



## Legislative Fiscal Bureau

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October 17, 2023

TO: Members  
Wisconsin Legislature

FROM: Bob Lang, Director

SUBJECT: Assembly Bill (AB) 438, as amended, and AB 439, as amended: Funding for District Administration and Improvement of Baseball Park Facilities

AB 438 was introduced on September 28, 2023, and referred to the Assembly Committee on State Affairs, and to the Joint Survey Committee on Tax Exemptions (JSCTE), pursuant to s. 13.52 of the statutes. On October 12, 2023, Assembly Amendment 1 (AA 1) to AB 438 was introduced and adopted by the Assembly Committee on State Affairs on a vote of 14-0. AB 438, as amended by AA 1, was recommended for passage by a vote of 13-1. On October 16, 2023, JSCTE recommended that the tax exemption provisions of AB 438 are good public policy on a vote of 5-4. Senate Bill (SB) 483, the companion bill to AB 438, was introduced on October 9, 2023, and referred to the Senate Committee on Government Operations.

AB 439 was introduced on September 28, 2023, and referred to the Assembly Committee on State Affairs. On October 12, 2023, Assembly Amendment 1 (AA 1) to AB 439 was introduced and adopted by the Assembly Committee on State Affairs on a vote of 13-1. AB 439, as amended by AA 1, was recommended for passage by a vote of 13-1. Senate Bill (SB) 482, the companion bill to AB 439, was introduced on October 9, 2023, and referred to the Senate Committee on Government Operations.

### SUMMARY OF THE AMENDED BILLS

Unless specified as being under AB 439, as amended, the provisions summarized below refer to the provisions included in AB 438, as amended.

#### 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 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. The team currently makes rent payments of \$1,208,401 annually to the District and \$300,000 annually to a segregated fund held by the District for stadium capital repairs and improvements;
- 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 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.

### **State Grant to a Local Professional Baseball Park District**

If the District has entered into the required 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 state grant consist of an initial payment of \$60,800,000 to the District upon execution of the lease and nonrelocation agreements, which would consist of: (a) a gap payment of \$35,800,000, 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; and (b) a payment of \$25,000,000, 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. Beginning in 2024, consecutive annual payments from the state to the District would be made as follows: (a) an initial

payment in 2024, equal to \$13,400,000; (b) subsequent annual payments that 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; (c) beginning on July 1, 2041, no annual payment in each year may exceed \$10,000,000; and (d) no annual payment may be made after expiration or termination of the lease.

AB 439, as amended, would create a sum sufficient GPR appropriation under DOA for payments to a local professional baseball park district to assist in the development, construction, improvement, repair, and maintenance of baseball park facilities, not to exceed the following, in each fiscal year: (a) 2023-24, \$60,800,000; (b) 2024-25, \$13,400,000; (c) 2025-26, \$13,900,000; (d) 2026-27, \$14,500,000; (e) 2027-28, \$15,100,000; (f) 2028-29, \$15,700,000, (g) 2029-30, \$16,300,000; (h) 2030-31, \$17,000,000; (i) 2031-32, \$17,600,000; (j) 2032-33, \$18,300,000; (k) 2033-34, \$19,100,000; (l) 2034-35 to 2040-41, \$20,000,000; and (m) 2041-42 to 2045-46, \$10,000,000. Under these provisions, the total grant from the state would equal \$411,000,000 over the entire term of the 27-year lease. (See Attachment I, which lists these amounts)

### **Baseball Park Facilities Improvement Segregated Fund**

*Deposit of Fund Revenues.* 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 any payments made by DOA associated with reductions in the County's annual county and municipal aid payments; (d) all excess annual City of Milwaukee administrative fee monies deposited to an appropriation created under AB 439, as amended, and paid to the District each year; (e) payments required to be deposited by a professional baseball team under the specified lease agreement; (f) income or interest earned from the investment of moneys of the fund; and (g) 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. (See Attachment I for a table that includes these amounts)

*Uses of Fund Revenues.* Specify that 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 from DOA; (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.

Specify that the District not be allowed to 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.

*Lease Termination and Segregated Fund Expenditures.* 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 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.

