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TAX FOR NEW TIGER STADIUM

House Bill 5300 as enrolled
Second Analysis (7-30-92)

Sponsor: Rep. Curtis Hertel
First House Committee: Appropriations
Second House Committee: Taxation
Senate Committee: Local Government and
Urban Development

THE APPARENT PROBLEM:

Fears abound that the Detroit Tigers, Michigan's professional baseball team, will leave the city of Detroit in the near future, perhaps even leave the state. Club management apparently considers the present ballpark -- Tiger Stadium at the corner of Michigan and Trumbull -- obsolete and not suitable for renovation. Many Tiger Stadium loyalists dispute this and urge renovation of one the few remaining classic ballparks (along with Wrigley Field in Chicago and Fenway Park in Boston). But city and county officials have come to believe a new baseball stadium is what the Tigers need to remain competitive in today's sports entertainment marketplace and are seeking ways to finance a new stadium in the downtown area of Detroit. Many people believe that the loss of the Tigers would be a devastating psychological and economic blow to an already depressed city. One current proposal would locate a stadium near the Fox Theatre district, in the hopes that would lead to an area-wide revitalization of the city's downtown. Although there does not appear to be any agreement between local government officials and the baseball club (or perhaps even any meaningful conversation at the moment), county and city leaders are pushing ahead with a proposal for financing a stadium through excise taxes levied on hotel rooms, restaurants, and rental cars. Other communities also would like the option of asking voters to fund sports or convention facilities through such a tax.

THE CONTENT OF THE BILL:

The bill would allow certain counties or municipalities within counties to levy, with voter approval, an excise tax of up to one percent on restaurants and bars, of up to one percent on hotel and motel rooms, and of up to two percent on rental cars, with the revenues to fund construction of sports stadia or convention facilities.

The bill would allow Wayne County to use such revenues to fund construction of a baseball stadium in downtown Detroit. (The bill refers to a county with a population of 1.5 million or more, and requires that any stadium for which excise tax revenue is used be a professional baseball facility of at least 25,000 seats located "in the downtown area of the most populous city" in the county.)

Other "eligible municipalities" could use the excise tax revenue either for convention facilities or for sports or entertainment facilities. In these communities, a sports or entertainment facility would have to contain more than 3,000 seats but could not be a baseball facility with over 25,000 seats.

The eligible municipalities include:

- * A county (that is not a charter county) with a population of more than 500,000 and containing a city of more than 180,000, or the most populous city in that county. (This refers to Kent County and Grand Rapids.)

- * A county with a population under 200,000 containing a city of more than 40,000 but fewer than 50,000 people, or the most populous city in that county. (This refers to Muskegon County and the city of Muskegon.)

- * A county with a population under 300,000 containing a city of over 100,000 population, or the most populous city in the county. (This applies to Ingham County and Lansing and Washtenaw County and the city of Ann Arbor.)

- * A county with a population over 250,000 with an optional unified form of government, or a city

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within that county that levies an income tax. (This applies to Oakland County and the city of Pontiac)

Specifically, the restaurant/bar tax would be on the gross receipts of an entity engaged in the business of preparation and delivery of food and beverages for immediate consumption, including alcoholic beverages, and licensed as a food service establishment. Excluded would be a school district, a nonprofit organization exempt from sanitation fees, and a grocery store whose sale of food and beverages for immediate consumption is incidental to its business as a grocery store. The hotel/motel tax would be on gross receipts from room charges to guests who stay less than 30 days. Excluded would be hospitals, nursing homes, emergency shelters, community mental health or community substance abuse treatment facilities, and campgrounds. The rental car tax would be on the gross receipts from leasing and renting vehicles for less than 30 consecutive days.

Revenue would have to go into a special fund and could be used only for, in order of priority, costs of the election on the tax and costs of administering and enforcing the tax; costs associated with the acquisition and construction of a stadium, including reimbursement to a county for acquisition and construction costs, and to cover rental payments to an authority organized to acquire a stadium and lease it to the county; and, if not needed for the other purposes, for costs associated with the clearance and improvement of land for assembly and development purposes.

