COUNTY OF MILWAUKEE
Inter-Office Communication

Date: July 7, 2023

To: David Crowley, Milwaukee County Executive
Marcelia Nicholson, Chair, Milwaukee County Board of Supervisors

From: Scott B. Manske, Milwaukee County Comptroller
Joe Lamers, Director, Office of Strategy, Budget and Performance

Subject: 2023 Wisconsin Act 12 – Fiscal Impact Estimates

File Type: Informational Report

EXECUTIVE SUMMARY:

2023 Wisconsin Act 12 (Act 12) was enacted on June 20, 2023. Act 12 contains various provisions that have fiscal impacts to Milwaukee County, including local government program funding for shared revenue, additional sales tax authority, and potential changes to the Milwaukee County Employee Retirement System (MCERS).

Act 12 provides Milwaukee County with the option to increase its sales tax collection rate by 0.4%, from 0.5% to 0.9%. The additional 0.4% sales tax is estimated to result in approximately $82.2 million[1] in annual sales tax collections in 2024. In addition, Act 12 provides counties across the state with additional shared revenue, which Milwaukee County would receive $7.6 million[2] of the statewide increase. The shared revenue increase occurs with or without the approval of the sales tax.

If the 0.4%[3] sales tax from Act 12 is adopted, the sales tax proceeds would be available to fund both the unfunded pension liability and Pension Obligation Bond (POBs) until MCERS is fully funded or thirty years, whichever is earlier. MCERS is estimated to currently have a $760[4] million unfunded pension liability which will result in substantial payments from the County to fund over the next several decades. Additionally, the County issued Pension Obligation Bonds (POBs) in 2009 which currently have an outstanding balance of $199 million[5] and require annual payments to fund through 2030.

Tax levy dollars that are currently spent on the unfunded pension liability would be "freed

[1] Internal Calculation based on historical receipts of the County's existing 0.5% sales tax.
[2] Calculation provided by the Legislative Fiscal Bureau as part of the file on Bill AB245.
[3] The Wisconsin Department of Revenue retains 1.75% of the sales tax collected for administrative purposes.
[4] Calculation provided by Segal, actuary for the MCERS using a 6.8% rate of return and data from the 1/1/2023 actuarial review.
[5] Based on financial audit currently being performed for Milwaukee County.

up" and made available to support County services and to offset a structural deficit that is projected in future years.

In March 2023, the Comptroller's Office released a five-year fiscal forecast for Milwaukee County for the period 2024 – 2028, which projected an $18.3 million structural deficit in 2024, a $52.7 million deficit in 2025 and a $109.7 million structural deficit in the operating budget by 2028.

If leaders of Milwaukee County choose to implement a sales tax, the estimated impact to the structural deficit is as follows:

- Elimination of the 2024 and 2025 structural deficit.
- Reduction of the five-year potential structural deficit from $109.7 million to $36.2 million.
- Reduction in the continuing structural deficit from $18 million to only $13 million.
- Eliminating one of the drivers of the structural deficit: rising pension costs related to the unfunded liability.
- Ability to address potential levy increases related to Transit System in 2025.

If the County adopts the sales tax increase, the County would be required to have all new employees, who start after January 1, 2025, join the Wisconsin Retirement System (WRS). This would result in a "soft close" of MCERS. There will be additional costs of joining WRS, since the continuing "normal cost" of that plan is higher than MCERS. However, WRS is one of the top-rated pension plans in the country, and has no unfunded liability.

The Comptroller and the Director, Office of Strategy, Budget, and Performance, both agree that Act 12 provides an unprecedented financial benefit to the County and strongly urge the County Board of Supervisors and County Executive to implement the 0.4% sales tax as quickly as possible and make an election to join the Wisconsin Retirement System (WRS) for new hires beginning January 1, 2025.

The following chart shows the estimated impact of Act 12 on the County's structural deficit between 2024 and 2028, both with and without an approval of the 0.4% sales tax. Without approval of the sales tax, the County would still receive an increase in shared revenue. Additional details related to the estimates in the chart are included within this report.

Table A

Estimated Structural (Deficit)/Surplus*			
	Pre Act 12	Post Act 12	
Year	Five Year Forecast: March 2023	If 0.4% Sales Tax Is Not Approved	If 0.4% Sales Tax Is Approved
2024	$ (18,296)	$ (10,697)	$ 31,642
2025	$ (52,775)	$ (43,537)	$ 2,688
2026	$ (75,815)	$ (65,890)	$ (13,022)
2027	$ (93,311)	$ (80,647)	$ (23,317)
2028	$ (109,656)	$ (95,201)	$ (36,193)

* $ in thousands

FISCAL IMPACTS - SUMMARY

Act 12 includes provisions which require an approval of the County Board prior to becoming effective. Act 12 also includes provisions which are effective immediately, without County Board approval required. The County's actuary, Segal, has been working closely with fiscal staff and has provided the updated numbers stated in this document. Based on certain assumptions described within this memo and updated numbers from the actuary, if Milwaukee County implements a 0.4% sales tax and elects to join the WRS for new hires effective January 1, 2025, the net impact to the 2024 budget is a net tax levy savings of $51.7 million, which is then made available for funding other purposes.

