CRC

Governmental Research Since 1916

CRC Memorandum

No. 1045 A publication of the Citizens Research Council of Michigan October 1996

Selected Detroit & Wayne County Ballot Issues

Proposal T: Amending Pension Provisions of the New City of Detroit Charter

In Brief

Proposal T on the November 5 City of Detroit ballot would amend the charter adopted by the voters on August 6, 1996, to alter the manner by which actuarial gains from City of Detroit pension funds are distributed and would amend certain other pension provisions. These provisions were intended by the Charter Revision Commission to be part of the new charter, but had been deleted by the Wayne County Circuit Court from the charter submitted to the voters.

In March 1996, the Detroit City Charter Revision Commission adopted a proposed charter for the City of Detroit, which included a provision that would have altered the practice of distributing to active and retired employees the earnings of pension fund assets in excess of an assumed interest rate. City employee unions brought suit in Wayne County Circuit Court, which issued an injunction striking this and certain related provisions from the proposed charter. The Court held that the provisions were illegal under the Public Employment Relations Act because they were mandatory subjects of collective bargaining and could not be changed by charter. The proposed charter, minus the pension provisions, was then submitted to the voters, who approved it at the August 6, 1996, primary election. The charter will become effective on January 1, 1997.

The City of Detroit and the Charter Revision Commission appealed the ruling of the Circuit Court to the Michigan Court of Appeals, which reversed the Circuit Court. The Court of Appeals concluded that the Circuit Court "abused its discretion in issuing an injunction" and that no "irreparable harm" would have occurred if the voters had been permitted to vote on the issue. As a result of the Court of Appeals decision, the Charter Revision Commission is submitting the pension provisions to the voters of the City of Detroit at the November 5 general election as an amendment to the newly-adopted charter.

Continued on Page 2

Proposal S: Public Funding for Stadium Construction in Detroit — II

In Brief

The Wayne County Commission is asking voter approval for a new excise tax on gross receipts from accommodations and motor vehicle rentals in Wayne County. This tax would tend to fall on tourists. The new tax rate on hotel accommodations would give the Wayne County a fairly high tax rate relative to many other major U.S. cities. The new tax rate on motor vehicle rentals would be about average relative to the other major U.S. cities.

In October 1995, the Detroit Tigers, the City of Detroit, and the State of Michigan came to agreement for the financing of a new Tiger Stadium (See Public Funding for Stadium Construction in Detroit, *CRC Memorandum No. 1040*). Since then, voter approval for the use of Detroit tax dollars and Supreme Court approval for the use of Strategic Fund dollars have cleared the way for the advancement of this plan. Now, in conjunction with the Detroit Tigers and the City of Detroit Downtown Development Authority (DDA), the Detroit Lions and Wayne County have announced plans to coordinate construction of a sports complex to include a new Tiger Stadium next to a stadium for the Lions. Part of the proposed financing for this complex involves the levy by Wayne County of a municipal stadium excise tax on accommodations at a rate of one percent and motor vehicle rentals at a rate of two percent. Proposal S on the November 5 ballot in Wayne County seeks voter approval of this tax for 30 years.

Municipal Stadium Excise Tax

The proposed tax is an excise tax on the gross receipts of establishments providing accommodations or motor vehicles for rent, who pass the tax on to customers. This tax is referred to as a "tourist tax" because the customers primarily are visitors.

Wayne County has estimated that the excise tax will yield $5.5 million in the first year, with revenues increasing two percent yearly. Independent CRC calculations confirm these estimates to be fairly conservative.

Data are not available that permit an estimate of the number of customers by residence. However, available data indicate that accommodations serve "tourists" to a greater extent than do motor vehicle rentals. The Metropolitan Detroit Convention and Visitors Bureau reports that there were

Continued on Page 3

Citizens Research Council of Michigan

www.crcmich.org

38777 Six Mile Road • Suite 201A • Livonia, Michigan • 48152-2660 • (734) 542-8001 • Fax (734) 542-8004 • E-Mail crcmich@mich.com

1502 Michigan National Tower • Lansing, Michigan • 48933-1738 • (517) 485-9444 • Fax (517) 485-0423 • E-Mail crcmich2@mich.com

Proposal T: Amending Pension Provisions of the City of Detroit Charter (Continued)

Background

The four funds that constitute the City of Detroit General Retirement System provide for defined benefit pension plans for civilian city employees and elected officials. *Funded* plans, such as those operated by Detroit, require that assets be set aside when benefits are earned by current employees so that, when the employees retire, resources will be available to pay those benefits. In determining how much to set aside each year, actuaries make certain assumptions about factors that will affect the amount of benefits that will be paid out, such as retirement rates, death rates, and the rate of return on pension fund investments.

