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**Local Professional
Sports Facilities Financing**

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Local Professional Sports Facilities Financing

Wisconsin law has allowed for the formation of certain special purpose districts that possess specific taxing authority to aid in the financing of sports facilities for local professional franchises. As with general units of government, these special purpose districts can levy only those taxes that are authorized by the Legislature. This paper reviews the following special purpose districts that have all been used to assist in financing local professional sports facilities in Wisconsin: (1) a local exposition center district, which, if it meets certain requirements, is allowed to impose a room tax, a food and beverage sales tax, and a car rental tax; (2) a local professional baseball park district for the construction and operation of a new baseball stadium for the Milwaukee Brewers, which imposed a 0.1% sales and use tax to pay the debt service costs on District-issued revenue bonds and facility operation expenses; and (3) a local professional football stadium district for the construction and maintenance of a renovated football stadium for the Green Bay Packers, which imposed a 0.5% sales and use tax to pay the debt service on District-issued revenue bonds and to pay specific District administrative and facility maintenance expenses.

Milwaukee Sports and Entertainment Arena Financing

In 1995, the City of Milwaukee created a local exposition district, as allowed under 1993 Wisconsin Act 263, called the Wisconsin Center District (WCD) for the purpose of acquiring and managing its exposition center facilities. The District is comprised of cities and villages wholly or partially in Milwaukee County. The District receives revenue from three districtwide taxes (a

3% basic room tax, a 0.5% food and beverage tax, and a 3% car rental tax) and a 7% City of Milwaukee room tax. In 2021, WCD collected a total of \$29.6 million from the taxes imposed in that year (for additional information on the Wisconsin Center District see the Legislative Fiscal Bureau's information paper entitled, "Local Government Revenue Options").

2015 Wisconsin Act 60 expanded the authority of the Wisconsin Center District to allow for the District to assist in the construction of a sports and entertainment arena and facilities ("arena") in downtown Milwaukee. The District has authority to issue \$203 million in bonds backed by existing WCD taxes and by state appropriations for the construction of an arena in downtown Milwaukee to be used as the home arena of a professional basketball team and for other sports, recreation, and entertainment activities.

District and Team Agreements

Act 60 required the District board to enter into a development agreement with a professional basketball team or its affiliate ("team") that requires the team to develop and construct sports and entertainment arena facilities to be financed in part by the District and leased to the team. Before a development agreement could be signed, the team was required to enter into a non-relocation agreement with the District. Further, the Secretary of the Department of Administration (DOA) had to certify that the team has agreed to fund at least \$250 million for the development and construction of the arena.

As specified under Act 60, the non-relocation agreement requires the team, during the term of the lease with the District, to: (a) play substantially all of its home games at the arena, once constructed; (b) maintain its membership in the

National Basketball Association (NBA) or a successor league; (c) maintain its headquarters in Wisconsin; (d) maintain in its official team name the name of the sponsoring municipality; (e) not relocate to another political subdivision during the term of the lease; and (f) ensure that any person who acquires the team (if the team is sold, foreclosed, or ownership is transferred to another person), commits to acquire the team subject to the team's obligations under the non-relocation agreement. In addition, during the last five years of the original 30-year lease, and during any five-year extension of the lease, the team may negotiate, and enter into agreements, with third parties regarding the team playing its home games at a site different from the site to which the lease applies after the conclusion of the lease.

The lease between the team and the District, must contain the following terms: (a) the term of the lease must be for 30 years, plus two extensions of five years each at the team's option; (b) the District must convey fee title of the Bradley Center and the land on which it is located to the team (free and clear of all liens, encumbrances, and obligations) and the team must agree to pay for all costs related to the demolition of the Bradley Center structure; (c) the team must be responsible for equipping, maintaining, operating, improving, and repairing the arena; and (d) an allowance for a separate agreement between the sponsoring municipality and the team that addresses the development and operation of a parking structure constructed as part of the arena and the ownership of and revenues from the parking structure.

Under Act 60 and the lease agreement, if the team breaches the development agreement or non-relocation agreement, the parent company of the team must be jointly and severally responsible with the team for costs related to equipping, maintaining, operating, improving, and repairing the arena during the term of the lease. Also, the team is entitled to receive all revenues (other than revenues from a ticket surcharge) related to the

operation or use of the arena, including, but not limited to, ticket revenues, licensing or user fees, sponsorship revenues, revenues generated from events that are held on the plaza that is part of the arena, revenues from the sale of food, beverages, merchandise, and parking, and revenues from naming rights.

