
Wisconsin Legislative Council

AMENDMENT MEMO



Memo published: November 14, 2023 **Contact:** Tom Koss, Staff Attorney, and Ethan Lauer, Senior Staff Attorney

2023 Assembly Bill 438

Senate Substitute Amendment 1

2023 ASSEMBLY BILL 438

As amended and passed by the Assembly, 2023 Assembly Bill 438 makes numerous changes to state law regarding local professional baseball park districts. The only district in existence is the Southeast Wisconsin Professional Baseball Park District (“District”). The District, through its Board, operates the baseball park facility known as American Family Field (“stadium”), which is the home of the Milwaukee Brewers Baseball Club (“team”).

As relevant to Senate Substitute Amendment 1, the bill does the following:

- Changes the composition of the Board, removes all its current members, and requires the appointment of new members, including one member appointed by the Governor from a list submitted by the team. Those members are as follows: a chairperson and three other persons appointed by the Governor; two persons appointed by the Senate Majority Leader; two persons appointed by the Assembly Speaker; and one person with limited voting authority appointed by the Governor from a list provided by the team. The members appointed by the Governor are subject to confirmation or rejection by the Senate.
- Allows the District to obtain state funding from the Department of Administration (DOA). The state funding totals \$411.5 million in grants, including 22 consecutive annual payments of varying amounts. The funding also includes up to a total of \$50 million in loans to assist in the development, construction, improvement, repair, and maintenance of baseball park facilities. In order to obtain the state funding, the District must enter into lease and non-relocation agreements with the team, each of which must satisfy parameters specified in the bill. Among other obligations and payments, the team must make at least 27 annual payments of \$1,208,401 to the District.¹
- Prohibits the District from borrowing money, other than loans from DOA, described above.
- Requires the District—in consultation with the City of Milwaukee, Milwaukee County, and the team—to study the feasibility of, and options for, the redevelopment of District facilities other than the stadium. The District must prepare a report within two years summarizing the findings of the study.

¹ The state funding is provided in complementary legislation, 2023 Assembly Bill 439, relating to funding for improvement of baseball park facilities and making an appropriation. For a further description of that bill, see its [amendment memo](#).

SENATE SUBSTITUTE AMENDMENT 1

Audit by Audit Bureau

Senate Substitute Amendment 1 requires the Legislative Audit Bureau to conduct a financial audit of the District at the end of each fiscal biennium. The audit must then be filed with the chief clerk of each house of the Legislature, the Governor, DOA, the Legislative Reference Bureau, the Joint Committee on Finance, the Legislative Fiscal Bureau, and the District. The Audit Bureau may charge the District for the cost of the audit.

Reduction in State Funding

Senate Substitute Amendment 1 reduces the state funding provided to the District from DOA and revises the amount of each annual payment. It reduces the number of annual payments from 22 to 20, and it provides that, beginning with the 20th annual payment and working backward, the state's annual contribution is reduced by an amount equal to the amount that the District certifies as having been collected from the ticket surcharge, described below. Thus, Senate Substitute Amendment 1 reduces the state's contribution by \$10 million in fiscal year 2044-45 and \$10 million in fiscal year 2045-46, and by the amount collected from the ticket surcharge.

Additionally, the amendment requires DOA to notify the District once it has determined that the state's annual payment for that year will be the final annual payment. After receiving this notification, the District must annually pay to DOA for deposit in the state's general fund an amount equal to the amount of ticket surcharge moneys received in the preceding year.

Ticket Surcharge on Non-Team Events

Senate Substitute Amendment 1 requires the imposition of a ticket surcharge on non-baseball events at the stadium. Under the amendment, the District must require that the sponsor of an event impose the following ticket surcharges and deliver the surcharge moneys to the Board:

- From 2024 to 2032, a surcharge of \$8 on each ticket that entitles the holder to access a stadium luxury box or suite, and a surcharge of \$2 on all other tickets.
- From 2033 to 2041, a surcharge of \$9 on each ticket that entitles the holder to access a stadium luxury box or suite, and a surcharge of \$3 on all other tickets.
- From 2042 to 2050, a surcharge of \$10 on each ticket that entitles the holder to access a stadium luxury box or suite, and a surcharge of \$4 on all other tickets.