Inevitably, actual experience will diverge from the actuary's assumptions. In some cases, the actual rates will be favorable to the financial condition of the system, creating *actuarial gains*. In other cases, actual experience will adversely affect the fund, resulting in *actuarial losses*. If, for example, interest earnings are higher than assumed by the actuaries, the ability of the fund to meet its obligations will correspondingly improve. If the earnings fall short of the actuarial assumptions, the fund will decline in its ability to meet those obligations.

Over time, actuarial gains and losses tend to offset each other. (If they do not, the actuaries must adjust their assumptions to assure that neither too much nor too little is set aside each year.) In the normal course of events, a low rate of return in one year will be made up by a high rate in another year.

In the Detroit plans, however, a different approach is used. The Board of Trustees of the system distribute most of earnings in excess of the assumed interest rate (currently 7.5 percent) to both active employees (to their annuity funds) and retired employees (as a so-called "thirteenth check"). Thus, most actuarial gains from interest earnings go to city employees. Actuarial losses, however, are absorbed by the general fund, and therefore by the taxpayers. The result is that the opportunity for offsetting losses and gains with respect to interest earnings is foreclosed, creating a system that is much more expensive than it would be were it operated in a more conventional manner.

From 1985 to 1994, the trustees distributed $442 million in "excess earnings" (no excess earnings were distributed in 1995) and although the City has made about 77 percent of the contributions to the funds, the City has received only about 35 percent of the distribution. Employees have made about 22 percent of the contributions, but 54 percent of the distribution went to active employees, with 11 percent going to retired employees.

Proposed Amendment

The ballot language is very close to the actual wording of the amendment itself:

> . . . all income, interest and dividends not required for the allowance of regular interest to the funds of the General Retirement System be credited to the Annuity Savings Fund and Annuity Reserve Fund in a proportional percentage equal to their percentage of the total Pension Fund, with the remainder credited to the Pension Accumulation Fund as a portion of the amount to be contributed by the City of Detroit.

Essentially, this means that excess earnings would be distributed to the employees (Annuity Savings Fund and Annuity Reserve Fund) in pro-portion to the amount they contributed, and the rest would go to the City (Pension Accumulation Fund) to reduce the amount of contribution from the general fund. If City contributions equal 77 percent of the assets in the funds, the City would receive 77 percent of the excess earnings. The employees would then receive their proportionate share.

If this provision had been in effect during the 10-year period 1985-94, the City would have been able to reduce its contribution to the system by $187 million.

Other Provisions. The proposed amendment also includes three other provisions that would:

- Authorize a mayoral designee to serve on the General Retirement System Board of Trustees. (At present, the mayor must serve.)
- Increase the number of retirant members on the Board from one to two (to reflect a long-term increase in the proportion of system members that are retired). There would be 11 members of the Board.
- Require that retirant members of the Board of Trustees be residents of the City of Detroit.

Implementation. Implementation of this proposed amendment would not be automatic. According to the Court of Appeals decision, "*all* parties agree that the challenged provisions cannot be implemented, even if enacted by the voters, without bargaining."

Interestingly, the excess earning distribution has never been the subject of collective bargaining, but rather was initiated and continued by the Trustees acting under authority of the 1973 Charter, which continued in force, by reference, the provisions of the City pension plans that had been contained in detail in the 1918 Charter.

Proposal S: Public Funding for Stadium Construction (Continued)

approximately 9 million over-night visitors to the Detroit area in 1994. Of these 9 million visitors, 86 percent were from outside of Michigan. It is not possible to further identify the residence of the 14 percent of over-night visitors from Michigan.

More so than accommodations, motor vehicles are rented to Wayne county or Michigan residents. Some car rental agencies specialize in providing cars and trucks for local customers. Examples include rentals to those:

- whose cars are being serviced or repaired;
- making long trips and not wishing to put mileage on their own cars;
- moving household goods or other large loads; or
- using vans for special outings.

Accommodations Tax Rate.

Currently, up to 14 percent can be added to the price of accommodations in Wayne County from three different levies. (1) A 6 percent use tax is levied on the amount guests are charged to stay in all accommodations in Michigan. (2) An accommodations tax on gross receipts is levied in Wayne, Oakland and Macomb counties to finance the bonds sold for the expansion of Cobo Hall in Detroit. This tax is levied at rates varying from 1.5 percent to 6 percent depending on whether the hotel is located within the City of Detroit and how many rooms are available, as follows:

No. Rooms Available:	Detroit	Oakland, Macomb, Out-County Wayne
81-160	3.0%	1.5%
161 or more	6.0%	5.0%

The bonds outstanding from Cobo Hall will be fully retired in 2012. State law provides that the tax shall not be levied after 2015. (3) Finally, a two percent assessment is paid to the Detroit Convention and Visitors Bureau by all hotel facilities with 35 or more rooms in Wayne, Oakland and Macomb Counties.

