



Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873
Email: fiscal.bureau@legis.wisconsin.gov • Website: <http://legis.wisconsin.gov/lfb>

September 18, 2023

TO: Representatives Vos and Brooks
Senators LeMahieu and Feyen
State Capitol

FROM: Ryan Horton, Fiscal Analyst

SUBJECT: LRB 4398/1: Proposal for Financing Capital Improvements at Professional Baseball Park District Facilities

This memorandum provides a summary of the provisions of a legislative proposal to finance capital improvements at American Family Field in the City of Milwaukee. LRB 4398/1 outlines the proposed financing mechanism for capital improvements at the baseball park facility and makes modifications to the statutes related to a professional baseball park district.

Funding and Lease Requirements

Lease Agreement Requirement. Specify that a grant from the Department of Administration (DOA) to a local professional baseball park district ("District") may not be awarded unless the DOA Secretary determines that the District has entered into a customary lease arrangement with a professional baseball team ("the team") that satisfies all of the following:

- has a standard lease term that expires no earlier than December 31, 2050;
- requires the professional baseball team to make at least 27 annual deposits in the amount of \$3,360,253, consisting of: (a) \$2,151,852 into the District's newly-created baseball park facilities improvement segregated fund beginning in 2024; and (b) 1,208,401 to the District beginning in 2024.
- requires the team or a 3rd party on the team's behalf to make financial contributions in connection with the development, construction, improvement, repair, and maintenance of the baseball park facilities during the term of the lease in an amount that totals \$50,000,000, of which \$25,000,000 must be contributed before January 1, 2037, and requires the team to regularly report to the District all expenditures under this provision; and
- requires the team, upon expiration of the lease, or termination of the lease as a result of breach by the professional baseball team, to disclaim any interest in moneys of the baseball park

facilities improvement segregated fund and, upon request of the District, convey and transfer to the District for consideration not to exceed \$1 all of the team's right and title to the baseball park facilities, except for ancillary improvements constructed or developed by the team, after the effective date of the bill, without financial contribution from the state or the District.

Nonrelocation Agreement Requirement. Specify that DOA may not award a grant to the District unless the District has entered into a nonrelocation agreement with the team that, except as required by the league of professional baseball teams of which the team is a member, requires the team to play all of its home games at the baseball park facilities and prohibits the team from relocating prior to expiration or termination of the lease.

3rd-Party Negotiator Requirement. Specify that DOA may not award a grant to the District unless the District has contracted with a 3rd party approved by a two-thirds vote of all members appointed to the District board and eligible to vote on the matter to represent the District in connection with negotiation of the lease and nonrelocation agreements.

Grant to a Local Professional Baseball Park District. Specify that the Department may not award a grant unless the District has entered into the required lease and nonrelocation agreements with a professional baseball team. If the District has entered into the specified lease and nonrelocation agreements with the team, require DOA to award a grant to the District to assist in the development, construction, improvement, repair, and maintenance of baseball park facilities.

Specify that the grant consist of the following: (a) a gap payment of \$35,800,000 upon execution of the lease and nonrelocation agreements, which is intended to substantially equal the total estimated income taxes imposed in calendar years 2021, 2022, and 2023 on the payroll of the professional baseball team and of visiting professional baseball franchises using the professional baseball park facilities; (b) a payment of \$25,000,000 upon execution of the lease and nonrelocation agreements, which the District must deposit into a separate account in the baseball park facilities improvement segregated fund and may expend the moneys only for the purpose of winterizing the baseball park facilities; and (c) 22 consecutive annual payments beginning in 2024, as follows:

- an initial payment in 2024, equal to \$13,400,000;
 - each subsequent annual payment must increase from the initial payment at the rate of 4% per year compounded annually through June, 2041, except that no annual payment may exceed \$20,000,000;
 - beginning on July 1, 2041, no annual payment in each year may exceed \$10,000,000;
- and
- no annual payment may be made after expiration or termination of the lease.

Under these provisions, the total grant from the state would equal \$411,000,000 over the entire term of the 27-year lease.