### **Local Government Contributions**

*Milwaukee County Contribution.* Beginning in 2024, annually, no later than July 1, Milwaukee County would be required to deposit \$2,500,000 into the baseball park facilities improvement segregated fund. This provisions would not apply after December 31, 2050, or after an aggregate of \$67,500,000 has been deposited into the fund, or whichever is earlier. If Milwaukee County fails to make the full required annual deposit by July 1, require the Department of Revenue (DOR) to reduce Milwaukee county'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.

*City of Milwaukee Contribution.* AB 439, as amended, requires the annual unencumbered balance associated with DOR's administration of the City of Milwaukee's sales and use taxes be paid to the newly-created baseball park facilities improvement fund at the end of each fiscal year, for the purpose of making the City's required payments to the District. Specify that DOR shall make the deposits but may not deposit a cumulative amount that exceeds \$67,500,000. Require that, at the same time DOR deposits into the baseball park facilities improvement segregated fund a cumulative amount equal to \$67,500,000, the Department send a notice to the Legislative Reference Bureau (LRB) for publication in the Wisconsin Administrative Register that states the date on which the cumulative amount deposited into the baseball park facilities improvement segregated fund equals \$67,500,000. Require DOR to send an identical notice to the City of Milwaukee at the same time the Department sends the notice to LRB under this provision.

### **Loans to a Professional Baseball Stadium 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.

AB 439, as amended, would create a sum sufficient GPR appropriation under DOA for loans to a local professional baseball park district to assist in the development, construction, improvement, repair, and maintenance of baseball park facilities, not to exceed \$50,000,000 in aggregate.

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 DOA may not issue a loan after December 31, 2045.

## **District Governance**

*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 at the pleasure of the appointing authority. 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. Any such appointee would serve for the remainder of the term to which he or she is appointed.

*District Board Actions 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.

## **District Management and Powers**

*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 by the District on the effective date of the bill.

*Management of the Ballpark Facilities.* 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.

*District Investment Authority.* Specify that the State of Wisconsin Investment Board (SWIB) would 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 authority 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 this borrowing limitation.

*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 rather than to the counties making up the current District. Delete current law providing for the transfer of District property to the five counties included in the District's 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. The bill 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 consider those same factors, as well as the following: 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.

*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 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 that allows the District to promote, advertise and publicize its baseball park facilities and related activities. Allow the District to accept grants for retiring debt used to develop, construct, improve, repair, or maintain baseball park facilities.

## **Sales Tax Exemptions**

*District Sales Tax Exemption.* The bill would 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). In its fiscal note, DOR anticipates the fiscal effect of this provision to be minimal, as the majority of the purchases made by the Southeast Wisconsin Professional Baseball Park District are for already exempt services (such as accounting and legal services). However, to the extent the District were to make more purchases of taxable goods and services in future years, the foregone revenue associated with this exemption would be higher by an unknown amount.

*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.

In preparing its fiscal note, DOR assumed total construction costs for the project of \$604 million, with 25% of expenditures attributable to otherwise taxable building materials that would be exempt from tax under the current law exemption (as expanded under the bill). As such, DOR's fiscal note estimates total foregone state sales and use tax revenue across the entire project of \$7.6 million. In addition, assuming the entirety of these expenditures for otherwise taxable building materials occur in the City of Milwaukee, it is estimated that this exemption would also result in \$3.0 million of foregone revenue for the City of Milwaukee and \$1.4 million of foregone revenue for Milwaukee County.

Note that if AB 438 and AB 439 are not passed and the District does not receive funding, it is expected that most of these expenditures for building materials would not occur. Additionally, the language of the current law exemption would likely apply to a majority of the proposed expenditures. Therefore, the expanded exemption provided under the bill is estimated to have a minimal impact on state and local revenues.



## **City of Milwaukee Sales Tax -- DOR Administrative Fee Reduction**

AB 439, as amended, would specify that from the monies received from municipal taxes collected by DOR, 1.75% would continue to be retained by DOR for administrative fees, with the unencumbered balance at the end of each fiscal year transferred to a newly-created all monies received appropriation account for the purpose of making the required cumulative payments to the District, up to \$67,500,000. (Attachment 1 shows an estimate of annual payments from DOR to the baseball park facilities improvement segregate fund which would equal \$67,500,000)

As passed by the Legislature, and similar to current law for such appropriations, 2023 Act 19 would have required any unencumbered balance in DOR's newly-created PR-S appropriation associated with the 1.75% fee for the administration of municipal sales and use taxes to be transferred to the general fund at the end of each fiscal year. The Governor's partial veto deleted this provision. Consequently, any annual unencumbered balance remains and accumulates in DOR's newly-created PR-S appropriation account year after year.