Table B

Net Impact of Act 12 - 2024			
	Expenditure Increase/(Decrease)	Revenue Increase/(Decrease)	Tax Levy Increase/(Decrease)
Sales Tax Revenue		$ 82,168,000	$ (82,168,000)
Unfunded Pension Liability Increase	$ 25,200,000		$ 25,200,000
Unfunded Pension Liability (Revenue Offset)		$ (7,834,100)	$ 7,834,100
Normal Cost Increase	$ 2,300,000	$ 1,150,000	$ 1,150,000
Employee Contribution Change		$ (3,900,000)	$ 3,900,000
Shared Revenue Increase		$ 7,599,310	$ (7,599,310)
Totals	$ 27,500,000	$ 79,183,210	$ (51,683,210) [6]

Note that the unfunded pension liability increase amount of $25.2 million is based on an amortization period of 15 years for the unfunded liability. Act 12 requires that the calculation of annual required contribution must be calculated using not more than a 30−year amortization period. The amount is subject to change depending upon the amortization period that is applied.

Provisions of Act 12 which require two-thirds County Board approval

- Milwaukee County is provided the option to increase sales tax collections by 0.4% per year upon two-thirds County Board approval (2023 Act 12 Section 176). The increased sales tax is estimated to generate over $82.2 million in revenue per year. Per Act 12, the County must use the sales tax to first pay the required contribution for the unfunded pension liability of the MCERS and secondly, to pay debt service on the pension obligation bonds (POBs)(2023 Act 12 Section 176). Any remaining sales tax after these contributions would be a payment to the MCERS to further decrease the unfunded pension liability. The 0.4% sales tax would be effective for 30 years or until the MCERS unfunded pension liability is paid in full, whichever is earlier.

[6] Calculation is based on estimate of 0.4% sales tax in 2024 using County 0.5% sales tax actual receipts for prior years forecasted into the future, actuarial estimates from Segal actuary for normal cost and unfunded liability contributions for 2024, and Wisconsin Legislative Fiscal Bureau estimates of Shared Revenue increase for Milwaukee County.

- Per the actuarial valuation dated 1/1/2023[7], the 2024 required payment for the MCERS unfunded pension liability is $57.2 million. With County approval of the 0.4% sales tax, this amount ($57.2 million), less anticipated revenue offsets of approximately $7.8 million, or $49.4 million, would be made available for other purposes as defined within Act 12 (2023 Act 12 Section 22).

- To enact the 0.4% sales tax, Milwaukee County must make an election to join the Wisconsin Retirement System (WRS) (2023 Act 12 Section 176) and "soft close" the MCERS (2023 Act 12 Section 237). Assuming approval of a 0.4% sales tax in 2023 and election into the WRS by the County, the MCERS would officially be closed to new employees as of January 1, 2025[8], and all new employees on or after that date would be members of the WRS.

  - Because there is a higher normal cost for employees in the WRS, as MCERS members leave or retire from County employment, the cost to replace them with WRS members is expected grow on average $600,000 annually. The County will need to fund this additional expense with tax levy. This impact will not occur until 2025.

<u>Fiscal impacts that are effective with the implementation of 0.4% sales tax and election to join WRS by the County</u>

- MCERS employee pension contributions would be reduced from one-half of actuarial required contributions to one-half of normal costs (2023 Act 12 Section 19). Currently, all employees pay one-half of the normal cost and one-half of their share of the MCERS unfunded pension liability. Assuming approval of a 0.4% sales tax in 2023 and election into the WRS by the County, the change to the employee contributions would be effective for general employees in the MCERS on January 1, 2024[9]. At present, we have not determined the timing and details for employee pension contributions changes for public safety unions due to their collective bargaining agreements.

  - The fiscal impact in 2024 is estimated to be a $3.9 million revenue loss. Since the payment from employees was a portion of the unfunded pension liability payment, this revenue loss would be mitigated by implementation of the 0.4% sales tax which will fund the unfunded pension liability payment.

[7] Actuarial calculation prepared by Segal, actuary to MCERS, for the period ended January 1, 2023.
[8] Based on memo from Corporation Counsel and Counsel for MCERS (Reinhart) dated June 26, 2023
[9] Based on memo from Corporation Counsel and Counsel for MCERS (Reinhart) dated June 26, 2023

- The County is required to reduce its assumed investment rate of return in the MCERS from 7.5% (current rate) to an annual investment return assumption that is the same or less the annual investment return assumption used by the WRS for participating employees (2023 Act 12 Section 20), which is currently 6.8%[10]. Assuming approval of a 0.4% sales tax in 2023 and election into the WRS by the County, the change to the annual investment return assumption would be effective on January 1, 2024. (It should be noted that regardless of whether a sales tax was implemented, the MCERS rate of return would have been reduced to 7.0% by 2026 per action approved by the MCERS Pension Board.)

    - As an example, assuming a 15-year amortization period at 6.8% results in an additional pension contribution of $27.5 million for 2024, of which $2.3 million is related to the normal cost and $25.2 is related to the unfunded pension liability payment[11]. Since the $25.2 million increase is related to the unfunded pension liability, this increase would be mitigated by implementation of the 0.4% sales tax. The $2.3 million increase in normal cost would be split between County employees and the County, resulting in roughly $1.2 million in additional County expenditures that would need to be paid for with tax levy.

<u>Provisions of Act 12 which have fiscal impacts and are effective upon enactment</u>

- Milwaukee County shared revenue is increasing by approximately $7.6 million in budget year 2024[12] and budget year 2025. This additional shared revenue payment is called a "supplemental payment" (2023 Act 12 Section 213). In future years, shared revenue supplemental payment is adjusted based on the rate of growth in the state sales tax, which is estimated to grow by at least 3.0% per year. The supplemental payment requires that the payment be used for law enforcement, fire protection, emergency medical services, emergency response communications, public works and transportation, but cannot be used for administrative services (2023 Act 12 Section 213).

