PUBLIC HEARING
"BALLPARK REVENUE AMENDMENT ACT OF 2003"
(BILL 15-282)

Before the

Committee on Finance and Revenue
Council of the District of Columbia

The Honorable Jack Evans, Chairman

June 12, 2003, 10:00 a.m.
Council Chamber

Testimony of
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Good morning, Chairman Evans and members of the committee. I am Natwar M. Gandhi, Chief Financial Officer of the District of Columbia. I am pleased to be here today to testify on the Ballpark Revenue Amendment Act of 2003, Bill 15-282.

The purpose of the proposed Act is to create a new "Baseball Revenue Fund" and provide revenue to finance the construction, development, or renovation of a publicly owned baseball stadium in the District of Columbia. To finance the new ballpark and renovate RFK Stadium, the Act would 1) establish new fees on the D.C. gross receipts of businesses, 2) increase sales taxes on ballpark tickets and merchandise sold at games in the ballpark, and 3) dedicate taxes on food, beverages and parking at baseball games to the ballpark stadium. The proposed Act <u>does</u> <u>not</u> identify potential construction or land costs of the new ballpark, nor costs of renovating RFK, public infrastructure requirements, and maintenance of the new facility. Funds paid in to the Baseball Revenue Fund would help pay the above costs, but we do not know if the funds would cover all the as yet uncalculated costs. The bill specifies how much the District will raise tax rates, not how much it will fund.

In my testimony, I have used a number of assumptions to demonstrate the financial impact of baseball on the District. We believe our assumptions are realistically conservative. Different assumptions would yield different results, in terms of revenues, tax receipts, and the financing plan for the ballpark.

Provisions of the Act

The proposed Act imposes a ballpark fee, structured like the terminated "Arena Fee", on the gross receipts of District businesses earning more than $3 million per year. The fee is graduated. Businesses earning between $3 and $4 million per year pay $1,300, while those earning over $16 million per year pay $12,900. If estimated revenues from these fees are less than $9 million for a given year, the Mayor would raise the rates so that at least $9 million would be collected. Approximately 1,800 businesses in the District would be subject to this fee. This fee is estimated to raise a minimum of $9 million in FY 2004, and at least $9 million for each year thereafter. Collections begin in FY 2004, and are dedicated to the non-lapsing Ballpark Revenue Fund that would be used to renovate RFK Stadium and to build a new ballpark. Because this proposal is not included in the FY 2004 budget, the money could not be spent for development, construction, or renovation unless budget authority is requested and approved by Congress. Attached to my testimony is a table with additional information on the proposed fee schedule.

The proposed Act also raises the sales tax rate on tickets for events at the new stadium and on merchandise sold at baseball games, from 5.75 percent to 10 percent. These revenues, plus revenue from the 10 percent sales tax on food and beverages sold at baseball games and the 12 percent tax on parking for baseball games, also are pledged to the Ballpark Revenue Fund. The revenue from sales tax on event tickets remains a bit uncertain, due to discussions about the nexus for sales occurring on the Internet, which is the source for virtually all sales of these tickets. Our estimates have assumed that sales are 100 percent taxable.

The amount of sales tax revenues that can be expected from game-related activities also depends upon the number of fans who come to the games. Attendance for the average baseball team in 2002 was 1.9 million people. If the District's new team had average attendance, average ticket prices and average expenditure per fan according to historic norms, $6.7 million in sales tax revenue would be collected per year. However, if the pricing framework were higher, then more revenue would be generated.

However, the historic record also shows that, as compared to winning teams, teams with a losing season one year have substantially lower attendance the next year – about 30 percent between 2001 and 2002 – regardless of the amount over or under a breakeven season. For example, teams winning more than 50 percent of their games in 2001 drew an average of 2.5 million fans in 2002. If the District's new team does well, and has the corresponding average attendance and ticket prices, we could collect about $9.8 million in sales taxes for the Ballpark Fund. On the other hand, teams winning less than 50 percent of their games in 2001 drew only about 1.5 million fans in 2002. If the District's new team does not do as well, we would only expect to collect about $4.1 million in sales tax revenue. There are other factors, both positive and negative, that influence attendance, such as the attraction of a star player, the state of the economy (it may have reduced overall sales 10 percent or more in 2002) and possible players strikes.

When added to the $9 million to be collected by the Ballpark Revenue Tax, the estimated revenue collection in FY 2004 from the ballpark fee and the baseball sales taxes ranges from $18.8 to $13.1 million per year, with additional width in the range due to economic events, strikes, or other influences wholly beyond our control. Attached to my testimony are tables providing greater details on these numbers.

