

2
3
4
5 **AN ENGROSSED RESOLUTION/ORDINANCE**

6
7 To amend Chapter 22 - Sales and Use Taxes of the Milwaukee County Code of General
8 Ordinances to enact an additional 0.4% County sales and use tax effective January 1,
9 2024 to reduce the structural deficit and avert the fiscal cliff, and enroll new hires in the
10 Wisconsin Retirement System after December 31, 2024, and close the Employees'
11 Retirement System of the County of Milwaukee ("ERS") to new hires pursuant to 2023
12 Wisconsin Act 12
13

14
15 WHEREAS, on November 4, 2008, Milwaukee County voters approved an
16 advisory referendum to enact an additional one percent (1%) sales and use tax to
17 provide dedicated funding to parks, transit, and emergency medical services (EMS)
18 while also providing tax levy relief; and
19

20 WHEREAS, a Milwaukee Journal Sentinel editorial on November 5, 2008, was
21 headlined: *People Have Spoken: It's Time to Move Forward on a Milwaukee County*
22 *Sales Tax Increase to Protect Parks, Transit and Other Key Services and to Offer*
23 *Property Tax Relief*"; and
24

25 WHEREAS, until the recent approval of 2023 Wisconsin Act 12 ("Act 12"), the
26 Governor and Wisconsin State Legislature had not authorized Milwaukee County to
27 enact an additional sales and use tax as approved by the voters and have provided little
28 or no increases in state aids (e.g., shared revenue) to fund critical County services; and
29

30 WHEREAS, if the County authorizes the additional 0.4% sales and use tax, as
31 allowed in Act 12, it is projected to generate more than \$82.1 million in revenue in 2024
32 to pay for required expenditures and help avert devastating cuts to programs and
33 services; and
34

35 WHEREAS, if authorized, the 0.4% sales and use tax must begin at the
36 beginning of a calendar quarter, so any delay in enactment would result in a loss of
37 revenue to the County of approximately \$6.85 million per month, or \$20.5 million per
38 quarter; and
39

40 WHEREAS, Milwaukee County has long advocated for fiscal tools through its
41 legislative agenda to help address its structural deficit, primarily due to expenditures
42 outpacing stagnant revenues, and sources of revenue other than property taxes which
43 are strictly limited by state statutes; and

44 WHEREAS, over the last two decades Milwaukee County has addressed its
45 fiscal challenges by shrinking County Government as measured by total number of
46 employees, number and size of facilities, privatizations, public-private partnerships, and
47 numerous changes to services; and

48 WHEREAS, in File No. 17-266, adopted March 23, 2017, the Milwaukee County
49 Board of Supervisors “supports exploration of transitioning from administering a
50 separate defined benefit pension plan on behalf of its employees, to seeking to
51 participate in the Wisconsin Retirement System (WRS)” by creating a workgroup to
52 study the issue; and

53 WHEREAS, in File No. 17-442, the Workgroup on WRS Feasibility issued a
54 report explaining the complexities of moving to the WRS and the legal, actuarial, and
55 fiscal requirements depending on whether it was for all employees, or just future years
56 of service or only for new hires; and

57
58 WHEREAS, in 2018, Milwaukee County adopted the “Fair Deal” resolution,
59 establishing the “Fair Deal for Milwaukee County Workgroup” and advocating for long-
60 term fiscal stability through a solution that would work for both the State of Wisconsin
61 and Milwaukee County in furtherance of their shared prosperity (File No. 18-751); and

62
63 WHEREAS, the Milwaukee County Comptroller annually produces a five-year
64 fiscal forecast, with the latest edition warning of an \$18.4 million structural deficit for
65 2024 and a five-year projection exceeding \$109 million between 2024 and 2028 (File
66 No. 23-411); and

67
68 WHEREAS, as federal and state pandemic aid is exhausted, the Milwaukee
69 County transit division faces a “fiscal cliff” beginning in 2025, requiring an
70 unprecedented \$33.8 million in tax levy to support current operations (an increase of
71 \$25.1 million), which, without a solution, would result in an estimated 20% cut in
72 services amounting to nearly half of the current routes being eliminated (File No. 23-
73 622); and