- Act 12 includes Maintenance of Effort (MOE) requirements on staffing and service

[10] Per the Wisconsin Retirement System, Actuarial Valuation and Gain/Loss Analysis as of December 31, 2022, prepared by Gabriel, Roeder, Smith & Company, dated May 25, 2023: Summary of Actuarial Assumptions and Methods

[11] Based on actuarial calculation from Segal, actuary for MCERS, utilizing the January 1, 2023 actuarial valuation data, adjusted to a 6.8% rate of return and 15 year amortization, as compared to 2024 actuarial contribution at 7.5% submitted to the Milwaukee County Executive.

[12] Based on schedule provided by the State of Wisconsin Legislative Fiscal Bureau for the AB245 fiscal impact of Shared Revenue on towns, cities, and counties in the State.

levels pertaining to fire protective, and Emergency Medical Services (2023 Act 12 Section 59), which if not met, would result in a reduction to the supplemental payment of up to 15% (2023 Act 12 Section 215). Act 12 indicates that the law enforcement MOE applies only to cities, villages, or towns with a population of over 20,000; therefore, it is expected that the law enforcement MOE does not apply to the County. The fire protective and Emergency Medical Services MOE (2023 Act 12 Section 59) applies to "political subdivisions" which includes Milwaukee County. No fiscal impact is expected if the County meets the MOE.

These provisions are further explained with additional details below. The descriptions are followed by a summary of potential impacts on the county's structural deficit.

FISCAL IMPACTS - DETAIL

Act 12 Impact on the County's Structural Deficit

In March of 2023, the Office of the Comptroller issued the 2024 – 2028 Five Year Forecast, which predicted, on average, a cost-to-continue from 2024 – 2028 of $21.9 million annually due to a greater increase in expenditures than the amount generated in additional revenue. Since 2015, the forecasted, average cost-to-continue has fluctuated from year to year, averaging between $12.8 million and $21.9 million. For the 2024 – 2028 forecast, expenditures are forecasted to grow 2.6 percent while revenues grow 0.9 percent which drives the cost-to-continue amount.

As shown in the table below, if the County enacts a 0.4% sales tax, the change to the structural deficit and cost-to-continue for the County is tremendous. By 2028, with a 0.4% sales tax, the structural deficit is reduced by $73.5 million, from $109.7 million to $36.2 million. Furthermore, the average cost-to-continue, which assumes that prior year deficit was resolved with sustainable fixes, is completely alleviated within the first two years, including the 2025 fiscal cliff (assuming the 2024 structural surplus is maintained the structural deficit is reduced to an average of $12.0 million between 2026 and 2028.

Table C-1

Estimated Impacts on Milwaukee County Structural Deficit if 0.4% Sales Tax is Approved						
All Numbers in Thousands - Table 1 of 2						
Year	Original Structural Deficit	Expenditure Increase - Pension Contribution	Revenue Increase - Employee Contribution to 1/2 Normal Cost Increase	Revenue Loss - Employee Contribution Reduction to 1/2 Normal Cost	Revenue Loss - Offset to Unfunded Liability Payment	Net Total Before Sales Tax Application
	A	B	C	D	E	F=A+B+C+D+E
2024	(18,296)	(28,095)	-	(3,900)	(7,834)	(58,125)
2025	(52,775)	(26,034)	1,805	(3,900)	(7,834)	(88,738)
2026	(75,815)	(21,551)	2,985	(3,900)	(7,834)	(106,115)
2027	(93,311)	(17,724)	4,620	(3,900)	(7,834)	(118,149)
2028	(109,656)	(18,096)	6,670	(3,900)	(7,834)	(132,816)
See Footnotes Below						

Table C-2

Estimated Impacts on Milwaukee County Structural Deficit if 0.4% Sales Tax is Approved						
All Numbers in Thousands - Table 2 of 2						
Year	Net Total Before Sales Tax Application	Revenue Increase - 0.4% Sales Tax	Reduction in Tax Levy - POB Payment	Revenue Increase - Shared Revenue Increase	Revised Structual (Deficit) / Surplus Estimate	Cost-to-Continue
	F=A+B+C+D+E	G	H	I	J=F+G+H+I	K
2024	(58,125)	82,168	-	7,599	31,642	-
2025	(88,738)	84,633	(2,465)	9,238	2,668	-
2026	(106,115)	87,173	(5,005)	10,926	(13,022)	(13,022)
2027	(118,149)	89,788	(7,620)	12,664	(23,317)	(10,295)
2028	(132,816)	92,481	(10,313)	14,455	(36,193)	(12,877)

Table C-1 and Table C-2 Footnotes

A - Values from the Five-Year Fiscal Forecast issued by the Office of the Comptroller File 23-411
B - Increase in Pension Contribution based on actuarial report from Segal, actuary to MCERS
C - Internal Calculation of revenue increase for Employee Contribution, based on switch to WRS.
D- Internal Calculation of loss of employee contributions for unfunded liability and limited employee contribution to 1/2 of normal cost.
E - Internal Calculation of loss of revenue from State, Federal and Third- Parties due to removal of cross-charge for unfunded pension liability contribution.
F - Subtotal of Items A, B, C, D, and E.
G - Internal Calculation of additionals revenue generated by an additional 0.4% Sales Tax with 3% growth
H - 0.4% Sales Tax Revenue can be used to pay Pension Obligation Bonds in place of tax levy
I - Wisc Legislative Fiscal Bureau Estimate of Shared Revenue increase with a 3% annual inflation increase.
J - Net Structural Deficit after accounting for all factors impacted by 2023 Act 12
K - Annual change in Cost to Continue for Five Year Fiscal Forecast

Without enactment of a 0.4% sales tax and election into the WRS, the only fiscal impact to the County would be the additional shared revenue of $7.6 million. Although the shared revenue will alleviate some of the future structural deficit, the annual increases in shared revenue would not be enough to offset the annual structural deficit. As shown in the table below, the structural deficit is only reduced by $14.4 million, from $109.7 million to $95.2 million. The average cost-to-continue is reduced slightly, from $21.9 million to $19.0 million, but the County still faces a fiscal cliff in 2025.