An arena development agreement, a team non-relocation agreement, and a 30-year arena lease, management and operations agreement were signed by the District and the team on April 13, 2016. According to terms of the lease agreement, the team agrees to pay \$1 million in rent payments annually to the District. The construction of the arena, called Fiserv Forum, was completed on July 31, 2018. The Fiserv Forum hosted its first event on September 4, 2018.

Arena Construction and Financing

According to the arena development agreement, signed April, 2016, the estimated cost to construct the arena, public entertainment plaza, and parking structure was \$524.1 million. Act 60 provided that \$203 million come from the issuance of bonds by the District to fund the development and construction of the arena. The City of Milwaukee also contributed an estimated \$35 million in tax incremental financing for a parking structure and \$12 million in tax incremental financing for the public plaza adjacent to the arena. Beyond these public sources of funding, Senator Herbert H. Kohl gifted \$100 million for the purpose of facilitating the construction of the arena and the current owners initially contributed \$150 million. The current owners also agreed to pay, or cause to be paid, all project costs exceeding the commitments of the District, the City, Senator Kohl, and their initial commitment. It is estimated that the owners paid an additional \$24.1 million under this agreement.

The District's \$203 million commitment is paid out of proceeds from District issued appropriation bonds and revenue bonds. The District issued

\$108.1 in appropriation revenue bonds, dated June 23, 2016, supported by; (a) a \$4 million annual general purpose revenue (GPR) appropriation from the state to make grants to the District, limited to \$80 million and sunset in 2035-36; and (b) a separate \$4 million annual GPR appropriation from the state to the District, which is sunset in 2035-36, and is offset by an annual \$4 million GPR reduction in the county and municipal aid payment to Milwaukee County. On June 23, 2016, the state and District entered into a memorandum of understanding that requires the state to pay all monies appropriated from these appropriations directly to the Trustee established in the appropriation obligation bond indenture by July 1 of each year.

WCD also issued \$54.3 million in dedicated tax revenue bonds, dated June 23, 2016, and \$37.9 million in dedicated tax revenue refunding bonds, dated November 29, 2016, both of which are financed by indefinitely extending the existing WCD taxes (except for the food and beverage taxes for sales by retail grocers). These taxes would have otherwise ended after the District's previously existing debt is retired, which is currently scheduled to occur in 2032.

Arena Ticket Surcharge

The WCD board must require the sponsor of an event held at the arena to impose a \$2 surcharge on each ticket that is sold to the event. The District board is required to remit 25% of the surcharge revenues to DOA for deposit in the general fund and the District would retain the remainder of the surcharge revenues, which the Board could use to offset the District's cost for the arena facilities.

From September, 2018, when the Fiserv Forum hosted its first ticketed event, through July, 2022, the District received \$6.4 million from the surcharge. In addition, during the same period, revenues to the state increased by approximately \$2.1 million to reflect the deposit of ticket surcharge revenues to the general fund, which

partially offset the state's cost for the arena facilities.

Arena Maintenance and District Expenses

The WCD owns the Fiserv Forum, but the facility is operated, maintained and managed by the Milwaukee Bucks organization. According to terms of the arena lease agreement, the team is responsible for all costs and expenses for additions and capital repairs that would be required to provide a level of amenities and technology at the arena that is at or above the median level of amenities and technology provided at arenas for NBA teams.

Local Professional Baseball Park District Taxes

A local professional baseball park district for the construction and operation of a new baseball stadium for the Milwaukee Brewers was created by 1995 Wisconsin Act 56. The Southeast Wisconsin Professional Baseball Park District is made up of five counties: Milwaukee, Ozaukee, Racine, Washington, and Waukesha. The District is governed by a 13-member board, appointed as follows: six persons appointed by the Governor; one person appointed by the Mayor of the City of Milwaukee; two people appointed by the Milwaukee County Executive; one person appointed by the Racine County Executive; one person appointed by the Waukesha County Executive; one person appointed by the Chairperson of the Ozaukee County Board of Supervisors; and one person appointed by the Chairperson of the Washington County Board of Supervisors.

Stadium Construction and Financing

The District Board was given the authority to enact 0.1% sales and use taxes in the five-county area. Based on the Board's actions, the taxes were first imposed in January, 1996.

