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104TH CONGRESS, 1st Session | HOUSE OF REPRESENTATIVES | REPORT 104–227

# DISTRICT OF COLUMBIA CONVENTION CENTER AND SPORTS ARENA AUTHORIZATION ACT OF 1995

AUGUST 2, 1995.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. CLINGER, from the Committee on Government Reform and Oversight, submitted the following

## REPORT

[To accompany H.R. 2108]

[Including cost estimate of the Congressional Budget Office]

The Committee on Government Reform and Oversight, to whom was referred the bill (H.R. 2108) to permit the Washington Convention Center Authority to expend revenues for the operation and maintenance of the existing Washington Convention Center and for preconstruction activities relating to a new convention center in the District of Columbia, to permit a designated authority of the District of Columbia to borrow funds for the preconstruction activities relating to a sports arena in the District of Columbia and to permit certain revenues to be pledged as security for the borrowing of such funds, and for other purposes, having considered the same report favorably thereon without amendment and recommend that the bill do pass.

CONTENTS

| | | Page |
|---|---|---|
| I. | Background and Need for the Legislation | 6 |
| II. | Legislation and Committee Actions | 10 |
| III. | Committee Hearings and Written Testimony | 11 |
| IV. | Explanation of the Bill | 12 |
| V. | Compliance with Rule XI | 15 |
| VI. | Budget Analysis and Projections | 17 |
| VII. | Cost Estimate of the Congressional Budget Office | 22 |
| VIII. | Inflationary Impact Statement | 18 |
| IX. | Changes in Existing Law | 18 |
| X. | Committee Recommendations | 23 |
| XI. | Congressional Accountability Act: Public Law 104–1; Section 102(B)(3) | 19 |
| Appendix | | 21 |

99–006

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the "District of Columbia Convention Center and Sports Arena Authorization Act of 1995".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—CONVENTION CENTER

Sec. 101. Permitting Washington Convention Center Authority to expend revenues for convention center activities.

TITLE II—SPORTS ARENA

Sec. 201. Permitting designated authority to borrow funds for preconstruction activities relating to Gallery Place sports arena.
Sec. 202. Permitting certain District revenues to be pledged as security for borrowing.
Sec. 203. No appropriation necessary for arena preconstruction activities.
Sec. 204. Arena preconstruction activities described.

TITLE III—WAIVER OF CONGRESSIONAL REVIEW

Sec. 301. Waiver of Congressional review of Arena Tax Payment and Use Amendment Act of 1995.

# TITLE I—CONVENTION CENTER

**SEC. 101. PERMITTING WASHINGTON CONVENTION CENTER AUTHORITY TO EXPEND REVENUES FOR CONVENTION CENTER ACTIVITIES.**

(a) PERMITTING EXPENDITURE WITHOUT APPROPRIATION.—The fourth sentence of section 446 of the District of Columbia Self-Government and Governmental Reorganization Act (sec. 47–304, D.C. Code) shall not apply with respect to any revenues of the District of Columbia which are attributable to the enactment of title III of the Washington Convention Center Authority Act of 1994 (D.C. Law 10–188) and which are obligated or expended for the activities described in subsection (b).

(b) ACTIVITIES DESCRIBED.—The activities described in this paragraph are—

(1) the operation and maintenance of the existing Washington Convention Center; and

(2) pre-construction activities with respect to a new convention center in the District of Columbia, including land acquisition and the conducting of environmental impact studies, architecture and design studies, surveys, and site acquisition.

# TITLE II—SPORTS ARENA

**SEC. 201. PERMITTING DESIGNATED AUTHORITY TO BORROW FUNDS FOR PRECONSTRUCTION ACTIVITIES RELATING TO GALLERY PLACE SPORTS ARENA.**

(a) PERMITTING BORROWING.—

(1) IN GENERAL.—The designated authority may borrow funds through the issuance of revenue bonds, notes, or other obligations which are secured by revenues pledged in accordance with paragraph (2) to finance, refinance, or reimburse the costs of arena preconstruction activities described in section 204 if the designated authority is granted the authority to borrow funds for such purposes by the District of Columbia government.

(2) REVENUE REQUIRED TO SECURE BORROWING.—The designated authority may borrow funds under paragraph (1) to finance, refinance, or reimburse the costs of arena preconstruction activities described in section 204 only if such borrowing is secured (in whole or in part) by the pledge of revenues of the District of Columbia which are attributable to the sports arena tax imposed as a result of the enactment of D.C. Law 10–128 (as amended by the Arena Tax Amendment Act of 1994 (D.C. Act 10–315)) and which are transferred by the Mayor of the District of Columbia to the designated authority pursuant to section 302(a–1)(3) of the Omnibus Budget Support Act of 1994 (sec. 47–2752(a–1)(3), D.C. Code) (as amended by section 2(b) of the Arena Tax Payment and Use Amendment Act of 1995).

(b) TREATMENT OF DEBT CREATED.—Any debt created pursuant to subsection (a) shall not—

(1) be considered general obligation debt of the District of Columbia for any purpose, including the limitation on the annual aggregate limit on debt of the District of Columbia under section 603(b) of the District of Columbia Self-Government and Governmental Reorganization Act (sec. 47–313(b), D.C. Code);

(2) constitute the lending of the public credit for private undertakings for purposes of section 602(a)(2) of such Act (sec. 1–233(a)(2), D.C. Code); or

(3) be a pledge of or involve the full faith and credit of the District of Columbia.

(c) DESIGNATED AUTHORITY DEFINED.—The term ''designated authority'' means the Redevelopment Land Agency or such other District of Columbia government agency or instrumentality designated by the Mayor of the District of Columbia for purposes of carrying out any arena preconstruction activities.