The surcharge may not be imposed for any of the following events:

- An exhibition, All-Star game, or similar event involving Major League Baseball teams or players.
- Events for which the sponsor is the team.
- Events that are not ticketed.
- Events for which tickets are provided at no charge.
- Events held to benefit or honor military or law enforcement or other emergency response personnel.
- Political conventions.
- Charitable events.
- Events for which tickets were made available for presale or sale before the bill's effective date.

The Board must deposit all surcharge moneys into the Baseball Park Facilities Improvement Segregated Fund and certify to DOA the amount received.

Reduction in Loan Amount

Senate Substitute Amendment 1 reduces the amount of loan moneys that the District may obtain from \$50 million to \$35 million. If the District obtains a loan, it must maintain all loan proceeds in a separate account in the Baseball Park Facilities Improvement Segregated Fund, and may only expend the loan proceeds for major capital repairs, retractable roof maintenance and repairs, and necessary improvements to the baseball park facilities.

District Board

Senate Substitute Amendment 1 makes the following changes related to the governance of the Board:

- Requires the team to provide a list containing at least three persons for the Board member appointed by the Governor from a list provided by the team.
- Increases the number of members appointed by the Governor by two. One of those members must be appointed from a list of at least three names provided by the Milwaukee County Executive, and one must be appointed from a list of at least three names provided by the mayor of Milwaukee.
- Increases the number of members appointed by the Senate Majority Leader and Speaker of the Assembly to three members, rather than two.
- Removes the requirement that the Board members appointed by the Governor be subject to confirmation or rejection by the Senate.
- Authorizes the DOA Secretary or the Secretary's designee to act as the Board for purposes of approving regular disbursements of the District, beginning on the bill's effective date and until a majority of the new Board members have been appointed and qualified.

Team's Rental Payments

Senate Substitute Amendment 1 modifies the provisions related to the team's annual payments. The amendment requires the team to make 22, rather than 27, annual payments to the District in the amount of \$1,208,401, and specifies that these payments are rental payments. Beginning in 2046 (the 23rd year), the amendment increases these rental payments to \$3,208,401, and requires the District to deposit at least \$2 million of each of those payments into the Baseball Park Facilities Improvement Segregated Fund. Thus, the amendment increases the team's required rental payments by a cumulative total of \$10 million, and requires the increase to be deposited into the Baseball Park Facilities Improvement Segregated Fund.

Clarification of Board's Limitation on Borrowing

Senate Substitute Amendment 1 specifies that the provision limiting the District's ability to borrow money (other than a loan from DOA) does not preclude the District from entering into long-term performance or service contracts, capital leases, lease purchase agreements utilizing third-party financing, or similar arrangements with respect to equipping, repairing, maintaining, or improving baseball park facilities.

Redevelopment Study

Senate Substitute Amendment 1 requires that the report on the redevelopment study include a recommendation supporting or opposing a potential payment in lieu of general property taxes for any development of the baseball park facilities of the district other than a baseball stadium.²

BILL HISTORY

Representative Brooks introduced Assembly Amendment 1 to 2023 Assembly Bill 438 on October 12, 2023. On that same day, the Assembly Committee on State Affairs voted to recommend adoption of the amendment on a vote of Ayes, 14; Noes, 0; and voted to recommend passage of the bill, as amended, on a vote of Ayes, 13; Noes, 1. On October 17, 2023, the Assembly adopted the amendment on a voice vote. The Assembly then passed the bill, as amended, on a vote of Ayes, 69; Noes, 27.

Senator Feyen introduced Senate Substitute Amendment 1 on November 14, 2023. On that same day, the Senate voted to adopt the amendment on a vote of Ayes, 25; Noes, 8; and voted to concur in the bill, as amended, on a vote of Ayes, 19; Noes, 14.

For a full history of the bill, visit the Legislature's [bill history page](#).

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² Current law provides a property tax exemption for property consisting of or contained in a sports and entertainment home stadium, including parking lots, garages, restaurants, parks, concessions facilities, entertainment facilities, transportation facilities, and other functionally related or auxiliary facilities and structures. [s. 70.11 (36)(a), Stats.]