Table D

Estimated Impacts on Milwaukee County Structural Deficit if 0.4% Sales Tax is NOT Approved				
Year	Original Structural Deficit	Revenue Increase - Shared Revenue Increase	Revised Structual (Deficit) / Surplus Estimate	Cost-to-Continue
2024	(18,296,386)	7,599,310	(10,697,076)	(10,697,076)
2025	(52,775,198)	9,237,973	(43,537,225)	(32,840,149)
2026	(75,815,333)	10,925,796	(64,889,537)	(21,352,312)
2027	(93,310,801)	12,664,254	(80,646,547)	(15,757,010)
2028	(109,656,118)	14,454,865	(95,201,253)	(14,554,706)

The foremost fiscal impact of Act 12 is the ability to enact a 0.4% sales tax and dedicate that sales tax to pay for the County's unfunded pension liability. The financial impact of that action is tremendous, as it provides a dedicated funding source to pay for the $82.4 million required payment towards the MCERS unfunded pension liability in 2024 under the new assumptions. Since the 2024 budget amount would have previously assumed an unfunded pension liability payment of $57.2 million, net of revenue loss, this results in approximately $39.2 million that becomes available for other County purposes, and if appropriated with financial diligence, can be used to offset the fiscal cliff that is expected in 2025.

<u>Sales Tax Increase and Allowable Uses</u>

Act 12 provides Milwaukee County with the option to increase its sales tax collection rate by 0.4%, from 0.5% to 0.9%. The additional 0.4% sales tax is estimated to result in approximately $82.2 million in annual sales tax collections in 2024. Collection of the additional sales tax requires two-thirds approval by the Milwaukee County Board (2023 Act 12 Section 176).

Act 12 specifies that the additional 0.4% sales tax collection must be spent in the following order, which are the only allowable uses of the tax proceeds:

1. Pay the MCERS unfunded pension liability as determined by the actuary.
2. Pay the Debt Service on the POBs.
3. Pay a second contribution to the MCERS unfunded pension liability.

The County's current expense for unfunded pension liability is funded by a combination of tax levy, revenue from departments, and employee contributions. Eliminating this expense would allow for the tax levy portion to be used for other County expenses, allow departments paying for this charge to use the funds for other costs, and reduce the pension cost charged to employees.

The County has an unfunded pension liability of $760 million. Pay down of this liability to zero with the sales tax proceeds, would allow the MCERS pension plan to fund itself from annual investment earnings. The only continuing cost for the pension plan would be a normal cost, which is the annual cost of the pension benefit earned by active employees in the plan. All active pension plans have a normal cost for their active employees.

The following table shows the estimated sales tax to be received by the County if the 0.4% sales tax is enacted[13]:

Table E

0.4% County Sales Tax Increase Estimate		
Year	**Projected Sales Tax (3% Growth Rate)**	**Notes**
2024	$82,168,000.00	Assumes a 3% year over year growth
2025	$84,633,000.00	Assumes a 3% year over year growth
2026	$87,173,000.00	Assumes a 3% year over year growth
2027	$89,788,000.00	Assumes a 3% year over year growth
2028	$92,481,000.00	Assumes a 3% year over year growth

If adopted, the State of Wisconsin Department of Revenue requires 120 days' notice to implement the revised sales tax of 0.9% (2023 Act 12 Section 176). For the revised sales tax to be effective January 1, 2024, the notice to the Wisconsin Department of Revenue must be made by September 1, 2023. The 120 days is needed to make changes to both State systems and to Milwaukee County businesses sales tax collection systems.

The tax is effective until the retirement system is first fully funded, or until 30 years have elapsed since the effective date of the tax, whichever is earlier. On that date, the county shall repeal the ordinance imposing the tax (2013 Act 12 Section 176).

1. **Pay the MCERS unfunded pension liability as determined by the actuary.**

   The goal is to pay down the unfunded pension liability to zero. This is done by making annual payments to the pension system. The unfunded liability is like a loan in that it grows each year by the effective interest rate of the pension plan (rate of return). The unfunded liability only decreases with principal and interest payments, which is the annual pension contribution determined by the actuary.

   It should be noted that Act 12 requires that the calculation of annual required contribution must be calculated using not more than a 30−year amortization period and an annual investment rate of return assumption that is the same as or less

[13] Sales tax estimate for 0.4% Milwaukee County-wide sales tax is based on actual and estimated sales tax for the County's current 0.5% sales tax. Growth in sales tax is estimated at 3.0%, using history of sales tax collections of 0.5% sales tax that is currently in place.

than the annual investment return assumption used by the WRS for participating employees, which is currently 6.8% (2023 Act 12 Section 21). Based on the most recent estimates from the County's actuary, assuming a 15-year amortization period and 6.8% assumed rate of return, **the 2024 unfunded pension liability payment would be $82.4 million**[14]. This actuarial calculation is used for purposes of calculating some fiscal impacts in this report. The change in amortization period and annual investment rate of return assumption is discussed in greater detail below.