Reduce the percentage of municipal taxes that are deposited into DOR's administration of municipal sales and use taxes appropriation from 1.75% to 0.75%, beginning on the date on which the cumulative amount deposited into the baseball park facilities improvement segregated fund equals \$67,500,000. Based on current estimates, the reduction in the percentage would occur sometime during 2045.

## **County Sales Tax -- DOR Administrative Fee Reduction for All Counties**

AB 439, as amended, would reduce the percentage of county taxes that are deposited into DOR's administration of county sales and use taxes appropriation from 1.75% to 0.75%, beginning on July 1, 2024. It is estimated that this reduced rate would reduce fee revenues, and the corresponding transfer to the general fund, by \$6.5 million in 2024-25, and will likely increase each year thereafter.

Under current law, 1.75% of county sales and uses taxes collected are deposited into the DOR's collection of taxes - administration of county sales and use taxes appropriation to cover the costs of administering county taxes. This appropriation is provided \$3,183,700 PR in 2023-24 and \$3,186,300 PR in 2024-25 under 2023 Act 19. At the end of the fiscal year, any revenues collected in excess of expenditures in this appropriation are transferred to the general fund. In 2022-23, \$10.8 million of fee revenue was deposited into this appropriation, \$2.9 million was expended, and \$7.9 million was transferred to the general fund.

It is estimated that the 68 counties that currently impose the local option sales and use tax would, as a result of DOR's administrative fee being reduced from 1.75% to 0.75% on July 1, 2024, see total distributions increase by \$3.6 million in calendar year 2024 and \$7.5 million in calendar year 2025. (See Attachment II for county estimates)

## **Allowable Uses of 2023 Act 12 Milwaukee County Sales and Use Tax Revenues**

The allowable uses of revenue generated by the 0.4% Milwaukee county sales and use taxes allowed under Act 12 would be modified to specify that the County must use revenues remaining after making its required unfunded actuarial accrued liability (UAAL) payment for any of the following, without limitation regarding the order or priority of uses: (a) payments for its pension bond obligations; (b) additional payments to reduce the County retirement system's UAAL; and (c) payments for the employer contribution for the County retirement system (that is, contributions associated with the current year of service, or normal cost, for active employees remaining in the system). The amendment would additionally specify that the ordinance imposing the 0.4% sales and use tax must be repealed after the County retirement system is fully funded or until December 31, 2050, whichever is earlier.

Under 2023 Act 12, the County's retirement system is closed to newly-hired employees, effective December 31 of the year that the ordinance imposing the 0.4% sales and use tax goes into effect. The Act specifies that Milwaukee County must annually use revenue generated by the 0.4% sales and use tax as follows: (a) first, to make the required payment for the County retirement system's UAAL; (b) second, to make the required payment for its pension bond obligations; and (c) finally, any revenues received in excess of the amounts paid for the UAAL and pension bond obligations in the previous year must be used as an additional payment to reduce the County retirement system's UAAL. In addition, Act 12 specifies that the County must repeal the ordinance imposing the additional county sales and use tax after the County retirement system is fully funded or until 30 years have elapsed since the effective date of the tax, whichever is earlier. The Milwaukee County Board voted to impose the taxes in July, 2023. The 0.4% sales and use taxes will first be imposed on January 1, 2024.

### **Other Provisions**

*Redevelopment Report.* AB 439, as amended, would require 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 baseball park facilities of the district other than a baseball stadium and, not later than two years after the effective date of the bill, prepare a report summarizing the findings of the study.

*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. 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.

*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.

*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.

*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.

*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 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.