74
75 WHEREAS, strict tax levy limits impede the county’s ability to address the budget
76 shortfall and avoid a severe to critical services such as human services, law
77 enforcement, transit, and quality of life items such as the parks system; and

78
79 WHEREAS, on June 20, 2023, Governor Tony Evers signed Assembly Bill 245,
80 now 2023 Wisconsin Act 12 (“Act 12”), providing a historic increase of state funding for
81 local governments (“shared revenue”) and enabling Milwaukee County policymakers an
82 opportunity to enact local sales taxes to help eliminate unfunded pension liabilities; and

83

84 WHEREAS, Act 12 enables Milwaukee County to enact a 0.4% countywide sales
85 and use tax increase to the 0.5% sales tax currently authorized while requiring new
86 hires to be enrolled in the Wisconsin Retirement System (WRS) resulting in a “soft
87 close” of ERS; and

88 WHEREAS, the County sought a bill that provided a solution for its looming fiscal
89 cliff and, Act 12, approved by a politically divided State government, was the only tool
90 granted to the County to address its own fiscal challenges; and

91 WHEREAS, Wisconsin exempts sales and use taxes from items such as
92 personal groceries, prescription drugs, water from mains, natural gas, and electricity
93 (November through April), therefore these state exemptions reduce the impact of the
94 tax; and

95
96 WHEREAS, a key benefit of the sales and use tax, aside from the increased
97 revenue growth to stave off program and service reductions, is that visitors who reside
98 outside of Milwaukee County will be contributing revenue to the County through their
99 purchases; and

100
101 WHEREAS, if the County approves the 0.4% sales and use tax to begin January
102 1, 2024, Act 12 requires the County to enroll all new employees hired on or after
103 January 1, 2025 in the Wisconsin Retirement System (WRS) phasing out the County’s
104 current ERS pension system through a soft close provision; and

105
106 WHEREAS, WRS is one of the most highly regarded state pension plans in the
107 nation, which according to a January 2023 article by Pew Charitable Trusts, *Wisconsin*
108 *Pension Official Details States Approach to Weathering Market Volatility*, demonstrates
109 “...exemplary characteristics...including a path to retirement security for all workers
110 within clearly defined cost targets, a plan for managing risk, and a commitment to
111 ensuring that policies are transparent and clearly communicated to stakeholders”; and

112
113 WHEREAS, Act 12 requires the revenue generated by the 0.4% sales and use
114 tax to first be used to make the annual actuarial required unfunded liability payment for
115 the ERS and, if there are funds remaining, to offset the annual payment on the County’s
116 outstanding pension obligation bonds; and

117
118 WHEREAS, through the enactment of Act 12, Milwaukee County has long last
119 been given an opportunity to address its looming fiscal crisis and provided a significant
120 decrease in its projected structural deficit while ensuring the current pension plan is fully
121 funded for its members; and

122

123 WHEREAS, the Committee on Personnel (Personnel), at its July 17, 2023,
124 Special Joint Hybrid Meeting with the Committee on Finance (Finance), recommended
125 adoption of File No. 23-719 (vote 5-0); and
126

127 WHEREAS, Finance, at its July 17, 2023, Special Joint Hybrid Meeting with
128 Personnel, recommended adoption of File No. 23-719 (vote 4-3); now, therefore,
129

130 BE IT RESOLVED, the Milwaukee County Board of Supervisors hereby
131 authorizes the implementation of a 0.4% sales and use tax increase pursuant to Wis.
132 Stats. § 77.70(2)(a) beginning January 1, 2024, to establish an overall 0.9% sales and
133 use tax for Milwaukee County when coupled with the current 0.5% sales and use tax;
134 and
135