Prior to any Act 12 changes, the actuarial valuation dated 1/1/2023 established the 2024 required payment for the MCERS unfunded pension liability which is $57.2 million. With County approval of the 0.4% sales tax, this amount would be made available for other purposes as defined within Act 12 (2023 Act 12 Section 22).

Although the unfunded pension liability payment of $57.2 million is "freed" up with implementation of the 0.4% sales tax, the County has always charged out this amount to departments through the fringe allocation, which results in revenue from various departments that offsets the tax levy needed (Airport, State and Federal funds, such as Highway, DHHS departments and Child Support). Therefore, the net tax levy savings by this Act 12 to the County is $49.4 million.

2. **Pay the Debt Service on the POBs.**

As of December 31, 2023, the County will have $199.1 million remaining in POB payments, including principal and interest. POB payments are due in 2024 through 2030 in the amounts shown in the table below.[15]

Table F

Year	Total POB Debt Service
2023	$ 34,110,430.00
2024	$ 26,682,069.00
2025	$ 37,304,478.00
2026	$ 37,006,014.00
2027	$ 36,706,154.00
2028	$ 36,394,426.00
2029	$ 12,630,700.00
2030	$ 12,382,800.00

If the County utilizes a 15-year amortization period, the anticipated unfunded pension liability payment is $82.4 million, and it is not expected that any sales tax

[14] Actuarial estimate provided by Segal, who are the actuaries for MCERS, using the 1/1/2023 actuarial report for MCERS.

[15] Outstanding Pension Obligation Bonds is based on debt service payments due for pension obligation bonds from 2024 thru 2030, using debt service schedules from Pension Obligation Bond issuances.

will be available to offset the debt service on the POBs. However, if there were additional sales tax available to offset the debt service on the POBs, the amount used to offset the POB debt service would result in a decrease to the County's property tax levy. There is a potential impact on the County Board's budget in such a scenario. The County Board's budget is limited by Wisconsin State Statutes to no more than 0.4% of the total County property tax levy, so any reduction to the property tax levy will result in a reduction to the County Board's budget.

In such a scenario which requires the County to use the sales tax towards POB debt service, it is possible that the County could maintain a similar level of property tax levied for debt service by modifying the structure of new debt. Fiscal staff continue to review the County's forecasted debt service structure which includes future debt for the Center for Forensic Science and Protective Medicine, and the new Milwaukee Public Museum.

The following table provides one scenario of how the new sales tax could be utilized in compliance with Act 12. A final determination of actuarial amortization has not been determined, nor has a plan been completed for the POB debt service offset from the sales tax.

The following is a table projecting the how the County sales tax of 0.4% from Act 12 could be utilized in the first eight years[16]. No final determination has been made.

Table G

Calculation of Use of Sales Tax for Pension Unfunded Liability

	Projected Sales Tax (3% Growth Rate) (1)	Amortization Period and Rate of Return	Unfunded Liability Contribution (2)	Excess Taxes Available for POB or Unfunded Liability Excess Contribution (1) - (2)	Pension Obligatin Bond Payments	Bond Tax Levy Reduction or Coverage with Additional Bonds	Applied to Unfunded Liability
2024	82,168,000	15 Year Amort 6.8%	82,420,000	(252,000)	26,700,000	-	-
2025	84,633,000	15 Year Amort 6.8%	82,420,000	2,213,000	37,300,000	2,213,000	-
2026	87,173,000	20 Year Amort 6.8%	70,650,000	16,523,000	37,000,000	16,523,000	-
2027	89,788,000	20 Year Amort 6.8%	70,650,000	19,138,000	36,700,000	19,138,000	-
2028	92,481,000	20 Year Amort 6.8%	70,650,000	21,831,000	36,400,000	21,831,000	-
2029	95,256,000	20 Year Amort 6.8%	70,650,000	24,606,000	12,600,000	12,600,000	12,006,000
2030	98,113,000	20 Year Amort 6.8%	70,650,000	27,463,000	12,400,000	12,400,000	15,063,000
2031	101,057,000	20 Year Amort 6.8%	70,650,000	30,407,000	-	-	30,407,000

(1) Based on calculation of sales tax using estimates from SBP and the Office of the Comptroller.

(2) Based on report from Segal, Actuary for MCERS

(3) Based on report of Pension Obligation Bond Debt from the Office of the Comptroller.

3. Pay a second contribution to the MCERS unfunded pension liability.

[16] Sales tax is an estimate based on actual receipts for the existing 0.5% sales tax, actuarial estimates from Segal, actuary for MCERS, of contributions towards the unfunded liability using a 6.8% rate of return and amortization period as noted in table, and estimated outstanding pension obligation bonds in the years noted.

Any additional sales tax received and not appropriated under #1 or #2 above shall be made as an additional contribution to the MCERS unfunded pension liability. Additional payments against the unfunded liability are similar to a homeowner making additional payments on their loan. The additional dollars are all used to reduce the principal amount (reduce the unfunded pension liability).