At the time Act 56 was passed by the Legislature, it was anticipated that stadium construction would cost \$250 million, of which \$160 million would come from the issuance of revenue bonds by the District. The District's initial \$160 million contribution established its 64% ownership share of the stadium. From 1996 through 1999, the District issued revenue bonds for the construction of the stadium and infrastructure improvements near the stadium totaling \$202 million. In addition, the District entered into \$45 million in lease certificates of participation, which were used to fund the acquisition of leased capital equipment in the stadium (the scoreboard, drive mechanism for the retractable roof, seating, and food service equipment). Subsequently, in order to take advantage of lower interest rates, the District refinanced a portion of these debt obligations, which results in \$255.9 million in total principal borrowed for the stadium construction and related equipment. The debt service (the payment of principal and interest) on these debt instruments was paid from the 0.1% sales and use taxes imposed in the five-county District.

The final estimated cost to construct the stadium and surrounding infrastructure, including leased equipment and initial operating costs, was \$392.5 million. In addition to the \$255.9 million in principal borrowed, other funding sources included \$38.5 million from the State of Wisconsin (\$12 million in local transportation aid and \$26.5 million in federal transportation funding), \$20.9 million from the City of Milwaukee (\$5.9 million grant and a \$15 million loan to the Brewers), \$40 million from the Milwaukee Brewers (proceeds from ballpark naming rights, concessions contracts, and suite sales), a \$21 million loan to the Brewer's owner from the Bradley and Helfaer foundations, a \$16 million grant from Milwaukee County, a \$14 million loan to the Brewer's from the Metropolitan Milwaukee Association of Commerce, and a \$2 million grant from the Helfaer Foundation (Helfaer Field youth baseball park).

Stadium Maintenance and District Expenses

In addition to funding the construction of the stadium, the 0.1% sales and use taxes was used to contribute towards the maintenance and repair of the stadium. A memorandum of understanding (MOU) signed by representatives from the State of Wisconsin, Milwaukee County, the City of Milwaukee, and the Brewers in 1995 indicates that the District's annual contribution would be the lesser of 64% (District's initial ownership share) of actual, annual maintenance costs or \$3.85 million. However, in 2002, the Stadium District agreed to take on the outstanding loans of the Brewer's owner associated with the stadium construction. In exchange, the District's annual maintenance and repair contribution (AMRC) was reduced by an equivalent amount. The District's original AMRC requirement was set at \$3.85 million per year through 2030. The reduced amount is currently \$408,148 per year, which the Brewers, in turn, deposit to the Segregated Reserve Fund (SRF), a jointly funded capital account, as part of their annual contribution to the fund.

The District is responsible for major capital repairs and necessary improvements. The SRF is jointly funded by the District and the Brewers for major capital repair and improvement projects for the ballpark. Through 2030, the District is to contribute \$1,791,852 per year to the SRF for this purpose and the Brewers will contribute \$300,000 per year, in addition to the \$408,148 mentioned earlier, for a total combined contribution to the SRF of \$2.5 million per year.

The District receives annual rent payments from the Brewers for the use of the stadium in accordance with the lease agreement. The lease specifies that the Brewers pay the District \$900,000 annual rent for the first 10 years of the lease, \$1,200,000 annually for the second 10 years of the lease and \$1,208,401 for the third 10 years of the lease. The scheduled lease payments by the Brewers to the District are \$1,208,401 per year for

the years 2021-2030. Revenues from the annual rent payments are used to fund District operations, including the District's staff and other administrative costs.

The initial term of the lease between the District and the Brewers is for 30 years, commencing on March 30, 2001, and expiring on December 31, 2030. Under the lease, the Brewers have the right to extend the initial term of the lease for up to five consecutive periods of two years each at the end of the initial term. Among the provisions specified in the lease, and subject to certain conditions, is that the District is required to make any and all necessary improvements to keep the stadium on par with the replacement components and upgraded facilities in use in at least 75% of all Major League Baseball stadiums.

Retirement of Bonds and Reserves

Act 56 specifies that if, at any time, the District's tax revenues exceed current operating expenses, the excess amount will be placed in a fund for future maintenance and capital improvement costs or to retire its debt obligations early. Once sufficient funds are available to meet the obligations of the District, the 0.1% taxes end.

