229.

4 **SECTION 6.** 19.59 (1) (a) of the statutes is amended to read:

5 19.59 (1) (a) No local public official may use his or her public position or office  
6 to obtain financial gain or anything of substantial value for the private benefit of  
7 himself or herself or his or her immediate family, or for an organization with which  
8 he or she is associated. A violation of this paragraph includes the acceptance of free  
9 or discounted admissions to a professional baseball or football game by a member of  
10 the district board of a local professional baseball park district created under subch.  
11 III of ch. 229 or a local professional football stadium district created under subch. IV  
12 of ch. 229. This paragraph does not prohibit a local public official from using the title  
13 or prestige of his or her office to obtain campaign contributions that are permitted  
14 and reported as required by ch. 11.

15 **SECTION 7.** 19.59 (1) (g) 1. a. of the statutes is amended to read:

16 19.59 (1) (g) 1. a. "District" means a local professional baseball park district  
17 created under subch. III of ch. 229 or a local professional football stadium district  
18 created under subch. IV of ch. 229.

19 **SECTION 8.** 20.005 (3) (schedule) of the statutes: at the appropriate place, insert  
20 the following amounts for the purposes indicated:

1999-00      2000-01

1      **20.566 Revenue, department of**

2      (1)      COLLECTION   OF TAXES

3      (ge)   Administration of local profes-  
4                      sional football stadium district

5                      taxes                                      PR                      A                      -O-                      -O-

6                      **SECTION 9.** 20.566 (1) (ge) of the statutes is created to read:

7                      *20.566 (1) (ge) Administration of local professional football stadium district*

8      *taxes.* From the moneys ~~received~~ <sup>transferred</sup> from the appropriation account under s. 20.835 (4)  
9      (ge), the amounts in the schedule for administering the special district taxes imposed  
10     under s. 77.706 by a local professional football stadium district created under subch.  
11     IV of ch. 229.

12                      **SECTION 10.** 20.835 (4) (ge) of the statutes is created to read:

13                      *20.835 (4) (ge) Local professional football stadium district taxes.* All moneys  
14     received from the taxes imposed under s. 77.706, for the purpose of distribution to  
15     the special districts that adopt a resolution imposing taxes under subch. V of ch. 77,  
16     and for the purpose of financing a local professional football stadium district, except  
17     that, of those tax revenues collected under subch. V of ch. 77, 1.5% shall be credited  
18     to the appropriation account under s. 20.566 (1) (ge).

19                      **SECTION 11.** 20.867 (5) of the statutes is created to read:

20                      **20.867 (5)    SERVICESTONONSTATEGOVERNMENTALUNITS.**    (g) *Financial consulting*  
21     *services.* All moneys received from local professional football stadium districts for  
22     financial consulting services provided under s. 18.03 (5s), to be used to provide those  
23     services.



1           **SECTION 12.** 24.61 (2) (a) 8. of the statutes is created to read:

2           24.61 (2) (a) 8. Bonds issued by a local professional football stadium district  
3 created under subch. IV of ch. 229.

4           **SECTION 13.** 25.17 (3) (b) 11. of the statutes is created to read:

5           25.17 (3) (b) 11. Bonds issued by a local professional football stadium district  
6 created under subch. IV of ch. 229.

7           **SECTION 14.** 25.50 (1) (d) of the statutes, as affected by 1999 Wisconsin Act 9,  
8 is amended to read:

9           25.50 (1) (d) "Local government" means any county, town, village, city, power  
10 district, sewerage district, drainage district, town sanitary district, public inland  
11 lake protection and rehabilitation district, local professional baseball park district  
12 created under subch. III of ch. 229, family care district under s. 46.2895, local  
13 professional football stadium district created under subch. IV of ch. 229, public  
14 library system, school district or technical college district in this state, any  
15 commission, committee, board or officer of any governmental subdivision of this  
16 state, any court of this state, other than the court of appeals or the supreme court,  
17 or any authority created under s. 231.02, 233.02 or 234.02.

18           **SECTION 15.** 66.04 (2) (a) 3q. of the statutes is created to read:

19           66.04 (2) (a) 3q. Bonds issued by a local professional football stadium district  
20 created under subch. IV of ch. 229.

21           **SECTION 16.** 66.066 (1) (a) of the statutes is amended to read:

22           66.066 (1) (a) "Municipality" means any city, village, town, county, commission  
23 created by contract under s. 66.30, public inland lake protection and rehabilitation  
24 district established under s. 33.23, 33.235 or 33.24, metropolitan sewerage district  
25 created under ss. 66.20 to 66.26 or 66.88 to 66.918, town sanitary district under

1 subch. IX of ch. 60, a local professional baseball park district created under subch.  
2 III of ch. 229, a local professional football stadium district created under subch. IV  
3 of ch. 229 or a municipal water district or power district under ch. 198 and any other  
4 public or quasi-public corporation, officer, board or other public body empowered to  
5 borrow money and issue obligations to repay the same out of revenues.  
6 “Municipality” does not include the state or a local exposition district created under  
7 subch. II of ch. 229.

8 **SECTION 17.** 66.066 (1) (c) of the statutes is amended to read:

9 66.066 **(1)** (c) “Revenue” means all moneys received from any source by a public  
10 utility and all rentals and fees and, in the case of a local professional baseball park  
11 district created under subch. III of ch. 229 includes tax revenues deposited into a  
12 special fund under s. 229.685 and payments made into a special debt service reserve  
13 fund under s. 229.74 and, in the case of a local professional football stadium district  
14 created under subch. IV of ch. 229 includes tax revenues denosited into a snecial fund  
15 under s. 229.825 and navments made into a snecial debt service reserve fund under  
16 s. 229.830.

17 **SECTION 18.** 66.066 **(5)** of the statutes is renumbered 66.066 (5) (a).

18 **SECTION 19.** 66.066 **(5)** (b) of the statutes is created to read:

19 66.066 (5) (b) Revenue bonds issued by a local professional football stadium  
20 district created under subch. IV of ch. 229 are subject to the provisions in ss. 229.829  
21 to 229.834.

22 **SECTION 20.** 66.067 of the statutes is amended to read:

23 66.067 **Public works projects.** For financing purposes, garbage  
24 incinerators, toll bridges, swimming pools, tennis courts, parks, playgrounds, golf  
25 links, bathing beaches, bathhouses, street lighting, city halls, village halls, town

1 halls, courthouses, jails, schools, cooperative educational service agencies, hospitals,  
2 homes for the aged or indigent, child care centers, as defined in s. 231.01 (3c),  
3 regional projects, waste collection and disposal operations, systems of sewerage,  
4 local professional baseball park facilities, local professional football stadium  
5 facilities and any and all other necessary public works projects undertaken by any  
6 municipality are public utilities within the meaning of s. 66.066.

7 **SECTION 21.** 66.30 (1) (a) of the statutes, as affected by 1999 Wisconsin Act 9,  
8 is amended to read:

9 66.30 (1) (a) In this section "municipality" means the state or any department  
10 or agency thereof, or any city, village, town, county, school district, public library  
11 system, public inland lake protection and rehabilitation district, sanitary district,  
12 farm drainage district, metropolitan sewerage district, sewer utility district, solid  
13 waste management system created under s. 59.70 (2), local exposition district  
14 created under subch. II of ch. 229, local professional baseball park district created  
15 under subch. III of ch. 229, local professional football stadium district created under  
16 subch. IV of ch. 229, family care district under s. 46.2895, water utility district,  
17 mosquito control district, municipal electric company, county or city transit  
18 commission, commission created by contract under this section, taxation district or  
19 regional planning commission.

20 **SECTION 22.** 71.05 (1) (c) 5. of the statutes is created to read:

21 71.05 (1) (c) 5. A local professional football stadium district created under  
22 subch. IV of ch. 229.

23 **SECTION 23.** 71.26 (1) (bm) of the statutes is amended to read:

24 71.26 (1) (bm) *Certain local districts.* Income of a local exposition district  
25 created under subch. II of ch. 229 ~~or~~, a local professional baseball park district

1 created under subch. III of ch. 229 or a local professional football stadium district  
2 created under subch. IV of ch. 229.

3 **SECTION 24.** 71.26 (1m)(g) of the statutes is amended to read:

4 71.26 **(1m)** (g) Those issued under s. 66.066 by a local professional baseball  
5 park district or a local professional football stadium district.

6 **SECTION 25.** 71.36 (1m) of the statutes is amended to read:

7 71.36 **(1m)** A tax-option corporation may deduct from its net income all  
8 amounts included in the Wisconsin adjusted gross income of its shareholders, the  
9 capital gain deduction under s. 71.05 (6) (b) 9. and all amounts not taxable to  
10 nonresident shareholders under ss. 71.04 (1) and (4) to (9) and 71.362. For purposes  
11 of this subsection, interest on federal obligations, obligations issued under s. 66.066  
12 by a local professional baseball park district or a local professional football stadium  
13 district, obligations issued under ss. 66.40, 66.431 and 66.4325, obligations issued  
14 under s. 234.65 to fund an economic development loan to finance construction,  
15 renovation or development of property that would be exempt under s. 70.11 (36) and  
16 obligations issued under subch. II of ch. 229 is not included in shareholders' income.  
17 The proportionate share of the net loss of a tax-option corporation shall be attributed  
18 and made available to shareholders on a Wisconsin basis but subject to the limitation  
19 and carry-over rules as prescribed by section 1366 (d) of the internal revenue code.  
20 Net operating losses of the corporation to the extent attributed or made available to  
21 a shareholder may not be used by the corporation for further tax benefit. For  
22 purposes of computing the Wisconsin adjusted gross income of shareholders,  
23 tax-option items shall be reported by the shareholders and those tax-option items,  
24 including capital gains and losses, shall retain the character they would have if  
25 attributed to the corporation, including their character as business income. In

1 computing the tax liability of a shareholder, no credit against gross tax that would  
2 be available to the tax-option corporation if it were a nontax-option corporation may  
3 be claimed.

4 SECTION 26. 71.45 (It) (g) of the statutes is amended to read:

5 71.45 (1t) (g) Those issued under s. 66.066 by a local professional baseball park  
6 district or a local professional football stadium district.

7 SECTION 27. 77.54 (45) of the statutes is created to read:

8 77.54 (45) The gross receipts from the sale of, and the storage, use or other  
9 consumption of, any of the following related to the use of a football stadium, as  
10 defined in s. 229.821 (6):

11 (a) Parking or providing parking space for motor vehicles on property that is  
12 leased from a municipality or a local professional football stadium district and leased  
13 to a professional football team or a related party, as defined in s. 229.821 (a). <sup>12</sup>

14 (b) Parking or providing parking space for motor vehicles on professional  
15 football game days pursuant to a contract between a municipality or a local  
16 professional football stadium district and the owner of the property on which there  
17 is parking or parking space provided on professional football game days.

18 (c) A license or other right to purchase admission <sup>to</sup> tickets to events at a football  
19 stadium, as defined in s. 229.821 (6), that is granted by a municipality; a local  
20 professional football stadium district; or a professional football team or related party,  
21 as defined in s. 229.821 (a). <sup>12</sup>

22 ~~SECTION 28. 77.70 of the statutes is amended to read:~~

23 ~~77.70 Adoption by county ordinance. Any county desiring to impose county~~  
24 ~~sales and use taxes under this subchapter may do so by the adoption of an ordinance,~~  
25 ~~stating its purpose and referring to this subchapter. The county sales and use taxes~~

1 may be imposed only for the purpose of directly reducing the property tax levy and  
2 only in their entirety as provided in this subchapter. That ordinance shall be  
3 effective on the first day of January, the first day of April, the first day of July or the  
4 first day of October, except that, if taxes imposed under s. 77.706 are or become  
5 effective in the county, the taxes imposed by the adoption of an ordinance under this  
6 section are not effective during the period that the taxes imposed under s. 77.706 are  
7 effective. A certified copy of that ordinance shall be delivered to the secretary of  
8 revenue at least 120 days prior to its effective date. The repeal of any such ordinance  
9 shall be effective on December 31. A certified copy of a repeal ordinance shall be  
10 delivered to the secretary of revenue at least 60 days before the effective date of the  
11 repeal.

12 **SECTION 29.** 77.705 (title) of the statutes is amended to read:

13 77.705 (title) **Adoption by resolution; baseball park district.**

14 **SECTION 30.** 77.706 of the statutes is created to read:

15 **77.706 Adoption by resolution; football stadium district.** A local  
16 professional football stadium district created under subch. IV of ch. 229, by  
17 resolution under s. 229.824 (15), may impose a sales tax and a use tax under this  
18 subchapter at a rate of no more than 0.5% of the gross receipts or sales price. Those  
19 taxes may be imposed only in their entirety. The imposition of the taxes under this  
20 section shall be effective on the first day of the first month that begins 30 days after  
21 the approval of the resolution by the electors in the district's jurisdiction under s.  
22 229.824 (15).

23 **SECTION 31.** 77.707 of the statutes is amended to read:

24 **77.707 Sunset.** Retailers and the department of revenue may not collect a tax  
25 under s. 77.705 for any local professional baseball park district created under subch.

1 III of ch. 229, or under s. 77.706 for any local professional football stadium district  
2 created under subch. IV of ch. 229, after the calendar quarter during which the local  
3 professional baseball park district board makes a certification to the department of  
4 revenue under s. 229.685 (2), or the local professional football stadium district board  
5 makes a certification to the denartment of revenue under s. 229.825 (2), except that  
6 the department of revenue may collect from retailers taxes that accrued before that  
7 calendar quarter and fees, interest and penalties that relate to those taxes.

8 **SECTION 32.** 77.71 of the statutes is amended to read:

9 **77.71 Imposition of county and special district sales and use taxes.**

10 Whenever a county sales and use tax ordinance is adopted under s. 77.70 or a special  
11 district resolution is adopted under s. 77.705 or 77.706, the following taxes are  
12 imposed:

13 **(1)** For the privilege of selling, leasing or renting tangible personal property  
14 and for the privilege of selling, performing or furnishing services a sales tax is  
15 imposed upon retailers at the rate of 0.5% in the case of a county tax or at the rate  
16 under s. 77.705 or 77.706 in the case of a special district tax of the gross receipts from  
17 the sale, lease or rental of tangible personal property, except property taxed under  
18 sub. (4), sold, leased or rented at retail in the county or special district or from selling,  
19 performing or furnishing services described under s. 77.52 (2) in the county or special  
20 district.

21 **(2)** An excise tax is imposed at the rate of 0.5% in the case of a county tax or  
22 at the rate under s. 77.705 or 77.706 in the case of a special district tax of the sales  
23 price upon every person storing, using or otherwise consuming in the county or  
24 special district tangible personal property or services if the property or service is  
25 subject to the state use tax under s. 77.53, except that a receipt indicating that the

1 tax under sub. (1), (3) or (4) has been paid relieves the buyer of liability for the tax  
2 under this subsection and except that if the buyer has paid a similar local tax in  
3 another state on a purchase of the same property or services that tax shall be credited  
4 against the tax under this subsection and except that for motor vehicles that are used  
5 for a purpose in addition to retention, demonstration or display while held for sale  
6 in the regular course of business by a dealer the tax under this subsection is imposed  
7 not on the sales price but on the amount under s. 77.53 (1m).

8 (3) An excise tax is imposed upon a contractor engaged in construction  
9 activities within the county or special district, at the rate of 0.5% in the case of a  
10 county tax or at the rate under s. 77.705 or 77.706 in the case of a special district tax  
11 of the sales price of tangible personal property that is used in constructing, altering,  
12 repairing or improving real property and that becomes a component part of real  
13 property in that county or special district, unless the contractor has paid the sales  
14 tax of a county in the case of a county tax or of a special district in the case of a special  
15 district tax in this state on that property, and except that if the buyer has paid a  
16 similar local sales tax in another state on a purchase of the same property that tax  
17 shall be credited against the tax under this subsection.

18 (4) An excise tax is imposed at the rate of 0.5% in the case of a county tax or  
19 at the rate under s. 77.705 or 77.706 in the case of a special district tax of the sales  
20 price upon every person storing, using or otherwise consuming a motor vehicle, boat,  
21 snowmobile, mobile home not exceeding 45 feet in length, trailer, semitrailer,  
22 all-terrain vehicle or aircraft, if that property must be registered or titled with this  
23 state and if that property is to be customarily kept in a county that has in effect an  
24 ordinance under s. 77.70 or in a special district that has in effect a resolution under  
25 s. 77.705 or 77.706, except that if the buyer has paid a similar local sales tax in



1 another state on a purchase of the same property that tax shall be credited against  
2 the tax under this subsection.

3 SECTION 33. 77.76 (3m) of the statutes is amended to read:

4 77.76 (3m) ~~From Except as provided under sub. (3p) from~~ the appropriation  
5 under s. 20.835 (4) (gb) the department, for the first 2 years of collection, shall  
6 distribute 97% of the ~~special district~~ local professional baseball park taxes reported for each ~~special~~ district that has  
7 imposed taxes under this subchapter, minus the ~~special~~ strike district portion of the  
8 retailers' discounts, to the ~~special~~ local professional baseball park district no later than the end of the 3rd month  
9 following the end of the calendar quarter in which such amounts were reported.

10 ~~From Except as provided under sub. (3p) from~~ the appropriation under s. 20.835 (4)  
11 (gb) the department, after the first 2 years of collection, shall distribute 98.5% of the  
12 ~~special district~~ local professional baseball park taxes reported for each ~~special~~ district that has imposed taxes under  
13 this subchapter, minus the ~~special~~ local professional baseball park district portion of the retailers' discount, to the  
14 ~~special~~ local professional baseball park district no later than the end of the 3rd month following the end of the  
15 calendar quarter in which such amounts were reported. At the time of distribution  
16 the department shall indicate the taxes reported by each taxpayer. In this  
17 subsection, the "~~special~~ local professional baseball park district portion of the retailers' discount" is the amount  
18 determined by multiplying the total retailers' discount by a fraction the numerator  
19 of which is the gross ~~special~~ local professional baseball park district sales and use taxes payable and the denominator  
20 of which is the sum of the gross state and ~~special~~ local professional baseball park district sales and use taxes payable.  
21 The ~~special~~ local professional baseball park district taxes distributed shall be increased or decreased to reflect  
22 subsequent refunds, audit adjustments and all other adjustments of the ~~special~~ local professional baseball park  
23 district taxes previously distributed. ~~Interest~~ plain ~~Except as provided in sub. (3p)~~  
24 ~~interest~~ paid on refunds of ~~special~~ local professional baseball park district sales and use taxes shall be paid from the  
25 appropriation under s. 20.835 (4) (gb) at the rate paid by this state under s. 77.60 (1).

local professional baseball park

local professional baseball park

1 (a) Any ~~special~~ district receiving a report under this subsection is subject to the  
2 duties of confidentiality to which the department of revenue is subject under s. 77.61  
3 (5).