Reallocation of Tax Levy Related to Unfunded Liability

As indicated above, the additional 0.4% sales tax rate must be used to pay for the unfunded pension liability. This eliminates the need for the County to pay for the unfunded pension liability with tax levy. However, Act 12 states that expenditures associated with the unfunded liability must be spent only on certain costs. The Act 12 defines this as the "qualified amount" which is equal to the employer unfunded liability contribution in 2022 (2023 Act 12 Section 22). In 2022, the County's actuarially required contribution to the unfunded pension liability was $53.3 million, the "qualified amount". The "qualified amount" can be spent on:

1. The Milwaukee County Circuit Court (2022 actual expenditures - $38.2M)
2. The Milwaukee County secure residential care center for children and youth (SRCCCY) (no expenditures 2022).
3. Maintaining or increasing the compensation of Milwaukee County Correction Officers (2022 actual expenditures - $41.8 million)
4. The Milwaukee County Medical Examiner (2022 actual expenditures - $6.6 million)

In 2022, total expenditures for these four items was $92.4 million; or the net tax levy after revenue offsets was $74.3 million. Since the actual expenditures within these areas exceeded $53.3 million in 2022 and since Act 12 does not specify that the "qualified amount" must be spent on new expenditures, the County has sufficient expenditures to meet the "qualified amount." If the sales tax is approved, current appropriations for the unfunded pension liability could be committed to other areas of the 2024 budget that require funding.

Table of dollar amounts for each County department is shown below[17]:

[17] Dollar amounts are from the 2022 financials for the County for each agency: Courts (agency 200), Pre-Trial

Table H

Calculation of 2022 Actual Expenditures Available to Meet "Qualified Amount"	2022 Actual Exp	2022 Actual Rev	2022 Actual Levy
1. Milwaukee County Circuit Courts	$ 38,168,230	$ 12,818,950	$ 25,349,281
1a. Pretrial Services	$ 5,892,558	$ 1,427,281	$ 4,465,277
2. The Milwaukee County secure residential care center for children and youth	$ -	$ -	$ -
3. Maintaining or increasing the compensation of Milwaukee County correctional workers			$ -
3a. Correctional Officer Pay - MCSO	$ 13,816,101		$ 13,816,101
3b. Correctional Officer Pay - CRC	$ 15,283,610		$ 15,283,610
3c. Correctional Officer Pay - Juvenile Detention Center	$ 5,083,648		$ 5,083,648
3d. Fringe Benefits (Health=21.42% of salary and Pension=9.15% of salary)	$ 7,589,824		$ 7,589,824
4. Milwaukee County Medical Examiner	$ 6,576,628	$ 3,821,971	$ 2,754,657
TOTALS	$ 92,410,599	$ 18,068,201	$ 74,342,398

“Soft Close” of MCERS – New Employees Enter WRS

To enact the additional 0.4% sales tax, the County must make an election to join the WRS for all new employees (2023 Act 12 Section 176). Assuming approval of a 0.4% sales tax in 2023 and election into the WRS by the County, the MCERS would officially be closed as of January 1, 2025, and all new employees on or after that date would be members of the WRS. This is effectively a “soft close” of MCERS since no new members would be joining MCERS on or after January 1, 2025.

This change is consistent with recommendations of the Milwaukee County Retirement Sustainability Task Force (RST) that was created in 2017 to study modifications to the County’s pension system. The RST recommended joining the WRS to “ensure retirement security for future retirees and long-term fiscal sustainability for the County” and to “reduce long-term risk and provide a more robust retirement benefit for new employees.” In addition, the final report from the RST (Retirement Sustainability Taskforce: Report and Recommendations: November 2018) had indicated that the “WRS is widely known as one of the healthiest public pension plans in the country; in fact, according to Pew, it had the second-highest funded ratio among the 50 states in 2015 at just under 100%.”

It is projected that the normal cost for County employees participating in the WRS will be more than if those members had been part of MCERS, resulting in higher costs for the County. The estimated net impact is an average annual cost increase of approximately $600,000 per year. As County employees leave or retire (which is about 500 annually[18]), these employees would be replaced with employees in the WRS and the County would be required to pay 6.8% towards the normal cost in WRS for these employees.

Revision to MCERS Employee Contributions

Services (agency 290) and Medical Examiner (Agency 490). The dollars for correction officers is based on salary expenditures in 2022 for correction officers and related positions in Office of the Sheriff (Agency 400), Community Rehabilitation Center (Agency 430), and DHHS Youth Detention Center (Agency 800).

[18] Data based on annual actuarial report prepared by Segal, actuary for the MCERS.

Per Wis. Stats. 59.875(2)(a), non-public safety employees[19] in the MCERS currently contribute one-half the actuarially required pension contribution, which includes a payment towards the normal cost and a payment towards the unfunded pension liability. Members of the MCERS are the only municipal employees in Wisconsin required to contribute towards the unfunded pension liability.

To create uniformity amongst municipal employees in Wisconsin, Act 12 removes the requirement that MCERS non-public safety members pay towards the unfunded pension liability if the County enacts a 0.4% sales tax. Assuming the County enacts the 0.4% sales tax in 2023, MCERS non-public safety members would only be required to pay ½ the normal cost, effective January 1, 2024.

Furthermore, Act 12 removes the ability for public safety employees to bargain over pension benefits, including contributions, which effectively makes Wis. Stats. 59.875(2)(a) as amended applicable to public safety unions as well and would reduce the public safety employee contribution rate to ½ the normal cost if the 0.4% sales tax is enacted (2023 Act 12 Section 219p). We are uncertain of the timing and details associated with the change in employee contribution rates for public safety employees currently covered by bargaining rights. Contributions for ERS employees subject to collective bargaining will continue to be as negotiated.