2019 Wisconsin Act 28 requires that the termination date of the five-county sales tax be the last day of the fiscal quarter in which the District certifies the end of the tax to Department of Revenue (DOR). The District certified full funding of the reserves necessary to meet District maintenance, capital improvement obligations, and principal and interest on its debt obligations, by a Board resolution dated March 10, 2020, and the sales tax was terminated effective March 31, 2020. At the time the sales tax was terminated, the District held \$86.6 million in restricted funds to pay for future lease obligations. As of August 1, 2022, the District's total restricted funds balance was \$75.6 million.

The total amount of sales and use tax revenue

retained by the District through the entire period when the tax was collected (January, 1996, through March, 2020) was \$609.0 million.

Excess District Sales and Use Tax Revenues

Due to the timing needed to notify retailers, District taxes continued to be collected after the tax was terminated. Act 28 provides for the return of the excess sales taxes revenues reported to DOR following the termination date of the sales tax. Under the Act, excess revenues are disbursed to each county based on the population of each county that is part of the district.

Table 1 shows the amount of excess district revenues distributed to each county through 2022. Under Act 28, each county must deposit the revenue into a segregated account to be used only for property tax relief, public safety, parks and recreation, or economic development. Under Act 28, DOR may not issue any tax assessment or act on any refund claim after 2024.

Table 1: Baseball Stadium District Excess Revenue Payments

County	Distribution Amount
Milwaukee	\$3,456,351
Ozaukee	332,226
Racine	717,023
Washington	506,714
Waukesha	<u>1,490,224</u>
Total	\$6,502,538

Other District Revenues

The District also receives revenue from the sale of Brewers license plates to vehicle owners in the state. Upon retirement of the sales tax, those funds must be deposited into a maintenance and capital improvement fund, separate from the SRF, for the purpose of future capital repairs and improvements. In 2021, the District received \$306,000 associated with the sale of Brewers license plates. On January 1, 2022, \$661,500 was held in the maintenance and capital improvement fund.

Local Professional Football Stadium District Taxes

A local professional football stadium district for the construction and maintenance of a renovated football stadium for the Green Bay Packers was created by 1999 Wisconsin Act 167. The Green Bay-Brown County Professional Football Stadium District is contiguous with Brown County and is governed by a seven-member board, appointed as follows: three persons appointed by the Mayor of Green Bay, three persons appointed by the Brown County Executive, and one person appointed by the Ashwaubenon Village President.

The District board has several powers and duties related to the renovation and management of the professional football stadium facilities. Specifically, the District is provided authority, if approved by the electors of the District at referendum, to impose 0.5% sales and use taxes for purposes related to football stadium facilities. On September 12, 2000, the voters of Brown County approved the District resolution imposing the 0.5% sales and use taxes (at the same time, the voters rejected allowing Brown County to receive excess annual tax revenue after the District's annual stadium-related obligations were met).

DOR administers the sales and use taxes on behalf of the District. DOR is allowed to retain 1.5% of collections for administrative expenses. Any unencumbered balance in DOR's appropriation account for the administration of the taxes at the end of each fiscal year is also distributed back to the District.

The District sales and use taxes began to be collected on November 1, 2000. Distributions of sales and use tax revenues totaled \$310.9 million through September, 2021. The District certified full funding of reserves by letter dated March 31, 2015, and the sales tax was terminated effective October 1, 2015.

The District also had authority to issue up to \$160 million in revenue bonds, excluding reserves and issuance costs, to acquire, construct, or renovate its professional football stadium facilities. In April, 2001, the District issued three series of revenue bonds totaling \$174.8 million (\$160 million for the stadium project and \$14.8 million to fund required reserves and cover the issuance costs of the bonds). In August, 2011, the District retired all outstanding debt.

The final estimated cost to renovate the stadium, including all costs for site improvement, project development, and equipment costs, was \$295.2 million. In addition to the \$160 million in debt borrowed, other funding sources included \$92.5 million in user fee revenue (\$2,000-per-seat one-time fee charged to season-ticket holders), \$9.1 million from the state transportation fund, \$20.6 million in stock sale proceeds from the Green Bay Packers, and a \$13 million loan from the National Football League.

Use of Sales and Use Tax Revenues

Act 167 limits the types and the amount of District or stadium-related costs that can be funded from District sales and use tax revenues. The first allowable use of the revenues was to pay the annual principal and interest due on outstanding District revenue obligations (bonds). The District established a separate debt service fund and repaid all outstanding District debt in 2011.