**SEC. 202. PERMITTING CERTAIN DISTRICT REVENUES TO BE PLEDGED AS SECURITY FOR BORROWING.**

(a) IN GENERAL.—The District of Columbia (including the designated authority described in section 201(c)) may pledge as security for any borrowing undertaken pursuant to section 201(a) any revenues of the District of Columbia which are attributable to the sports arena tax imposed as a result of the enactment of D.C. Act 10–128 (as amended by the Arena Tax Amendment Act of 1994 (D.C. Law 10–315)), upon the transfer of such revenues by the Mayor of

the District of Columbia to the designated authority pursuant to section 302(a-1)(3) of the Omnibus Budget Support Act of 1994 (sec. 47–2752(a-1)(3), D.C. Code) (as amended by section 2(b) of the Arena Tax Payment and Use Amendment Act of 1995).

(b) EXCLUSION OF PLEDGED REVENUES FROM CALCULATION OF ANNUAL AGGREGATE LIMIT ON DEBT.—Any revenues pledged as security by the District of Columbia pursuant to subsection (a) shall be excluded from the determination of the dollar amount equivalent to 14 percent of District revenues under section 603(b)(3)(A) of the District of Columbia Self-Government and Governmental Reorganization Act (sec. 47–313(b)(3)(A), D.C. Code).

**SEC. 203. NO APPROPRIATION NECESSARY FOR ARENA PRECONSTRUCTION ACTIVITIES.**

The fourth sentence of section 446 of the District of Columbia Self-Government and Governmental Reorganization Act (sec. 47–304, D.C. Code) shall not apply with respect to any of the following obligations or expenditures:

(1) Borrowing conducted pursuant to section 201(a).

(2) The pledging of revenues as security for such borrowing pursuant to section 202(a).

(3) The payment of principal, interest, premium, debt servicing, contributions to reserves, or other costs associated with such borrowing.

(4) Other obligations or expenditures made to carry out any arena preconstruction activity described in section 204.

**SEC. 204. ARENA PRECONSTRUCTION ACTIVITIES DESCRIBED.**

The arena preconstruction activities described in this section are as follows:

(1) The acquisition of real property (or rights in real property) to serve as the site of the sports arena and related facilities.

(2) The clearance, preparation, grading, and development of the site of the sports arena and related facilities, including the demolition of existing buildings.

(3) The provision of sewer, water, and other utility facilities and infrastructure related to the sports arena.

(4) The financing of a Metrorail connection to the site and other Metrorail modifications related to the sports arena.

(5) The relocation of employees and facilities of the District of Columbia government displaced by the construction of the sports arena and related facilities.

(6) The use of environmental, legal, and consulting services (including services to obtain regulatory approvals) for the construction of the sports arena.

(7) The financing of administrative and transaction costs incurred in borrowing funds pursuant to section 201(a), including costs incurred in connection with the

issuance, sale, and delivery of bonds, notes, or other obligations.

(8) The financing of other activities of the District of Columbia government associated with the development and construction of the sports arena, including the reimbursement of the District of Columbia government or others for costs incurred prior to the date of the enactment of this Act which were related to the sports arena, so long as the designated authority determines that such costs are adequately documented and that the incurring of such costs was reasonable.

## TITLE III—WAIVER OF CONGRESSIONAL REVIEW

**SEC. 301. WAIVER OF CONGRESSIONAL REVIEW OF ARENA TAX PAYMENT AND USE AMENDMENT ACT OF 1995.**

Notwithstanding section 602(c)(1) of the District of Columbia Self-Government and Governmental Reorganization Act, the Arena Tax Payment and Use Amendment Act of 1995 (D.C. Act 11–115) shall take effect on the date of the enactment of this Act.

SHORT SUMMARY OF LEGISLATION

H.R. 2108, The District of Columbia Convention Center and Sports Arena Authorization Act of 1995, is designed to further two projects: The development of a new convention center and the construction of a new indoor sports facility. It achieves two specific objectives for the convention center. First, it authorizes the Washington Convention Center Authority to spend funds from its dedicated, escrowed revenue stream without going through the annual appropriations process. Second, it authorizes a dedication of revenue.

In August of 1994 the D.C. City Council enacted D.C. Law 10-188, the Washington Convention Center Authority Act of 1994. This act established a Convention Center Authority and directed a dedicated tax into an escrow account to fund its activities. H.R. 2108 permits the Washington Convention Center Authority to spend this revenue for a narrow range of clearly specified activities as described in the bill.

The bill also authorizes a designated City agency, in this case the Redevelopment Land Agency (RLA) to utilize a dedicated stream of revenue as debt service to carry out the City's obligation to National Capital Development Corporation (now assigned to Mr. Abe Pollin) in regard to the construction of the downtown sports and entertainment complex to be known as the MCI Arena at Gallery Place. The RLA is responsible for specific, well defined, pre-construction costs. This bill allows the RLA to use the proceeds of the Arena Tax to secure these borrowings. The Arena tax is a dedicated tax that is already being collected and placed in an escrow account. The bill makes it clear that this debt is neither general obligation debt nor is it to count against the City's annual debt limit since it is secured by a special tax and not by all the revenues of the District. The activities for which the RLA may borrow funds

are carefully specified. The use of the arena tax to pay debt service is not subject to annual appropriation because debt service is, an automatic, must- pay obligation.

Finally, the bill waives the congressional review period for the Arena Tax Payment and Use Amendment of 1995 (DC Act 11-214). This legislation directs the arena tax revenues to the RLA, directs the use of the funds to secure and pay for the borrowing, and enacts an automatic escalation clause to insure sufficient funds for debt service.

## I. BACKGROUND AND NEED FOR THE LEGISLATION

### *A. Background*

#### 1. SPORTS AND ENTERTAINMENT ARENA

The District of Columbia does not have a modern indoor sports/entertainment arena. As a result, the nation's capital in not the home of any major league indoor professional sports franchise. It is indisputable that a modern, well run arena which combines professional sports franchises, entertainment, and retail (either on-site or nearby) adds considerable economic activity in urban areas. It is also true that such development projects spur considerable collateral economic development or redevelopment in the area surrounding such a development. In the case of a properly sited facility, a blighted or underdeveloped urban neighborhood can experience considerable revival and enhancement. Such associated development improves the neighborhood of the facility, the entire city, and results in revenues for the city that otherwise could not have been realized.