For 2024, if the 0.4% sales tax is enacted in 2023, employee contribution rates would be reduced from 6.1% to 4.3% for general employees (calculation provided by Segal, actuary for MCERS[20]). Since MCERS members would no longer contribute a portion towards the unfunded pension liability, the fiscal impact in 2024 is estimated to be a $3.9 million revenue loss; however, since the payment from employees was a portion of the unfunded pension liability payment, this revenue loss would be mitigated by implementation of the 0.4% sales tax and have no net impact to the County.

Table I - MCERS Employee Contribution Rates[21]:

[19] Employees of public safety bargaining units were able to negotiate over the pension contributions. Current agreements with the Milwaukee Deputy Sheriffs Association and International Association of Fire Fighters require a contribution that is one-half the actuarially required contribution. Contributions for ERS employees subject to collective bargaining will continue to be as negotiated.

[20] Actuarial analysis and calculation provided by Segal in June 2023 for Milwaukee County based on a 7.5% rate of return using the 1/1/2023 actuarial report results.

[21] Calculation prepared by Segal, actuary for MCERS, based on 7.5% rate of return and actuarial report prepared as of January 1, 2023.

2024 Estimated ERS Employee Contribution Rates for General Employees		
Description	Old Rate	Act 245 Impact: Possible Rate
Employee Rate - Normal Cost	4.3%	4.3%
Employee Rate - Unfunded Liability	1.7%	0.0%
Employee Rate - Total	6.0%	4.3%

Employees should be aware that the contribution rate will likely increase in 2025. This increase is due to the reduction in the assumed investment rate of return to 6.8% that would occur effective January 1, 2024, which raises the annual normal cost of the MCERS. Contribution will still be less than the normal cost-plus unfunded liability contribution rate. Based on current estimates, in 2025, the contribution rate for general employees is estimated to increase to 5.1% if the sales tax is approved and the County therefore utilizes a 6.8% assumed rate of return in the pension plan. This estimate is subject to change.

Revision to Pension Investment Return Rate Assumption and Amortization Period

Act 12 requires the MCERS to reduce its assumed rate of investment return to match the rate used by the WRS and to implement an amortization period that is not more than 30 years. The current MCERS rate of return assumption is 7.5% and the current WRS rate is 6.8%. The MCERS currently utilizes an amortization period that is 20 years. The County's actuary has recalculated the budgeted contribution for 2024 with a 15-year amortization period and 6.8% assumed investment rate of return. The total contribution amount is $105.2 million under these assumptions, which includes $22.8 million contribution for the normal cost (shared between employee and County) and $82.4 million for the unfunded pension liability payment.

Prior to any Act 12 changes, the original budgeted contribution set by the 1/1/2023 actuarial valuation was $77.7 million. These changes in assumptions result in an additional pension contribution of $27.5 million, of which $2.3 million is related to the normal cost and $25.2 is related to the unfunded pension liability payment. Since the $25.2 million increase is related to the unfunded pension liability, this increase would be mitigated by implementation of the 0.4% sales tax. The $2.3 million increase in normal cost would be split between County employees and the County, resulting in roughly $1.2 million in additional County expenditures that would need to be paid for with tax levy.
It is important to note that the MCERS Pension Board recently approved a plan to reduce the assumed rate of return from 7.5% to 7.0% incrementally over an upcoming three-year period to minimize annual budgetary impacts. Act 12 would require an immediate reduction to 6.8% in 2024 assuming the 0.4% sales tax is implemented.

Additional calculations were made by the County's actuary showing the effect of a 30-year, 20-year and 15-year amortization period on the estimated pension contribution.

They are shown in the table below and are based on an unfunded liability total of $760 million[22].

Table J

Calculation of Pension Contribution for 2024 under Different Scenarios					
Rate of Return	Amortization Period	Unfunded Liability Contribution	Normal Cost Contribution - Employer	Normal Cost Contribution - Employee	Total Contribution
6.80%	30 year	$ 60,040,000	$ 11,395,000	$ 11,395,000	$ 82,830,000
6.80%	20 year	$ 70,650,000	$ 11,395,000	$ 11,395,000	$ 93,440,000
6.80%	15 year	$ 82,420,000	$ 11,395,000	$ 11,395,000	$ 105,210,000

Revisions to County and Municipal Supplemental Aid Formula and Amounts (Shared Revenue)

Act 12 provides counties across the state with a total increase of $68 million in supplemental county aid (shared revenue). A summary provided by the Legislative Fiscal Bureau indicates that in 2024-2025, Milwaukee County would receive $7,599,310 of the statewide increase. This reflects a 16.2% increase over the county's existing municipal aid payment (prior to deductions that are applied related to child welfare, Milwaukee Bucks Arena, and Volkswagen grant settlement). In 2025-2026, and each year thereafter, the County's supplemental aid would be adjusted by the rate of growth in the state sales tax, as defined in the Chapter 20 summary schedule of the biennial budget act (2023 Act 12 Section 213). The following chart shows estimated shared revenue payments to the County over the next five years while applying an estimated 3% annual growth rate. The actual growth will be dependent upon statewide sales tax collections.

Table K

Act 12 Impact: Estimated County Aid (Shared Revenue)			
Year	Estimated Allocation	Annual Growth	Source/Estimate
2023 Budget	$ 47,022,794		
2024-2025	$ 54,622,104	$ 7,599,310	LFB
2025-2026	$ 56,260,767	$ 1,638,663	3% growth estimate
2026-2027	$ 57,948,590	$ 1,687,823	3% growth estimate
2027-2028	$ 59,687,048	$ 1,738,458	3% growth estimate
2028-2029	$ 61,477,659	$ 1,790,611	3% growth estimate

Maintenance of Effort Requirements

Act 12 includes Maintenance of Effort (MOE) requirements on staffing and service levels pertaining to law enforcement, fire protective, and Emergency Medical Services. Act 12 indicates that the law enforcement MOE applies to cities, villages, or towns with a population of over 20,000 (2023 Act 12 Section 59). Therefore, it is anticipated that the law enforcement MOE does not apply to the County. The fire protective and Emergency Medical Services MOE (2023 Act 12 Section 59) applies to "political subdivisions." Therefore, it is expected that the fire protection and Emergency Medical Services MOE does apply to the County.