## **FISCAL EFFECT**

*State Effect.* Over the 27-year lease term, state contributions to the District would total \$411.5 million. The total cost to the state's general fund over this period would exceed this amount when factoring in the state GPR-Earned reductions associated with DOR's county sales tax administrative fee being reduced from 1.75% to 0.75%, as provided under AA 1 to AB 439. It is estimated that this lower rate would reduce revenues to the appropriation, which would decrease the transfer to the general fund, by \$6.5 million in 2024-25, \$6.7 million in 2025-26, and \$6.9 million in 2026-27. Assuming a 3% annual growth in county sales tax revenue, it is estimated that in 2049-50, the final year of the lease, the annual reduction in the transfer to the general fund would grow to \$13.6 million.

*Potential County Effect.* Since the 2005(06) property tax year, the Department of Revenue has administered a levy limit program that restricts the year-to-year increases in county and municipal property tax levies. In general, the state's levy limit program prohibits any county, city, village, or town from increasing its "base" levy in any year by more than its valuation factor, which equals the percentage change in the local government's January 1 equalized value due to new construction, less improvements removed, between the previous year and the current year, but not less than zero percent. Increases above the limit can be approved through the passage of a referendum. State law provides that amounts levied for certain purposes are not subject to the levy limit. These exclusions to the levy limit include amounts levied for debt service on general obligation debt authorized on or after July 1, 2005, or by the City of Milwaukee or Milwaukee County for debt service on appropriation bonds (for payment of employee retirement system liability). However, if a county or municipality were to increase its levy for a purpose that falls under one of the permissible exclusions, it must use the associated levy authority for that purpose alone, or otherwise reduce the levy by the amount no longer needed for the purpose specified. The

pension obligation bonds of Milwaukee County were issued as general obligation debt, rather than appropriation bonds.

Because AB 438, as amended, would allow Milwaukee County to choose which of the three eligible purposes (pension obligation bond payments, additional UAAL payments, or employer normal cost contributions) to fund from the 0.4% sales and use tax revenues remaining after making the required UAAL payment, the effects of the bill would depend to a certain degree on the County's decisions regarding the use of the revenue. Under the amended bill, the County could choose to use the revenue in the same manner as under current law (Act 12). In this case, the only effect of the specified provisions would be to reduce the maximum period of time in which the tax could be imposed from 30 years to 27 years. Under current law and under the amended bill, if the County utilized the sales and use tax revenue remaining after making its required UAAL payment for any portion of its annual pension obligation bond payments, the County would need to reduce its annual property tax levy by the amount of those annual pension obligation payments that were instead funded from the sales and use tax revenue. This reduction would benefit county property taxpayers, assuming the County would not replace the property tax levy with the annual debt service from the issuance of additional general obligation debt for another purpose.

Under current law, based on the potential size of the required UAAL payments and pension obligation bond payments from 2024 to 2030 (when the last bond payment is scheduled) relative to potential revenue, excess revenue may not be available to make additional payments toward the County retirement system's UAAL. If the County chose to use as much of the sales and use tax revenue as possible to repay the pension obligation bonds, and no revenue remained in those years for an additional UAAL payment (or employer contributions, under the amended bill), the provisions would have no immediate initial effect compared to Act 12. However, to the extent that revenue from the sales and use taxes would be used to pay employer normal cost contributions in place of making additional payments to reduce the retirement system's UAAL, the period in which the tax would otherwise have been imposed would be extended.

On the other hand, under the amended bill the County could choose to use all remaining revenue to reduce the UAAL of its retirement system as quickly as possible, and not utilize any revenue for pension obligation bonds or employer normal cost contributions. In this case, the 0.4% sales and use tax would be imposed for a shorter period of time than under current law, though the property tax levy would be higher than it otherwise could have been if the County had reduced the levy associated with its pension obligation bond payments.

It should be noted that even after the liability of a retirement system is fully funded, contributions must continue for the normal cost of benefits that continue to be accrued by active members still in the plan. In addition, the unfunded liability is a fluid number that changes from year to year based on actual investment returns. If plan assets experience investment losses one year, the funded status could again fall below 100%, requiring additional contributions to pay off the unfunded liability.

## ATTACHMENTS

Attachment I to this memorandum shows the schedule of payments required to be deposited into the newly created baseball park facilities improvement segregated fund, as provided under the amended bills. Attachment I also shows the continuation of the annual \$1,208,401 rent payments from the team to the District as required under AB 438 and under the existing lease, and the required \$50,000,000 commitment from the team for discretionary capital projects, as provided under the bills, as amended.