Slightly more than 20 years ago, Mr. Abe Pollin, owner of the Washington Bullets, a National Basketball Association franchise, needed a new arena in which to base his team. He wanted to locate the arena in Washington, DC proper but was prevented from doing so by his need for speed and by the District government's inability to get such a project through all of the many regulatory hurdles in a timely manner. Mr. Pollin then built, at his own expense, what is now known as the US AIR Arena in Landover, Maryland. This facility, constructed in 16 months, houses the Washington Bullets basketball team and, more recently, the Washington Capitals, Mr. Pollin's National Hockey League franchise. The US AIR Arena is no longer a state-of-the-art facility and Mr. Pollin has been examining other options for housing his teams for some time.

For more than two years a renewed effort has been underway by various civic leaders and the D.C. city government to develop a sports and entertainment arena project in downtown Washington, DC which would attract Mr. Pollin's two professional franchises. The initial proposal was inspired by the Federal City Council which is a non-profit organization working for the improvement of the nation's capital. In essence, the Federal City Council and a subsidiary organization it created for this project called the National Capital Development Commission (NCDC) served as a broker between the Pollin organization and the District government. Progress was being made towards an agreement when the full measure of the District's fiscal crisis became apparent (see Committee Report 104–

96, to accompany H.R. 1345, the District of Columbia Financial Responsibility and Management Assistance Act of 1995).

The initial proposed agreement between the District of Columbia, NCDC and the Pollin organization called for the District to acquire and develop the Gallery Place site (an area around 6th and G Streets, NW) and construct the arena which it would lease to NCDC. NCDC would operate the facility and had an agreement with Mr. Pollin for him to base the Washington Bullets and the Capitals in the arena for 30 years. This site was already largely owned by the City under the control of the Redevelopment Land Agency (RLA), which was designated to be the lead District government body in the project. In the latter half of 1994, Mr. Robert Johnson of Black Entertainment Television (BET) came forward with a proposal to build an arena with his own money on the District's site, but he did not have and could not negotiate an arrangement with Mr. Pollin to guarantee that the Bullets and Capitals would move to such an arena (Mr. Johnson was seeking partial ownership or a right of first refusal to purchase one or both of the teams).

The RLA Board decided in December, 1994 to accept the NCDC proposal which guaranteed the presence of the professional sports teams with the additional incentive that Mr. Pollin agreed to finance the construction of the arena himself. Under the terms of the RLA proposal, since fleshed out through negotiations into an approved Exclusive Rights Agreement (ERA), the District is obligated to pay for pre-development and development activities estimated by the General Accounting Office (GAO) to total $56 million. Mr. Pollin has secured private construction financing of up to $175 million and has assumed the costs for engineering and design of the arena.

Also in 1994, the District Council had amended a special "Public Safety Fee" gross receipts tax to convert it into the "Arena Tax" (DC Law 10–152). The Arena Tax is a special dedicated tax to be placed into a "lockbox" escrow account which can only be used by a designated agency and only for the purposes for which it was levied—the development of the sports and entertainment arena. The Arena Tax is not paid into the General Fund, is not available for use for any other purpose and cannot be subjected to an interfund transfer whereby it could be "hijacked" for other uses. The receipts of this tax must be deposited directly into the escrow account. GAO has found that this requirement is being met by the District.

Because the District's $56 million in activities called for in the ERA (site acquisition, demolition, grading, utilities, Metro construction) are up-front costs, the Arena Tax cannot pay for them as they are conducted. Therefore, the Arena Tax's estimated $9 million in annual revenues will be used to secure and pay debt service for financing the District's costs. Because of the District's cash crisis and below investment grade debt rating these costs cannot be financed with normal operational or capital borrowing by the District. In this case, the RLA with its dedicated revenue source is in a far better position than the city as a whole to borrow funds, either through a bank loan or the issuance of revenue bonds. The RLA, together with the Financial Responsibility and Management Assistance Authority (the Authority) have agreed on a financing

package in conjunction with a group of banks and a Wall Street financial firm. The Arena Tax revenues are more than adequate to cover the debt service on the proposed financing.

The arrangement between the District government (RLA) and the Pollin organization is an example of the most cost efficient way for a city to host professional sports franchises. Since Mr. Pollin will be the owner of the arena and the franchises, he will have no incentive to move the teams in a few years as others have done. If this happened, Mr. Pollin would be leaving his own arena in trouble while housing his teams in someone else's arena. In this case the District of Columbia will receive the economic and prestige benefits of the arena and its professional sports teams as well as the collateral development of what would otherwise remain an underdeveloped neighborhood. Considering the fact that the companion project of a new convention center (see below) is only 4 blocks north of the arena, the District of Columbia stands to reap major benefits in direct and indirect revenues and thousands of the jobs.

*2. Convention center*

The District of Columbia opened the Washington Convention Center in 1984 after considerable time had been spent in the planning and authorization process. At the time of its opening the Washington Convention Center was the eighth largest such facility in the country and could accommodate virtually all conventions and exhibitions then undertaken. Unfortunately, the District of Columbia found itself on the wrong end of the curve in an ongoing expansion in convention center/exhibition hall construction and a similar growth in the size of national conventions and exhibitions. Within a few short years, the Washington Convention Center was only the 30th largest in the country and could accommodate only about 55% of national conventions and exhibition shows.

The inability of the Washington Convention Center to host so many conventions and shows is unfortunate both for the District of Columbia and the metropolitan region, but also for the organizations and exhibitors who can no longer have the nation's capital on their regular schedule of meeting sites. In 1993, the Washington Convention Center generated $656 million in spending from its activities. In 1995, that spending is expected to be reduced to $558 million. The serious blow to the District's economy caused by the slowdown in activity at the Convention Center is obvious and needs to be reversed. A new, state-of-the-art Washington Convention Center of the size necessary to host 90% of the national level conventions and shows (approximately 1,000,000 square feet of space) will generate up to $1.5 billion of spending in the District of Columbia. Obviously, such increased economic activity will not only stop the current reduction in District tax revenue caused by the reduction in economic activity, but will generate considerable additional revenues that cannot otherwise be used by the District.