4 SECTION 34. 77.76 (3p) of the statutes is created to read:

5 77.76 (3p) From the appropriation under s. 20.835 (4) (ge) the department of  
6 revenue shall distribute 98.5% of the taxes reported for each local professional  
7 football stadium district that has imposed taxes under this subchapter, minus the  
8 ~~special~~ district portion of the retailers' discount as described under sub. (3m) to the  
9 local professional football stadium district no later than the end of the 3rd month  
10 following the end of the calendar quarter in which such amounts were reported. At  
11 the time of distribution the department of revenue shall indicate the taxes reported  
12 by each taxpayer. The local professional football stadium district taxes distributed

13 shall be increased or decreased to reflect subsequent refunds, audit adjustments and  
14 all other adjustments of the local professional football stadium district taxes  
15 previously distributed. Interest paid on refunds of local professional football  
16 stadium district sales and use taxes shall be paid from the appropriation under s.  
17 20.835 (4) (ge) at the rate paid by this state under s. 77.60 (1) (a). Any local  
18 professional football stadium district receiving a report under this subsection is  
19 subject to the duties of confidentiality to which the department of revenue is subject  
20 under s. 77.61 (5).

\*\*\*\*NOTE: The percentage of taxes distributed under this subsection is equal to the percentage of special district taxes that are distributed to ~~other special~~ districts. Is that OK?

Insert 18-12

local professional baseball park

21 SECTION 35. 77.76 (4) of the statutes, as affected by 1999 Wisconsin Act 9, is  
22 amended to read:



(2) The legislature determines that a district serves a public purpose in the district's jurisdiction by providing recreation, by encouraging economic development and tourism, by reducing unemployment and by bringing needed capital into the district's jurisdiction for the benefit of people in the district's jurisdiction.

**229.821 Definitions.** In this subchapter:

(1) "Bond" means any bond, note or other obligation issued under s. 66.066 by a district.

(2) "Bond resolution" means a resolution of the district board authorizing the issuance of, or providing terms and conditions related to, bonds and includes, where appropriate, any trust agreement, trust indenture, indenture of mortgage or deed of trust providing terms and conditions for bonds.

(3) "Chief elect e dofficial" means the mayor of a city or, if the city is organized under subch. I of ch. 64, the president of the council of that city, the village president of a village, the town board chair of a town or the county executive of a county or, if the county does not have a county executive, the chairperson of the county board of supervisors.

\*\*\*\*NOTE: Based on s. 229.41 (4), except for cite to president of the council for cities organized under subch. I of ch. 64 instead of city manager; "town board chair of a town" was added. The definition in the Foley draft applied only to counties.

(4) "District" means a special <sup>purpose</sup> district created under this subchapter.

(5) "District board" means the governing board of a district.

(6) "Football stadium" means that part of football stadium facilities that is principally ~~used for~~ <sup>used as a league approved</sup> home stadium <sup>the</sup> of a professional football ~~games, except that~~ <sup>games, except that</sup> if no ~~league approved~~ <sup>league approved</sup> home stadium exists at the time that ~~the~~ <sup>a</sup> district is created, "football stadium" means that part of football stadium

*team described in 0.229.823 at the time that a district is create.*

1 facilities that includes the site of a ~~league approved~~ home stadium ~~for professional~~  
2 ~~football games.~~ of such a team

\*\*\*\*NOTE: Please review this definition very carefully. I believe that it ensures an open class ~~and specifies that if a new football stadium is to be built in a county where an existing stadium is currently located, "football stadium" means the stadium that is actually being used.~~ Does this definition meet your intent?

3 (7) "Football stadium facilities" means property, tangible or intangible, owned  
4 in whole or in substantial part, operated or leased by a district that is principally for  
5 professional football including practice facilities, parking lots and structures,  
6 garages, restaurants, parks, concession facilities, entertainment facilities, facilities  
7 for the display or sale of memorabilia, transportation facilities, and other  
8 functionally related or auxiliary facilities or structures.

\*\*\*\*NOTE: Modification of s. 229.65 (1).

(8) "Home stadium" means a stadium approved as provided in s. 229.823.  
9 (9) "Members-elect" means those members of the governing body of a  
10 municipality or county, at a particular time, who have been duly elected or appointed  
11 for a current regular or unexpired term and whose service has not terminated by  
12 death, resignation or removal from office.

\*\*\*\*NOTE: Based on s. 59.001 (2m).

13 (10) "Municipality" means a city, village or town.

14 (11) "Political subdivision" means a city, village, town or county

15 (12) "Related party" means a corporation or business entity that is owned,  
16 controlled or operated by a professional football team.

\*\*\*\*NOTE: This definition is based on the definition of "subsidiary" in s. 100.03 (1) (zm). Is it OK?

17 **229.822 Creation and organization. (1)** There is created, for each  
18 jurisdiction under s. 229.823, a special district that is a local governmental unit, that  
19 is a body corporate and politic, that is separate and distinct from, and independent  
20 of, the state and the political subdivisions within its jurisdiction, that has the powers

1 under s. 229.824 and the name of which includes "Professional Football Stadium  
2 District".

3 (2) A district is governed by its district board. ~~(The district board may adopt~~  
4 ~~bylaws to govern the district's activities, subject to this subchapter.~~ Subject to sub.

5 (3), the district board shall consist of the following members:

6 (a) Two persons appointed by the governor. At least one of the persons  
7 appointed by the governor shall reside within the county in which the football  
8 stadium is located. A person appointed under this paragraph may take his or her  
9 seat immediately upon appointment and qualification, subject to confirmation or  
10 rejection by the senate.

11 (b) Two persons appointed by the chief elected official of the most populous city  
12 *located wholly or partly* within the jurisdiction of a district. A person appointed under this paragraph may  
13 take his or her seat immediately upon appointment and qualification, subject to  
14 confirmation or rejection by a majority of the members-elect of the common council  
15 or council.

16 (c) Two persons appointed by the chief elected official of the county in which the  
17 football stadium is located. A person appointed under this paragraph may take his  
18 or her seat immediately upon appointment and qualification, subject to confirmation  
19 or rejection by a majority of the members-elect of the county board.

20 (d) One person appointed by the chief elected official of ~~each~~ *any* municipality *located wholly or partly* in the  
21 jurisdiction of the district, other than the most populous city *located wholly or partly* within the jurisdiction  
22 of the district, that has a boundary at the time of creation of the district that is  
23 contiguous to a boundary of the site of the football stadium. A person appointed  
24 under this paragraph may take his or her seat immediately upon appointment and  
25 qualification, subject to confirmation or rejection by a majority of the members-elect

*located wholly or partly within*

1 of the governing body of the municipality. ~~This paragraph does not apply if no~~  
2 ~~municipality has a boundary at the time of creation of the district that is contiguous~~  
3 ~~to a boundary of the site of the football stadium.~~

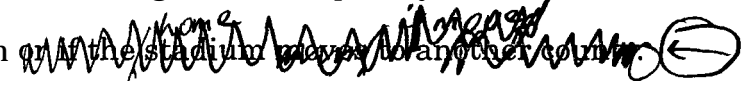
4 (3) Upon appointment under sub. (2), the appointing authorities shall certify  
5 the appointees to the secretary of administration. The terms of office of the persons  
6 appointed under sub. (2) shall be 2 years expiring on July 1, except that the initial  
7 terms shall expire on July 1 of the 4th year beginning after the year of creation of a  
8 district. Persons appointed under sub. (2) may be removed from the district board  
9 before the expiration of their terms by the appointing authority but only for cause,  
10 as defined in s. 17.16 (2). Vacancies shall be filled by the appointing authority who  
11 appointed the person whose office is vacant. A person appointed to fill a vacancy  
12 under sub. (2) shall serve for the remainder of the unexpired term to which he or she  
13 is appointed. The appointing authorities shall confer with one another regarding  
14 their appointments with a view toward achieving diversity on the district board.

15 (4) The governor shall select the chairperson of the district board, and the  
16 district board shall elect from its membership a vice chairperson, a secretary and a  
17 treasurer. A majority of the current membership of the district board constitutes a  
18 quorum to do business. The district may take action based on the affirmative vote  
19 of a majority of those ~~members~~ <sup>members of the district board</sup> who are present at a meeting of the district board.

20 (5) The members of the district board shall be reimbursed for their actual and  
21 necessary expenses incurred in the performance of their duties.

22 (6) Upon the appointment and qualification of a majority of the members of a  
23 district board, the district board may exercise the powers and duties of a district  
24 board under this subchapter.

25 (7) The district board shall name the district. <sup>and the name shall</sup>  
include "Professional Football Stadium District" <sup>as</sup>

1           **229.823 Jurisdiction.** A district's jurisdiction is any county with a population  
 2 at the date of the district's creation of more than 150,000 that includes the site of <sup>a</sup>  
 3 ~~existing or to be constructed league approved home stadium~~ <sup>that is home to</sup> for a professional  
 4 football team, that is a member of a league of professional football teams that have  
 5 home stadiums in at least 10 states and a collective average attendance for all league  
 6 members of at least 40,000 persons per game over the 5 years immediately preceding  
 7 the year in which a district is created. <sup>and that is approved by that league for use as a home stadium for that profession</sup> Once created, the district's jurisdiction <sup>footba</sup>  
 8 remains fixed even if population or attendance figures subsequently decline below <sup>te,</sup>  
 9 the minimums described in this section <sup>on the stadium moves to another county.</sup> 

10           **229.824 Powers of a district.** A district has all of the powers necessary or  
 11 convenient to carry out the purposes and provisions of this subchapter. In addition  
 12 to all other powers granted by this subchapter, a district may do all of the following:

- 13 (1) ~~Adopt and alter an official seal.~~ <sup>Adopt bylaws to govern the</sup>
- 14 (2) Sue and be sued in its own name, plead and be impleaded. <sup>district's activities, subject to</sup>
- 15 (3) Maintain an office. <sup>this subchapter,</sup>
- 16 (4) In connection with football stadium facilities:
- 17 (a) Acquire, construct, equip, maintain, improve, operate and manage the
- 18 football stadium facilities as a revenue-generating enterprise, or engage other
- 19 persons to do these things.
- 20 (b) Acquire; lease, as lessor or lessee; use; transfer; or accept transfers of
- 21 property
- 22 (c) Improve, maintain and repair property, and fund reserves for maintenance,
- 23 depreciation and capital improvements.
- 24 (d) Enter into contracts, subject to such standards as may be established by the
- 25 district board. The district board may award any such contract for any combination



1 or division of work it designates and may consider any factors in awarding a contract,  
2 including price, time for completion of work and qualifications and past performance  
3 of a contractor.

4

(e) Grant concessions



(f) Sell or otherwise dispose of unneeded or unwanted property.

(5) Employ personnel, and fix and regulate their compensation; and provide,  
either directly or subject to an agreement under s. 66.30 as a participant in a benefit  
plan of another governmental entity, any employee benefits, including an employee  
pension plan.

(6) Purchase insurance, establish and administer a plan of self-insurance or,  
subject to an agreement with another governmental entity under s. 66.30,  
participate in a governmental plan of insurance or self-insurance.

(7) Mortgage, pledge or otherwise encumber the district's property or funds.

(8) Issue revenue bonds under s. 66.066, subject to ss. 229.829 to 229.834, and  
enter into agreements related to the issuance of bonds, including 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.

(9) Maintain funds and invest the funds in any investment that the district  
board considers appropriate.

described in  
0.66.04(2)

NOTE: Is this reference to 0.66.04(2) OK?  
Because of the cross-reference to 0.34.01(1) in 0.66.04(2),  
the district is already covered.

(10) Promote, advertise and publicize its football stadium facilities and related  
activities.

(11) Set standards governing the use of, and the conduct within, its football  
stadium facilities in order to promote public safety and convenience and to maintain  
order.

s.  
66.04  
(2)

1 (12) Establish and collect fees or other charges for the use of its football  
2 stadium facilities or for services rendered by the district.

3 (13) Establish and collect fees or other charges for the right to purchase ~~tickets~~  
4 admission to events at the football stadium if the proceeds from any amount that is collected  
5 under this subsection ~~is~~ <sup>are</sup> used for ~~public purposes~~ <sup>purposes related to football stadium facilities</sup>.

\*\*\*\*NOTE: I separated your sub. (12) into 2 subsections so I could add the ~~public~~  
~~purpose~~ language which we discussed during our January 14 meeting/teleconference. Is  
this OK? "purposes related to football stadium facilities"

6 (14) Enter into partnerships, joint ventures, common ownership or other  
7 arrangements with other persons to further the district's purposes.

8 (15) Impose, by the adoption of a resolution, the taxes under subch. V of ch. 77,  
9 except that the taxes imposed by the resolution may not take effect until the  
10 resolution is approved by a majority of the electors in the district's jurisdiction voting  
11 on the resolution at a <sup>referendum</sup> ~~general or spring election~~, or a ~~special election~~ to be held on  
12 a date specified by the county board not earlier than 45 days after <sup>adoption of the</sup> ~~the board's~~ resolution.

F/K  
26-12

13 The question submitted shall be substantially as follows: "Shall the resolution of the  
14 <sup>professional</sup> Football Stadium District board that imposes the <sup>sales tax and use</sup> taxes authorized under  
15 subchapter V of chapter 77 of the Wisconsin Statutes be approved?" A district may  
16 not levy any taxes that are not expressly authorized under subch. V of ch. 77. If a  
17 district <sup>hour A</sup> adopts a resolution that imposes taxes and the resolution is approved by the  
18 electors, the district shall deliver a certified copy of the resolution to the secretary  
19 of revenue at least 30 days before its effective date.

20 (16) Accept gifts, loans and other aid.

21 (17) Administer the receipt of revenues, and oversee the payment of bonds  
22 issued by the district.

(B) { (18) Adopt and alter an official seal.

1           **229.825 Special fund tax revenues. (1)** The district board shall maintain  
 2 a special fund into which it deposits only the revenue received from the department  
 3 of revenue, that is derived from the taxes imposed under subch. V of ch. 77, and may  
 4 use this revenue only for purposes related to football stadium facilities.

5           (2) If the district board determines that the revenues in the special fund under  
 6 this section exceed current debt service and operating expenses for the operation of  
 7 football stadium facilities, the district board shall apply the excess first to fund a  
 8 reserve <sup>or reserves</sup> for maintenance costs, depreciation and capital improvements, and second,  
 9 when the reserves <sup>or reserves</sup> are adequately funded, <sup>to meet the obligations of the district</sup> to retire bonds issued for ~~the initial~~  
 10 ~~construction of~~ <sup>purposes related to</sup> football stadium facilities, and any bonds issued to fund or refund  
 11 those bonds, prior to their maturity. As soon as practicable after the retirement of  
 12 all bonds issued for ~~the initial construction~~ <sup>purposes related to</sup> & football stadium facilities and all bonds  
 13 issued to fund or refund those bonds and after funding a reserve <sup>or reserves</sup> for maintenance  
 14 costs and capital improvements sufficiently to meet any maintenance, depreciation  
 15 or capital improvement obligations between the district and any professional football  
 16 team using football stadium facilities constructed under this subchapter as a home  
 17 stadium, the district board shall make a certification to the department of revenue  
 18 to that effect.

\*\*\*\*NOTE: This subsection contains some differences from 1995 Act 56. <sup>inserted</sup> "initial construction" in the first sentence and "initial" in the second sentence. <sup>OK</sup> Is this OK, or were these words omitted intentionally? This subsection also contains a couple of other changes from Act 56: The bill adds "debt service and" before "operating expenses" in the first sentence and also contains some new language in relation to the "reserve" that may be created.

<sup>insert by</sup>  
<sup>ident. purposes</sup>  
<sup>related to</sup>  
 football stadium  
 Is this  
 OK?  
 =  
 =  
 =  
 facilities

19           **229.826 Powers granted to a municipality or county.** In addition to any  
 20 powers that it may otherwise have, a ~~municipality or~~ <sup>or municipality located wholly or partly</sup> county within a district's  
 21 jurisdiction may do any of the following:

or municipality located wholly or partly

1 (1) Make grants or loans to a district upon terms that the <sup>municipality or</sup>  
2 county <sup>or municipality</sup> considers appropriate.

3 (2) Expend public funds to subsidize a district.

4 (3) Borrow money under ss. 67.04 and 67.12 (12) for football stadium facilities  
5 or to fund grants, loans or subsidies to a district.

6 (4) Lease or transfer property to a district upon terms that the municipality  
7 ~~county~~ <sup>or</sup> considers appropriate.

\*\*\*\*NOTE: Because municipalities and counties may already lease or transfer  
property, ~~I~~ don't think that sub. (4) is necessary. Do you still want it to remain in the bill?  
*lwe*

8 (5) With the consent of a district, establish and collect fees or other charges  
9 applicable only to a football stadium for the right to purchase <sup>admission by</sup> tickets to events at the  
10 stadium, if the proceeds from any amount that is collected under this subsection <sup>are</sup>  
11 ~~used for a public purpose~~ <sup>purposes related to football stadium</sup> ~~are~~ <sup>baillies</sup>

\*\*\*\*NOTE: I added the public purpose language which we discussed during our  
January 14 meeting/teleconference. Is this OK? See also s. 229.824 (13).

INS  
28-12

~~229.827 Contracting. If a district enters into a lease with a professional  
football team for the use of a football stadium <sup>baillies</sup> and if the lease so provides, the  
professional football team or a related party may acquire and construct all or any  
15 portion of the <sup>facilities</sup> football stadium improvements that are to be leased.~~

16 **229.828 Dissolution of a district.** Subject to providing for the payment of  
17 its bonds, including interest on the bonds, and the performance of its other  
18 contractual obligations, a district may be dissolved by the action of the district board.  
19 If the district is dissolved, the property of the district shall be transferred to the  
20 political subdivisions that compose the district's jurisdiction in such proportions <sup>as</sup>  
21 the secretary of administration determines fairly and reasonably represents <sup>of</sup> the

*or improvement*

1 contributions of each political subdivision to the development of the football stadium  
2 facilities.

\*\*\*\*NOTE: This section contains a few changes from the language you submitted  
Is it OK?

*B*

*and negotiability*

*we changed governmental units to political subdivisions*

3 **229.829 Issuance of bonds.** (1) NEGOTIABILITY. All bonds are negotiable for  
4 all purposes, notwithstanding their payment from a limited source.

5 (2) **EMPLOYMENT OF FINANCIAL CONSULTANT.** A district may retain the building  
6 commission or any other person as its financial consultant to assist with and  
7 coordinate the issuance of bonds.

8 (3) **No PERSONAL LIABILITY.** Neither the members of the district board nor any  
9 person executing the bonds is liable personally on the bonds or subject to any  
10 personal liability or accountability by reason of the issuance of the bonds, unless the  
11 personal liability or accountability is the result of wilful misconduct.

