



WISCONSIN LEGISLATIVE COUNCIL ACT MEMO

2015 Wisconsin Act 60
[2015 Senate Bill 209]

**Basketball Arena and Related
Facilities**

2015 Wisconsin Act 60 provides for financing and agreements relating to the development and construction of a basketball arena and related facilities (together, “arena facilities”) in the City of Milwaukee. A comprehensive summary of the Act, prepared by the Legislative Fiscal Bureau, is available at the following link: http://legis.wisconsin.gov/lfb/publications/Miscellaneous/Documents/2015_08_18%20WILeg%20Milwaukee%20Sports%20Arena.pdf.

WISCONSIN CENTER DISTRICT AUTHORITY AND BOARD COMPOSITION

The Act authorizes the Wisconsin Center District, an existing special purpose district, to acquire, construct, and equip arena facilities or engage other persons to do so. The Act authorizes the Wisconsin Center District to maintain, improve, operate, and manage the arena facilities only with funds received from a professional basketball team as a result of a breach of an agreement with the Wisconsin Center District.

Under **prior law**, the Wisconsin Center District was governed by a 15-member board, composed of members with specified qualifications. **The Act** provides for the replacement of all members who are currently serving on the board and modifies the composition of the board.

Under the Act, the Wisconsin Center District must be governed by a 17-member interim board during the period when the arena facilities are under construction. During that time, the Act requires the Secretary of the Department of Administration (DOA) to serve as chair of the Wisconsin Center District board. Before other members of the interim board are certified, DOA Secretary may act independently on behalf of the board. Among other modifications to the composition of the interim board under the Act, the Speaker of the Assembly and the Majority Leader of the Senate and the Minority Leaders of the Assembly and Senate, or their designees, serve on the board rather than the Co-Chairs of the Joint Committee on Finance.

This memo provides a brief description of the Act. For more detailed information, consult the text of the law and related legislative documents at the Legislature’s Web site at: <http://www.legis.wisconsin.gov>.

After construction is completed, the Act provides for the establishment of a new board with a different composition. Among other changes to the composition of the post-construction board, the Act authorizes the DOA Secretary to designate a person to serve in his or her place after the construction of arena facilities is completed.

FINANCING

Briefly, the Act provides for the financing of arena facilities with \$250 million in public funds and \$250 million in private funds. Sources of the public funds include \$47 million from the City of Milwaukee and \$203 million in bonding by the Wisconsin Center District. Under the Act, the Wisconsin Center District bond obligations are financed with: (1) up to \$80 million over a 20-year period from the state's general fund; (2) up to \$80 million over a 20-year period from a reduction in municipal aid to Milwaukee County; and (3) anticipated revenues from a food and beverage tax imposed by the Wisconsin Center District.

In addition to the changes discussed below, the Act modifies tax incremental financing laws to facilitate the use of tax incremental financing for the construction of parking facilities ancillary to arena facilities.

Food and Beverage Tax

Prior law authorized the Wisconsin Center District to impose a tax on certain retail sales of alcoholic beverages, candy, prepared foods, and soft drinks, but it prohibited the imposition of such taxes beginning a specified time after the bonds issued by the Wisconsin Center District in the mid-1990s are retired. **The Act** authorizes the imposition of certain such taxes beyond that date if the continued imposition is approved by a majority vote of the Wisconsin Center District board.

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

Ticket Surcharge

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

DEVELOPMENT AGREEMENT, NON-RELOCATION AGREEMENT, AND LEASE

The Act requires the Wisconsin Center District to enter into a development agreement, non-relocation agreement, and lease with a professional basketball team or its affiliate, subject to certain requirements. The DOA Secretary must negotiate all three contracts on behalf of the Wisconsin Center District, and it authorizes the DOA Secretary to execute the contracts without approval of the Wisconsin Center District board. However, any subsequent amendments, renewals, or extensions of the contracts are subject to board approval.

Development Agreement

The development agreement must require the professional basketball team or its affiliate to develop and construct arena facilities, and it must grant the professional basketball team or its affiliate the right to operate and manage the arena facilities.

Before the development agreement is executed, the DOA Secretary must certify that the professional basketball team or its affiliate has agreed to fund at least \$250 million for the project. Execution of the non-relocation agreement is also a prerequisite for the development agreement.