Any excess revenues not needed for debt service is used for District administration and facility maintenance and operating expenses. To comply with this requirement, the District established and fully-funded two escrow accounts from which to make separate annual payments for District operating expenses and for stadium operations and maintenance. Annual payments from these interest-bearing segregated escrow accounts will continue until the expiration of the current lease in 2031. The amount of the annual obligation for District administration established under Act 167

is not more than \$100,000 annually. The amount of the annual obligation for operations and maintenance was established under Act 167 as a base of \$3,400,000 with annual increases of not more than 3% for any City of Green Bay labor used and 2% for all other items. Consequently, the estimated required payment for 2023 for stadium operations and maintenance is approximately \$5.3 million.

Other District Revenues

The District board must also deposit the following to the segregated facility maintenance and operating fund: (a) the amounts derived from the Packers football stadium donation state income tax checkoff; (b) the revenue received from the sale of engraved tiles or bricks; (c) the revenue received from the issuance of professional football team license plates; and (d) \$500,000 annually from a 10% District ticket tax imposed on the right to purchase admission to events at the stadium facility, pursuant to an agreement with a professional football team. Total revenues from the ticket tax were \$8.3 million for 2021, with the first \$500,000 being deposited to the District's stadium maintenance and operating fund and the remainder being deposited to a separate maintenance and operating fund as outlined in the District's lease agreement with the Packers.

In 2021, \$423,000 associated with the sale of Green Bay Packer license plates and \$90,200 associated with fees from the sales of engraved tiles and bricks were deposited to the fund. 2013 Wisconsin Act 20 effectively eliminates the football stadium donation state income tax checkoff. Act 20 specifies that, beginning with tax year 2014, any state voluntary income tax checkoff that does not generate \$75,000 in a year is to be permanently removed from state income tax forms beginning in the following tax year. As a result, the checkoff was removed from state income tax forms in 2015.

These annual revenues to the facility operating and maintenance fund are to be used to reduce the

annual District sales and use tax proceeds needed for annual maintenance and operating costs of the football stadium facilities. After the termination of the sales and use tax on October 1, 2015, the fund continues to receive deposits of these revenues.

Excess District Sales and Use Tax Revenues

On March 31, 2015, the District notified DOR that the facility maintenance and operating fund had revenues sufficient to meet the remaining years of the District's 27-year annual maintenance obligation and that DOR could end the District sales and use taxes. While the District board notified DOR that the District sales and use taxes could be ended on March 31, 2015, due to the timing needed to notify retailers, the taxes continued to be collected through September, 2015. Sales and use tax revenues collected after the date on which the District notified DOR to end the taxes were not used by the District in calculating the amounts needed to fully fund the District's stadium maintenance and operating fund, and were therefore in excess of the financial requirements established in statute for the District.

2015 Wisconsin Act 114, directed DOR to distribute no later than December 31, 2015, the excess sales and use tax revenues filed with DOR from April 1 to September 30, 2015, in the following amounts: (a) 25% to Brown County; and (b) 75% to the cities, villages, and towns within the county based on each municipality's share of the county's population. Revenues filed by retailers or resulting from DOR sales tax audits after October 1, 2015, are distributed in the same manner the following year, and each year thereafter.

DOR has distributed approximately \$18.9 million in excess sales tax revenue to Brown County and its municipalities through September, 2022, as shown in Table 2. Under Act 114, Brown County and each municipality that receives excess revenue must deposit the revenue into a segregated account controlled by each

government to use only for the purpose of providing property tax relief, tax levy supported debt relief, or economic development. Further, Brown County and recipient municipalities may not make expenditures from their segregated account unless a resolution is adopted which specifies the purpose for which the revenues will be spent and the amount of the revenues to be spent for that purpose.

Table 2: Football Stadium District Excess Revenue Payments

Jurisdiction	Distribution Amount*
Counties	
Brown	\$4,723,767
Cities	
De Pere	\$1,355,896
Green Bay	5,823,519
Villages	
Allouez	\$764,122
Ashwaubenon	938,759
Bellevue	835,429
Denmark	119,924
Hobart	445,071
Howard	1,049,613
Pulaski	183,108
Suamico	657,996
Wrightstown	149,116
Towns	
Eaton	\$87,036
Glenmore	62,674
Green Bay	115,041
Holland	85,899
Humboldt	73,199
Lawrence	262,999
Ledgeview	413,311
Morrison	89,402
New Denmark	86,913
Pittsfield	148,664
Rockland	98,643
Scott	199,898
Wrightstown	<u>125,070</u>
Total	\$18,895,069

*Through September, 2022