12 **229.830 Special debt service reserve funds for moral obligation pledge.**

13 (1) **DESIGNATION OF SPECIAL DEBT SERVICE RESERVE FUNDS.** A district may designate one  
14 or more accounts in funds created under s. 66.066 (2) (e) as special debt service  
15 reserve funds, if, prior to each issuance of bonds to be secured by ~~the~~ <sup>each</sup> special debt  
16 service reserve fund, the secretary of administration determines that all of the  
17 following conditions are met with respect to the bonds:

~~NOTE:~~ *Please review the changes made in this section.*

18 (a) **Purpose.** The proceeds of the bonds, other than refunding bonds, will be  
19 used for <sup>purposes related to</sup> football stadium facilities.

~~NOTE:~~ *Please review the changes made in this section.*

20 (b) **Feasibility.** The proceeds of bonds, other than refunding bonds, will be used  
21 for feasible projects and there is a reasonable likelihood that the bonds will be repaid  
22 without the necessity of drawing on funds in the special debt service reserve fund  
23 that secures the bonds. The secretary of administration may make the

1 determinations required under this paragraph only after considering all of the  
2 following:

3 1. Whether a pledge of the tax revenues of the district is made under the bond  
4 resolution.

5 2. How the tax revenues of the district are pledged to the payment of the bonds.

6 3. Revenue projections for the project to be financed by the bonds, including tax  
7 revenues, and the reasonableness of the assumptions on which these revenue  
8 projections are based.

9 4. The proposed interest rates of the bonds and the resulting cash-flow  
10 requirements.

11 5. The projected ratio of annual tax revenues to annual debt service of the  
12 district, taking into account capitalized interest.

13 6. Whether an understanding exists providing for repayment by the district to  
14 the state of all amounts appropriated to the special debt service reserve fund  
15 pursuant to sub. (7).

16 7. Whether the district has agreed that the department of administration will  
17 have direct and immediate access, at any time and without notice, to all records of  
18 the district.

19 (c) *Limit on bonds issued backed by moral obligation pledge.* The principal  
20 amount of all bonds, other than refunding bonds, that would be secured by all special  
21 debt service reserve funds of the district under this section will not exceed ~~\$XXXXXX~~  
22 at any one time outstanding.

\*\*\*NOTE: We will need to fill in the bonding amount limit.

23 (d) *Date of issuance.* The bonds, other than refunding bonds, will be issued no  
24 later than December 31, 200X.

\*\*\*\*NOTE: We will need to fill in the date by which the bonds must be issued.

1           (e) *Refunding bonds.* All refunding bonds to be secured by the special debt  
2 service reserve fund meet all of the following conditions:

3           1. The refunding bonds are to be issued to fund, refund or advance refund bonds  
4 secured by a special debt service reserve fund.

5           2. The refunding of bonds by the refunding bonds will not adversely affect the  
6 risk that the state will be called on to make a payment under sub. (7).

7           (f) *Approval of outstanding debt.* All outstanding debt of the district has been  
8 reviewed and approved by the secretary of administration. In determining whether  
9 to approve outstanding debt under this paragraph, the secretary may consider any  
10 factor which the secretary determines to have a bearing on whether the state moral  
11 obligation pledge under sub. (7) should be granted with respect to an issuance of  
12 bonds.

13           (g) *Financial reports.* The district has agreed to provide to the department of  
14 administration, the legislative fiscal bureau and the legislative audit bureau all  
15 financial reports of the district and all regular monthly statements of any trustee of  
16 the bonds on a direct and ongoing basis.

17           **(2) PAYMENT OF FUNDS INTO A SPECIAL DEBT SERVICE RESERVE FUND.** A district shall  
18 pay into any special debt service reserve fund of the district any moneys appropriated  
19 and made available by the state for the purposes of the special debt service reserve  
20 fund, any proceeds of a sale of bonds to the extent provided in the bond resolution  
21 authorizing the issuance of the bonds and any other moneys that are made available  
22 to the district for the purpose of the special debt service reserve fund from any other  
23 source.

1           **(3) USE OF MONEYS IN THE SPECIAL DEBT SERVICE RESERVE FUND.** All moneys held  
2 in any special debt service reserve fund of a district, except as otherwise specifically  
3 provided, shall be used, as required, solely for the payment of the principal of bonds  
4 secured in whole or in part by the special debt service reserve fund, the making of  
5 sinking fund payments with respect to these bonds, the purchase or redemption of  
6 these bonds, the payment of interest on these bonds or the payment of any  
7 redemption premium required to be paid when these bonds are redeemed prior to  
8 maturity. If moneys in a special debt service reserve fund at any time are less than  
9 the special debt service reserve fund requirement under sub. (5) for the special debt  
10 service reserve fund, the district may not use these moneys for any optional purchase  
11 or optional redemption of the bonds. Any income or interest earned by, or increment  
12 to, any special debt service reserve fund due to the investment of moneys in the  
13 special debt service reserve fund may be transferred by the district to other funds or  
14 accounts of the district to the extent that the transfer does not reduce the amount of  
15 ~~the special~~ debt service reserve fund below the special debt service reserve fund  
16 requirement under sub. (5) for the special debt service reserve fund.

17           **(4) LIMITATION ON BONDS SECURED BY SPECIAL DEBT SERVICE RESERVE FUND.** A  
18 district shall accumulate in each special debt service reserve fund an amount equal  
19 to the special debt service reserve fund requirement under sub. (5) for the special  
20 debt service reserve fund. A district may not at any time issue bonds secured in whole  
21 or in part by a special debt service reserve fund if upon the issuance of these bonds  
22 the amount in the special debt service reserve fund will be less than the special debt  
23 service reserve fund requirement under sub. (5) for the special debt service reserve  
24 fund.



1           (5) SPECIAL DEBT SERVICE RESERVE FUND REQUIREMENT. The specialdebt service  
2 reserve fund requirement for a special debt service reserve fund, as of any particular  
3 date of computation, is equal to an amount of money, as provided in the bond  
4 resolution authorizing the bonds with respect to which the special debt service  
5 reserve fund is established, that may not exceed the maximum annual debt service  
6 on the bonds of the district for ~~that~~<sup>the</sup> fiscal year <sup>in which the computation is made</sup> or any future fiscal year of the district  
7 secured in whole or in part by that special debt service reserve fund. In computing  
8 the annual debt service for any fiscal year, bonds deemed to have been paid in  
9 accordance with the defeasance provisions of the bond resolution authorizing the  
10 issuance of the bonds shall not be included in bonds outstanding on ~~any~~<sup>the</sup> date of  
11 computation. The annual debt service for any fiscal year is the amount of money  
12 equal to the aggregate of all of the following calculated on the assumption that the  
13 bonds will, after the date of computation, cease to be outstanding by reason, but only  
14 by reason, of the payment of bonds when due, and the payment when due, and  
15 application in accordance with the bond resolution authorizing those bonds, of all of  
16 the sinking fund payments payable at or after the date of computation:

17           (a) All interest payable during the fiscal year on all bonds that are secured in  
18 whole or in part by the special debt service reserve fund and that are outstanding on  
19 the date of computation. '

20           (b) The principal amount of all of the bonds that are secured in whole or in part  
21 by the special debt service reserve fund, are outstanding on the date of computation  
22 and mature during the fiscal year.

23           (c) All amounts specified in bond resolutions of the district authorizing any of  
24 the bonds that are secured in whole or in part by the special debt service reserve fund

1 to be payable during the fiscal year as a sinking fund payment with respect to any  
2 of the bonds that mature after the fiscal year.

3 (6) VALUATION OF SECURITIES. In computing the amount of a special debt service  
4 reserve fund for the purposes of this section, securities in which all or a portion of the  
5 special debt service reserve fund is invested shall be valued at par, or, if purchased  
6 at less than par, at their cost to the district.

7 (7) STATE MORAL OBLIGATION PLEDGE. If at any time of valuation the special debt  
8 service reserve fund requirement under sub. (5) for a special debt service reserve  
9 fund exceeds the amount of moneys in the special debt service reserve fund, the  
10 district board shall certify to the secretary of administration, the governor, the joint  
11 committee on finance and the governing body of the county in the district the amount  
12 necessary to restore the special debt service reserve fund to an amount equal to the  
13 special debt service reserve fund requirement under sub. (5) for the special debt  
14 service reserve fund. If this certification is received by the secretary of  
15 administration in an even-numbered year prior to the completion of the budget  
16 compilation under s. 16.43, the secretary shall include the certified amount in the  
17 budget compilation. In any case, the joint committee on finance shall introduce in  
18 either house, in bill form, an appropriation of the amount so certified to the  
19 appropriate special debt service reserve fund of the district. Recognizing its moral  
20 obligation to do so, the legislature hereby expresses its expectation and aspiration  
21 that, if ever called upon to do so, it shall make this appropriation.

\*\*\*\*NOTE: Your original language provided that the district board must make the  
certification to *each* county in the district; <sup>we</sup> changed this to *the* county in the district,  
because the district will comprise only one county.

22 (8) INFORMATION TO JOINT COMMITTEE ON FINANCE. The district shall provide to  
23 the cochairpersons of the joint committee on finance information concerning the

1 district's projected cashflows and security features underlying each issuance of  
2 bonds under this subchapter.

3 **229.831 Bonds not public debt.** (1) The state and the county and  
4 municipalities <sup>located wholly or partly</sup> within the district's jurisdiction are not liable on bonds and the bonds  
5 are not a debt of the state or the county or any municipality <sup>located wholly or partly</sup> in the district. All bonds <sup>within</sup>  
6 shall contain a statement to this effect on the face of the bond. A bond issue does not,  
7 directly or indirectly or contingently, obligate the state or a political subdivision of  
8 the state to levy any tax or make any appropriation for payment of the bonds.

\*\*\*\*NOTE: Your original language referred to each county; <sup>we</sup> changed this to the county, because the district will comprise only one county.

9 (2) Nothing in this subchapter authorizes a district to create a debt of the state  
10 or the county or any municipality <sup>located wholly or partly</sup> within the district's jurisdiction, and all bonds  
11 issued by a district are payable, and shall state that they are payable, solely from the  
12 funds pledged for their payment in accordance with the bond resolution authorizing  
13 their issuance or in any trust indenture or mortgage or deed of trust executed as  
14 security for the bonds. Neither the state nor the county or any <sup>such</sup> municipality ~~within~~  
15 ~~(the district's jurisdiction)~~ is liable for the payment of the principal of or interest on  
16 a bond or for the performance of any pledge, mortgage, obligation or agreement that  
17 may be undertaken by a district. The breach of any pledge, mortgage, obligation or  
18 agreement undertaken by a district does not impose pecuniary liability upon the  
19 state or the county or any <sup>such</sup> municipality in the district's jurisdiction or a charge upon  
20 its general credit or against its taxing power.

21 (3) Bonds issued by the district may be secured only by the district's interest  
22 in any football stadium facilities, by income from these facilities, by proceeds of bonds  
23 issued by the district and by other amounts placed in a special redemption fund and

1 investment earnings on such amounts, including any taxes imposed by the district  
2 under subch. V of ch. 77. The district may not pledge its full faith and credit on the  
3 bonds and the bonds are not a general obligation liability of the district.

4 **229.832 State pledge.** The state pledges to and agrees with the bondholders,  
5 and persons that enter into contracts with a district under this subchapter, that the  
6 state will not limit or alter the rights and powers vested in a district by this  
7 subchapter, including the rights and powers under s. 229.824 (15), before the district  
8 has fully met and discharged the bonds, and any interest due on the bonds, and has  
9 fully performed its contracts, unless adequate provision is made by law for the  
10 protection of the bondholders or those entering into contracts with a district.

11 **229.833 Trust funds.** All moneys received under this subchapter, whether as  
12 proceeds from the sale of bonds or from any other source, are trust funds to be held  
13 and applied solely as provided in this subchapter. Any officer with whom, or any  
14 bank or trust company with which, those moneys are deposited shall act as trustee  
15 of those moneys and shall hold and apply the moneys for the purposes of this  
16 subchapter, subject to this subchapter and the bond resolution authorizing issuance  
17 of the bonds.

18 **229.834 Budgets; rates and charges; audit.** A district shall adopt a  
19 calendar year as its fiscal year for accounting purposes. The district board shall  
20 annually prepare a budget for the district. Rates and other charges received by the  
21 district shall be used for the general expenses and capital expenditures of the district  
22 and to pay interest, amortization, and retirement charges on bonds. A district shall  
23 maintain an accounting system in accordance with generally accepted accounting  
24 principles and shall have its financial statements and debt covenants audited  
25 annually by an independent certified public accountant.



FNS ANL 5

NO 91

The referendum may be held at any <sup>regularly</sup> scheduled primary or other <sup>election,</sup> ~~or~~ at a special election. The date of <sup>the</sup> referendum is determined by the county board of the county in which a district <sup>is</sup> located.

NO 91

(END OF FNS ANL 5)

WR

**INS 28-12**

Unless a district board determines that it is not feasible to do so, the district shall enter into a contract with a professional football team, as described in s. 229.823, or a related party, that requires the team or related party to acquire and construct improvements to football stadium facilities that are part of <sup>any</sup> ~~the~~ facilities that are leased by the district to the team, without regard to whether the improvements are financed by the district.

\*\*\*NOTE: Please review this section carefully. We believe it reflects your intent, as described in your 1/26/00 fax, but the narrative description seems to be at odds with the prepared draft of s. 237.08. Let us know if this section does not reflect your intent. Additionally, this section now includes the term "improvements", which is not used elsewhere in the bill. Did you mean something other than the defined term, "football stadium facilities?"

INS ANL-2

WR

Unless it is not feasible to do so, the bill requires a district to enter into a contract with a professional football team, or a subsidiary of the team, that requires the team or its subsidiary to acquire and construct improvements to football stadium facilities that are part of ~~the~~ facilities that the district leases to the team, whether or not the improvements are financed by a district.

(END OF ANL-2)

✓

779.14 (Im) (d) 3. ~~In~~ Except as provided in sub. (4), in the case of a contract with a contract price exceeding \$100,000, as indexed under sub. (Is), the contract shall require the prime contractor to obtain a payment and performance bond meeting the requirements under par. (e).

**SECTION 3.** 779.14 (4) of ~~the~~ statutes is created to read:

779.14 (4) BONDING EXEMPTIONS. A contract with a local professional football stadium district under subch. IV of ch. 229 is not required under sub. (Im) (d) 2. b. or 3. to include a provision requiring the prime contractor to provide or obtain a payment and performance bond or other payment assurance.

**\*\*\*NOTE:** This provision exempts the local professional football stadium district from the bonding requirements that apply to local government public improvement contracts. Other provisions relating to public improvement contracts still apply. Please let us know if you intend a broader exemption.


  
 end of  
 line  
 37-11



*ANL 5B* *prob*

attempt to ensure that at least 15% of the total dollar amount of any contracts let by the district in each state fiscal year for the initial construction of baseball park facilities is awarded to minority-owned businesses.

**FINANCES**

The bill appropriates \$300,000 in state general purpose revenue for DOA to provide a loan to a local professional baseball park district in the 1995-97 state fiscal biennium for initial operating costs of the district, upon such terms and conditions as the secretary of administration specifies. Any such loan must be repaid no later than June 30, 1997.

Under the bill, a local professional baseball park district is permitted to invest its moneys in the local government pooled-investment fund, which is managed by the state investment board.

**HIGHWAY IMPROVEMENTS**

The bill authorizes the state to expend \$211,103,700 in fiscal year 1995-96 and \$220,103,700 in fiscal year 1996-97 for highway improvements, of which not more than \$3,000,000 in fiscal year 1995-96 and not more than \$12,000,000 in fiscal year 1996-97 may be expended for state highway rehabilitation associated with the construction of a new baseball stadium to be used by the Milwaukee Brewers.

**SALES OF SURPLUS STATE LAND  
AND GRANTS TO THE STATE**

Currently, any sale of surplus state land having a fair market value of at least \$20,000 is subject to approval of the joint committee on finance. Unless otherwise provided, a grant of land or other property made to the state is valid only upon approval of the joint committee on finance. The bill provides that the building commission may sell or transfer surplus state land to a local professional baseball park district and DOA may accept a grant of land or other property to the state for purposes of use for a professional baseball park without approval of the joint committee on finance.

**OPEN MEETINGS AND  
RECORDS, AUDITS, ETHICS -**

Laws requiring, with certain exceptions, open meetings of governmental bodies and public access to public records apply to a district. The legislative audit bureau is permitted to audit the records of a district. Members of the board of directors of a district are subject to the statutory code of ethics for local public officials.

*HEAR LEASES (B) OTHER*

Current law provides that, if a tenant who is required to construct improvements exceeding \$50,000 at the tenant's own expense on land leased to the tenant under a lease with a term of 30 years or more defaults or breaches a condition of the lease, the landlord may commence an action to recover the property after a one-year redemption period free from all liens, claims or demands of the tenant in the same manner as a mortgage foreclosure except without a sale of the property. The bill creates an exception under that statute for leases to which a district is a party.

*CONF of mnt*

INSERT 18-12

no 9

In this subsection, the "district portion of the retailers' discount" is the amount determined by multiplying the total retailers' discount by a fraction the numerator of which is the gross local professional football stadium district sales and use taxes payable and the denominator of which is the sum of the gross state and local professional football stadium district sales and use taxes payable.

(END OF  
INSERT  
18-12)

MS

~~AAAAA~~

INS 26-12

109

The referendum may be held at any spring  
or general election or any spring of September  
primary, or at a special election called  
by the county board <sup>for</sup> that purpose.