Motor Vehicle Rental Tax Rate.

The 6 percent state use tax is currently the only tax levied on motor vehicle rentals in Michigan. A new tax rate of 8 percent would be about equal to the major U.S. destination city average of 8.24 percent.

Financing the Sports Complex

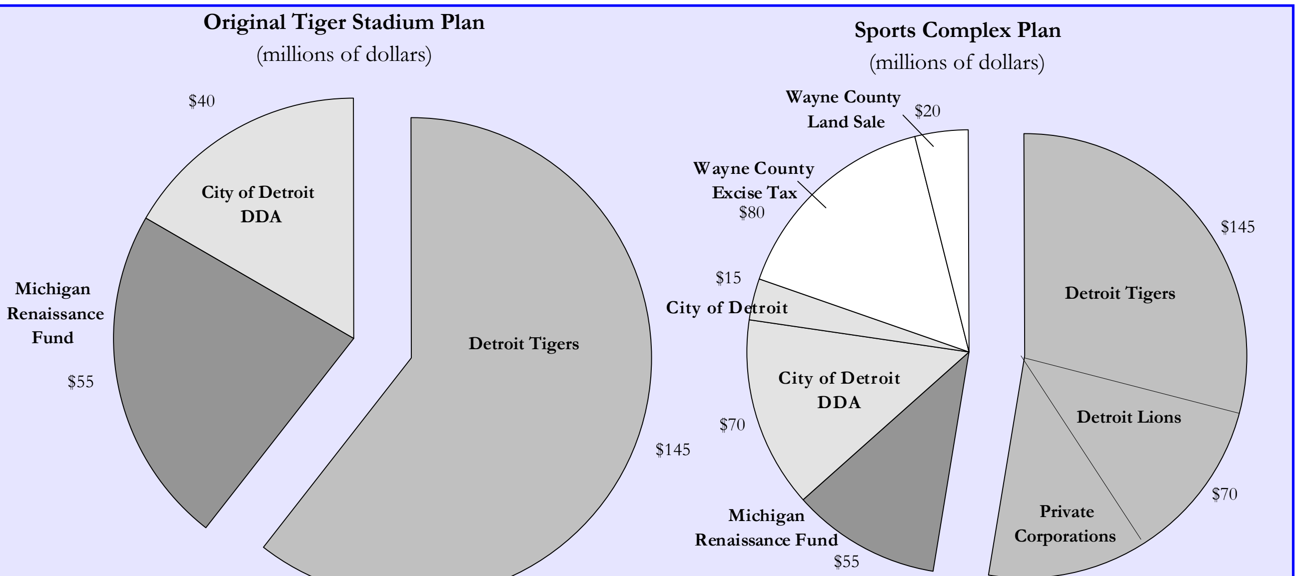
The original revenue sources for the financing of a new Tiger Stadium would remain in place for the construction of the proposed complex and would be supplemented by revenues from the Detroit Lions, from the corporate community, from Wayne County, and from the City of Detroit.

The flow chart on page 4 illustrates the financing of each of the stadiums. A couple of elements require some explanation. First, as in the original Tiger Stadium plan, the Michigan Renaissance

Highest Tax Rates, Major U.S. Cities

City	Hotel Tax	Car Rental Tax
Columbus	15.75%	6.00%
Seattle	15.20	17.10
Anaheim	15.00	7.75
Detroit (Proposed)	**15.00**	**8.00**
Houston	15.00	10.00
San Antonio	15.00	7.75
Chicago	14.90	18.00
Cleveland	14.50	7.00
St. Louis	14.10	4.23
Los Angeles	14.00	6.00
Detroit (Present)	**14.00**	**6.00**
San Francisco	14.00	8.50
New York	13.25	13.25
Atlanta	13.00	4.00
Dallas	13.00	10.00
Philadelphia	13.00	7.00
Washington, D.C.	13.00	10.00
Miami	12.50	6.50
Baltimore	12.00	11.50
Minneapolis	12.00	12.70
50 City Average	**12.03**	**8.24**

Source: *Travel Taxes in America's Top Destinations*, Travel and Tourism Government Affairs Council.