Loans to a Local Professional Baseball Park District. Specify that upon a majority vote of all current members appointed to the District board, and eligible to vote on the matter, DOA would be required to issue loans to the District to assist in the development, construction, improvement, repair,

and maintenance of baseball park facilities. Require DOA to issue each loan in the amount approved by the board no later than 10 days after receipt of the board's request for the loan. Specify that the Department may not issue more than a total of \$50,000,000 in loans. Provide that the District would have the ability to obtain loans under this provision and that any moneys borrowed or accepted must be deposited into the baseball park facilities improvement segregated fund.

Specify that interest on each loan accrue monthly at a rate equal to the state investment fund earnings rate during the immediately preceding month, as certified by DOA. Require the District to pay all interest accruing on each loan on a quarterly basis to DOA for deposit in the general fund. The outstanding balance of each loan must be paid no later than 15 years after the date of issuance or upon expiration or termination of the lease, whichever is earlier.

Require DOA to, at least quarterly, submit a report to the Joint Committee on Finance specifying the outstanding principal and interest owed by the District on each loan issued under this provision. Also specify that the Department may not issue a loan after December 31, 2045.

Baseball Park Facilities Improvement Segregated Fund. Require that the District establish and maintain a baseball park facilities improvement segregated fund that consists of all of the following: (a) moneys received from annual DOA grants; (b) monies borrowed and deposited from DOA loans; (c) monies deposited by Milwaukee County and the City of Milwaukee and any payments made by DOA funded from reductions in county and municipal aid payments to either Milwaukee County or the City of Milwaukee; (d) payments required to be deposited by a professional baseball team under the specified lease agreement; (e) income or interest earned from the investment of moneys of the fund; and (f) monies transferred into the fund from the District.

Require the District to annually transfer, from District funds to the newly-created baseball park facilities improvement segregated fund, not less than the following amounts: (a) \$2,200,000 through 2039; and (b) the amount of revenue received from the sales of Brewers special license plates.

The District may only use moneys deposited in the fund for the following purposes: (a) the development, construction, improvement, repair, and maintenance of baseball park facilities; (b) the District's performance of obligations under any lease with the team with respect to baseball park facilities; (c) repayment of loans or moneys accepted; (d) the District's retention of a 3rd-party negotiator; and (e) after 2030, payment of annual insurance premiums with respect to the ballpark facilities upon the affirmative vote of the District board and solely to the extent that the District board determines that funds held by the District in accounts, other than the baseball park facilities improvement segregated fund, are insufficient to pay the premium in full.

The District may not use moneys deposited into the fund for the development, construction, improvement, repair, or maintenance of any physical structure that was not owned, in whole or in part, operated, or leased by the District on the effective date of the bill.

Local Contribution. Beginning in 2024, annually, no later than July 1, Milwaukee County would be required to deposit \$5,000,000 into the baseball park facilities improvement segregated

fund, and the City of Milwaukee would be required to annually deposit \$2,500,000 into the fund. These provisions would not apply after December 31, 2050, or after an aggregate of \$202,500,000 has been deposited into the fund, or whichever is earlier.

Require that if Milwaukee County fails to make the full required annual deposit by July 1, the Department of Revenue (DOR) reduce Milwaukee county's county and municipal aid payment for that year by the difference between \$5,000,000 and the amount of any deposit made by July 1 of that year and direct DOA to pay to the baseball park facilities improvement segregated fund the amount of the reduction. Specify that this provision be in effect for the county and municipal aid distribution in 2024 and subsequent years until 2050.

Require that if the City of Milwaukee fails to make the full required annual deposit by July 1, the Department of Revenue (DOR) reduce the City of Milwaukee's county and municipal aid payment for that year by the difference between \$2,500,000 and the amount of any deposit made by July 1 of that year and direct DOA to pay to the baseball park facilities improvement segregated fund the amount of the reduction. Specify that this provision be in effect for the county and municipal aid distribution in 2024 and subsequent years until 2050.

Specify that the county and municipal aid reduction provisions first take effect on July 1, 2024.