(END OF INSERT)

INS 1-9

football stadium

September 1995 Special Session  
Assembly Bill 1

Date of enactment: **October 12, 1995**  
Date of publication\*: **October 26, 1995**

# 199% WISCONSIN ACT 56

(Vetoed in Part)

~~AN ACT to repeal 71.05 (1) (d) (title) and 71.05 (1) (e) (title); to renumber and amend 71.05 (1) (c), 71.05 (1) (f) and 71.05 (1) (e); to amend 13.94 (4) (a) 1., 16.70 (14), 19.42 (13) (a), 19.59 (1) (a), 20.505 (1) (ka), 20.505 (1) (k), 20.835 (4) (g), 25.50 (1) (d), 66.066 (1) (a), 66.066 (1) (c), 66.067, 66.30 (1) (a), 71.26 (1) (bm), 71.36 (1m), chapter 77 (title), subchapter V (title) of chapter 77 [precedes 77.70], 77.71 (intro.) and (1), 77.71 (2), 77.71 (3) and (4), 77.75, 77.76 (1), 77.76 (2), 77.77, 77.78, 234.65 (1) (c) and 234.65 (6) (b); and to create 13.94 (10), 16.82 (6), 16.854, 18.03 (5s), 19.59 (1) (g), 20.566 (1) (gd), 20.835 (4) (gb), 24.61 (2) (a) 7., 25.17 (3) (b) 10., 66.04 (a) 3p., 66.066 (3), 71.05 (1) (c) 4., 71.26 (1m) (g), 71.45 (1t) (g), 77.705, 77.707, 77.76 (3m), 219.09 (1) (c), subchapter III of chapter 229 [precedes 229.64], 234.65 (1) (h), 234.65 (1) (hm), 234.65 (8) and (10) and 704.31 (3) the statutes relating to: ~~creating a local professional baseball park district in certain jurisdictions~~; giving a local professional baseball park district the authority to issue bonds and granting income tax exemptions for interest income on bonds issued by the district; making a state moral obligation pledge with respect to bonds issued by a local professional baseball park district; giving a local professional baseball park district the authority to impose a sales tax and a use tax; creating an income and franchise tax exemption for a local professional baseball park district; requiring contributions to youth sports organizations; creating an exception for a local professional baseball park district from certain landlord-tenant provisions; increasing a limitation on certain economic development bonding by the Wisconsin Housing and Economic Development Authority; a smoke-free environment; making appropriations; and providing a penalty.~~

the people of the state of Wisconsin, represented in SENATE, by \_\_\_\_\_, and ASSEMBLY, by \_\_\_\_\_, do hereby enact and give full force and effect to the following provisions:

INSERT ANALYSIS (BOTTOM OF PAGE 4)

Liens (B) HEAD

Current law provides certain protections to persons who provide labor and materials for a construction project. For example, a person who works on an improvement to privately owned land generally has a lien on all interests in the land (construction lien). However, under current law, a construction lien may not be filed against property owned by a public entity. Thus, in the case of a public construction project, a person who works on the project generally has a lien on money owing to the prime contractor, with certain exceptions. Furthermore, current law contains a bonding requirement, under which certain public construction contracts must include a provision requiring the prime contractor to provide or obtain a payment and performance bond or other payment assurance. In the case of a public construction contract with a local government entity, the bonding requirement applies to any contract exceeding \$50,000.

This bill exempts a public construction contract with a district from any applicable bonding requirement.

INSERT 37-11

END OF INSERT

SECTION 1. 779.14 (1m) (d) 2. b. of the statutes is amended to read:

779.14 (1m) (d) 2. b. ~~The Except as provided in sub. (4),~~ the contract shall require the prime contractor to provide a payment and performance bond meeting the requirements of par. (e), unless the public body authorized to enter into the contract allows the prime contractor to substitute a different payment assurance for the payment and performance bond. The public body may allow a prime contractor to substitute a different payment and performance assurance for the payment and performance bond only if the substituted payment and performance assurance is for an amount at least equal to the contract price and is in the form of a bond, an irrevocable letter of credit or an escrow account acceptable to the public body. The public body shall establish written standards under this subd. 2. b. governing when a different payment and performance assurance may be substituted for a payment and performance bond under par. (e).

SECTION 2. 779.14 (1m) (d) 3. of the statutes is amended to read:

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P. 10/20

Ⓢ

DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

3 PZdn  
LRB-424/PZdn  
MES/JTK/RC/JK.....

CMH

DATE

Representative Gard:

INS  
DIA

Text:

4. 1. Concerning the appropriations to DOA (your treatment of s. 20.505 (1) (ka) and (kc), stats.), we did not think this treatment was necessary because under this draft, unlike 1995 Act 56, DOA does not provide services generally to the football stadium district. However, even though 1995 Act 56 did not include this detail, we do think the draft should properly include a program revenue appropriation to the building commission to implement the amendment of s. 18.03 (5s) and proposed s. 229.829 (2). See proposed s. 20.867 (5) (g).

5. 2. Concerning the legislative declaration, the last sentence of proposed s. 229.820 (1) asserts that the taxes that may be imposed by the district are special taxes. Although this language appeared in 1995 Act 56, the courts will presumably make this determination independently. It would be more helpful and appropriate in this context to explain why the taxes are special taxes. The rest of the declaration provides interpretive guidance, but this sentence does not.

6. 3. For this draft, we have included an appropriation but have specified "\$-0-" for expenditure in fiscal years 1999-00 and 2000-01. When you know the dollar amounts that you need to include in the proposal, contact us and we will either redraft the proposal or draft an amendment, whichever is appropriate.

**Constitutional issues:**

This draft adheres to the structure of 1995 Act 56 in most respects, and the constitutionality of several provisions of that act were upheld in *Libertarian Party v. State*, 199 Wis.2d 790 (1996). Therefore, the issues that were novel prior to enactment of 1995 Act 56 have now in many instances been reviewed and decided. There is no better authority on a point of state law than a recent holding of the Wisconsin Supreme Court that is almost directly in point. Nevertheless, the language and reasoning of that decision in some cases left unexplained logical issues and inconsistencies with the Court's prior decisions, which may indicate that there is some risk that the court might refine its thinking if the issues are ably reargued. While given this situation, it may be the better part of wisdom to design this draft to fit this recent holding as closely as possible because alternative choices are available, we raise these issues for your consideration:

1. Art. VIII, sec. 10 of the Wisconsin constitution prohibits the state from being a party to carrying on works of internal improvement. In *Libertarian Party*, because the

tion  
idle  
However,

for administration of local professional institutional districts taxes  
Every enactment of the legislature enjoys a presumption of constitutionality and any doubt must be resolved in favor of the constitutionality of a statute.  
Sambis  
City of Brookfield, 97 Wis.2d 356 at 370 (1980).

[see, for example, *Rath v. Community Hospital*, 160 Wis.2d 853 at 862 (Ct. App., 1991)]

Court found that construction of stadium facilities serves a predominately governmental purpose, it found no violation of the internal improvements clause. 199 Wis.2d 790 at 816. In other cases, however, the Court has said this is not enough: see, for example, *State ex rel. Jones v. Froehlich*, 115 Wis. 32 (1902), where the court requires that there be an essential governmental function and that private capital be inadequate to fund the project. 115 Wis. 32 at 41, ~~quoted in Dept. of Development v. Building Comm., 139 Wis. 2d 1, 9 (1987)~~. See also *State ex rel. Martin v. Giessel*, 252 Wis. 363 at 365-374 (1978). In *Libertarian Party*, the Court did not distinguish these cases. Because the public purpose doctrine stands independently of the internal improvements clause, ~~it would have been helpful for the Court to explain what, if anything, remains of the internal improvements clause under its revised interpretation.~~ Despite this remaining uncertainty, it should be noted that while this draft retains state involvement in at least 3 ways (see proposed ss. 229.82 (2) (a) and (4), 229.829 (2) and 229.830), it does not retain any requirement for the department of administration to provide services generally to a football stadium district (see ss. 16.82 and 16.854, stats.), so state involvement here is less extensive than under *Libertarian Party*. To resolve all uncertainty, however, state involvement would need to be completely removed.

2. Also related to the issue of state involvement is the line of cases which holds that tax revenue must be spent at the level of government at which the tax is raised. See *State ex rel. Warren v. Nusbaum*, 59 Wis. 2d 421 (1973) and 77 Marquette Law Review, 466-67 (1994). If the district is not viewed as a unit of local government, this principle would be offended. The draft states that the district is a unit of local government [see proposed s. 229.822 (1)]. Unfortunately, the Court in *Libertarian Party* did not determine what exactly constitutes a unit of local government, thereby leaving for another day the issue of whether a unit of government, like this one, with mixed state and local control is pure enough to pass the test. The fact that under this draft, unlike *Libertarian Party*, a local referendum is required to approve a sales tax and use tax levy may help to tilt the balance in favor of viewing this district as local.

3. Also related to the issue of expenditure at the level of taxation is the question of whether this principle would be offended if a municipality or county subsidizes a district, as authorized in proposed s. 229.826. Here again, this issue was not discussed in *Libertarian Party*. It can probably be said, however, that if any subsidy would serve a legitimate, independent public purpose of the municipality or county, rather than serve simply as a means of circumventing revenue raising at the district level, the proposed language would not offend the "spend at the level of taxation" principle.

4. Art. XI, sec. 3 (2) of the Wisconsin Constitution imposes a debt limitation on "municipal corporation[s]". Article XI, sec. 3 (3) further requires that any such indebtedness be repaid within 20 years by levying a direct, annual [property] tax. However, Art. XI, sec. 3 (5) provides that the debt limitation does not apply to indebtedness created for the purpose of "purchasing, acquiring, leasing, constructing, extending, adding to, improving, conducting, controlling, operating or managing a public utility of a . . . special district. . . [if] . . . secured solely by the property or income of such public utility. . .". Taking advantage of this exception, the draft, like 1995 Act 56, provides in its treatment of s. 66.067, stats. that football stadium facilities are public utilities. *Libertarian Party* in effect holds that the legislature's classification of

If the line of cases that precedes *Libertarian Party* retains any vigor, it may be helpful to include a legislative finding that private capital is insufficient to fund needed capital investments in professional football stadium facilities.

1948

However, under proposed s. 229.822 (2)(a) and (4), the Governor appoints two members of the district board and designates the chairperson.

as applied

and Dept. of Development v. Building Comm., 139 Wis. 2d 1 at 9-11 (1987)

229.822

391 a1-

(1992)

baseball stadium facilities as "Public utilities" is a permissible interpretation of the term. 199 Wis. 2d 790 at 820. In that case, the Court held that the indebtedness of a baseball district is not public debt governed by the limitation, although the Court notes that the indebtedness is not secured solely by the "property or income of such public utility [stadium facilities]," as provided in Art. XI, sec. 3 (5), but also by "the proceeds of the bonds issued by the District, and by sales and use taxes imposed by the District." 19 Wis. 2d 790 at 819. Although the Court in *Libertarian Party* cites *City of Hartford v. Kirley*, 172 Wis. 2d. 191 at 207, for the proposition that the District's bonded indebtedness has the same characteristics as special assessment bonds, in that bond revenue is placed in a special fund for debt retirement, *Hartford* seems to suggest that the special fund revenue must be from the project being funded. 172 Wis. 191 at 208-209 and 212. In *Libertarian Party*, therefore, the Court seems to overrule *Hartford*

(and preceding cases cited therein) without expressly saying so. It would have been helpful had the Court made this clear so that no future questions would be raised. To eliminate all potential questions regarding this issue, the draft would have to provide that the district's bonded indebtedness is secured only by the property or income of the stadium facilities. This may be an unacceptable policy choice, however.

If you have any further questions regarding the above issues, please let us know.

As a reminder, this draft is preliminary because certain figures are not included in this version. We know that you will be making some revisions to this draft. The revisions should include insertion of the proper figures. If the revisions are not extensive, we would hope to produce a final draft within a relatively short time frame.

JTK  
MES  
RAC  
JK

(with the exception of the appropriation mentioned in point 6 above, if you wish to defer that)



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

LRB-4242/P2dni  
MES/JTK/RC/JK.....

FWS D/A



1. Per our discussion of January 14, this draft, in proposed s. 229.823, establishes a district's jurisdiction in such a way that there is no scenario that envisions a relocated stadium. Therefore, if for any reason the current thinking shifts on this point, the district will not have jurisdiction to become involved. We do not think this necessarily impairs the open class because the draft still permits a new stadium to be sited potentially in any county having a population of 150,000 or more.

2. Under proposed ss. 77.54 (45) (c), 229.824 (13) and 229.826 (5), we have substituted references to fees or other charges for the right to purchase "admission" rather than "tickets". Though the difference is subtle, it seemed to us that the concept of a public entity deciding who may purchase tickets to a privately produced event is potentially awkward. We were more comfortable with the concept of an admissions fee.

3. There are several references in the draft to municipalities contained within a district's jurisdiction. Because under current Wisconsin law, a <sup>city or village</sup> ~~municipality~~ may be located in more than one county (and over 40 of them are), we have changed these references to municipalities that are *wholly or partly* contained within a district's jurisdiction. This is just an effort to maintain an open class by dealing with every potential situation. You could, if you wish, substitute references to municipalities that are *wholly* contained within a district's jurisdiction.



PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

D-NOTW

today

repeal

1 **AN ACT** to renumber 66.066 (5); to renumber and amend 704.31 (3); to amend

2 **13.94 (4)** (a) l., 13.94 (lo), 16.70 (14), 18.03 (5s), 19.42 (13) (a), 19.59 (1) (a),

3 19.59 (1) (g) 1. a., 25.50 (1) (d), 66.066 (1) (a), 66.066 (1) (c), 66.067, 66.30 (1) (a),

4 71.26 (1) (bm), 71.26 (lm) (g), 71.36 (lm), 71.45 (lt) (g), 77.705 (title), 77.707,

5 77.71, 77.76 (3m), 77.76 (4), 779.14 (lm) (d) 2. b. and 779.14 (lm) (d) 3.; and **to**

6 **create 20.566 (1)** (ge), **20.835 (4)** (ge), **20.867 (5)**, **24.61 (2) (a) 8.**, **25.17 (3)** (b)

7 ll., 66.04 (2) (a) 3q., 66.066 (5) (b), 71.05 (1) (c) 5., 77.54 (45), 77.706, 77.76 (3p),

8 219.09 (1) (d), subchapter IV of chapter 229 [precedes 229.820], 704.31 (3) (a),

9 704.31 (3) (b) and 779.14 (4) of the statutes; **relating to:** creating a local

10 professional football stadium district; giving a local professional football

11 stadium district the authority to issue bonds and granting income tax

12 exemptions for interest income on bonds issued by the district; making a state

13 moral obligation pledge with respect to bonds issued by a local professional

14 football stadium district; giving a local professional football stadium district

15 the authority to impose a sales tax and a use tax; creating an income and

1 franchise tax exemption for a local professional football stadium district; and  
2 making appropriations.

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***Analysis by the Legislative Reference Bureau***  
**CREATION AND DISSOLUTION OF A DISTRICT**

This bill creates a professional football stadium district, which is a special purpose district, in each county with a population of more than 150,000 that includes the site of an existing or to be constructed league-approved home stadium for a professional football team that is a member of a league of teams that have home stadiums in at least ten states and a collective average attendance for all league members of at least 40,000 per game over the five years immediately preceding the year in which a district is created. A district is a local unit of government that is a body corporate and politic and that is separate and distinct from, and independent of, the state and the political subdivisions within its jurisdiction. Under the bill, a district's jurisdiction remains fixed even if population or attendance figures subsequently decline below the minimums described. A district does not have jurisdiction over any relocated stadium, whether or not the stadium is approved by the league.

In connection with football stadium facilities, the powers of a district include the construction, maintenance, management and acquisition of the football stadium and facilities; the issuance of bonds and imposition of a sales tax and a use tax to finance the stadium and facilities; and the authority to enter into partnerships, joint ventures, common ownership or other arrangements with other persons to further the district's purposes. Before the taxes imposed by a district may take effect, however, the district's action must be approved in a referendum. A district may also set standards governing the use of, and the conduct within, the stadium and facilities, and may set and collect fees for the use of the facilities or for the right to purchase admission to events at the stadium. Unless it is not feasible to do so, the bill requires a district to enter into a contract with a professional football team, or a subsidiary of the team, that requires the team or its subsidiary to acquire and construct improvements to football stadium facilities that are part of any facilities that the district leases to the team, whether or not the improvements are financed by a district.

The district is governed by a board that consists of two persons appointed by the governor, two persons appointed by the chief elected official of the most populous city within the district's jurisdiction, two persons appointed by the chief elected official of the county in which the football stadium is located and, if such a situation exists, one person appointed by the chief elected official of each city, village or town (municipality) within the district's jurisdiction, other than the most populous city within the district's jurisdiction, that has a boundary at the time of the district's creation that is contiguous to a boundary of the site of the football stadium.

A district may dissolve by action of the district board, subject to payment of the district's bonds and fulfillment of its other contractual obligations. If a district is

dissolved, its property must be transferred to the municipalities and county in the district's jurisdiction in proportions determined by the secretary of administration, based on the contributions of each municipality and county to the development or improvement of the football stadium facilities.

Under the bill, a municipality or county within the district's jurisdiction may make grants or loans, or lease or transfer property, to a district; expend public funds to subsidize a district; or borrow money to fund grants, loans or subsidies to a district. With the consent of a district, such a municipality or county may also establish and collect fees or other charges applicable only to a football stadium for the right to purchase admission to events at the stadium.

### **BONDING**

This bill grants a district the power to issue revenue bonds for purchasing, acquiring, leasing, constructing, extending, adding to, improving, conducting, controlling, operating or managing a local professional football stadium district. Under the bill, the bonds issued by the district must be secured by the district's interest in any football stadium facilities, by income from these facilities, by proceeds of bonds issued by the district and by other amounts placed in a special redemption fund and investment earnings on such amounts, including any taxes that the district is authorized to impose. The bill specifically provides that the district may not pledge its full faith and credit on the bonds and that the bonds are not a general obligation liability of the district.

The bill authorizes a district to establish a special debt service reserve fund, subject to certain findings of the secretary of administration. The special debt service reserve fund is significant, because if there are insufficient moneys in the special debt service reserve fund to meet the special debt service reserve fund requirement established in the bill, the legislature expresses its expectation and aspiration that, if certain conditions are met, the legislature would appropriate state moneys to the district in the amount necessary to restore the moneys in the fund to an amount equal to its special debt service reserve fund requirement. This expression of legislative expectation and aspiration has been referred to as a "state moral obligation pledge". The special debt service requirement is determined in the bond resolution authorizing the issuance of bonds.

In order to create a special debt service reserve fund backed up by the state moral obligation pledge, however, the secretary of administration must find that the bond proceeds will be used for purposes related to the football stadium facilities; that there is a reasonable likelihood that the bonds will be repaid without the necessity of drawing on funds in the special debt service reserve fund; that the amount of all bonds that would be secured by all special debt service reserve funds of the district will not exceed \$XXXXX; and that the bonds, other than refunding bonds, will be issued no later than December 31, XXXX.

In addition to creating a state moral obligation pledge to appropriate to the district the funds necessary to restore the special debt service reserve fund to an amount equal to its special debt service reserve fund requirement, the bill provides that the state pledges that it will not limit or alter the rights vested in a district under

the bill before the district has fully performed its contracts and has fully met and discharged its bonds.

Finally, the bill contains provisions authorizing certain state and local government funds and certain regulated financial institutions to invest in bonds issued by the district; provides that all moneys received by a district, including proceeds from the sale of bonds, are trust funds to be held and applied solely for the purposes provided in the bill; and limits the personal liability of members of a district's board of directors with respect to the issuance of bonds.

### **PROVISION OF FINANCIAL SERVICES**

This bill permits the building commission, upon request of a district, to serve as a financial consultant to the district for the purpose of assisting with and coordinating the issuance of bonds by the district.

### **FINANCE**

This bill permits the legislative audit bureau to audit the records of a district. Under the bill, the joint legislative audit committee may review a district's performance.

### **ETHICS**

Members of a district board are subject to the statutory code of ethics for local public officials. In addition, board members are subject to other standards of conduct that apply to state public officials. However, like other local public officials, district board members are not subject to periodic reporting requirements.