136 BE IT FURTHER RESOLVED, the Milwaukee County Board of Supervisors
137 hereby authorizes new eligible employees hired after December 31, 2024 to be enrolled
138 in the Wisconsin Retirement System (WRS) pursuant to Wis. Stats. § 40.21(7)(a) and
139 as required by § 77.70(2)(a); and
140

141 BE IT FURTHER RESOLVED, the Director, Office of Strategy, Budget and
142 Performance, is authorized and directed to provide a certified copy of this
143 resolution/ordinance to the Secretary, Wisconsin Department of Revenue, as soon as
144 available but not later than September 1, 2023 after adoption and publication to allow
145 the 0.4% sales and use tax to begin January 1, 2024; and
146

147 BE IT FURTHER RESOLVED, the Director of ERS Retirement Plan Services is
148 authorized and directed to provide a notice specifying the date the Ordinance was
149 passed to the Legislative Reference Bureau for publication in the Wisconsin
150 Administrative Register; and
151

152 BE IT FURTHER RESOLVED, the Milwaukee County Board of Supervisors
153 approves the transition to WRS for new employees in accordance with Act 12 and WRS
154 rules and authorizes and directs the relevant County officials to complete, sign, and
155 submit to WRS the attached "Resolution of Inclusion Under the Wisconsin Retirement
156 System" form to be effective January 1, 2025 as required by Act 12 with the
157 acknowledgement that while the County operates a replacement retirement plan (the
158 OBRA plan), the County will enroll all OBRA members who meet WRS' eligibility
159 requirements in WRS as required by law; and
160

161 BE IT **FURTHER** RESOLVED, the Milwaukee County Board of Supervisors
162 hereby authorizes the County Executive, Office of the Comptroller, County Clerk, Office
163 of Corporation Counsel, Department of Administrative Services, Department of Human
164 Resources, and any other Milwaukee County officials deemed necessary to perform all
165 actions necessary to complete the implementation of the new 0.4% sales and use tax

166
167 effective January 1, 2024, and to prepare as necessary for County Board approval any
168 further resolutions/ordinances that may be required to effectuate the soft closing of the
169 Milwaukee County Employees' Retirement System (ERS) and the enrollment of new
170 eligible employees hired after December 31, 2024 into the Wisconsin Retirement
171 System (WRS); and

172
173 **BE IT FURTHER RESOLVED, while the Milwaukee County Board of**
174 **Supervisors has the ultimate responsibility to adopt an annual budget for**
175 **Milwaukee County, the County Board hereby respectfully requests the County**
176 **Executive to provide a 2024 Recommended Budget that:**

- 177
- 178 • **Reduces the overall property tax levy**
 - 179 • **Increases funding for parks, transit, and other services countywide**
 - 180 • **Provides a report, in the manner provided under Wis. Stat. § 13.172(2),**
181 **containing detailed information on the county's expenditure plan for**
182 **the 0.4% sales tax revenue authorized in this ordinance. This includes**
183 **projections of when the unfunded pension liability will be paid off and**
184 **the sales tax is rescinded as required by the sunset provision in state**
185 **law**
 - 186 • **A plan to preserve county reserves and to strategically use them to**
187 **most effectively reduce the tax levy and fund capital infrastructure**
188 **needs approved by the County Board**

189
190 **; and**

191
192 BE IT **FURTHER** RESOLVED, the Milwaukee County Board of Supervisors
193 hereby amends Chapter 22 – Sales and Use Taxes of the Milwaukee County Code of
194 General Ordinances by adopting the following:

195
196 **AN ORDINANCE**

197
198 The County Board of Supervisors of the County of Milwaukee does ordain as
199 follows:

200
201 **SECTION 1.** Chapter 22 of the Milwaukee County Code of General Ordinances is
202 hereby amended as follows:

203
204 **22.01. Authority and purpose.**
205

206 This chapter is enacted under authority of subch. V, ch. 77, Wis. Stats., and the
207 county sales and use taxes imposed hereunder shall be used only for the purposes
208 authorized by state statutes. Per Wis. Stat. § 77.70(1), the purpose of the 0.5
209 percent sales and use tax shall be to directly reduce the property tax levy of the
210 county. Per Wis. Stat. § 77.70(2), the purpose of the 0.4 percent sales and use tax
211 shall be to pay, in priority order: the unfunded annual actuarial accrued liability
212 payment for the Employees' Retirement System (ERS), and then second, the
213 required payments for pension bond obligations, and then third, if additional
214 revenues remain after these payments from the 0.4 percent sales and use tax, an
215 additional payment to the unfunded actuarial accrued liability for ERS. The 0.5
216 percent and 0.4 percent sales and use taxes may be imposed concurrently for a
217 total county sales and use tax of nine-tenths (0.9) percent of directly reducing the
218 property tax levy of the county.
219

220 **22.02. Imposition of 0.5 percent tax.**

221 There are hereby imposed county sales and use taxes at the rate of five-tenths
222 (0.5) percent in the manner and to the extent permitted as set forth in their entirety in
223 subch. V, ch. 77, Wis. Stats., and acts amendatory thereto.
224

225 **22.03. Property tax itemization of the 0.5 percent tax.**

226 In order to implement state statute stipulations that the 0.5 percent county sales
227 tax revenues be used to directly reduce the property tax levy:

- 228 (1) All county tax revenue requirements shall be included in the property tax levy
229 listed within the recommended and adopted budget; and
230 (2) County sales tax revenues shall be listed subsequent to the tax levy
231 requirement as a property tax credit; and
232 (3) The estimated sales tax revenue impact on individual property taxes shall be
233 printed on each property tax bill as a credit to taxpayers.
234

235 **22.04. Application of 0.5 percent sales and use tax revenue.**

236
237 Sales and use tax revenues generated from the 0.5 percent tax shall be applied
238 toward county expenditures as follows:

- 239 (1) County sales and use tax revenues shall be dedicated to pay general
240 obligation debt service costs; and
241 (2) Any surplus county sales and use tax revenues shall be used to:
242 (a) Cash-finance capital improvement projects;
243 (b) Prepay outstanding bonds;
244 (c) Prefund employee benefit costs or fund unanticipated or extraordinary
245 annual increases in such costs; or
246 (d) Supplement the Appropriation for Contingencies.
247

248 **22.05. Reserve for payment of stadium bonds.**

249
250
251
252
253
254
255
256
257
258
259
260
261
262
263
264
265
266
267
268
269
270
271
272
273
274
275
276
277
278
279
280
281
282
283
284

Notwithstanding section 22.04, county sales tax collections reserved for payment of stadium bonds in the amount of eight hundred nineteen thousand, six hundred dollars (\$819,600.00) shall be dedicated to directly reduce the 1992 property tax levied on all taxable property in the county for general county purposes and payable in 1993.

22.06. Imposition of 0.4 percent tax.

There are hereby imposed county sales and use taxes at the rate of four-tenths (0.4) percent in the manner and to the extent permitted as set forth in their entirety in subch. V, ch. 77, Wis. Stats., and acts amendatory thereto.

22.07. Application of 0.4 percent sales and use tax revenue.

Sales and use tax revenues generated from the 0.4 percent tax shall be applied toward county expenditures in the following priority order:

- (1) Pay the annual unfunded actuarial accrued liability payment for the Employees' Retirement System (ERS) consistent with the provisions of Wis. Stat. § 59.875(4).**
- (2) If any revenue derived from the 0.4 percent tax remains after making the payment in section 22.07(1), as determined by the Comptroller, it shall be used to pay any or all of the annual required payment(s) for outstanding pension bond obligations.**
- (3) If any revenue derived from the 0.4 percent tax remains after making the payment(s) in section 22.07(1) and (2), as determined by the Comptroller, it shall be used to make an additional payment to the unfunded actuarial accrued liability for ERS.**

SECTION 2. The provisions of this Ordinance shall be effective January 1, 2024, upon passage and publication.

ars
07/27/23
s:\county board files\county board 2023\engrossed resolutions\23-719 engrossed county sales tax increase.docx