Team Termination at Lease. Provide that if, for any reason, the team notifies the District that the team intends to terminate the lease agreement or the lease is otherwise terminated, no moneys deposited into the newly-created baseball park facilities improvement segregated fund may be expended with respect to the baseball park facilities after the date the District receives that notice, except any of the following: (a) moneys encumbered before receipt of the notice of termination; (b) moneys expended to maintain the safety of the baseball park facilities or for the improvement, repair, maintenance, or replacement of the components and systems necessary to operate the baseball park facilities or comply with applicable law, insurance requirements, or standards imposed by the professional baseball league of which the professional baseball team is a member; (c) moneys expended to make interest and principal repayments of loans from DOA; or (d) an amount of moneys that does not exceed the amount of the team's deposits into the baseball park facilities improvement segregated fund between the date of any notice of lease termination and the effective date of the termination.

District Capital Spending Limitations. Specify that, after 2045, the District may not initiate any capital project that has an expected life span that exceeds the remaining term of the lease arrangement with a professional baseball team with respect to the District's baseball park facilities. Specify that this provision does not restrict any of the following capital spending: (a) an amount that does not exceed the amount of the professional baseball team's annual payments of \$2,151,852 after 2045 into the baseball park facilities improvement segregated fund; or (b) for purposes related to maintaining the safety of the baseball park facilities or the improvement, repair, maintenance, or replacement of the components and systems necessary to operate the baseball park facilities or to comply with applicable law, insurance requirements, or standards imposed by the professional baseball league of which the professional baseball team is a member.

State Pledge. Under current law, the state pledges to and agrees with persons that enter into contracts with the District, that the state will not limit or alter the rights and powers vested in the District, before the District has fully performed its contracts, unless adequate provision is made by law for the protection of those entering into contracts with the District. Include as "contracts" any lease agreement with a team with respect to baseball park facilities. Under this provision, the District lease with the team would be specifically identified as a District obligation subject to this pledge. The draft would also specify that the state will not limit or alter the power vested in a District to obtain a loan from DOA, upon the request of the District, as provided in the bill.

District Governance and Management

District Jurisdiction. Specify that a district's jurisdiction is any county with a population of more than 750,000 (Milwaukee) that is the site of baseball park facilities that are home to a professional baseball team and the population is fixed even if the population of the county decreases. Under current law, a district's jurisdiction is, fixed at any county with a population of more than 600,000 and all counties that are contiguous to that county. As a result, the current District is made up of five counties: Milwaukee, Ozaukee, Racine, Washington, and Waukesha.

District Board Composition. Under current law, 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.

Specify that the newly-created District board would be governed by a nine-member board, each of whom must be a state resident, as follows: (a) a chairperson and three additional persons, appointed by the Governor, all of whom may take their seat immediately upon appointment and qualification, subject to confirmation by the Senate; (b) two persons appointed by the majority leader of the Senate; (c) two persons appointed by the Speaker of the Assembly; and (d) one person who may not be an employee of the state or of a professional baseball team that leases baseball park facilities as its home facilities, appointed by the Governor from a list provided by the team.

Specify that the terms of all board appointees be four-year terms, except that the initial terms of one of the two initial appointees of the majority leader of the Senate and the Speaker of the Assembly would be a two-year term, as designated by the appointing authority. Specify that the initial term for the initial chairperson appointee and one of the three other initial Governor appointees be two years. Require that, upon appointment, the appointing authorities certify the appointments to the DOA Secretary.

Specify that the person appointed by the Governor from a list provided by the team may take their seat immediately upon appointment and qualification, subject to confirmation by the Senate. This appointee may not participate in any nonpublic meeting of the District board with respect to any of the following: (a) approving or amending the lease; (b) approving or amending the nonrelocation agreement; (c) approving or amending a lease or sublease, other than the lease between the District and the professional baseball team; (d) obtaining or accepting a loan from

DOA; (e) retaining a 3rd-party negotiator, for the lease and nonrelocation agreement; or (f) a dispute between the District and the team.

Provide that persons appointed to the District board may be removed from the board by the appointing authority at pleasure. Require that vacancies for persons appointed to the District board be filled by the appointing authority who appointed the person whose office is vacant using the same procedure specified under this provision. A person so appointed would serve for the remainder of the term to which he or she is appointed.