Attachment II to this memorandum shows the estimated additional county sales tax revenues that would be distributed in calendar year 2024 and 2025 under the two bills, as amended, as compared to current law.

BL/ml  
Attachments

## ATTACHMENT I

### Fund Deposits and other Financial Commitments Required under AB 438, as amended, and AB 439, as amended

#### Baseball Park Facilities Improvement Segregated Fund Deposits

Year	State Contribution (New)*	County Contribution (New)	Estimate of Annual City Contribution Amounts (New)	Estimate of District License Plate Revenue (Existing)	District Deposit From Treasury Assets (Existing)	Team Capital Contribution (Existing)	Team Rent Payments (New)	Total	Team Rent Payments (Existing)	Team- Funded Discretionary Capital Projects (New)	
Lease Signing	2023	\$60,800,000						\$60,800,000		\$50,000,000	
Lease Year 1	2024	13,400,000	\$2,500,000	\$100,000	\$300,000	\$2,200,000	\$300,000	\$1,851,852	20,651,852	\$1,208,401	
Lease Year 2	2025	13,900,000	2,500,000	2,400,000	300,000	2,200,000	300,000	1,851,852	23,451,852	1,208,401	
Lease Year 3	2026	14,500,000	2,500,000	2,400,000	300,000	2,200,000	300,000	1,851,852	24,051,852	1,208,401	
Lease Year 4	2027	15,100,000	2,500,000	2,500,000	300,000	2,200,000	300,000	1,851,852	24,751,852	1,208,401	
Lease Year 5	2028	15,700,000	2,500,000	2,600,000	300,000	2,200,000	300,000	1,851,852	25,451,852	1,208,401	
Lease Year 6	2029	16,300,000	2,500,000	2,700,000	300,000	2,200,000	300,000	1,851,852	26,151,852	1,208,401	
Lease Year 7	2030	17,000,000	2,500,000	2,700,000	300,000	2,200,000	300,000	1,851,852	26,851,852	1,208,401	
Lease Year 8	2031	17,600,000	2,500,000	2,800,000	300,000	2,200,000	300,000	1,851,852	27,551,852	1,208,401	
Lease Year 9	2032	18,300,000	2,500,000	2,900,000	300,000	2,200,000	300,000	1,851,852	28,351,852	1,208,401	
Lease Year 10	2033	19,100,000	2,500,000	3,000,000	300,000	2,200,000	300,000	1,851,852	29,251,852	1,208,401	
Lease Year 11	2034	19,800,000	2,500,000	3,100,000	300,000	2,200,000	300,000	1,851,852	30,051,852	1,208,401	
Lease Year 12	2035	20,000,000	2,500,000	3,200,000	300,000	2,200,000	300,000	1,851,852	30,351,852	1,208,401	
Lease Year 13	2036	20,000,000	2,500,000	3,300,000	300,000	2,200,000	300,000	1,851,852	30,451,852	1,208,401	
Lease Year 14	2037	20,000,000	2,500,000	3,400,000	300,000	2,200,000	300,000	1,851,852	30,551,852	1,208,401	
Lease Year 15	2038	20,000,000	2,500,000	3,500,000	300,000	2,200,000	300,000	1,851,852	30,651,852	1,208,401	
Lease Year 16	2039	20,000,000	2,500,000	3,600,000	300,000	2,200,000	300,000	1,851,852	30,751,852	1,208,401	
Lease Year 17	2040	20,000,000	2,500,000	3,700,000	300,000	300,000	1,851,852	28,651,852	1,208,401		
Lease Year 18	2041	10,000,000	2,500,000	3,800,000	300,000	300,000	1,851,852	18,751,852	1,208,401		
Lease Year 19	2042	10,000,000	2,500,000	3,900,000	300,000	300,000	1,851,852	18,851,852	1,208,401		
Lease Year 20	2043	10,000,000	2,500,000	4,000,000	300,000	300,000	1,851,852	18,951,852	1,208,401		
Lease Year 21	2044	10,000,000	2,500,000	4,100,000	300,000	300,000	1,851,852	19,051,852	1,208,401		
Lease Year 22	2045	10,000,000	2,500,000	3,800,000	300,000	300,000	1,851,852	18,751,852	1,208,401		
Lease Year 23	2046		2,500,000		300,000	300,000	1,851,852	4,951,852	1,208,401		
Lease Year 24	2047		2,500,000		300,000	300,000	1,851,852	4,951,852	1,208,401		
Lease Year 25	2048		2,500,000		300,000	300,000	1,851,852	4,951,852	1,208,401		
Lease Year 26	2049		2,500,000		300,000	300,000	1,851,852	4,951,852	1,208,401		
Lease Year 27	2050		2,500,000		300,000	300,000	1,851,852	4,951,852	1,208,401		
<b>TOTAL</b>		<b>\$411,500,000</b>	<b>\$67,500,000</b>	<b>\$67,500,000</b>	<b>\$8,100,000</b>	<b>\$35,200,000</b>	<b>\$8,100,000</b>	<b>\$50,000,000</b>	<b>\$647,900,000</b>	<b>\$32,626,827</b>	<b>\$50,000,000</b>