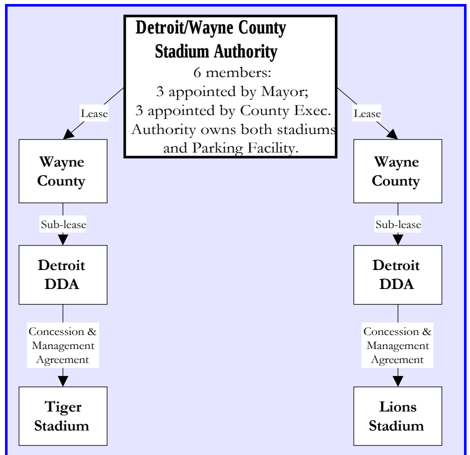
Source: Wayne County.

Citizens Research Council of Michigan
38777 Six Mile Road, Suite 201A
Livonia, Michigan 48152-2660

Fund (formerly the Michigan Strategic Fund) can be used to pay only the costs of land acquisition, site development, and improvement of public infrastructure related to the construction of a new Tiger Stadium. Second, the contribution from the Detroit DDA totals $70 million. The chart shows three disbursements *from* the DDA, totaling $110 million, and one disbursement *to* the DDA, totaling $40 million. This represents the fact that Wayne County is purchasing ownership rights in the new Tiger Stadium. Although the involvement of Wayne County is associated with a new Lions Stadium, all proceeds from the county stadium excise tax will be used for the baseball stadium, and net DDA contributions will be for the new football stadium.

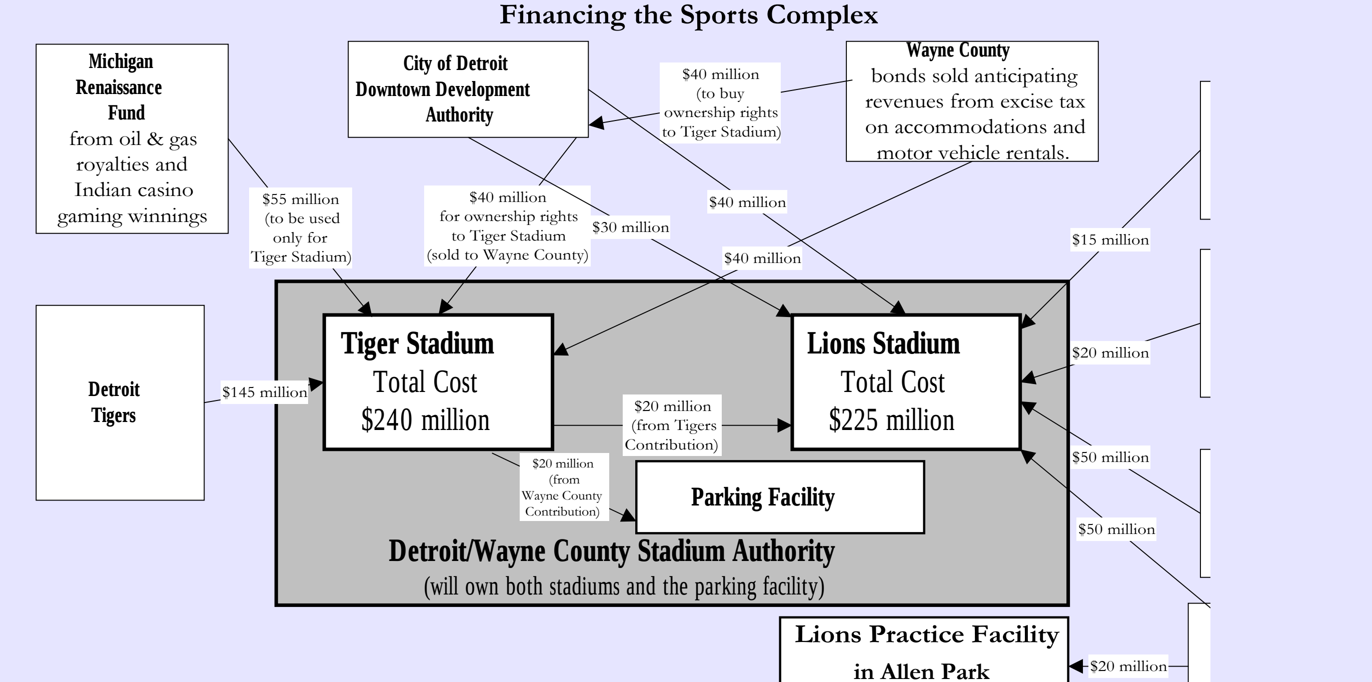
Ownership.

The sports complex will be owned by the Detroit/Wayne County Stadium Authority, a new government entity. The authority will lease both stadiums to Wayne County, who will then sub-lease the stadiums to the City of Detroit Downtown Development Authority. The Tigers and Lions will then have a concession and management agreement with the DDA.



Source: Wayne County.

Financing the Sports Complex



Source: Memorandum of Understanding.