District Board Voting and Meeting Requirements. Provide that, in connection with baseball park facilities, a majority vote of all current members appointed to the District board, and eligible to vote on the matter, would be required to enter into any lease or sublease of property, instead of a supermajority (60%) vote, as required under current law. Require all meetings of the District board to be held in person, except in the case of exigent or emergency circumstances that make an in-person meeting impracticable.

District Board Transition. Specify that the terms of all existing members of the District board of a professional baseball park district expire on the effective date of the bill. Require that, not later than 30 days after the effective date of the bill, each appointing authority appoint the specified members of the District board. Specify that, at the District's first meeting following these appointments, a District board may rename the professional baseball park district.

Employees of a Professional Baseball Park District. Require that, not later than 90 days after the first meeting of the District board occurring after the effective date of the bill, the board affirmatively determine whether to continue or discontinue the employment of each individual employed on the effective date of the bill by the District.

Facility Management. Specify that during the term of any lease between the District and the team with respect to baseball park facilities, the District would be required, at the District's expense, to contract with a facility management company or employ an executive director with expertise in managing and operating professional sports facilities and venues similar to the baseball park facilities. Specify that the contract require the facility management company or executive director to have primary responsibility to manage and supervise the development, construction, improvement, repair, and maintenance of the baseball park facilities.

Other Provisions

District Sales Tax Exemption. Provide an exemption from the general sales and use tax for sales to a local professional baseball park district established under state law (which would be modified and expanded under the bill). Separate provisions of the bill would make various changes to professional baseball park districts.

Sales Tax Exemption for Improvements to Baseball Park Districts. Expand the current law exemption from the sales and use tax to include sales of building materials used to improve, repair, or maintain a home stadium for any professional athletic team participating in a multistate league that is exempt from property taxation. Under current law, sales of building materials to owners, contractors, subcontractors, or builders, if these materials are used solely to construct, develop, or

renovate a home stadium for any professional athletic team participating in a multistate league are exempt from the sales and use tax. This provision would expand that exemption to also include sales of building materials used for improvements, repairs, or maintenance of such stadiums.

Baseball Park Facilities Definition. Under current law, "baseball park facilities" is defined as property, tangible or intangible, owned in whole or in substantial part, operated or leased by a District that is principally for professional baseball including parking lots, garages, restaurants, parks, concession facilities, entertainment facilities, and transportation facilities, and other functionally related or auxiliary facilities or structures. The bill would modify the definition of "baseball park facilities" to include that such a facility is principally for the support or performance of professional baseball operations, instead of such facilities just being principally for professional baseball.

Baseball Team Definition. Define "professional baseball team" to mean a baseball team that is a member of a league of professional baseball teams that have home stadiums approved by the league in at least 10 states and a collective average attendance for all league members of at least 10,000 persons per game over the five years immediately preceding the effective date of the bill.

Statement of Public Purpose. Specify that the Legislature finds and determines that baseball park facilities encourage economic development and tourism in this state, reduce unemployment in this state, preserve business activities within this state, generate additional tax revenues that would not exist without the baseball park facilities, and bring needed capital into this state for the benefit and welfare of people throughout the state. Provide that it is in the public interest and serves a statewide public purpose, and it is the public policy of this state, to assist a local professional baseball park district in the development, construction, improvement, repair, and maintenance of baseball park facilities. Further, specify that the Legislature determines that the grant of funds to a District serves a statewide public purpose, by assisting the development, construction, improvement, repair, and maintenance of a professional baseball park facilities in the state for providing recreation, by encouraging economic development and tourism, by preserving business activities within the state, by generating additional tax revenues that would not exist without the baseball park facilities, by reducing unemployment, and by bringing needed capital into the state for the benefit and welfare of people throughout the state.

District Investment Authority. Specify that the State of Wisconsin Investment Board (SWIB) have exclusive control of the investment and collection of the principal and interest of all moneys loaned or invested from funds of a local professional baseball park district. Under current law, a District may maintain funds and invest the funds in any investment that the District board considers appropriate. Specify that, after the effective date of the bill, to the extent feasible, the District be required to contract with SWIB to invest funds held in trust by the District.