In order to gain these economic benefits, the City needed to find a way to finance a new convention center. It was clear to everyone that the City's general fund could not afford to continue to pay the operating subsidy for the current convention center or the up-front costs for a new one. As part of an effort to address this problem, the City Council enacted the Washington Convention Center Au-

thority Act of 1994 (DC Law 10–188). This act established a special convention center tax. It took effect on October 13, 1994. This tax is composed of a fixed percentage of several existing taxes. The convention center tax is a dedicated tax which the City places in an escrow account. It can be used only to pay the operating subsidy for the current convention center and for expenses associated with the development and construction of a new convention center. It is currently being collected at the rate of $30 million per year. In the same act, the D.C. City Council created the Washington Convention Center Authority (WCCA). The WCCA is a corporate body with a legal existence separate from the City government. Although it has the power to issue bonds, the debt thereby created is not general obligation debt. The WCCA is governed by a nine member Board of Directors. The District's Chief Financial Officer and the Director of Tourism are ex-officio, voting members of the board. The remaining seven members, one from the tourism industry and another from organized labor, are appointed by the Mayor with the advice and consent of the Council. The Directors are responsible for managing the current convention center, developing plans for a new convention center, managing the new facility, and appointing a general manager for the convention center. The Board is empowered to develop a personnel system for convention center employees.

H.R. 2108 does not authorize the financing or the construction of a new convention center. In order for the City to proceed beyond the planning and design phase, explicit, affirmative congressional action is necessary. Representatives of the City's government acknowledge this fact (The testimony of council member Charlene Drew Jarvis is summarized in Section III).

A new convention center will bring a wide range of new, private sector jobs to the metropolitan Washington economy. In 1994, the economic impact of the current convention center was around $850 million, $275 million of which was spent in the surrounding area. According to a 1993 Deloittle & Touche feasibility study, the new convention center is projected to generate $1.475 billion dollars in the District alone by the third full year of its operation. After the new center becomes fully operational, it is projected to generate annual spending in the range of $2.1 billion, of which approximately $700 million will be spent in Virginia and Maryland.

*B. Need for legislation*

The federal role in each of these projects is very narrow. Over the years Congress has removed itself from the direct involvement in routine land use decisions. The National Capital Planning Commission (NCPC) is charged with protecting the Federal interest in local planning matters in the District of Columbia as well as in parts of northern Virginia and suburban Maryland. The NCPC is composed of a presidentially appointed chair and eleven other commissioners. The commission is composed of appointed and ex-officio members. There are three presidential appointments, and four Mayoral appointees. There are five ex-officio members: the Secretary of the Interior, the Secretary of Defense, the Administrator of the General Services Administration, Chairman of the Commit-

tee on Governmental Affairs, and the Chairman of the Committee on Government Reform and Oversight.

Although Congress retains its plenary power to legislate for the District of Columbia, there has been a tendency to leave most land use decisions at the local level. In the case of the arena and new convention center, Congress does not have to approve each of the details. The NCPC, as the lead federal agency responsible for these projects looks out for the federal interest in matters of site selection, design, and construction. By allowing DC Law 10–188 to take effect, the 103rd Congress consented to the governance of the convention center by an independent City agency, the Washington Convention Center Authority. Currently, the RLA is the lead City agency for the new sports arena. They were selected because they own most of the arena's site. The RLA has done an exemplary job in promoting the City's best financial interest in this project. However, DC Law 10–152 established an eleven member Sports Commission which is composed of two ex-officio members (the Chief Financial Officer and the Commanding General of the District of Columbia National Guard) and nine members appointed by the Mayor with the advice and consent of the City Council. It is possible that the Sports Commission will replace the RLA as the lead City agency for the sports arena. In any case, this legislation does not address the details of the daily operation of these projects.

Congressional action is necessary for both the convention center and the arena projects to go forward. The revenue from the convention center tax is accumulating in an escrowed account. This legislation permits the WCCA to spend these revenues for two specific purposes: first, the pay the operating subsidy for the current convention center; and, second, to carry-out land acquisition, environmental impact studies, architecture and design studies, and surveys related to a new convention center. Because of the independent status of the WCCA, its self supporting revenue stream, and legal accountability, their spending is not subject to an annual appropriation.

This legislation is also necessary for completion of the sports arena project. It permits the RLA to borrow money to carry out specific City responsibilities related to site acquisition, site preparation, and infrastructure and Metrorail improvements necessary to the project. It also permits the RLA to pledge specific revenues for the repayment of this debt. These expenditures are exempted from the annual appropriations process. Finally, this legislation is necessary to waive the congressional review period for the Arena Tax Payment and Use Amendment Act of 1995. This waiver allows the lenders to have the necessary collateral to secure their loan to the City.

## II. LEGISLATION AND COMMITTEE ACTIONS

On July 25, 1995, Ms. Norton introduced H.R. 2108, which consisted of both the text of and amended language for H.R. 1843, the District of Columbia Sports Arena Financing Act of 1995, and H.R. 1862, the District of Columbia Convention Center Preconstruction Act of 1995. H.R. 2108 was cosponsored by all of the members of the Subcommittee on the District of Columbia along with Rep.

James Walsh, Chairman of the Appropriations Subcommittee on D.C.

H.R. 2108 was referred to the Committee on Government Reform and Oversight. The Subcommittee on the District of Columbia held a hearing on July 12, 1995. The bill was marked-up in the Subcommittee on the District of Columbia on July 26, 1995. There were no amendments offered. The legislation passed the Subcommittee on a 5–0 recorded vote, with all members present voting in the affirmative.