The county's governing body would have to levy the taxes by adopting an ordinance, which could not take effect until 30 days after voters approved it in a countrywide election. The vote could be at a primary or general election, or at a special election called for that purpose. The question presented to the voters would have to state the tax rates authorized and state that the purpose of the tax was principally for the county to pay rent to an authority organized to acquire a stadium and lease it to the county. The question also could request approval of the leasing and subleasing of the stadium by the county. If the question did not request such approval, however, there would be a right of initiative and referendum regarding the adoption or execution of any contract, lease, or sublease for the stadium or any amendment to any contract of lease or sublease of any local unit of government

necessary to allow the county to lease or sublease the stadium.

The ordinance imposing the tax would have to provide for: the rates of the tax; the manner of its imposition, including the dates on which it was due, the period covered by each collection, and the method or methods of payment; the rates and manner of imposition of interest and penalties on delinquencies in filing returns, payment of taxes, or other violations, which could not exceed the interest and penalties in the Revenue Act for a tax levied by the state; the determination and allowance of exemptions, abatements, and refunds; the designation of the collector of the tax; and procedures for the appeal of any assessment to the state tax tribunal, including the period when an assessment could be appealed. The ordinance would specify that the tax would expire no later than the end of the county fiscal year in which the obligations issued by the authority were retired. The ordinance could provide for certain kinds of rules and regulations for administering the tax. The ordinance also would specify that if any provisions were judged invalid or unenforceable, that judgment would not impair the remaining provisions.

The bill would permit the county executive (or other chief executive officer) and the state treasurer to enter an agreement that would have the tax collected by the state revenue division. Taxes, interest, and penalties would be remitted to the county under such an agreement not more than 15 days after their due date. Revenues remitted after the deadline would include interest earned on gross collections after the deadline.

The county could not enter into a contract for lease of a stadium payable in whole or in part from the revenues from the excise tax unless the county took action to insure that the proceeds of any obligations issued by an authority to which rentals were payable and any other available money were sufficient to defray the cost of the stadium. Such action could include the appointment of officials and employees of a local unit of government within the county as members of the authority. The appointees would not be considered to be concurrently holding incompatible offices or to be in breach of duty of their public office.

The bill also would repeal Public Act 232 of 1971 (MCL 141.851 et al.), which authorizes Wayne

County to levy a five percent hotel/motel tax for stadium purposes.

FISCAL IMPLICATIONS:

According to a memorandum from the staff of the House Taxation Committee, the Wayne County tax would raise between \$14 million and \$17.3 million annually, with \$11-\$13.9 million from the tax on restaurants and bars; \$1.6 million from the tax on hotels and motels; and \$1.8 million from the tax on rental cars. The memorandum notes that such annual revenues would permit a bond issue of from \$115.6 million to \$140.4 million. Other revenues could be realized from parking. There is an assumption, say tax specialists, that any additional financing needed for a stadium would come from the Detroit Tigers.

The staff to the House Taxation Committee also notes in its memorandum that hotels in Detroit pay anywhere from 4 percent to 12 percent in tax, depending on the number of rooms, and in Wayne County anywhere from 4 percent to 11 percent. The memorandum says, "The maximum rate of 12 percent (13 percent with the additional local excise tax) is comparable to hotel tax rates in other major cities throughout the country." Restaurants and bars are subject to the 4 percent sales tax on food and drink for immediate consumption. Rental cars are subject to either the 4 percent use tax or 4 percent sales tax, depending upon whether the sales tax is paid upon purchase of the vehicle. (11-13-91) Information on projects in other counties is not currently available.

ARGUMENTS:

For:

The bill would allow voters in several counties to impose excise taxes to fund sports and entertainment facilities. The economic development prospects of a number of communities could be enhanced through such projects. But the principal focus of the bill is to keep the Detroit Tigers baseball team in the city of Detroit by providing a means of financing a new stadium in the city's downtown. For the city to lose the Tigers would be devastating psychologically, for the city's image, and financially. State, county, and city officials, as well as community leaders, should work to keep the team in the city. It should be noted that no taxes would be levied in any community under this bill without voter approval.