District Borrowing Authority. Eliminate the District's ability to issue bonds as of the effective date of the bill. Eliminate the District's ability to borrow moneys, except as allowed for the DOA loan described earlier. Subject the District's existing power to mortgage, pledge, or otherwise encumber the District's property or funds, to the bill's borrowing limitation.

District Sublease Authority. Specify that a District may, in connection with baseball park

facilities and any baseball park development, and in addition to powers already provided for under current law, authorize the sublease of property. Under current law, a district may, in connection with baseball park facilities, acquire; lease, as lessor or lessee; use; or transfer property.

District Dissolution. Modify current law regarding when the District may dissolve to include the expiration or termination of all lease arrangements between the District and a professional baseball team with respect to the baseball park facilities. Under current law, a District may dissolve subject to providing for the payment of its bonds, including interest on the bonds, and the performance of its other contractual obligations, by action of the District board. Specify that, if the District is dissolved under this provision, or by action of the legislature, the property of the District would be required to be transferred to the state. Delete current law providing for the transfer of District property to the counties in the jurisdiction, based on the tax revenues derived from each county.

District Contracting Powers and Requirements. Under current law, the District has the power to enter into contracts, subject to such standards as may be established by the District board. LRB 4398/1 specifies that these standards may include approval by a professional baseball team pursuant to the terms of a lease with the District. Require that, for a contract, the estimated cost of which exceeds \$200,000, the District issue a request for proposals or other procurement document to solicit proposals.

Under current law, the District board may award any such contract for any combination or division of work it designates and may consider any factors in awarding a contract, including price, time for completion of work, and qualifications and past performance of a contractor. Modify this provision to require that the District, when awarding a contract, consider price, time for completion of work, and qualifications and past performance of a contractor. Require that the District board also consider contractor responsiveness; contractor eligibility in accordance with any request for proposals or other procurement document; the results of applicable inspections and tests; and performance standards established by the board, including with respect to quality and workmanship. Require the District to determine the most advantageous proposal from a responsible and responsive offeror taking into consideration only the factors under this provision and the evaluation criteria set forth in any request for proposals or other procurement document. Require the District to award the contract by written notice to the selected offeror within the time for acceptance specified in the request for proposals or other procurement document.

Discount Ticket Day. Require the team to annually designate at least one of the team's home games in each of April, May, June, July, August, and September as a discount ticket day, for which residents of the state may purchase discounted admission tickets. Under current law, the annually designated discount ticket day is reserved for residents of the five counties (Milwaukee, Ozaukee, Racine, Washington, and Waukesha) that make up the existing Southeast Wisconsin Professional Baseball Park District.

Eliminate District Sales and Use Tax Provisions. Eliminate the District's authority to impose a sales tax and a use tax. Although the 0.1% District sales and use tax has ended and the District board is not be permitted to reinstate the tax under current law, there are a number of provisions under current law which reference the public purpose, creation, imposition, administration,

termination, excess revenue distributions, and other provisions associated with the District sales and use tax. The bill would delete these provisions from law.

Effective January 1, 2025, repeal the current law provision allowing the Department of Revenue (DOR) to issue assessments or act on refund claims after the end of the calendar year that is four years after the year in which a District tax has terminated. Current law 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 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.

Team Contribution to Youth Sports. Increase the required annual contribution to \$40,000, from \$20,000 under current law, that the team is required to make to youth sports organizations in this state for the purchase of equipment or the rental or maintenance of athletic facilities that are used by such organizations.

District Reporting. Require the District to provide, on an ongoing basis, to DOA, the Legislative Fiscal Bureau, and the Legislative Audit Bureau project reports relating to all baseball park facilities and all financial reports of the District.

Other District Powers. Delete the current law provision which allows the District to promote, advertise and publicize its baseball park facilities and related activities. Allow the District to accept grants to retiring debt used to develop, construct, improve, repair, or maintain baseball park facilities.

RH/ml