### **APPLICABILITY OF OTHER LAWS**

Numerous laws that apply to special purpose districts and local units of government apply to a local professional football district, including, among others:

1. The district is subject to laws requiring, with certain exceptions, public notice of and access to meetings of the district board and public access to the district's records.

2. The district is <sup>and</sup> subject to worker's compensation, unemployment insurance, state minimum wage <sup>and</sup> hour and family and medical leave laws.

3. The district is subject to the law requiring the payment of prevailing wages on local government public works projects.

4. The district is governed by laws regulating municipal administrative procedures and rights.

5. The district is subject to laws restricting employers from testing employes and prospective employes for human immunodeficiency virus (HIV) or an antibody to HIV.

6. The district is subject to the tort and antitrust liability limitation that currently applies to actions brought against local governmental units of \$50,000 per occurrence, and persons attempting to sue the district are subject to a requirement to file notice of their claims within 120 days of their occurrence.

7. The district's ownership interest in any professional football stadium or related facilities is exempt from the property tax.

8. The district is subject to laws regulating buildings and safety.

9. The district may exercise eminent domain powers for public purposes, upon a showing of necessity.

10. Purchases made by the district are subject to the sales tax and use tax and the property of the district is subject to special assessment levies.

11. The district is subject to laws regulating the ways in which its funds may be invested.

Under the bill, the district may participate in the state public employe retirement plan and state-administered plans for deferred compensation, health care benefits and disability and survivor benefits.

The bill also provides that the district may:

1. Contract with municipalities and federally recognized Indian tribes and bands in this state for the receipt or furnishing of services or the joint exercise of powers or duties.

2. Participate in the state-operated local government pooled-investment fund.

3. Participate in the local government property insurance fund.

Under the bill, the assets and liabilities of a district are not assets or liabilities of the county in which the district is located.

#### **TAXATION**

Under the bill, a local professional football stadium district may adopt a resolution to impose a sales tax and a use tax at a rate of no more than 0.5% on the sale or use of tangible personal property or services in the district subject to approval by the electors of a district at a referendum. The referendum may be held at any regularly scheduled primary or other election, or at a special election. The date of the referendum is determined by the county board of the county in which a district is located. The district tax revenue may be used only for purposes related to football stadium facilities. Under the bill, generally, the sales tax and use tax imposed by the district may not be collected after the district has retired its bonds related to the football stadium facilities.

Under the bill, the income of a local professional football stadium district is exempt from the income tax and the franchise tax, and the income and interest from the district's obligations are exempt from the income tax and the franchise tax.

#### **LEASE**

Current law provides that, if a tenant who is required to construct improvements exceeding \$50,000 at the tenant's own expense on land leased to the tenant under a lease with a term of 30 years or more defaults or breaches a condition of the lease, the landlord may commence an action to recover the property after a one-year redemption period free from all liens, claims or demands of the tenant in the same manner as a mortgage foreclosure except without a sale of the property. The bill creates an exception under that statute for leases to which a district is a party.

#### **LIENS**

Current law provides certain protections to persons who provide labor and materials for a construction project. For example, a person who works on an improvement to privately owned land generally has a lien on all interests in the land (construction lien). However, under current law, a construction lien may not be filed

against property owned by a public entity. Thus, in the case of a public construction project, a person who works on the project generally has a lien on money owing to the prime contractor, with certain exceptions. Furthermore, current law contains a bonding requirement, under which certain public construction contracts must include a provision requiring the prime contractor to provide or obtain a payment and performance bond or other payment assurance. In the case of a public construction contract with a local government entity, a bonding requirement applies to any contract exceeding \$50,000.

This bill exempts a public construction contract with a district from any applicable bonding requirement.

This bill will be referred to the joint survey committee on tax exemptions for a detailed analysis, which will be printed as an appendix to this bill.

For further information see the state and *local* fiscal estimate, which will be printed as an appendix to this bill.

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***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

1           **SECTION 1.** 13.94 (4) (a) 1. of the statutes, as affected by 1999 Wisconsin Act 9,  
2 is amended to read:

3           13.94 (4) (a) 1. Every state department, board, examining board, affiliated  
4 credentialing board, commission, independent agency, council or office in the  
5 executive branch of state government; all bodies created by the legislature in the  
6 legislative or judicial branch of state government; any public body corporate and  
7 politic created by the legislature including specifically a professional baseball park  
8 district, a local professional football stadium district and a family care district  
9 created under s. 46.2895; every Wisconsin works agency under subch. III of ch. 49;  
10 every provider of medical assistance under subch. IV of ch. 49; technical college  
11 district boards; development zones designated under s. 560.71; every county  
12 department under s. 51.42 or 51.437; every nonprofit corporation or cooperative to  
13 which moneys are specifically appropriated by state law; and every corporation,  
14 institution, association or other organization which receives more than 50% of its

1 annual budget from appropriations made by state law, including subgrantee or  
2 subcontractor recipients of such funds.

3 **SECTION 2.** 13.94 (10) of the statutes is amended to read:

4 13.94 (10) **FINANCIAL STATUS OF ~~LOCAL CERTAIN~~ PROFESSIONAL BASEBALL PARK**  
5 **SPORTS DISTRICTS**. As promptly as possible following the end of each state fiscal  
6 biennium in which there are outstanding bonds or notes issued by a local  
7 professional baseball park district created under subch. III of ch. 229 that are subject  
8 to s. 229.74 (7) or by a local professional football stadium district created under  
9 subch. IV of ch. 229 that are subject to s. 229.830 (7), the legislative audit bureau  
10 shall submit a report to the cochairpersons of the joint committee on finance  
11 concerning the financial status of that district.

12 **SECTION 3.** 16.70 (14) of the statutes is amended to read:

13 16.70 (14) "State" does not include a district created under subch. II ~~or~~, III or  
14 IV of ch. 229.

15 **SECTION 4.** 18.03 (5s) of the statutes is amended to read:

16 18.03 (5s) Upon the request of a local professional baseball park district  
17 created under subch. III of ch. 229 or a local professional football stadium district  
18 created under subch. IV of ch. 229, the commission may serve as financial consultant  
19 to assist and coordinate the issuance of the bonds of a district.

20 **SECTION 5.** 19.42 (13) (a) of the statutes is amended to read:

21 19.42 (13) (a) All positions to which individuals are regularly appointed by the  
22 governor, except the position of trustee of any private higher educational institution  
23 receiving state appropriations ~~and~~, the position of member of the district board of a  
24 local professional baseball park district created under subch. III of ch. 229 and the



1 position of member of the district board of a local professional football stadium  
2 district created under subch. IV of ch. 229.

3 **SECTION 6.** 19.59 (1) (a) of the statutes is amended to read:

4 19.59 (1) (a) No local public official may use his or her public position or office  
5 to obtain financial gain or anything of substantial value for the private benefit of  
6 himself or herself or his or her immediate family, or for an organization with which  
7 he or she is associated. A violation of this paragraph includes the acceptance of free  
8 or discounted admissions to a professional baseball or football game by a member of  
9 the district board of a local professional baseball park district created under subch.  
10 III of ch. 229 or a local professional football stadium district created under subch. IV  
11 of ch. 229. This paragraph does not prohibit a local public official from using the title  
12 or prestige of his or her office to obtain campaign contributions that are permitted  
13 and reported as required by ch. 11.

14 **SECTION 7.** 19.59 (1) (g) 1. a. of the statutes is amended to read:

15 19.59 (1) (g) 1. a. "District" means a local professional baseball park district  
16 created under subch. III of ch. 229 or a local professional football stadium district  
17 created under subch. IV of ch. 229.

18 **SECTION 8.** 20.005 (3) (schedule) of the statutes: at the appropriate place, insert  
19 the following amounts for the purposes indicated:

**1999-00      2000-01**

1      **20.566 Revenue, department of**

2      (1)      **COLLECTIONOFTAXES**

3      (ge)      Administration of local profes-  
4                      sional football stadium district  
5                      taxes

PR      A                      -0-                      -0-

6                      **SECTION 9.** 20.566 (1) (ge) of the statutes is created to read:

7                      *20.566 (1) (ge) Administration **of** local professional football stadium district*  
8                      *taxes. From the moneys transferred from the appropriation account under s. 20.835*  
9                      *(4) (ge), the amounts in the schedule for administering the special district taxes*  
10                      *imposed under s. 77.706 by a local professional football stadium district created*  
11                      *under subch. IV of ch. 229.*

12                      **SECTION 10. 20.835** (4) (ge) of the statutes is created to read:

13                      *20.835 (4) (ge) Local professional football stadium district taxes. All moneys*  
14                      *received from the taxes imposed under s. 77.706, for the purpose of distribution to*  
15                      *the special districts that adopt a resolution imposing taxes under subch. V of ch. 77,*  
16                      *and for the purpose of financing a local professional football stadium district, except*  
17                      *that, of those tax revenues collected under subch. V of ch. 77, 1.5% shall be credited*  
18                      *to the appropriation account under s. 20.566 (1) (ge).*

19                      **SECTION 11.** 20.867 (5) of the statutes is created to read:

20                      **20.867 (5)      SERVICESTONONSTATEGOVEFWMENTALUNITS.** (g) *Financial consulting*  
21                      *services. All moneys received from local professional football stadium districts for*  
22                      *financial consulting services provided under s. 18.03 (5s), to be used to provide those*  
23                      *services.*

1           **SECTION 12.** 24.61 (2) (a) 8. of the statutes is created to read:

2           24.61 (2) (a) 8. Bonds issued by a local professional football stadium district  
3 created under subch. IV of ch. 229.

4           **SECTION 13.** 25.17 (3) (b) 11. of the statutes is created to read:

5           25.17 (3) (b) 11. Bonds issued by a local professional football stadium district  
6 created under subch. IV of ch. 229.

7           **SECTION 14.** 25.50 (1) (d) of the statutes, as affected by 1999 Wisconsin Act 9,  
8 is amended to read:

9           25.50 (1) (d) "Local government" means any county, town, village, city, power  
10 district, sewerage district, drainage district, town sanitary district, public inland  
11 lake protection and rehabilitation district, local professional baseball park district  
12 created under subch. III of ch. 229, family care district under s. 46.2895, local  
13 professional football stadium district created under subch. IV of ch. 229, public  
14 library system, school district or technical college district in this state, any  
15 commission, committee, board or officer of any governmental subdivision of this  
16 state, any court of this state, other than the court of appeals or the supreme court,  
17 or any authority created under s. 231.02, 233.02 or 234.02.

18           **SECTION 15.** 66.04 (2) (a) 3q. of the statutes is created to read:

19           66.04 (2) (a) 3q. Bonds issued by a local professional football stadium district  
20 created under subch. IV of ch. 229.

21           **SECTION 16.** 66.066 (1) (a) of the statutes is amended to read:

22           66.066 (1) (a) "Municipality" means any city, village, town, county, commission  
23 created by contract under s. 66.30, public inland lake protection and rehabilitation  
24 district established under s. 33.23, 33.235 or 33.24, metropolitan sewerage district  
25 created under ss. 66.20 to 66.26 or 66.88 to 66.918, town sanitary district under

1 subch. IX of ch. 60, a local professional baseball park district created under subch.  
2 III of ch. 229, a local professional football stadium district created under subch. IV  
3 of ch. 229 or a municipal water district or power district under ch. 198 and any other  
4 public or quasi-public corporation, officer, board or other public body empowered to  
5 borrow money and issue obligations to repay the same out of revenues.  
6 "Municipality" does not include the state or a local exposition district created under  
7 subch. II of ch. 229.

8 SECTION 17. 66.066 (1) (c) of the statutes is amended to read:

9 66.066 **(1)** (c) "Revenue" means all moneys received from any source by a public  
10 utility and all rentals and fees and, in the case of a local professional baseball park  
11 district created under subch. III of ch. 229 includes tax revenues deposited into a  
12 special fund under s. 229.685 and payments made into a special debt service reserve  
13 fund under s. 229.74 and, in the case of a local professional football stadium district  
14 created under subch. IV of ch. 229 includes tax revenues denosited into a snecial fund  
15 under s. 229.825 and nayments made into a snecial debt service reserve fund under  
16 s. 229.830.

17 SECTION 18. 66.066 (5) of the statutes is renumbered 66.066 (5) (a).

18 SECTION 19. **66.066 (5)** (b) of the statutes is created to read:

19 66.066 (5) (b) Revenue bonds issued by a local professional football stadium  
20 district created under subch. IV of ch. 229 are subject to the provisions in ss. 229.829  
21 to 229.834.

22 SECTION 20. 66.067 of the statutes is amended to read:

23 66.067 **Public works projects.** For financing purposes, garbage  
24 incinerators, toll bridges, swimming pools, tennis courts, parks, playgrounds, golf  
25 links, bathing beaches, bathhouses, street lighting, city halls, village halls, town

1 halls, courthouses, jails, schools, cooperative educational service agencies, hospitals,  
2 homes for the aged or indigent, child care centers, as defined in s. 231.01 (3c),  
3 regional projects, waste collection and disposal operations, systems of sewerage,  
4 local professional baseball park facilities, local professional football stadium  
5 facilities and any and all other necessary public works projects undertaken by any  
6 municipality are public utilities within the meaning of s. 66.066.

7 SECTION 21. 66.30 (1) (a) of the statutes, as affected by 1999 Wisconsin Act 9,  
8 is amended to read:

9 66.30 (1) (a) In this section "municipality" means the state or any department  
10 or agency thereof, or any city, village, town, county, school district, public library  
11 system, public inland lake protection and rehabilitation district, sanitary district,  
12 farm drainage district, metropolitan sewerage district, sewer utility district, solid  
13 waste management system created under s. 59.70 (2), local exposition district  
14 created under subch. II of ch. 229, local professional baseball park district created  
15 under subch. III of ch. 229, local professional football stadium district created under  
16 subch. IV of ch. 229, family care district under s. 46.2895, water utility district,  
17 mosquito control district, municipal electric company, county or city transit  
18 commission, commission created by contract under this section, taxation district or  
19 regional planning commission.

20 SECTION 22. 71.05 (1) (c) 5. of the statutes is created to read:

21 71.05 (1) (c) 5. A local professional football stadium district created under  
22 subch. IV of ch. 229.

23 SECTION 23. 71.26 (1) (bm) of the statutes is amended to read:

24 71.26 (1) (bm) *Certain local districts.* Income of a local exposition district  
25 created under subch. II of ch. 229 ~~or~~, a local professional baseball park district

1 created under subch. III of ch. 229 or a local professional football stadium district  
2 created under subch. IV of ch. 229.

3 SECTION 24. 71.26 (1m) (g) of the statutes is amended to read:

4 71.26 (1m) (g) Those issued under s. 66.066 by a local professional baseball  
5 park district or a local professional football stadium district.

6 SECTION 25. 71.36 (1m) of the statutes is amended to read:

7 71.36 (1m) A tax-option corporation may deduct from its net income all  
8 amounts included in the Wisconsin adjusted gross income of its shareholders, the  
9 capital gain deduction under s. 71.05 (6) (b) 9. and all amounts not taxable to  
10 nonresident shareholders under ss. 71.04 (1) and (4) to (9) and 71.362. For purposes  
11 of this subsection, interest on federal obligations, obligations issued under s. 66.066  
12 by a local professional baseball park district or a local professional football stadium  
13 district, obligations issued under ss. 66.40, 66.431 and 66.4325, obligations issued  
14 under s. 234.65 to fund an economic development loan to finance construction,  
15 renovation or development of property that would be exempt under s. 70.11 (36) and  
16 obligations issued under subch. II of ch. 229 is not included in shareholders' income.  
17 The proportionate share of the net loss of a tax-option corporation shall be attributed  
18 and made available to shareholders on a Wisconsin basis but subject to the limitation  
19 and carry-over rules as prescribed by section 1366 (d) of the internal revenue code.  
20 Net operating losses of the corporation to the extent attributed or made available to  
21 a shareholder may not be used by the corporation for further tax benefit. For  
22 purposes of computing the Wisconsin adjusted gross income of shareholders,  
23 tax-option items shall be reported by the shareholders and those tax-option items,  
24 including capital gains and losses, shall retain the character they would have if  
25 attributed to the corporation, including their character as business income. In

1 computing the tax liability of a shareholder, no credit against gross tax that would  
2 be available to the tax-option corporation if it were a nontax-option corporation may  
3 be claimed.

4 SECTION 26. 71.45 (It) (g) of the statutes is amended to read:

5 71.45 (1t) (g) Those issued under s. 66.066 by a local professional baseball park  
6 district or a local professional football stadium district.

7 SECTION 27. 77.54 (45) of the statutes is created to read:

8 77.54 (45) The gross receipts from the sale of, and the storage, use or other  
9 consumption of, any of the following related to the use of a football stadium, as  
10 defined in s. 229.821 (6):

11 (a) Parking or providing parking space for motor vehicles on property that is  
12 leased from a municipality or a local professional football stadium district and leased  
13 to a professional football team or a related party, as defined in s. 229.821 (12).

14 (b) Parking or providing parking space for motor vehicles on professional  
15 football game days pursuant to a contract between a municipality or a local  
16 professional football stadium district and the owner of the property on which there  
17 is parking or parking space provided on professional football game days.

18 (c) A license or other right to purchase admission to events at a football  
19 stadium, as defined in s. 229.821 (6), that is granted by a municipality; a local  
20 professional football stadium district; or a professional football team or related party,  
21 as defined in s. 229.821 (12).

22 SECTION 28. 77.705 (title) of the statutes is amended to read:

23 77.705 (title) **Adoption by resolution; baseball park district.**

24 SECTION 29. 77.706 of the statutes is created to read:

1           **77.706 Adoption by resolution; football stadium district.** A local  
2 professional football stadium district created under subch. IV of ch. 229, by  
3 resolution under s. 229.824 (15), may impose a sales tax and a use tax under this  
4 subchapter at a rate of no more than 0.5% of the gross receipts or sales price. Those  
5 taxes may be imposed only in their entirety. The imposition of the taxes under this  
6 section shall be effective on the first day of the first month that begins 30 days after  
7 the approval of the resolution by the electors in the district's jurisdiction under s.  
8 229.824 (15).

9           **SECTION 30.** 77.707 of the statutes is amended to read:

10           **77.707 Sunset.** Retailers and the department of revenue may not collect a tax  
11 under s. 77.705 for any local professional baseball park district created under subch.  
12 III of ch. 229, or under s. 77.706 for any local professional football stadium district  
13 created under subch. IV of ch. 229, after the calendar quarter during which the local  
14 professional baseball park district board makes a certification to the department of  
15 revenue under s. 229.685 (2), or the local professional football stadium district board  
16 makes a certification to the department of revenue under s. 229.825 (2), except that  
17 the department of revenue may collect from retailers taxes that accrued before that  
18 calendar quarter and fees, interest and penalties that relate to those taxes.