The Government Reform and Oversight Committee met on July 27, 1995, to consider H.R. 2108. There were no amendments offered. The bill was favorably reported to the House unanimously by voice vote.

## III. COMMITTEE HEARINGS AND WRITTEN TESTIMONY

On Wednesday, July 12, 1995, the Subcommittee on the District of Columbia, of the Committee on Government Reform and Oversight, met pursuant to notice. The purpose of the hearing was to solicit comments from interested parties on H.R. 1843, the District of Columbia Sports Arena Financing Act of 1995, and H.R. 1862, the District of Columbia Convention Center Preconstruction Act of 1995.

Subcommittee Chairman Davis stated at the opening of the hearing that the MCI Arena at Gallery Place and the new convention center were important for the economic and cultural well being not only of our Nation's Capital but for the entire metropolitan region. He emphasized the cooperative nature of these projects. He called specific attention to the narrow focus of the proposed legislation. This is important because it is the Subcommittee's intention to authorize the City to move forward only on the two specific projects described in H.R. 1843 and H.R. 1862. Ranking Member Norton, who introduced the legislation, also stressed the importance of her legislation to the City's economic recovery. She expressed appreciation for the way in which the City government and the private sector worked together to bring these projects to the point that Congressional action is appropriate.

The first panel of witnesses consisted of representatives from the City government, the City Council and the RLA. Each witness expressed strong support for both projects. Mr. Barry Campbell, Mayor Barry's chief of staff, stressed that these projects will bring economic benefits not only to the City but to the entire metropolitan region. He stated that the proposed legislation would allow the City to keep these projects on schedule. Chairman David Clarke of the City Council testified that the City Council was on schedule to have the Arena Tax Payment and Use Amendment Act of 1995 passed by July 25, 1995. (This took place on schedule, Title III of this legislation waives the congressional review period). This legislation, which creates a permanent revenue stream for the arena project, is vital for the financial markets. It provides lenders with security for their loans. Council member Charlene Drew Jarvis, Chair of the Committee on Economic Development, emphasized the importance of Congress not restricting the City's ability to negotiate the best possible financing arrangement to cover its costs in the arena project. In her answer to a question from Chairman

Davis, she stated that the City would need further congressional action to proceed from the planning to the construction phase of the new convention center. Ms. Michelle D. Bernard, chair of the RLA, spoke about the importance of each member of the RLA carefully scrutinizing each detail of the RLA's participation in the arena project. After providing a status report about the negotiation between the National Capital Development Corporation and the RLA, she joined Council member Jarvis in requesting that Congress not prematurely close off any legitimate financing option.

Mr. Abe Pollin, the Chairman of the Center Group U.S. Air Arena, testified about his participation in the arena project. He pointed out that the fact that he would own both the professional sports teams and the new arena would ensure the City that the teams would not be subject to recruitment by other cities seeking professional sports franchises. He also explained the arrangement for financing his part of the project.

The third panel was composed of the representatives from NationsBank and Crestar, the two lead banks in a consortium, that have offered to finance the City's participation in the project. Mr. Eugene Godbold, senior vice president of NationsBank, spoke for both institutions. He explained how the Barry Administration approached the local banks to finance the City's participation in the arena project. NationsBank and Crestar were willing, in spite of the City's grave financial crisis and low credit rating, to make these loans. Mr. Godbold thought that the banks would soon be in a position to offer a letter of committal to the City.

The GAO, represented by Mr. Jeffrey C. Steinhoff, the Director of Planning and Reporting for the Accounting and Information Division, testified that the expected costs for the City's participation in the arena are approximately $56 million. These costs appear to be reasonable. The City has two apparently legitimate offers to finance their costs. Mr. Steinhoff also testified that the City is collecting and escrowing the Arena Tax in an appropriate manner. The GAO expressed no reservations about the project. The GAO has also examined the convention center project. The City is also properly escrowing the convention center tax collections. He also explained how the City planned to use these funds. Mr. Steinhoff expressed no reservations about the convention center project. Chairman Davis requested that the GAO continue to monitor these projects and to report to him in writing on July 26, 1995 (see appendix).

## IV. EXPLANATION OF THE BILL

### *A. Overview*

The District currently has restricted authority to undertake projects such as the construction of an arena and a convention center. Congressional action is necessary for these particular projects because the District wants to use a method of funding and operation outside the scope of its existing authority under the Home Rule Act. The District has chosen to finance these projects by directing dedicated, escrowed taxes to semi-autonomous authorities for each project. The creation of these Authorities represents independence from the Mayor's and the City government's power to in-

fluence the daily operation of either project. In order to implement this new and more prudent method of finance and governance, the City is in need of congressional authorization. This legislation authorizes the City to use these dedicated tax funds only for these specific projects on these specific sites. This legislation does not authorize the City to build any other convention center or arena.

This legislation is narrow in scope. It provides a detailed account of precisely what activities the RLA and the WCCA are permitted to undertake. Any other activity either authority wants to undertake requires either further congressional authorization or funding from the City's General Fund. In the latter case, both the Financial Responsibility and Management Assistance Authority and Congress retain control through the normal appropriations process.

*B. Section by section analysis*

*Section 1. Short title; table of contents*

Subsection (a) sets forth the short title of the bill to be the "District of Columbia Convention Center and Sports Arena Authorization Act of 1995."

Subsection (b) sets forth the table of contents of this Act.

Title I—Convention Center

*Section 101. Permitting Washington Convention Center Authority to expend revenues for convention center activities*

Subsection (a) waives the restriction on obligating or expending funds without Congressional approval which is set forth in section 446 of the District of Columbia Self-Government and Governmental Reorganization Act (the Home Rule Act), in order to permit the District of Columbia to expend without specific appropriation any revenues collected pursuant to title III of the Washington Convention Center Authority Act of 1994 for activities described in Subsection (b). The subject revenues are derived from the following dedicated taxes which took effect on October 13, 1994: 2.5% of the 13% hotel sales tax; 40% of the $1.50 per day hotel occupancy tax; 1% of the 10% restaurant sales and use tax; and 0.25% of a 1% increment of the business franchise surtax. Collections for fiscal year 1995 are projected to be $30.8 million.