Advocates for the Wayne County proposal say that the current stadium cannot produce the revenue the Tigers need to stay in business or to stay competitive. A new baseball stadium is needed and one cannot be built without public funds. (Reportedly, no one has build a major league baseball stadium without public funds in 20 years.) A new stadium could help the Tigers increase revenues in several ways, including the sale of luxury boxes and the expansion of concession stands and parking facilities. Supporters argue that this is the best way to pay for the stadium, and assert that there is significant community and business support for the proposal. Other communities have used similar taxes for this purpose in other cities, and with the additional tax, the county and city taxes on these services would not be out of line. Some proponents say the current stadium proposal would create 2,000 jobs and help to bring back the city's downtown area through the development of additional retail outlets and city housing. The tax itself will be hardly noticeable on restaurant and bar bills, hotel and motel bills, and car rental charges. Yet the positive effects will be obvious and widespread. The tax should be seen as an investment in the city.

Putting the proposal on the ballot will by itself help in efforts to keep the Tigers in the city, because, it is said, the American League will not let a team leave a community if that community's political leadership has shown support for the team.

Against:

Objections have been made to the bill from many points of view. Among the criticisms, briefly stated, are the following.

* The tax proposal represents a public subsidy for a private interest. Why should the businesses and citizens of Wayne County tax themselves to provide a new ballpark for a private company owned by a wealthy individual? This is particularly a concern when there are so many unmet needs that could be served by revenue from a local option tax such as this. Is the building of a stadium for a privately owned team the proper role of government?

* There are questions about the constitutionality of the tax on restaurants and bars. How does this differ from a sales tax? An increase in the sales tax requires an amendment to the state constitution; a bill passed by the legislature cannot legally increase the sales tax.

* Some economists dispute the claim that a new stadium or even retaining the Detroit Tigers will have a significant overall positive economic impact on the city or the state. The Tigers as an enterprise are simply not that large, in terms of employment, revenue, or otherwise. Additional economic activity immediately around the stadium will simply divert activity from other places. (What becomes, for example, of the businesses near the current Tiger Stadium?) If the new stadium has its own parking lot, ample concessions inside, and special boxes, it could become a fortress in the midst of the city that people will visit without ever spending time or money elsewhere in the city.

* The bill sets a worrisome precedent. Undoubtedly, other counties or municipalities in the future will want similar legislation permitting special taxes to build facilities for local private interests. The bill was expanded to include counties beyond Wayne even while it was in the legislature.

* The current Tiger Stadium ought to be renovated. It is a great stadium, one of the few classic ballparks remaining. Some architects believe renovations could make it a successful stadium for decades to come. Tiger Stadium loyalists believe that the team has not seriously considered the renovation option. At the very least, Wayne County voters should be given a serious choice: renovate Tiger Stadium or build a new stadium. This proposal says to the voters: do you want a baseball team or not? This is hardly the real choice involved. The Tigers have a lease with the city that runs to 2008. They should be held to that lease. If that lease is not enforceable, what makes any new lease the Tigers sign with a new stadium any better?

* Some business owners directly affected by the tax have complained that there is simply no linkage between a new baseball stadium and their businesses. A representative of the restaurant industry has complained that the proposal asks restaurants to finance their competitors, the restaurants and other food concessions at the new stadium built by the tax on restaurant meals and bar tabs. Ultimately, some business representatives predict, the tax will spread to other counties and the rates will be increased.

* It is difficult to see how the Detroit-area economy could be improved by any scheme that involves increasing taxes. Taxes are already too high in the

city and county, and are an impediment in and of themselves to economic growth.

Response:

How could anyone argue that the loss of the Tigers would not be another staggering blow to a city that has suffered so many in recent years? The image of the city, and the city's economy, is important to everyone in the state. There is widespread support throughout Michigan for keeping the Tigers in the city and preventing them from going to the suburbs as the football and basketball teams have done. The approach taken in this bill is similar to that taken in other cities in recent years that have helped finance major sports stadiums. There is evidence that in cities with new stadiums, there have been significant economic development benefits. While it is sad to see old ballparks go, the economics of baseball today require it. Think of recent projects in Toronto, Chicago, and Baltimore, and the benefits they have brought.