19           **SECTION 31.** 77.71 of the statutes is amended to read:

20           **77.71 Imposition of county and special district sales and use taxes.**  
21 Whenever a county sales and use tax ordinance is adopted under s. 77.70 or a special  
22 district resolution is adopted under s. 77.705 or 77.706, the following taxes are  
23 imposed:

24           (1) For the privilege of selling, leasing or renting tangible personal property  
25 and for the privilege of selling, performing or furnishing services a sales tax is



1 imposed upon retailers at the rate of 0.5% in the case of a county tax or at the rate  
2 under s. 77.705 or 77.706 in the case of a special district tax of the gross receipts from  
3 the sale, lease or rental of tangible personal property, except property taxed under  
4 sub. (4), sold, leased or rented at retail in the county or special district or from selling,  
5 performing or furnishing services described under s. 77.52 (2) in the county or special  
6 district.

7 (2) An excise tax is imposed at the rate of 0.5% in the case of a county tax or  
8 at the rate under s. 77.705 or 77.706 in the case of a special district tax of the sales  
9 price upon every person storing, using or otherwise consuming in the county or  
10 special district tangible personal property or services if the property or service is  
11 subject to the state use tax under s. 77.53, except that a receipt indicating that the  
12 tax under sub. (1), (3) or (4) has been paid relieves the buyer of liability for the tax  
13 under this subsection and except that if the buyer has paid a similar local tax in  
14 another state on a purchase of the same property or services that tax shall be credited  
15 against the tax under this subsection and except that for motor vehicles that are used  
16 for a purpose in addition to retention, demonstration or display while held for sale  
17 in the regular course of business by a dealer the tax under this subsection is imposed  
18 not on the sales price but on the amount under s. 77.53 (1m).

19 (3) An excise tax is imposed upon a contractor engaged in construction  
20 activities within the county or special district, at the rate of 0.5% in the case of a  
21 county tax or at the rate under s. 77.705 or 77.706 in the case of a special district tax  
22 of the sales price of tangible personal property that is used in constructing, altering,  
23 repairing or improving real property and that becomes a component part of real  
24 property in that county or special district, unless the contractor has paid the sales  
25 tax of a county in the case of a county tax or of a special district in the case of a special

1 district tax in this state on that property, and except that if the buyer has paid a  
2 similar local sales tax in another state on a purchase of the same property that tax  
3 shall be credited against the tax under this subsection.

4 (4) An excise tax is imposed at the rate of 0.5% in the case of a county tax or  
5 at the rate under s. 77.705 or 77.706 in the case of a special district tax of the sales  
6 price upon every person storing, using or otherwise consuming a motor vehicle, boat,  
7 snowmobile, mobile home not exceeding 45 feet in length, trailer, semitrailer,  
8 all-terrain vehicle or aircraft, if that property must be registered or titled with this  
9 state and if that property is to be customarily kept in a county that has in effect an  
10 ordinance under s. 77.70 or in a special district that has in effect a resolution under  
11 s. 77.705 or 77.706, except that if the buyer has paid a similar local sales tax in  
12 another state on a purchase of the same property that tax shall be credited against  
13 the tax under this subsection.

14 **SECTION 32.** 77.76 (3m) of the statutes is amended to read:

15 77.76 (3m) From the appropriation under s. 20.835 (4) (gb) the department, for  
16 the first 2 years of collection, shall distribute 97% of the ~~special district~~ taxes  
17 reported for each ~~special~~ local professional baseball park district that has imposed  
18 taxes under this subchapter, minus the ~~special~~ district portion of the retailers'  
19 discounts, to the ~~special~~ local professional baseball park district no later than the end  
20 of the 3rd month following the end of the calendar quarter in which such amounts  
21 were reported. From the appropriation under s. 20.835 (4) (gb) the department, after  
22 the first 2 years of collection, shall distribute 98.5% of the ~~special district~~ taxes  
23 reported for each special local professional baseball park district that has imposed  
24 taxes under this subchapter, minus the ~~special~~ district portion of the retailers'  
25 discount, to the ~~special~~ local professional baseball park district no later than the end

1 of the 3rd month following the end of the calendar quarter in which such amounts  
2 were reported. At the time of distribution the department shall indicate the taxes  
3 reported by each taxpayer. In this subsection, the “~~special~~ district portion of the  
4 retailers’ discount” is the amount determined by multiplying the total retailers’  
5 discount by a fraction the numerator of which is the gross ~~special~~ local professional  
6 baseball park district sales and use taxes payable and the denominator of which is  
7 the sum of the gross state and ~~special~~ local professional baseball park district sales  
8 and use taxes payable. The ~~special~~ local professional baseball park district taxes  
9 distributed shall be increased or decreased to reflect subsequent refunds, audit  
10 adjustments and all other adjustments of the ~~special~~ local professional baseball park  
11 district taxes previously distributed. Interest paid on refunds of ~~special~~ local  
12 professional baseball park district sales and use taxes shall be paid from the  
13 appropriation under s. 20.835 (4) (gb) at the rate paid by this state under s. 77.60 (1)  
14 (a). Any ~~special~~ local professional baseball park district receiving a report under this  
15 subsection is subject to the duties of confidentiality to which the department of  
16 revenue is subject under s. 77.61 (5).

17 **SECTION 33.** 77.76 (3p) of the statutes is created to read:

18 77.76 (3p) From the appropriation under s. 20.835 (4) (ge) the department of  
19 revenue shall distribute 98.5% of the taxes reported for each local professional  
20 football stadium district that has imposed taxes under this subchapter, minus the  
21 district portion of the retailers’ discount, to the local professional football stadium  
22 district no later than the end of the 3rd month following the end of the calendar  
23 quarter in which such amounts were reported. At the time of distribution the  
24 department of revenue shall indicate the taxes reported by each taxpayer. In this  
25 subsection, the “district portion of the retailers’ discount” is the amount determined

1 by multiplying the total retailers' discount by a fraction the numerator of which is  
 2 the gross local professional football stadium district sales and use taxes payable and  
 3 the denominator of which <sup>is</sup> ~~is~~ the sum of the gross state and local professional football  
 4 stadium district sales and use taxes payable. The local professional football stadium  
 5 district taxes distributed shall be increased or decreased to reflect subsequent  
 6 refunds, audit adjustments and all other adjustments of the local professional  
 7 football stadium district taxes previously distributed. Interest paid on refunds of  
 8 local professional football stadium district sales and use taxes shall be paid from the  
 9 appropriation under s. 20.835 (4) (ge) at the rate paid by this state under s. 77.60 (1)  
 10 (a). Any local professional football stadium district receiving a report under this  
 11 subsection is subject to the duties of confidentiality to which the department of  
 12 revenue is subject under s. 77.61 (5).

\*\*\*\*NOTE: The percentage of taxes distributed under this subsection is equal to the percentage of special district taxes that are distributed to local professional baseball park districts. Is that OK?

13 SECTION 34. 77.76 (4) of the statutes, as affected by 1999 Wisconsin Act 9, is  
 14 amended to read:

15 77.76 (4) There shall be retained by the state 1.5% of the taxes collected for  
 16 taxes imposed by special districts under ~~s. ss.~~ ss. 77.705 and 77.706 and 1.75% of the  
 17 taxes collected for taxes imposed by counties under s. 77.70 to cover costs incurred  
 18 by the state in administering, enforcing and collecting the tax. All interest and  
 19 penalties collected shall be deposited and retained by this state in the general fund.

20 SECTION 35. 219.09 (1) (d) of the statutes is created to read:

21 219.09 (1) (d) A local professional football stadium district created under  
 22 subch. IV of ch. 229.



1 appropriate, any trust agreement, trust indenture, indenture of mortgage or deed of  
2 trust providing terms and conditions for bonds.

3 (3) "Chief ~~executive~~ official" means the mayor of a city or, if the city is organized  
4 under subch. I of ch. 64, the president of the council of that city, the village president  
5 of a village, the town board chair of a town or the county executive of a county or, if  
6 the county does not have a county executive, the chairperson of the county board of  
7 supervisors.

\*\*\*\*NOTE: Based on s. 229.41 (4), except for cite to president of the council for cities  
organized under subch. I of ch. 64 instead of city manager; "town board chair of a town"  
was added. The definition in the Foley draft applied only to counties.

8 (4) "District" means a special purpose district created under this subchapter.

9 (5) "District board" means the governing board of a district.

10 (6) "Football stadium" means that part of football stadium facilities that is  
11 principally used as the home stadium of a professional football team described in s.  
12 229.823 at the time that a district is created, or if no home stadium exists at the time  
13 that a district is created, "football stadium" means that part of football stadium  
14 facilities that includes the site of a <sup>Proposed</sup> home stadium of such a team.

\*\*\*\*NOTE: Please review this definition very carefully. <sup>See also subs. (7) and (8),</sup> ~~I~~ believe that it ensures an <sup>we</sup>  
open class but does not provide for a scenario where a home stadium is to be relocated.  
Does this definition meet your intent?

15 (7) "Football stadium facilities" means property, tangible or intangible, owned  
16 in whole or in substantial part, operated or leased by a district that is principally for  
17 professional football including practice facilities, parking lots and structures,  
18 garages, restaurants, parks, concession facilities, entertainment facilities, facilities  
19 for the display or sale of memorabilia, transportation facilities, and other  
20 functionally related or auxiliary facilities or structures.

\*\*\*\*NOTE: Modification of s. 229.65 (1).

21 (8) "Home stadium": means a stadium approved as provided in s. 229.823.

1 (9) "Members-elect" means those members of the governing body of a  
2 municipality or county, at a particular time, who have been duly elected or appointed  
3 for a current regular or unexpired term and whose service has not terminated by  
4 death, resignation or removal from office.

\*\*\*\*NOTE: Based on s. 59.001 (2m).

5 (10) "Municipality" means a city, village or town.

6 (11) "Political subdivision" means a city, village, town or county.

7 (12) "Related party" means a corporation or business entity that is owned,  
8 controlled or operated by a professional football team.

\*\*\*\*NOTE: This definition is based on the definition of "subsidiary" in s. 100.03 (1)  
(zm). Is it OK?

9 **229.822 Creation and organization. (1)** There is created, for each  
10 jurisdiction under s. 229.823, a special district that is a local governmental unit, that  
11 is a body corporate and politic, that is separate and distinct from, and independent  
12 of, the state and the political subdivisions within its jurisdiction, that has the powers  
13 under s. 229.824 and the name of which includes "Professional Football Stadium  
14 District".

15 (2) A district is governed by its district board. Subject to sub. (3), the district  
16 board shall consist of the following members:

17 (a) Two persons appointed by the governor. At least one of the persons  
18 appointed by the governor shall reside within the county in which the football  
19 stadium is located. A person appointed under this paragraph may take his or her  
20 seat immediately upon appointment and qualification, subject to confirmation or  
21 rejection by the senate.

22 (b) Two persons appointed by the chief elected official of the most populous city  
23 located wholly or partly within the jurisdiction of a district. A person appointed

1 under this paragraph may take his or her seat immediately upon appointment and  
2 qualification, subject to confirmation or rejection by a majority of the members-elect  
3 of the common council or council.

4 (c) Two persons appointed by the chief elected official of the county in which the  
5 football stadium is located. A person appointed under this paragraph may take his  
6 or her seat immediately upon appointment and qualification, subject to confirmation  
7 or rejection by a majority of the members-lect of the county board.

8 (d) One person appointed by the chief elected official of any municipality  
9 located wholly or partly within the jurisdiction of the district, other than the most  
10 populous city located wholly or partly within the jurisdiction of the district, that has  
11 a boundary at the time of creation of the district that is contiguous to a boundary of  
12 the site of the football stadium. A person appointed under this paragraph may take  
13 his or her seat immediately upon appointment and qualification, subject to  
14 confirmation or rejection by a majority of the members-elect of the governing body  
15 of the municipality.

16 (3) Upon appointment under sub. (2), the appointing authorities shall certify  
17 the appointees to the secretary of administration. The terms of office of the persons  
18 appointed under sub. (2) shall be 2 years expiring on July 1, except that the initial  
19 terms shall expire on July 1 of the 4th year beginning after the year of creation of a  
20 district. Persons appointed under sub. (2) may be removed from the district board  
21 before the expiration of their terms by the appointing authority but only for cause,  
22 as defined in s. 17.16 (2). Vacancies shall be filled by the appointing authority who  
23 appointed the person whose office is vacant. A person appointed to fill a vacancy  
24 under sub. (2) shall serve for the remainder of the unexpired term to which he or she



1 is appointed. The appointing authorities shall confer with one another regarding  
2 their appointments with a view toward achieving diversity on the district board.

3 (4) The governor shall select the chairperson of the district board, and the  
4 district board shall elect from its membership a vice chairperson, a secretary and a  
5 treasurer. A majority of the current membership of the district board constitutes a  
6 quorum to do business. The district may take action based on the affirmative vote  
7 of a majority of those members of the district board who are present at a meeting of  
8 the district board.

9 (5) The members of the district board shall be reimbursed for their actual and  
10 necessary expenses incurred in the performance of their duties.

11 (6) Upon the appointment and qualification of a majority of the members of a  
12 district board, the district board may exercise the powers and duties of a district  
13 board under this subchapter.

14 (7) The district board shall name the district, and the name shall include  
15 "Professional Football Stadium District".

16 **229.823 Jurisdiction.** A district's jurisdiction is any county with a population  
17 at the date of the district's creation of more than 150,000 that includes the site of a  
18 stadium that is home to a professional football team, that is a member of a league of  
19 professional football teams that have home stadiums in at least 10 states and a  
20 collective average attendance for all league members of at least 40,000 persons per  
21 game over the 5 years immediately preceding the year in which a district is created,  
22 and that is approved by that league for use as a home stadium for that professional  
23 football team. Once created, the district's jurisdiction remains fixed even if  
24 population or attendance figures subsequently decline below the minimums  
25 described in this section.

1           **229.824 Powers of a district.** A district has all of the powers necessary or  
2 convenient to carry out the purposes and provisions of this subchapter. In addition  
3 to all other powers granted by this subchapter, a district may do all of the following:

4           (1) Adopt bylaws to govern the district's activities, subject to this subchapter.

5           (2) Sue and be sued in its own name, plead and be impleaded.

6           (3) Maintain an office.

7           (4) In connection with football stadium facilities:

8           (a) Acquire, construct, equip, maintain, improve, operate and manage the  
9 football stadium facilities as a revenue-generating enterprise, or engage other  
10 persons to do these things.

11           (b) Acquire; lease, as lessor or lessee; use; transfer; or accept transfers of  
12 property.

13           (c) Improve, maintain and repair property, and fund reserves for maintenance,  
14 depreciation and capital improvements.

15           (d) Enter into contracts, subject to such standards as may be established by the  
16 district board. The district board may award any such contract for any combination  
17 or division of work it designates and may consider any factors in awarding a contract,  
18 including price, time for completion of work and qualifications and past performance  
19 of a contractor.

20           (e) Grant concessions.

21           (f) Sell or otherwise dispose of unneeded or unwanted property.

22           (5) Employ personnel, and fix and regulate their compensation; and provide,  
23 either directly or subject to an agreement under s. 66.30 as a participant in a benefit  
24 plan of another governmental entity, any employe benefits, including an employe  
25 pension plan.

1 (6) Purchase insurance, establish and administer a plan of self-insurance or,  
2 subject to an agreement with another governmental entity under s. 66.30,  
3 participate in a governmental plan of insurance or self-insurance.

4 (7) Mortgage, pledge or otherwise encumber the district's property or funds.

5 (8) Issue revenue bonds under s. 66.066, subject to ss. 229.829 to 229.834, and  
6 enter into agreements related to the issuance of bonds, including liquidity and credit  
7 facilities, remarketing agreements, insurance policies, guaranty agreements, letter  
8 of credit or reimbursement agreements, indexing agreements, interest exchange  
9 agreements and currency exchange agreements.

10 (9) Maintain funds and invest the funds in any investment described in s. 66.04  
11 (2) that the district board considers appropriate.

Ⓡ **NOTE:** Is this reference to s. 66.04 (2) OK? Because of the cross-reference to s.  
34.01 (1) in s. 66.04 (2), the district is ~~already~~ covered *under s. 66.04 (2)*

12 (10) Promote, advertise and publicize its football stadium facilities and related  
13 activities.

14 (11) Set standards governing the use of, and the conduct within, its football  
15 stadium facilities in order to promote public safety and convenience and to maintain  
16 order.

17 (12) Establish and collect fees or other charges for the use of its football  
18 stadium facilities or for services rendered by the district.

19 (13) Establish and collect fees or other charges for the right to purchase  
20 admission to events at the football stadium if the proceeds from any amount that is  
21 collected under this subsection are used for purposes related to football stadium  
22 facilities.

Ⓡ **NOTE:** *We* separated your sub. (12) into 2 subsections so *we* could add the "purposes  
related to football stadium facilities" language which we discussed during our January  
14 meeting/teleconference. Is this OK?

1 (14) Enter into partnerships, joint ventures, common ownership or other  
2 arrangements with other persons to further the district's purposes.

3 (15) Impose, by the adoption of a resolution, the taxes under subch. V of ch. 77,  
4 except that the taxes imposed by the resolution may not take effect until the  
5 resolution is approved by a majority of the electors in the district's jurisdiction voting  
6 on the resolution at a referendum, to be held on a date specified by the county board  
7 not earlier than 45 days after adoption of the resolution ~~action~~. The referendum may  
8 be held at any spring or general election or any spring or September primary, or at  
9 a special election called by the county board for that purpose. The question  
10 submitted shall be substantially as follows: "Shall the resolution of the . . . .

11 Professional Football Stadium District board that imposes the sales tax and use tax  
12 <sup>in . . . . County, as</sup> authorized under subchapter V of chapter 77 of the Wisconsin Statute? be approved?"

13 A district may not levy any taxes that are not expressly authorized under subch. V  
14 of ch. 77. If a district board adopts a resolution that imposes taxes and the resolution  
15 is approved by the electors, the district shall deliver a certified copy of the resolution  
16 to the secretary of revenue at least 30 days before its effective date.

17 (16) Accept gifts, loans and other aid.

18 (17) Administer the receipt of revenues, and oversee the payment of bonds  
19 issued by the district.

20 (18) Adopt and alter an official seal.

21 **229.825 Special fund tax revenues. (1)** The district board shall maintain  
22 a special fund into which it deposits only the revenue received from the department  
23 of revenue, that is derived from the taxes imposed under subch. V of ch. 77, and may  
24 use this revenue only for purposes related to football stadium facilities.

1           (2) If the district board determines that the revenues in the special fund under  
2 this section exceed current debt service and operating expenses for the operation of  
3 football stadium facilities, the district board shall apply the excess first to fund a  
4 reserve or reserves for maintenance costs, depreciation and capital improvements,  
5 and second, when the reserve or reserves are adequately funded to meet the  
6 obligations of the district, to retire bonds issued for purposes related to football  
7 stadium facilities, and any bonds issued to fund or refund those bonds, prior to their  
8 maturity. As soon as practicable after the retirement of all bonds issued for purposes  
9 related to football stadium facilities and all bonds issued to fund or refund those  
10 bonds and after funding a reserve or reserves for maintenance costs and capital  
11 improvements sufficiently to meet any maintenance, depreciation or capital  
12 improvement obligations between the district and any professional football team  
13 using football stadium facilities constructed under this subchapter as a home  
14 stadium, the district board shall make a certification to the department of revenue  
15 to that effect.