Subsection (b) provides that the activities for which the above revenues may be expended are: the operation and maintenance of the existing convention center; and land acquisition, environmental impact studies, architecture and design studies, and surveys related to the new convention center.

*Title II—Sports Arena*

*Section 201. Permitting designated authority to borrow funds for preconstruction activities relating to Gallery Place Sports Arena*

Subsection (a)(1) permits the "designated authority" to borrow funds through the issuance of revenue bonds, notes, or other obligations which are secured by revenues pledged in accordance with paragraph (2) to finance, refinance, or reimburse the costs of the arena preconstruction activities described in section 204, if the des-

ignated authority is authorized to borrow funds for such purposes by the District government.

Subsection (a)(2) provides that the designated authority may borrow funds to cover arena preconstruction costs if such borrowing is secured by the pledge of revenues derived from the sports arena tax and transferred by the Mayor to the designated authority.

Subsection (b)(1) provides that any debt resulting from the borrowing done by the designated authority shall not be considered general obligation debt of the District of Columbia for any purpose, including the annual debt limit of 14% of District revenues set by section 603(b) of the Home Rule Act.

Subsection (b)(2) provides that this debt shall not constitute lending of the public credit for private undertakings which is expressly prohibited by section 602(a)(2) of the Home Rule Act.

Subsection (b)(3) provides that this debt shall not be a pledge or involve the full faith and credit of the District of Columbia.

Subsection (c) provides that the term "designated authority" means the Redevelopment Land Agency or such other District government agency or instrumentality designated by the Mayor to carry out arena preconstruction activities.

*Section 202. Permitting certain district revenues to be pledged as security for borrowing*

Subsection (a) provides that either the District government or the designated authority may pledge as security for any borrowing undertaken for arena preconstruction activities any revenues attributable to the sports arena tax.

Subsection (b) provides that any revenues pledged as security by the District government or the designated authority shall be excluded from the determination of the dollar amount equivalent to 14% of District revenues under section 603(b)(3)(A) of the Home Rule Act.

*Section 203. No appropriation necessary for arena preconstruction activities*

This section provides that section 446 of the Home Rule Act, which prohibits the District government from obligating or expending funds not approved by Congress, shall not apply with respect to the following: (1) borrowing conducted pursuant to section 201(a); pledging of revenues as security for such borrowing; the payment of principal, interest, premium, debt servicing, contributions to reserves, or other costs associated with such borrowing; or other obligations or expenditures made to carry out the preconstruction activity described in section 204.

*Section 204. Arena preconstruction activities described*

This section describes arena preconstruction as the: (1) acquisition of real property to serve as the site of the arena and related facilities; (2) clearance, preparation, grading and development of the site of the arena and related facilities, including demolition of existing buildings; (3) provision of sewer, water, and other utility facilities and infrastructure related to the arena; (4) financing of a Metrorail connection to the site and other Metrorail modifications

related to the arena; (5) relocation of employees and facilities of the District government displaced by the construction of the arena and related facilities; (6) use of environmental, legal, and consulting services for the construction of the arena; (7) financing of administrative and transaction costs incurred in borrowing funds, including costs incurred in connection with the issuance, sale, and delivery of bonds, notes, or other obligations; and (8) financing of other activities of the District government associated with the development and construction of the arena.

## Title III—Waiver of Congressional Review

### *Section 301. Waiver of congressional review of Arena Tax Payment and Use Amendment Act of 1995*

This section provides that the 30-day period for Congressional review required by section 602(c)(1) of the Home Rule Act shall not apply with respect to the Arena Tax Payment and Use Amendment Act of 1995 (D.C. Act 11–115).

## V. COMPLIANCE WITH RULE XI

Pursuant to rule XI, 2(l)(3)(A), of the Rules of the House of Representatives, under the authority of rule X, clause 2(b)(1) and clause 3(f), the results and findings from those oversight activities follow.

### *A. Recommendations*

#### *1. New convention center*

The Committee notes that this legislation is very narrowly written and limits expenditure of the dedicated tax revenues to specific items listed in the Convention Center Authority chartering legislation (DC Act 10–188), such as paying the operating subsidy for the existing convention center, or for actions that must necessarily precede a final decision and authorization of a new convention center. These activities include such items as a site survey, environmental assessments, and design studies. Normally, a municipality would conduct and pay for such work out of operating funds and then be reimbursed from the project financing. In this case, the District of Columbia does not have monies available to fund this necessary work and may not have funds available for some time. Despite the fact that a new convention center is sorely needed in the nation's capital and would become an economic development engine of exactly the type needed to help the District overcome its fiscal difficulties; the prospects for this project moving forward without this legislation are doubtful.

This legislation only authorizes pre-development work on the new convention center and is not an approval or authorization for construction. The Committee notes that the Convention Center Authority does not have the authority to spend its dedicated revenue for construction or lease purposes and hence this project will need further Congressional action before it may be undertaken.

The Committee commends the success of the District of Columbia in reaching an agreement to have the new sports arena financed and constructed with private funds. The Committee encourages the

city and the Convention Center Authority in the strongest possible terms to consider and encourage private development of the new convention center. The Committee will carefully examine any proposed financing mechanism in its review of this project when it comes back to Congress for further action.

*2. Sports arena*

The Committee is pleased that the new sports and entertainment arena will be constructed with private financing and congratulates the Redevelopment Land Agency and the District of Columbia for bringing this situation to fruition. In this time of financial crisis in the District of Columbia it would be difficult to justify public financing. The Committee notes a trend across the country of private development of arenas, which used to be primarily financed by public funds. This is a positive development which should be encouraged wherever possible. If a project is truly a good business proposition there is no reason that private developers should not be willing to come forward and finance the costs themselves. If such a project is not economically viable on its own then serious questions can be raised as to the true value of the project to the community.