What the Act Does Not Address

The proposed legislation does not address specific plans for expenditures. It is my understanding that the plan to date is to spend $338.8 million to bring baseball to Washington. Bonds in the amount of $291.9 million would be used to pay the capital cost of building the new ballpark. The other $46.9 million would be used to pay for the renovation of RFK, other planning and predevelopment costs, and a capitalized reserve to be used to pay the debt service on the bonds during construction of the ballpark.

With an average or better record, the District's new team generates sufficient revenue to support the debt service on a $292 million bond issue at current interest rates, assuming a fixed annual payment and 20-year bond life. Twenty years may appear conservative, but it is about how long the ballpark could be used under a normal maintenance program, before requiring major renovation. A losing team, however, does not generate sufficient revenue. This point illustrates but one of the financial risks in a project of this size. To meet this risk, one approach is to dedicate any extra revenue from good years to cover payments due after poor seasons, players' strikes, and other occurrences that would reduce fan interest in the team. Presumably the Ballpark Revenue Fund serves this banking purpose.

There is a second half to the transaction to bring a team to the District. Major League Baseball will sell the team (they currently own the Expos) and our pledges to the new team owner. At that time, additional financial items would be specified.

Because these additional items affect the benefits to the District of the new team, we cannot say at this early date what the entire impact will be.

The negotiations between the District and the owners of the new team will include the terms of the lease between the city and the owners of the new team; who provides sufficient maintenance of the new facility; who gets the revenue from parking, naming rights, suites and club seats, concessions, and other sources; and determination of who pays the additional public safety and traffic management costs. Right now, we cannot avoid considerable risk in this second stage of the transaction, because we will only learn the outcome of these negotiations AFTER our financial commitment to Major League Baseball about the ballpark is sealed.

Comparisons to Other Cities

Each city with a baseball team has its own set of financial arrangements; there is no standard. The District will have to chart its own course. What follows are illustrations of the arrangements in selected other cities.

- In San Francisco, the public sector provided only 5 percent of construction costs and the site; in return for which the city receives $1.8 million per year in property taxes and about $1.2 million in rent that increases at the rate of inflation.
- In Phoenix, 67 percent of the funds came from a ¼ percent increase in the Maricopa County general sales tax and the remainder from the team; the ballpark is publicly owned and returns a percentage of annual revenue to the public from rent, naming rights, parking and concessions, suites and club seats, and other sources.

- In Baltimore, Camden Yards was built with 90 percent state funds ($210 million from the state lottery); the Maryland Stadium Authority owns the park and receives a percentage of gate receipts, concession sales, club suites and advertising. The Maryland Stadium Authority also retains the right to all revenue generated from any future sale of the naming rights to Camden Yards.
- In Pittsburgh, 83 percent of the construction costs was financed by state, county, and federal sources, including a special sales tax in a "regional district." The remaining $40 million came from the team, and the city and surrounding county own the ballpark. Return payments to the public include $100,000 annual rent, part of ticket revenue in excess of certain minimums, a percentage of concession sales, and other guaranteed revenues.
- In the District's proposed deal, it would contribute $338.8 million to bring baseball to Washington. Of that amount, $15 million would go toward renovating RFK Stadium and the rest toward building a new stadium. The District would contribute almost 75 percent of the cost of the new stadium. A tax on businesses and on sales related to baseball games would be used to pay debt service on the bonds issued for construction of the ballpark. There has also been discussion of a tax on baseball players' salaries, but such a tax is not included in this bill and would have to be approved by Congress. No rent or real property taxes would be paid to the District. The new team would receive all revenue generated by the publicly-owned ballpark, including naming rights, signage, concessions and ticket, club and luxury box sales.

Because Major League Baseball is in a very powerful position here, as the owner of the team, our negotiation is extremely difficult, and we have much less opportunity to protect our financial interests than a city that already has a baseball team. Major League Baseball holds a great many of the cards, and can be counted on to play them very closely.

Tax Administration Issues

We would like to suggest two revisions to the bill's language, for the sake of clarity. First, in section 2 of the bill, we suggest the phrase "tax on sales of tickets" be changed to "tax on charge for admission to…" to be consistent with Title 47 of the DC Code as well as recent case law in other jurisdictions, which emphasizes the thing of value purchased by a customer is not the ticket per se, but entry into the venue. Second, in section 4 of the bill, we suggest the DC team be treated as the seller of all tickets of admission. This relates to the legal nexus of sellers of tickets and the enforceability of provisions against out-of District sellers, who do not collect and remit sales taxes, particularly on Internet sales. The language should clarify that the District team is the seller of all "entry" into the ballpark, whether the ticket is sold in the District and sent to a District mailing address, or is sent to a mailing address outside the District. In addition, mandatory electronic filing and payment would be required for all affected taxpayers to assure the revenues are tracked and certified.