      \*\*\*NOTE: This subsection contains some differences from 1995 Act 56, i.e.,  
inserting "purposes related to" football stadium facilities. Is this OK?

16           **229.826 Powers granted to a municipality or county.** In addition to any  
17 powers that it may otherwise have, a county or municipality located wholly or partly  
18 within a district's jurisdiction may do any of the following:

19           (1) Make grants or loans to a district upon terms that the county or  
20 municipality considers appropriate.

21           (2) Expend public funds to subsidize a district.

22           (3) Borrow money under ss. 67.04 and 67.12 (12) for football stadium facilities  
23 or to fund grants, loans or subsidies to a district.

1 (4) Lease or transfer property to a district upon terms that the county or  
2 municipality considers appropriate.

\*\*\*\*NOTE: Because municipalities and counties may already lease or transfer property, we don't think that sub. (4) is necessary. Do you still want it to remain in the bill?

3 (5) With the consent of a district, establish and collect fees or other charges  
4 applicable only to a football stadium for the right to purchase admission to events at  
5 the stadium, if the proceeds from any amount that is collected under this subsection  
6 are used for purposes related to football stadium facilities.

④ \*\*\*\*NOTE: <sup>We</sup> added the public purpose language which we discussed during our January 14 meeting/teleconference. Is this OK? See also s. 229.824 (13).

7 **229.827 Contracting.** Unless a district board determines that it is not  
8 feasible to do so, the district shall enter into a contract with a professional football  
9 team, as described in s. 229.823, or a related party, that requires the team or related  
10 party to acquire and construct improvements to football stadium facilities that are  
11 part of any facilities that are leased by the district to the team, without regard to  
12 whether the improvements are financed by the district.

\*\*\*\*NOTE: Please review this section carefully. We believe it reflects your intent, as described in your 1/26/00 fax, but the narrative description seems to be at odds with the prepared draft of s. 237.08. Let us know if this section does not reflect your intent. Additionally, this section now includes the term "improvements", which is not used elsewhere in the bill. Did you mean something other than the defined term, "football stadium facilities?"

13 **229.828 Dissolution of a district.** Subject to providing for the payment of  
14 its bonds, including interest on the bonds, and the performance of its other  
15 contractual obligations, a district may be dissolved by the action of the district board.  
16 If the district is dissolved, the property of the district shall be transferred to the  
17 political subdivisions that compose the district's jurisdiction in such proportions as  
18 the secretary of administration determines fairly and reasonably represent the

1 contributions of each political subdivision to the development or improvement of the  
2 football stadium facilities.

\*\*\*\*NOTE: This section contains a few changes from the language you submitted;  
we changed "governmental unit" to "political subdivision". Is it OK?

3 **229.829 Issuance and negotiability of bonds. (1) NEGOTIABILITY.** All bonds  
4 are negotiable for all purposes, notwithstanding their payment from a limited  
5 source.

6 (2) EMPLOYMENT OF FINANCIAL CONSULTANT. A district may retain the building  
7 commission or any other person as its financial consultant to assist with and  
8 coordinate the issuance of bonds.

9 (3) NO PERSONAL LIABILITY. Neither the members of the district board nor any  
10 person executing the bonds is liable personally on the bonds or subject to any  
11 personal liability or accountability by reason of the issuance of the bonds, unless the  
12 personal liability or accountability is the result of wilful misconduct.

13 **229.830 Special debt service reserve funds for moral obligation pledge.**  
14 **(1) DESIGNATION OF SPECIAL DEBT SERVICE RESERVE FUNDS.** A district may designate one  
15 or more accounts in funds created under s. 66.066 (2) (e) as special debt service  
16 reserve funds, if, prior to each issuance of bonds to be secured by each special debt  
17 service reserve fund, the secretary of administration determines that all of the  
18 following conditions are met with respect to the bonds:

\*\*\*\*NOTE: Please review the changes made in this section.

19 (a) *Purpose.* The proceeds of the bonds, other than refunding bonds, will be  
20 used for purposes related to football stadium facilities.

\*\*\*\*NOTE: Please review the changes made in this section.

21 (b) *Feasibility.* The proceeds of bonds, other than refunding bonds, will be used  
22 for feasible projects and there is a reasonable likelihood that the bonds will be repaid

1 without the necessity of drawing on funds in the special debt service reserve fund  
2 that secures the bonds. The secretary of administration may make the  
3 determinations required under this paragraph only after considering all of the  
4 following:

5 1. Whether a pledge of the tax revenues of the district is made under the bond  
6 resolution.

7 2. How the tax revenues of the district are pledged to the payment of the bonds.

8 3. Revenue projections for the project to be financed by the bonds, including tax  
9 revenues, and the reasonableness of the assumptions on which these revenue  
10 projections are based.

11 4. The proposed interest rates of the bonds and the resulting cash-flow  
12 requirements.

13 5. The projected ratio of annual tax revenues to annual debt service of the  
14 district, taking into account capitalized interest.

15 6. Whether an understanding exists providing for repayment by the district to  
16 the state of all amounts appropriated to the special debt service reserve fund  
17 pursuant to sub. (7).

18 7. Whether the district has agreed that the department of administration will  
19 have direct and immediate access, at any time and without notice, to all records of  
20 the district.

21 (c) *Limit on bonds issued backed by moral obligation pledge.* The principal  
22 amount of all bonds, other than refunding bonds, that would be secured by all special  
23 debt service reserve funds of the district under this section will not exceed \$XXXXX  
24 at any one time outstanding.

\*\*\*NOTE: We will need to fill in the bonding amount limit.



1 (d) *Date of issuance.* The bonds, other than refunding bonds, will be issued no  
2 later than December 31,200X.

\*\*\*NOTE: We will need to fill in the date by which the bonds must be issued.

3 (e) *Refunding bonds.* All refunding bonds to be secured by the special debt  
4 service reserve fund meet all of the following conditions:

5 1. The refunding bonds are to be issued to fund, refund or advance refund bonds  
6 secured by a special debt service reserve fund.

7 2. The refunding of bonds by the refunding bonds will not adversely affect the  
8 risk that the state will be called on to make a payment under sub. (7).

9 (f) *Approval of outstanding debt.* All outstanding debt of the district has been  
10 reviewed and approved by the secretary of administration. In determining whether  
11 to approve outstanding debt under this paragraph, the secretary may consider any  
12 factor which the secretary determines to have a bearing on whether the state moral  
13 obligation pledge under sub. (7) should be granted with respect to an issuance of  
14 bonds.

15 (g) *Financial reports.* The district has agreed to provide to the department of  
16 administration, the legislative fiscal bureau and the legislative audit bureau all  
17 financial reports of the district and all regular monthly statements of any trustee of  
18 the bonds on a direct and ongoing basis.

19 (2) **PAYMENT OF FUNDS INTO A SPECIAL DEBT SERVICE RESERVE FUND.** A district shall  
20 pay into any special debt service reserve fund of the district any moneys appropriated  
21 and made available by the state for the purposes of the special debt service reserve  
22 fund, any proceeds of a sale of bonds to the extent provided in the bond resolution  
23 authorizing the issuance of the bonds and any other moneys that are made available

1 to the district for the purpose of the special debt service reserve fund from any other  
2 source.

3 (3) **USE OF MONEYS IN THE SPECIAL DEBT SERVICE RESERVE FUND.** All moneys held  
4 in any special debt service reserve fund of a district, except as otherwise specifically  
5 provided, shall be used, as required, solely for the payment of the principal of bonds  
6 secured in whole or in part by the special debt service reserve fund, the making of  
7 sinking fund payments with respect to these bonds, the purchase or redemption of  
8 these bonds, the payment of interest on these bonds or the payment of any  
9 redemption premium required to be paid when these bonds are redeemed prior to  
10 maturity. If moneys in a special debt service reserve fund at any time are less than  
11 the special debt service reserve fund requirement under sub. (5) for the special debt  
12 service reserve fund, the district may not use these moneys for any optional purchase  
13 or optional redemption of the bonds. Any income or interest earned by, or increment  
14 to, any special debt service reserve fund due to the investment of moneys in the  
15 special debt service reserve fund may be transferred by the district to other funds or  
16 accounts of the district to the extent that the transfer does not reduce the amount of  
17 the special debt service reserve fund below the special debt service reserve fund  
18 requirement under sub. (5) for the special debt service reserve fund.

19 (4) **LIMITATION ON BONDS SECURED BY SPECIAL DEBT SERVICE RESERVE FUND.** A  
20 district shall accumulate in each special debt service reserve fund an amount equal  
21 to the special debt service reserve fund requirement under sub. (5) for the special  
22 debt service reserve fund. A district may not at any time issue bonds secured in whole  
23 or in part by a special debt service reserve fund if upon the issuance of these bonds  
24 the amount in the special debt service reserve fund will be less than the special debt

1 service reserve fund requirement under sub. (5) for the special debt service reserve  
2 fund.

3 (5) SPECIALDEBTSERVICERESERVEFUNDREQUIREMENT. Thespecialdebt service  
4 reserve fund requirement for a special debt service reserve fund, as of any particular  
5 date of computation, is equal to an amount of money, as provided in the bond  
6 resolution authorizing the bonds with respect to which the special debt service  
7 reserve fund is established, that may not exceed the maximum annual debt service  
8 on the bonds of the district for the fiscal year in which the computation is made or  
9 any future fiscal year of the district secured in whole or in part by that special debt  
10 service reserve fund. In computing the annual debt service for any fiscal year, bonds  
11 deemed to have been paid in accordance with the defeasance provisions of the bond  
12 resolution authorizing the issuance of the bonds shall not be included in bonds  
13 outstanding on the date of computation. The annual debt service for any fiscal year  
14 is the amount of money equal to the aggregate of all of the following calculated on the  
15 assumption that the bonds will, after the date of computation, cease to be  
16 outstanding by reason, but only by reason, of the payment of bonds when due, and  
17 the payment when due, and application in accordance with the bond resolution  
18 authorizing those bonds, of all of the sinking fund payments payable at or after the  
19 date of computation:

~~XAAA~~ NOTE: <sup>(5)</sup> please review the changes made in this subsection.

20 (a) All interest payable during the fiscal year on all bonds that are secured in  
21 whole or in part by the special debt service reserve fund and that are outstanding on  
22 the date of computation.

23 (b) The principal amount of all of the bonds that are secured in whole or in part  
24 by the special debt service reserve fund, are outstanding on the date of computation  
25 and mature during the fiscal year.

1 (c) All amounts specified in bond resolutions of the district authorizing any of  
2 the bonds that are secured in whole or in part by the special debt service reserve fund  
3 to be payable during the fiscal year as a sinking fund payment with respect to any  
4 of the bonds that mature after the fiscal year.

5 (6) VALUATION OF SECURITIES. In computing the amount of a special debt service  
6 reserve fund for the purposes of this section, securities in which all or a portion of the  
7 special debt service reserve fund is invested shall be valued at par, or, if purchased  
8 at less than par, at their cost to the district.

9 (7) STATE MORAL OBLIGATION PLEDGE. If at any time of valuation the special debt  
10 service reserve fund requirement under sub. (5) for a special debt service reserve  
11 fund exceeds the amount of moneys in the special debt service reserve fund, the  
12 district board shall certify to the secretary of administration, the governor, the joint  
13 committee on finance and the governing body of the county in the district the amount  
14 necessary to restore the special debt service reserve fund to an amount equal to the  
15 special debt service reserve fund requirement under sub. (5) for the special debt  
16 service reserve fund. If this certification is received by the secretary of  
17 administration in an even-numbered year prior to the completion of the budget  
18 compilation under s. 16.43, the secretary shall include the certified amount in the  
19 budget compilation. In any case, the joint committee on finance shall introduce in  
20 either house, in bill form, an appropriation of the amount so certified to the  
21 appropriate special debt service reserve fund of the district. Recognizing its moral  
22 obligation to do so, the legislature hereby expresses its expectation and aspiration  
23 that, if ever called upon to do so, it shall make this appropriation.

\*\*\*\*NOTE: Your original language provided that the district board must make the certification to *each* county in the district; we changed this to *the* county in the district, because the district will comprise only one county,

1 (8) INFORMATION TO JOINT COMMITTEE ON FINANCE. The district shall provide to  
2 the cochairpersons of the joint committee on finance information concerning the  
3 district's projected cashflows and security features underlying each issuance of  
4 bonds under this subchapter.

5 **229.831 Bonds not public debt. (1)** The state and the county and  
6 municipalities located wholly or partly within the district's jurisdiction are not liable  
7 on bonds and the bonds are not a debt of the state or the county or any municipality  
8 located wholly or partly within the district. All bonds shall contain a statement to  
9 this effect on the face of the bond. A bond issue does not, directly or indirectly or  
10 contingently, obligate the state or a political subdivision of the state to levy any tax  
11 or make any appropriation for payment of the bonds.

\*\*\*\*NOTE: Your original language referred to each county; we changed this to the  
county, because the district will comprise only one county. *Also, please review the changes  
regarding "wholly or partly within the district's jurisdiction."*

12 (2) Nothing in this subchapter authorizes a district to create a debt of the state  
13 or the county or any municipality located wholly or partly within the district's  
14 jurisdiction, and all bonds issued by a district are payable, and shall state that they  
15 are payable, solely from the funds pledged for their payment in accordance with the  
16 bond resolution authorizing their issuance or in any trust indenture or mortgage or  
17 deed of trust executed as security for the bonds. Neither the state nor the county or  
18 any such municipality is liable for the payment of the principal of or interest on a  
19 bond or for the performance of any pledge, mortgage, obligation or agreement that  
20 may be undertaken by a district. The breach of any pledge, mortgage, obligation or  
21 agreement undertaken by a district does not impose pecuniary liability upon the  
22 state or the county or any such municipality in the district's jurisdiction or a charge  
23 upon its general credit or against its taxing power.

\*\*\* NOTE <sup>CS</sup> please review the changes made in this  
subsection.

1 (3) Bonds issued by the district may be secured only by the district's interest  
2 in any football stadium facilities, by income from these facilities, by proceeds of bonds  
3 issued by the district and by other amounts placed in a special redemption fund and  
4 investment earnings on such amounts, including any taxes imposed by the district  
5 under subch. V of ch. 77. The district may not pledge its full faith and credit on the  
6 bonds and the bonds are not a general obligation liability of the district.

7 **229.832 State pledge.** The state pledges to and agrees with the bondholders,  
8 and persons that enter into contracts with a district under this subchapter, that the  
9 state will not limit or alter the rights and powers vested in a district by this  
10 subchapter, including the rights and powers under s. 229.824 (15), before the district  
11 has fully met and discharged the bonds, and any interest due on the bonds, and has  
12 fully performed its contracts, unless adequate provision is made by law for the  
13 protection of the bondholders or those entering into contracts with a district.

14 **229.833 Trust funds.** All moneys received under this subchapter, whether as  
15 proceeds from the sale of bonds or from any other source, are trust funds to be held  
16 and applied solely as provided in this subchapter. Any officer with whom, or any  
17 bank or trust company with which, those moneys are deposited shall act as trustee  
18 of those moneys and shall hold and apply the moneys for the purposes of this  
19 subchapter, subject to this subchapter and the bond resolution authorizing issuance  
20 of the bonds.

21 **229.834 Budgets; rates and charges; audit.** A district shall adopt a  
22 calendar year as its fiscal year for accounting purposes. The district board shall  
23 annually prepare a budget for the district. Rates and other charges received by the  
24 district shall be used for the general expenses and capital expenditures of the district  
25 and to pay interest, amortization, and retirement charges on bonds. A district shall

1 maintain an accounting system in accordance with generally accepted accounting  
2 principles and shall have its financial statements and debt covenants audited  
3 annually by an independent certified public accountant.

4 **SECTION 37.** 704.31 (3) of the statutes is renumbered 704.31 (3) (intro.) and  
5 amended to read:

6 704.31 (3) (intro.) This section does not apply to a lease to which a local  
7 ~~professional baseball park district created under subch. III of ch. 229~~ any of the  
8 following is a party; :

9 **SECTION 38.** 704.31 (3) (a) of the statutes is created to read:

10 704.31 (3) (a) A professional baseball park district created under subch. III of  
11 ch. 229.

12 **SECTION 39.** 704.31 (3) (b) of the statutes is created to read:

13 704.31 (3) (b) A professional football stadium district created under subch. IV  
14 of ch. 229.

\*\*\*\*NOTE: Although s. 704.31 (3) was not treated in your draft, are we correct in  
assuming that you want to treat this statute as we've done?

15 **SECTION 40.** 779.14 (1m) (d) 2. b. of the statutes is amended to read:

16 779.14 (1m) (d) 2. b. ~~The Except as provided in sub. (4), the contract shall~~  
17 require the prime contractor to provide a payment and performance bond meeting  
18 the requirements of par. (e), unless the public body authorized to enter into the  
19 contract allows the prime contractor to substitute a different payment assurance for  
20 the payment and performance bond. The public body may allow a prime contractor  
21 to substitute a different payment and performance assurance for the payment and  
22 performance bond only if the substituted payment and performance assurance is for  
23 an amount at least equal to the contract price and is in the form of a bond, an

1 irrevocable letter of credit or an escrow account acceptable to the public body. The  
2 public body shall establish written standards under this subd. 2. b. governing when  
3 a different payment and performance assurance may be substituted for a payment  
4 and performance bond under par. (e).

5 **SECTION 41.** 779.14 (lm) (d) 3. of the statutes is amended to read:

6 779.14 **(1m)** (d) 3. ~~In~~ Except as provided in sub. (4), in the case of a contract with  
7 a contract price exceeding \$100,000, as indexed under sub. (Is), the contract shall  
8 require the prime contractor to obtain a payment and performance bond meeting the  
9 requirements under par. (e).

10 **SECTION 42.** 779.14 (4) of the statutes is created to read:

11 779.14 (4) **BONDING EXEMPTIONS.** ~~A~~ A contract with a local professional football  
12 stadium district under subch. IV of ch. 229 is not required under sub. (1m) (d) 2. b.  
13 or 3. to include a provision requiring the prime contractor to provide or obtain a  
14 payment and performance bond or other payment assurance.

\*\*\*\*NOTE: This provision exempts the local professional football stadium district  
from the bonding requirements that apply to local government public improvement  
contracts. Other provisions relating to public improvement contracts still apply. Please  
let us know if you intend a broader exemption.