In this case, the owner of two professional sports franchises is so convinced of the viability of a downtown arena that he will finance the construction himself. Mr. Abe Pollin is to be congratulated for his civic mindedness and willingness to assume some of the risk inherent in any project of this type and size. The Committee feels that Mr. Pollin's backing goes a long way to dispel any lingering doubts or arguments that the project is unsound or not economically viable. The Committee notes that if the project does experience difficulties then the risks and burdens will be borne by Mr. Pollin and not by the District of Columbia. Further, the Committee believes that private development is more efficient than public development and construction. Private development, while subject to more rules and regulations than may be necessary, still has more freedom and flexibility regarding personnel rules, procurement practices, and efficiency in overcoming unexpected developments.

The Committee is aware that there are certain actions which the District government must undertake on the arena before construction can begin. The Committee is also cognizant that the arena project is on a tight but reasonable time line. Therefore, the Committee encourages the government of the District of Columbia to complete all necessary actions for this project in a timely and legal manner. The arena project is important to the City's future and the City must move forward to ensure its success.

*B. Findings*

The RLA has represented the best financial interests of the City at every point. Its willingness to aggressively seek out a wide range of potential sources of financing has brought the benefits of competition into the arena project. The manner that the members of the RLA have carried out their responsibilities provides great encouragement for the future of the City. The Congress expects that the WCCA will carry out their responsibilities in a similar manner.

The work of the General Accounting Office has been invaluable to the work of the Subcommittee on the District of Columbia. With-

out the many long hours of hard work the GAO audit team invested in its investigation of these projects, Congress would not have the confidence to permit the City to move forward with these projects. The Financial Responsibility and Management Assistance Authority has also examined these projects; their support also provides Congress with an additional level of comfort (see attached letter).

The Committee finds these projects are timely and important for both the City and the entire metropolitan region. In the midst of a severe financial crisis, these projects will provide the City with a much needed boost. But, they are more than window dressing. They will each bring immediate and significant economic benefits to the entire region.

## VI. BUDGET ANALYSIS AND PROJECTIONS

This Act provides for no new authorization or budget authority or tax expenditures. Consequently, the provisions of section 308(a)(1) of the Congressional Budget Act are not applicable.

## VII. COST ESTIMATE OF THE CONGRESSIONAL BUDGET OFFICE

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
*Washington, DC, July 28, 1995.*

Hon. WILLIAM F. CLINGER, Jr.,
*Chairman, Committee on Government Reform and Oversight, House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office (CBO) has reviewed H.R. 2108, the District of Columbia Convention Center and Sports Arena Authorization Act of 1995, as ordered reported by the House Committee on Government Reform and Oversight on July 27, 1995.

Based on information provided by the Council of the District of Columbia, CBO estimates that enactment of this bill will have no impact on the federal budget. Accordingly, the bill is not subject to pay-as-you-go procedures.

*Purpose of the bill*

*Convention center.*—H.R. 2108 would eliminate the current requirement that the Washington Convention Center Authority receive appropriations from the District government to use tax revenues currently dedicated to the authority. These revenues may be used to pay for operating expenses of the existing convention center and preconstruction activities of a new convention center.

*Sports arena.*—H.R. 2108 would amend the District of Columbia Home Rule Act to allow a governmental entity selected by the Mayor to develop a new sports arena to: (1) pledge tax revenues dedicated by local law as security for revenue bonds to finance the cost of sports arena preconstruction activities, and (2) spend these dedicated revenues without appropriations from the District government for both preconstruction activities and debt service. The bill further provides that bonds issued for arena development are not backed by the full faith and credit of the District of Columbia and that revenues dedicated to sports arena development are not

to be included in the calculation of the aggregate debt limit of the District. The legislation also waives the requirement for any further congressional review of amendments to local law recently enacted by the District to perfect the dedication of revenues to the arena project.

*Impact of the bill*

The financial transactions permitted by this legislation would not significantly affect the likelihood of repayment of Treasury advances or borrowing by the District of Columbia. Enactment of this bill also would not impose additional costs on state and local governments.

*Convention center.*—H.R. 2108 merely permits the use of resources already dedicated to the convention center for intended convention center expenses without being subject to the appropriations process. Their use for this purpose will not alter the District's expected repayments of Treasury advances.

*Sports arena.*—It is unlikely that the pledge of these receipts as security for authority debt will increase existing pressure on District finances. The yield of the sports arena tax, estimated at $9 million annually, is sufficient to provide for timely payment of debt service on the approximately $60 million of bonds expected to be issued. As an additional measure of safety, the local law authorizing the tax includes a mechanism for an automatic rate adjustment to ensure an annual $9 million estimated yield. This structure will effectively eliminate this potential source of pressure on District repayment of federal advances.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Daniel Kowalski.

Sincerely,

JAMES L. BLUM
(For June E. O'Neill, Director).

## VIII. INFLATIONARY IMPACT STATEMENT

In accordance with rule XI, clause 2(l)(4) of the Rules of the House of Representatives, this legislation is assessed to have no inflationary effect on prices and costs in the operation of the national economy.

## IX. CHANGES IN EXISTING LAW

Clause 3 of the rule XIII of the Rules of the House of Representatives requires that any change in existing law made by the bill, as reported, be shown with the existing law proposed to be omitted enclosed in black brackets, new matter printed in italic, and existing law in which no change is proposed shown in roman. This provision is inapplicable for the reported bill, which makes no change in existing law.

## X. COMMITTEE RECOMMENDATION

On July 27, 1995, a quorum being present, the Committee ordered the bill favorably reported.

*Committee on Government Reform and Oversight—104th Congress Rollcall*

Date: July 27, 1995.
Final Passage of H.R. 2108.
Offered By: Mr. Davis.
Voice Vote: Ayes.

XI. CONGRESSIONAL ACCOUNTABILITY ACT; PUBLIC-LAW 104–1; SECTION 102(B)(3)

This provision is inapplicable to the legislative branch because it does not relate to any terms or conditions of employment or access to public services or accommodations.