Non-Relocation Agreement

The non-relocation agreement must include certain, specified terms, which apply during the period of the lease. Among other terms, the non-relocation agreement must require the professional basketball team to play substantially all of its home games at the arena and maintain its membership in the National Basketball Association (NBA) or its successor.

Lease

The term of the lease must be for 30 years, and the professional basketball team must have the option of extending the lease twice, each time for five years. The lease must provide that the professional basketball team or its affiliate is responsible for equipping, maintaining, operating, repairing, and improving the arena facilities. The Act also specifies that the Wisconsin Center District may undertake such activities only in the event that the professional basketball team has breached its re-location agreement or lease with the district and only from moneys received from the professional basketball team or its parent company or affiliate.

Enforcement

The Act authorizes the Wisconsin Center District to enforce the lease.

The Act authorizes the state, the Wisconsin Center District, the City of Milwaukee, and Milwaukee County to act individually or collectively to enforce the non-relocation agreement in the event that the professional basketball team or its affiliate breaches the agreement. The Act specifies certain remedies to which those entities are entitled if they prevail in such an enforcement action, including injunctive relief and certain liquidated damages.

STATE RESPONSIBILITY AND MORAL OBLIGATION PLEDGE

The Act provides that the state is not responsible for equipping, maintaining, operating, improving, or repairing the arena facilities authorized under the bill.

In addition, **prior law**, generally retained by the Act, provides a moral obligation pledge, in which the Legislature expresses its expectation and aspiration that, if ever called upon to do so, it will appropriate funds necessary to restore an insufficiency in the special fund used for debt obligations for bonds issued by the Wisconsin Center District. However, **the Act** provides that the state moral obligation pledge does not apply to reserve fund shortfalls that are related to bonds issued by the Wisconsin Center District to fund the construction of arena facilities. The Act further specifies that the state moral obligation also does not apply to any refunding bonds issued by the Wisconsin Center District to fund the construction of arena facilities.

TAX EXEMPTIONS

Property Taxes

Prior law provided a property tax exemption for property owned by the Wisconsin Center District. **The Act** specifies that the exemption generally applies to arena facilities authorized to be constructed under the Act, except the exemption generally does not apply to arena facilities that are regularly open to the general public, including at times when arena facilities are not being used for events that involve the arena floor and seating bowl, and are used, leased, or subleased for use as a restaurant or for any use for which an alcohol beverage license is required. However, the exemption from property taxes applies to the outdoor plaza area, even if the area is used in that manner.

Sales Taxes

The Act provides an exemption from state sales and use taxes for the sale of and the storage, use, or other consumption of certain personal property and taxable services acquired or used solely for (or in) the construction or development of the arena facilities authorized by the Act. However, under the Act, the sales tax exemption no longer applies beginning one year after the Secretary of the DOA certifies that the construction of the arena has been completed.

BRADLEY CENTER

The Act appropriates \$10 million in the 2015-16 fiscal year for the purpose of assisting the Bradley Center Sports and Entertainment Corporation to retire its obligations and any contractual liabilities. After the DOA Secretary certifies that the new arena facilities are completed, the Act authorizes the Bradley Center Sports and Entertainment Corporation to divest itself of the existing Bradley Center facility and dissolve.

The Act authorizes the transfer of the existing Bradley Center facility from the Bradley Center Sports and Entertainment Corporation to the Wisconsin Center District and requires the Wisconsin Center District to enter into one or more transfer agreements with the Bradley Center Sports and Entertainment Corporation regarding such a transfer, which must be for nominal consideration. The Act also authorizes the Wisconsin Center District to sell or otherwise dispose of unneeded or unwanted property.

BOARD OF COMMISSIONERS OF PUBLIC LANDS

The Board of Commissioners of Public Lands (BCPL) manages several trust funds, from which it may make investments. **Prior law** enumerated specific types of bonds, notes, securities, and other instruments of indebtedness that the BCPL was authorized to purchase with trust fund assets. **The Act** replaced the enumerated list with general authority to invest trust fund assets in good faith and in accordance with the ordinary prudent person investment standard applicable to specified fund managers.

In addition, **prior law**, retained by the Act, authorized BCPL to provide loans to various government entities. **The Act** authorizes BCPL to provide a loan to the Wisconsin Center District

for the purpose of financing the acquisition, construction, and equipment costs for arena facilities.

FORECLOSURE PROCESS IN MILWAUKEE COUNTY

The Act makes various changes specific to the foreclosure of property in Milwaukee County.

Effective date: The Act generally took effect on August 14, 2015.

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