15 **SECTION 43. Initial applicability.**

16 (1) The treatment of sections 71.05 (1) (c) 5., 71.26 (1) (bm) and (1m) (g), 71.36  
17 (1m) and 71.45 (1t) (g) of the statutes first applies to taxable years beginning on  
18 January 1, 2000.

19 **SECTION 44. Effective dates.** This act takes effect on the day after publication,  
20 except as follows:

21 (1) The treatment of section 77.54 (45) of the statutes takes effect on the first  
22 day of the 2nd month beginning after publication.

23 **(END)**



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

LRB-4242/P2  
MES/JTK/RAC/JK:cmh:km

January 28, 2000

Representative Gard:

1. Per our discussion of January 14, this draft, in proposed s. 229.823, establishes a district's jurisdiction in such a way that there is no scenario that envisions a relocated stadium. Therefore, if for any reason the current thinking shifts on this point, the district will not have jurisdiction to become involved. We do not think this necessarily impairs the open class because the draft still permits a new stadium to be sited potentially in any county having a population of 150,000 or more.

2. Under proposed ss. 77.54 (45) (c), 229.824 (13) and 229.826 (5), we have substituted references to fees or other charges for the right to purchase "admission" rather than "tickets". Though the difference is subtle, it seemed to us that the concept of a public entity deciding who may purchase tickets to a privately produced event is potentially awkward. We were more comfortable with the concept of an admissions fee.

3. There are several references in the draft to municipalities contained within a district's jurisdiction. Because under current Wisconsin law, a city or village may be located in more than one county (and over 40 of them are), we have changed these references to municipalities that are **wholly or partly** contained within a district's jurisdiction. This is just an effort to maintain an open class by dealing with every potential situation. You could, if you wish, substitute references to municipalities that are *wholly* contained within a district's jurisdiction.

4. Concerning the appropriations to DOA (your treatment of s. 20.505 (1) (ka) and (kc), stats.), we did not think this treatment was necessary because under this draft, unlike 1995 Act 56, DOA does not provide services generally to the football stadium district. However, even though 1995 Act 56 did not include this detail, we do think the draft should properly include a program revenue appropriation to the building commission to implement the amendment of s. 18.03 (5s) and proposed s. 229.829 (2). See proposed s. 20.867 (5) (g).

5. Concerning the legislative declaration, the last sentence of proposed s. 229.820 (1) asserts that the taxes that may be imposed by the district are special taxes. Although this language appeared in 1995 Act 56, the courts will presumably make this determination independently. It would be more helpful and appropriate in this context to explain why the taxes are special taxes. The rest of the declaration provides interpretive guidance, but this sentence does not.

6. For this draft, we have included an appropriation for administration of local professional football stadium taxes but have specified "\$-0-" for expenditure in fiscal years 1999-00 and 2000-01. When you know the dollar amounts that you need to include in the proposal, contact us and we will either redraft the proposal or draft an amendment, whichever is appropriate.

**Constitutional issues:**

This draft adheres to the structure of 1995 Act 56 in most respects, and the constitutionality of several provisions of that act were upheld in *Libertarian Party v. State*, 199 Wis.2d 790 (1996). Therefore, the issues that were novel prior to enactment of 1995 Act 56 have now in many instances been reviewed and decided. There is no better authority on a point of state law than a recent holding of the Wisconsin Supreme Court that is almost directly in point. Nevertheless, the language and reasoning of that decision in some cases left unexplained logical issues and inconsistencies with the Court's prior decisions, which may indicate that there is some risk that the Court might refine its thinking if the issues are ably reargued. Every enactment of the legislature enjoys a presumption of constitutionality and any doubt must be resolved in favor of the constitutionality of a statute. *Samb's v. City of Brookfield*, 97 Wis. 2d 356 at 370 (1980). Given this situation, it may be the better part of wisdom to design this draft to fit this recent holding as closely as possible. However, because alternative choices are available, we raise these issues for your consideration:

1. Article VIII, section 10<sup>district</sup> of the Wisconsin Constitution prohibits the state from being a party to carrying on works of internal improvement. In *Libertarian Party*, because the Court found that construction of stadium facilities serves a predominately governmental purpose, it found no violation of the internal improvements clause. 199 Wis. 2d 790 at 816. In other cases, however, the Court has said this is not enough: see, for example, *State ex rel. Jones v. Froehlich*, 115 Wis. 32 (1902), where the Court requires that there be an essential governmental function and that private capital be inadequate to fund the project. 115 Wis. 32 at 41. See also *State ex rel. Martin v. Giessel*, 252 Wis. 363 at 365-374 (1948) and *Dept. of Development v. Building Comm.*, 139 Wis. 2d 1 at 9-11 (1987). In *Libertarian Party*, the Court did not distinguish these cases. Because the public purpose doctrine stands independently of the internal improvements clause [see, for example, *Ruth v. Community Hospital*, 160 Wis. 2d 853 at 862 (Ct. App., 1991)], it would have been helpful for the Court to explain what, if anything, remains of the internal improvements clause under its revised interpretation. If the line of cases that precedes *Libertarian Party* retains any vigor, it may be helpful to include a legislative finding that private capital is insufficient to fund needed capital investments in professional football stadium facilities. Despite the remaining uncertainty, it should be noted that while this draft retains state involvement in at least 3 ways (see proposed ss. 229.822 (2) (a) and (4), 229.829 (2) and 229.830), it does not retain any requirement for the department of administration to provide services generally to a football stadium district (see ss. 16.82 and 16.854, stats.), so state involvement here is less extensive than under *Libertarian Party*. To resolve all uncertainty, however, state involvement would need to be completely removed.

2. Also related to the issue of state involvement is the line of cases that holds that tax revenue must be spent at the level of government at which the tax is raised. See *State ex rel. Warren v. Nusbaum*, 59 Wis. 2d. 391 at 421 (1973) and 77 Marquette Law Review, 466-67 (1994). If the district is not viewed as a unit of local government, this principle would be offended. The draft states that the district is a unit of local government [see proposed s. 229.822 (1)]. However, under proposed s. 229.822 (2) (a) and (4), the governor appoints two members of the district board and designates the chairperson. Unfortunately, the Court in *Libertarian Party* did not determine what exactly constitutes a unit of local government, thereby leaving for another day the issue of whether a unit of government, like this one, with mixed state and local control is pure enough to pass the test. The fact that under this draft, unlike *Libertarian Party*, a local referendum is required to approve a sales tax and use tax levy may help to tilt the balance in favor of viewing this district as local.

3. Also related to the issue of expenditure at the level of taxation is the question of whether this principle would be offended if a municipality or county subsidizes a district, as authorized in proposed s. 229.826. Here again, this issue was not discussed in *Libertarian Party*. It can probably be said, however, that if any subsidy would serve a legitimate, independent public purpose of the municipality or county, rather than serve simply as a means of circumventing revenue raising at the district level, the proposed language, as applied, would not offend the "spend at the level of taxation" principle.

4. Article XI, section 3 (2), of the Wisconsin Constitution imposes a debt limitation on "municipal corporation[s]". Article XI, section 3 (3) further requires that any such indebtedness be repaid within 20 years by levying a direct, annual [property] tax. However, Article XI, section 3 (5), provides that the debt limitation does not apply to indebtedness created for the purpose of "purchasing, acquiring, leasing, constructing, extending, adding to, improving, conducting, controlling, operating or managing a public utility of a . . . special district...[if]...secured solely by the property or income of such public utility...". Taking advantage of this exception, the draft, like 1995 Act 56, provides in its treatment of s. 66.067, stats., that football stadium facilities are public utilities. *Libertarian Party* in effect holds that the legislature's classification of baseball stadium facilities as "public utilities" is a permissible interpretation of the term. 199 Wis. 2d 790 at 820. In that case, the Court held that the indebtedness of a baseball district is not public debt governed by the limitation, although the Court notes that the indebtedness is not secured solely by the "property or income of such public utility [stadium facilities]", as provided in Article XI, section 3 (5), but also by "the proceeds of the bonds issued by the District, and by sales and use taxes imposed by the District." 19 Wis. 2d 790 at 819. Although the Court in *Libertarian Party* cites *City of Hartford v. Kirley*, 172 Wis. 2d. 191 at 207 (1992), for the proposition that the District's bonded indebtedness has the same characteristics as special assessment bonds, in that bond revenue is placed in a special fund for debt retirement, *Hartford* seems to suggest that the special fund revenue must be from the project being funded. 172 Wis. 191 at 208-209 and 212. In *Libertarian Party*, therefore, the Court seems to overrule *Hartford* (and preceding cases cited therein) without expressly saying so. It would have been helpful had the Court made this clear so that no future questions would be raised. To

eliminate all potential questions regarding this issue, the draft would have to provide that the district's bonded indebtedness is secured only by the property or income of the stadium facilities. This may be an unacceptable policy choice, however.

If you have any further questions regarding the above issues, please let us know.

As a reminder, this draft is preliminary because certain figures are not included in this version. We know that you will be making some revisions to this draft. The revisions should include insertion of the proper figures (with the exception of the appropriation mentioned in point 6 above, if you wish to defer that). If the revisions are not extensive, we would hope to produce a final draft within a relatively short timeframe.



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

LRB-4242/P3dn  
MES/JTK/RAC/JK:cmh:jf

January 28, 2000

Representative Gard:

1. Per our discussion of January 14, this draft, in proposed s. 229.823, establishes a district's jurisdiction in such a way that there is no scenario that envisions a relocated stadium. Therefore, if for any reason the current thinking shifts on this point, the district will not have jurisdiction to become involved. We do not think this necessarily impairs the open class because the draft still permits a new stadium to be sited potentially in any county having a population of 150,000 or more.

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

LRB-4242/P1dn  
JTK/MES/RAC/JK:cmh:hmh

January 24, 2000

1. Concerning the appropriations to DOA (your treatment of s. 20.505 (1) (ka) and (kc), stats.), we did not think this treatment was necessary because under this draft, unlike 1995 Act 56, DOA does not provide services generally to the football stadium district. However, even though 1995 Act 56 did not include this detail, we do think the draft should properly include a program revenue appropriation to the building commission to implement the amendment of s. 18.03 (5s) and proposed s. 229.829 (2). See proposed s. 20.867 (5) (g).

2. Concerning the legislative declaration, the last sentence of proposed s. 229.820 (1) asserts that the taxes that may be imposed by the district are special taxes. Although this language appeared in 1995 Act 56, the courts will presumably make this determination independently. It would be more helpful and appropriate in this context to explain why the taxes are special taxes. The rest of the declaration provides interpretive guidance, but this sentence does not.

3. For this draft, we have included an appropriation but have specified "\$-0-" for expenditure in fiscal years 1999-00 and 2000-01. When you know the dollar amounts that you need to include in the proposal, contact us and we will either redraft the proposal or draft an amendment, whichever is appropriate.

***Constitutional issues:***

This draft adheres to the structure of 1995 Act 56 in most respects, and the constitutionality of several provisions of that act were upheld in *Libertarian Party v. State*, 199 Wis.2d 790 (1996). Therefore, the issues that were novel prior to enactment of 1995 Act 56 have now in many instances been reviewed and decided. There is no better authority on a point of state law than a recent holding of the Wisconsin Supreme Court that is almost directly in point. Nevertheless, the language and reasoning of that decision in some cases left unexplained logical issues and inconsistencies with the Court's prior decisions, which may indicate that there is some risk that the Court might refine its thinking if the issues are ably reargued. While given this situation, it may be the better part of wisdom to design this draft to fit this recent holding as closely as possible, because alternative choices are available, we raise these issues for your consideration:

1. Article VIII, section 10, of the Wisconsin Constitution prohibits the state from being a party to carrying on works of internal improvement. In *Libertarian Party*, because the Court found that construction of stadium facilities serves a predominately

governmental purpose, it found no violation of the internal improvements clause. 199 Wis. 2d 790 at 816. In other cases, however, the Court has said this is not enough: see, for example, *State ex rel. Jones v. Froehlich*, 115 Wis. 32 (1902), where the Court requires that there be an essential governmental function and that private capital be inadequate to fund the project. 115 Wis. 32 at 41, quoted in *Dept. of Development v. Building Comm.*, 139 Wis. 2d 1, 9 (1987). See also *State ex rel. Martin v. Giessel*, 252 Wis. 363 at 365-374 (1978). In *Libertarian Party*, the Court did not distinguish these cases. Because the public purpose doctrine stands independently of the internal improvements clause [insert cite], it would have been helpful for the Court to explain what, if anything, remains of the internal improvements clause under its revised interpretation. Despite this remaining uncertainty, it should be noted that while this draft retains state involvement in at least 3 ways (see proposed ss. 229.822 (2) (a) and (4), 229.829 (2) and 229.830), it does not retain any requirement for the department of administration to provide services generally to a football stadium district (see ss. 16.82 and 16.854, stats.), so state involvement here is less extensive than under *Libertarian Party*.

2. Also related to the issue of state involvement is the line of cases that holds that tax revenue must be spent at the level of government at which the tax is raised. See *State ex rel. Warren v. Nusbaum*, 59 Wis. 2d. 421 (1973) and 77 Marquette Law Review, 466-67 (1994). If the district is not viewed as a unit of local government, this principle would be offended. The draft states that the district is a unit of local government [see proposed s. 229.822 (1)]. Unfortunately, the *Court in Libertarian Party* did not determine what exactly constitutes a unit of local government, thereby leaving for another day the issue of whether a unit of government, like this one, with mixed state and local control is pure enough to pass the test. The fact that under this draft, unlike *Libertarian Party*, a local referendum is required to approve a sales tax and use tax levy may help to tilt the balance in favor of viewing this district as local.

3. Also related to the issue of expenditure at the level of taxation is the question of whether this principle would be offended if a municipality or county subsidizes a district, as authorized in proposed s. 229.826. Here again, this issue was not discussed in *Libertarian Party*. It can probably be said, however, that if any subsidy would serve a legitimate, independent public purpose of the municipality or county, rather than serve simply as a means of circumventing revenue raising at the district level, the proposed language would not offend the “spend at the level of taxation” principle.

4. Article XI, section 3 (2), of the Wisconsin Constitution imposes a debt limitation on “municipal corporation[s]”. Article XI, section 3 (3) further requires that any such indebtedness be repaid within 20 years by levying a direct, annual [property] tax. However, Article XI, section 3 (5) provides that the debt limitation does not apply to indebtedness created for the purpose of “purchasing, acquiring, leasing, constructing, extending, adding to, improving, conducting, controlling, operating or managing a public utility of a . . . special district...[if]...secured solely by the property or income of such public utility.. .”. Taking advantage of this exception, the draft, like 1995 Act 56, provides in its treatment of s. 66.067, stats., that football stadium facilities are public utilities. *Libertarian Party* in effect holds that the legislature’s classification of baseball stadium facilities as “public utilities” is a permissible interpretation of the

term. 199 Wis. 2d 790 at 820. In that case, the Court held that the indebtedness of a baseball district is not public debt governed by the limitation, although the Court notes that the indebtedness is not secured solely by the “property or income of such public utility [stadium facilities]”, as provided in Article XI, section 3 (5), but also by “the proceeds of the bonds issued by the District, and by sales and use taxes imposed by the District.” 19 Wis. 2d 790 at 819. Although the Court in *Libertarian Party* cites *City of Hartford v. Kirley*, 172 Wis. 2d. 191 at 207 for the proposition that the District’s bonded indebtedness has the same characteristics as special assessment bonds, in that bond revenue is placed in a special fund for debt retirement, *Hartford* seems to suggest that the special fund revenue must be from the project being funded. 172 Wis. 191 at 208–209 and 212. In *Libertarian Party*, therefore, the Court seems to overrule *Hartford* (and preceding cases cited therein) without expressly saying so. It would have been helpful had the Court made this clear so that no future questions would be raised.

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CLIENT/MATTER NUMBER  
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January 24, 2000

**VIA FACSIMILE**

Mr. Marc E. Shovers  
State of: Wisconsin  
Legislative Reference Bureau  
100 North Hamilton  
Madison, Wisconsin 53701

Re; Football Stadium Legislation

Dear Marc:

Here is a suggested new provision providing for an exemption from the requirement for surety bonds under s. 779.14.

Very truly yours,



Richard A. Weiss

Enclosure

ADDITION TO  
FOOTBALL STADIUM LEGISLATION

Section \_\_\_\_ . 779.14(4) of the statutes is created to read:

2

779.14(4) Contracts with a local professional football stadium district ~~or~~ in respect of a football stadium under \_\_\_\_\_ are exempt from the provisions of this section.

subch IV of ch. 229

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January 26, 2000

VIA FACSIMILE

Mr. Marc E. Shovers  
State of Wisconsin  
**Legislative** Reference Bureau  
100 North Hamilton  
Madison, Wisconsin 53701

Re: Football Stadium Legislation

Dear Marc:

**Enclosed** is a **proposed** replacement for what had been labeled Section 237.08 on page 13 of the January 11, 2000 draft of legislation that I furnished to **your** office.

The purpose of this replacement section is to make clear that, absent extraordinary **circumstances**, the football **stadium improvements are to be** constructed by the football team rather than the football district.

Very truly yours,



Richard A. Weiss

Enclosure

cc Mr. John Jones  
Mr. Robert P. **DUM**  
Mr. John W. Matthews

1/26/00

:

PROPOSED REVISION TO  
SECTION 237.08 OF **THE**  
FOOTBALL STADIUM **LEGISLATION**

R. v. 3  
2

237.08 Contracting. Unless the district board determines that it is not feasible to do so, the district shall enter into a contract with a professional football team or a party controlled by or under common control ~~with~~ a professional. football team to acquire and construct, in **such manner** as the professional **football** team or such party deems appropriate, any football stadium **improvements to** be leased by **the** district to the professional football team, whether or nor the **football stadium improvements are financed by the district.**

+ ANAL



2/1/00 Teleconference

RICK WEISS (414) 297 5756

1) provides <sup>an</sup> ~~appropriate~~ approp. <sup>trans. fund</sup> ~~to~~ from (state) to D for trans. infrastructure

for parking & other trans related items

NO \$ amt yet

sum certain approp to be filled in later - maybe after introduction

2) Affinity plate request will probably arise as Am. request after introduction

3) ~~77.54(4)~~ - see p. 5, item 10 -

3) p. 21, ll 10 - - <sup>(only)</sup> old def mean, a portion of a complex? Where does "stadium" end & amenities begin

4) p. 21, ll 15 - 20 concern: eliminate concept that it be owned, operated or leased by District

Govt - "facilities" include the list of amenities

5) could do w/out sub. (8) p. 21, l. 21 -

pick - don't care if in or out, but thinks I'd be out



⑥ p. 22, l. 8: addition — its unclear in which entity various holdings are housed —

Δ preserves flexibility, —  
facturers may prefer a "sister" corp instead of a subsidiary.

⑦ What if stadium site straddles 2 counties — see p. 24, l. 17

⑧ p. 26, ll 10-11 AM, 66.24 to take ~~the~~ District out of coverage by 66.04(2)

JTK