# APPENDIX

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GENERAL ACCOUNTING OFFICE,
*Washington, DC, July 26, 1995.*

Hon. THOMAS M. DAVIS III,
*Chairman, Subcommittee on the District of Columbia, Committee on Government Reform and Oversight, House of Representatives*

DEAR MR. CHAIRMAN: This letter responds to your request for a status report updating our July 12, 1995, testimony[1] on the proposed new sports arena project in the District of Columbia. Specifically, you requested an update on (1) the redevelopment project costs, (2) the status of the proposals to finance the costs, and (3) the revenues from the new Arena Tax.

## PREDEVELOPMENT PROJECT COSTS

There have been no changes to the District's estimated redevelopment costs for the sports arena project discussed in our testimony. As shown in the enclosure to this letter, the District's estimated costs for the project still total $56.3 million. Events and circumstances may occur, however, to change these cost estimates. For example, the final cost for the connection of the Gallery Place Metrorail Station to the sports arena could change after the design plans are completed. In addition, if the District receives approval for a $15 million Capital Assistance Grant under the provisions of the Intermodal Surface Transportation Act of 1991[2] to finance the construction costs of the Metrorail connection, the District would lower its financing requirements by about $10.8 million.

## FINANCING PROPOSALS

To finance the predevelopment costs of the sports arena project, the District, through the Redevelopment Land Agency (RLA), is currently evaluating two proposals. The first is a July 21 1995, proposal from NationsBank and Crestar Bank to provide a $53 million loan. The second is a July 24, 1995, proposal from Morgan Stanley & Co., which would issue a combination of tax-exempt and taxable bonds. A meeting was held yesterday with the RLA Board, other District officials, and representatives from the banks and Morgan Stanley & Co. to discuss the two proposals. The RLA Board plans to make a decision shortly.

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[1] "District of Columbia: Status of Sports Arena and Convention Center Projects" (GAO/T–AIMD–95–189. July 12, 1995).

[2] Public Law 102–240, 105 Stat. 2090 (Dec. 18, 1991) authorizes the Secretary of Transportation to make grants or loans to assist states and local public bodies and agencies to finance the acquisition, construction, reconstruction, and improvement of facilities and equipment for use, by operation or lease, in mass transportation service in urban areas.

ARENA TAX REVENUES

As of July 24, 1995, the District reported that it had collected approximately $7.8 million from the Arena Tax, which included about 22,000 returns filed. This is an increase of $0.6 million since July 11, 1995. We will continue to monitor the collections of this tax to determine if it generates the $9 million per year in revenues that the District estimated. Approximately 12,000 returns have not yet been filed, and the District's Department of Finance and Revenue plans to send out second notices in mid-August.

As requested, we will keep you posted on the above matters, and others that may arise as the sports arena project progresses. If you have any questions, please call me at (202) 512–9450 or Charles W. Culkin, Jr., Assistant Director, at (202) 512–9486.

Sincerely yours,

JEFFREY C. STEINHOFF,
*Director of Planning and Reporting.*

Enclosure.

THE DISTRICT OF COLUMBIA'S ESTIMATED PREDEVELOPMENT COSTS FOR THE SPORTS ARENA PROJECT

| Predevelopment costs | Original budget | Revised budget |
|---|---|---|
| Land acquisition: | | |
| Appraisal/purchase price | | $30,107,913 |
| Appraisal fees | | 33,500 |
| Total | $28,000,000 | 30,141,413 |
| Metrorail connection: | | |
| Construction costs for station entrance/exit and mezzanine | 7,000,000 | 13,499,788 |
| Relocation of District employees: | | |
| Lease commitments and rent advances | | 1,985,907 |
| Lease appraisals and space consultants | | 70,000 |
| Leasehold improvements | | 972,370 |
| Furniture and equipment move | | 638,123 |
| Telecommunications equipment move | | 875,133 |
| Total | 7,000,000 | 4,541,533 |
| Building demolition utility relocation, legal and environmental consultants, and bank fees: | | |
| Building demolition | | 1,393,401 |
| Utility relocations | | 3,439,740 |
| Business relocaiton | | 25,000 |
| Legal, environmental and other consultants | | 1,816,302 |
| National Capital Development Corporaiton reimbursement | | 294,318 |
| Bank fees and costs | | 1,161,250 |
| Total | 11,000,000 | 8,130,011 |
| Total Predevelopment Costs | 53,000,000 | 56,312,745 |

DISTRICT OF COLUMBIA FINANCIAL RESPONSIBILITY
AND MANAGEMENT ASSISTANCE AUTHORITY,
*Washington, DC, August 1, 1995.*

Hon. TOM DAVIS,
*Chairman, Subcommittee on the District of Columbia, Committee on Government Reform and Oversight, House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Authority has received a briefing from the Chairman of the Redevelopment Land Agency and other District officials on the status of the proposal to build a downtown Sports Arena and has reviewed GAO products that have reviewed aspects of the proposal and financing. Based on this information the Authority supports the efforts to begin construction of this facility as soon as possible. We believe that the new Arena may not only prove to be an economic benefit to the District, but also provide a valuable impetus for further development of the "Downtown" area.

One of the primary goals of the Financial Responsibility and Management Assistance Act of 1995 (P.L. 104–8) is "To ensure the long-term financial, fiscal, and economic vitality and operational efficiency of the District of Columbia." Although improving the operations of the District government is an integral part of achieving operational efficiency, expansion of the private sector is essential to long-term economic development. The Arena project, which combines private development with government incentives, is a strong step to revitalizing private sector development in the District. In addition, the plans for financing the Arena appear to be reasonable.

The Committee report that accompanied P.L. 104–8 noted the Committee's support for the Arena project. We agree with the Committee that the Arena Project should be completed at the earliest possible date.

Sincerely yours,

ANDREW F. BRIMMER,
*Chairman, Financial Responsibility and Management Assistance Authority.*

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