Finally, I would like to mention the potential resource impact of this bill on the Office of Tax and Revenue (OTR). If enacted as drafted, for example, the bill would require the creation and maintenance of a new revenue fund; tracking of all sales taxes and fees collected and deposited into the fund, including programming changes to the Integrated Tax System; and the development, printing, and mailing of new tax forms and bills. While this clearly is work that OTR can and will do, it comes at a time when, as you know, Mr. Chairman, they are reducing staff as part of an OCFO-wide budget reduction. We will contact the Committee at the appropriate time with information on the resource requirements for the successful implementation of the Act.

This concludes my testimony. I will be pleased to answer any questions you or the members may have.

Attachments:

- Proposed Fee Schedule for the New Arena Fee
- Construction of a Major League Baseball Park in the District of Columbia

PROPOSED FEE SCHEDULE FOR THE NEW ARENA FEE					
D.C. Gross Receipts	**Rate**	**Estimated Collections by Group**	**Pct. of Total Collections by Group**	**Number of Fee Payers**	**Pct. of Total Fee Payers**
$3M - $4M	$1,300	$655,200	7%	504	27%
$4M - $8M	$3,900	$2,839,200	31%	728	39%
$8M - $12M	$5,900	$1,628,400	17%	276	15%
$12M - $16M	$9,000	$612,000	7%	68	4%
Over $16 M	$12,900	$3,573,300	38%	277	15%
	Total	$9,308,100	100%	1853	100%

Note: Approximately five percent (5%) of District businesses have gross receipts above $3 M.

CONSTRUCTION OF A MAJOR LEAGUE BASEBALL PARK IN THE DISTRICT OF COLUMBIA

Five Year Sources and Uses

Assuming a Winning Team

Capital Budget	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Capital funds	-	-	$292.00	-	-

Impact of Construction on Operating Budget	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Operating Expenditures (USES)					
Spending on pre-development	$5.00	$26.00	$16.00	-	-
Spending on bond repayment	-	-	-	$7.60	$15.20
Total	$5.00	$26.00	$16.00	$7.60	$15.20
Annual Revenues (SOURCES)					
Ballpark Fee (tax on businesses)	-	$9.00	$9.00	$9.00	$9.00
Income tax on team	-	-	-	-	-
Sales taxes from ballpark	-	$9.80	$9.80	$9.80	$9.80
Total	-	$18.80	$18.80	$18.80	$18.80
Fiscal Balance					
SOURCES minus USES of Funds for Construction	**($5.00)**	**($7.20)**	**$2.80**	**$11.20**	**$3.60**
Cumulative Fiscal Balance	**($5.00)**	**($12.20)**	**($9.40)**	**$1.80**	**$5.40**

Assuming an Average Team

Capital Budget	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Capital funds	-	-	$292.00	-	-

Impact of Construction on Operating Budget	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Operating Expenditures (USES)					
Spending on pre-development	$5.00	$26.00	$16.00	-	-
Spending on bond repayment	-	-	-	$7.60	$15.20
Total	$5.00	$26.00	$16.00	$7.60	$15.20
Annual Revenues (SOURCES)					
Ballpark Fee (tax on businesses)	-	$9.00	$9.00	$9.00	$9.00
Income tax on team	-	-	-	-	-
Sales taxes from ballpark	-	$6.70	$6.70	$6.70	$6.70
Total	-	$15.70	$15.70	$15.70	$15.70
Fiscal Balance					
SOURCES minus USES of Funds for Construction	**($5.00)**	**($10.30)**	**($0.30)**	**$8.10**	**$0.50**
Cumulative Fiscal Balance	**($5.00)**	**($15.30)**	**($15.60)**	**($7.50)**	**($7.00)**

Assuming a Losing Team

Capital Budget	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Capital funds	-	-	$292.00	-	-

Impact of Construction on Operating Budget	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Operating Expenditures (USES)					
Spending on pre-development	$5.00	$26.00	$16.00	-	-
Spending on bond repayment	-	-	-	$7.60	$15.20
Total	$5.00	$26.00	$16.00	$7.60	$15.20
Annual Revenues (SOURCES)					
Ballpark Fee (tax on businesses)	-	$9.00	$9.00	$9.00	$9.00
Income tax on team	-	-	-	-	-
Sales taxes from ballpark	-	$4.14	$4.14	$4.14	$4.14
Total	-	$13.14	$13.14	$13.14	$13.14
Fiscal Balance					
SOURCES minus USES of Funds for Construction	**($5.00)**	**($12.86)**	**($2.86)**	**$5.54**	**($2.06)**
Cumulative Fiscal Balance	**($5.00)**	**($17.86)**	**($20.72)**	**($15.18)**	**($17.24)**