[22] Data in table provide by Segal, actuary for MCERS, in an email to Milwaukee County on June 30, 2023.

Act 12 specifies that political subdivisions must maintain a level of service in these areas that is at least equivalent to that provided in the previous year. County aid to subdivisions that do not satisfy the MOE requirement are reduced by 15 percent (2023 Act 12 Section 215). For Milwaukee County, a 15% aid reduction in 2024-2025 would equal approximately $8.2 million.

Milwaukee County fire protection staffing resides within the airport. The airport is funded through airline fees and revenues. Emergency Medical Services (EMS) resides within the Office of Emergency Management. EMS is funded primarily through tax levy, but the County is allowed to increase its tax levy to pay for EMS services.

The maintenance of effort requirement within Act 12 is not expected to impact County expenditures or the structural deficit. The impact would be if the County does not meet the terms of the MOE, and a shared revenue reduction were applied. It will be important for the County to develop policies and plans in the areas of fire protection and EMS to ensure that the MOE is met on an annual basis. It will also be important that the County scrutinize any requests for additional funding and positions for these areas since increases would need to be maintained in the future.

Other Fiscal Items:

Savings from Current Allocation of Unfunded Liability – BHS Issue:

Although the unfunded pension liability payment of $57.2 million is “freed” up with implementation of the 0.4% sales tax, the County has always charged out this amount to departments through the fringe allocation. Therefore, the net tax levy savings by this Act 12 to the County is **$49.4 million**. This amount, however, includes approximately $10.2 million in tax levy from the Behavioral Health Services (BHS) Division allocation of the unfunded pension liability.

Since 2013 Act 203 requires a minimum tax levy for BHS of $53 million, the County may be required to still provide this $10.2 million to BHS[23], resulting in a tax levy savings of only **$39.2 million**. It is important to note that this tax levy savings is a fixed amount and once it is fully committed to fund ongoing expenditures, there will be no additional funding available to offset future structural deficits from this source. Therefore, the County should be diligent in committing these funds so that future fiscal areas of concern could be addressed with this funding.

Table L on the Calculation of Tax Levy savings is based on the 2022 allocation of retiree pension costs to Milwaukee County departments multiplied times the 2024 estimated pension contribution for the unfunded liability of $57.2 million, less an

[23] Wis. Stats. 51.41(4)(b)(6) does allow for a tax levy of less than $53,000,000 if a majority of the Milwaukee County mental health board and a majority of the Milwaukee County board of supervisors approves and the Milwaukee County executive agrees.

estimate of revenues from County departments from outside revenue sources including State and Federal funds and other third parties.

Table L

Calculation of Tax Levy Savings				
2024 Budgeted Unfunded Pension Liability Payment	**Expenditure**	**Revenue Offset**	**Net Funding Available**	**Net Funding Available Excluding BHS**
Child Support	1,588,700	(1,048,500)	540,200	540,200
Sheriff Airport	912,100	(912,100)	-	-
Highway	1,265,200	(1,265,200)	-	-
DHHS	11,578,500	(2,500,000)	9,078,500	9,078,500
BHS	10,188,000	-	10,188,000	
Airport	2,108,300	(2,108,300)	-	-
All Other	29,559,200	-	29,559,200	29,559,200
Total	57,200,000	(7,834,100)	**49,365,900**	**39,177,900**

Possible Fiscal Impact related to the OBRA Pension Plan for Seasonal Employees:

The County has an OBRA Pension plan that was established in 1990 for certain employees, including seasonal employees. The OBRA plan, which is run by the Milwaukee County Employee Retirement System, requires annual contributions from the County to pay for the normal cost OBRA members. Employees make no contributions to OBRA.

Employees, who are part of this plan, do not pay the social security portion of FICA, or 6.2% of their wages. This provides a savings to employees, in the early years of their work life. In addition, the County does not pay the social security portion of FICA, which is an offset to the OBRA pension contribution paid by the County to the plan.

In a review of the WRS pension plan there is a provision that states that any employer who joins WRS must not operate a plan that exempts the employer from FICA taxes. We are in the early stages of discussion with WRS on this issue. If the OBRA plan is closed the employees would have to pay the 6.2% of social security, and thus receive less take home pay. In addition, the County would have to pay the social security portion on the FICA for these employees. In 2022, Milwaukee County paid wages to these employees of $6.2 million. The social security cost on these wages would be $0.4 million. If the County wanted to adjust wages to address this issue for the employees, due to their reduction in take home pay, wages would also need to go up by $0.4 million.

RECOMMENDATION

Although this report is provided for informational purposes, the Comptroller and the Director, Office of Strategy, Budget, and Performance, both agree that Act 12 provides an unprecedented financial benefit to the County and strongly urge the County Board of Supervisors and County Executive to implement the 0.4% sales tax as quickly as possible and make an election to join the Wisconsin Retirement System (WRS) for new hires beginning January 1, 2025.

Scott B. Manske
Milwaukee County Comptroller

JOSEPH LAMERS

Joe Lamers
Director, Office of Strategy, Budget and Performance