\*Does not reflect State GPR-Earned reductions associated with the reduction in DOR's administrative fee from 1.75% to 0.75%. Also does not reflect any state loan potentially made to the District, as provided under the bill.

## ATTACHMENT II

### Estimated County Sales Tax Revenue Associated with the DOR Administrative Fee Reduction, Calendar Year 2024 and 2025 (General Fund Reduction Amount)

<u>County</u>	<u>2024</u> <u>Amount (six months)</u>	<u>2025</u> <u>Amount</u>	<u>County</u>	<u>2024</u> <u>Amount (six months)</u>	<u>2025</u> <u>Amount</u>
Adams	\$13,000	\$28,000	Marathon	\$89,000	\$183,000
Ashland	10,000	21,000	Marinette	25,000	51,000
Barron	32,000	67,000	Marquette	7,000	14,000
Bayfield	10,000	20,000	Menominee	-	1,000
Brown	199,000	410,000	Milwaukee (0.5%)	525,000	1,081,000
Buffalo	5,000	12,000	Milwaukee (0.4%)*	421,000	865,000
Burnett	9,000	19,000	Monroe	26,000	54,000
Calumet	31,000	63,000	Oconto	16,000	33,000
Chippewa	45,000	91,000	Oneida	35,000	73,000
Clark	16,000	31,000	Outagamie	135,000	279,000
Columbia	35,000	73,000	Ozaukee	61,000	124,000
Crawford	10,000	22,000	Pepin	4,000	9,000
Dane	429,000	884,000	Pierce	18,000	37,000
Dodge	48,000	99,000	Polk	26,000	54,000
Door	33,000	68,000	Portage	45,000	93,000
Douglas	30,000	61,000	Price	7,000	15,000
Dunn	24,000	50,000	Richland	8,000	17,000
Eau Claire	74,000	152,000	Rock	103,000	212,000
Florence	2,000	4,000	Rusk	7,000	14,000
Fond Du Lac	61,000	126,000	Saint Croix	65,000	134,000
Forest	4,000	8,000	Sauk	67,000	138,000
Grant	27,000	56,000	Sawyer	15,000	32,000
Green	20,000	40,000	Shawano	21,000	42,000
Green Lake	11,000	23,000	Sheboygan	73,000	150,000
Iowa	14,000	30,000	Taylor	9,000	18,000
Iron	4,000	7,000	Trempealeau	15,000	30,000
Jackson	11,000	22,000	Vernon	14,000	29,000
Jefferson	47,000	96,000	Vilas	22,000	44,000
Juneau	14,000	29,000	Walworth	77,000	160,000
Kenosha	109,000	224,000	Washburn	11,000	23,000
Kewaunee	8,000	18,000	Washington	88,000	182,000
La Crosse	91,000	186,000	Waupaca	26,000	54,000
Lafayette	7,000	15,000	Wausara	11,000	23,000
Langlade	12,000	25,000	Wood	<u>41,000</u>	<u>86,000</u>
Lincoln	15,000	33,000			
			County Total	\$3,623,000	\$7,467,000

\*This estimate assumes 10 months of distributions to Milwaukee County from the new 0.4% sales and use tax