EQUITABLE FISCAL REGIONALISM

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Due to suburbanization and white flight, metropolitan regions suffer from great fiscal inequality. Wealthier, and oftentimes white, suburbs are able to keep their tax burdens low and receive high quality government services. In contrast, central cities, with many poorer and ethnic minority communities, face eroding tax bases and increased demand for social services. In response to this fiscal dilemma, central cities spend money to construct and operate assets, such as a sports stadium or music hall, in the hopes of spurring economic development that can create job opportunities for residents and increased tax revenues for the city. While such assets are desired and used by residents of the entire region, our current system of local government allows wealthier localities to enjoy these benefits without helping to pay for their costs.

This dismal state of affairs is largely the product of localism, a descriptive and normative theory of a system of decentralized, independent local governments that fosters self-interest and unilateral decision making. Recently, a powerful critique of localism has emerged in the form of regionalism, a competing theory that recognizes the complexity and interdependence of cities. Regionalism argues that interlocal collaboration is necessary to address the ills of the modern metropolis, including the problem of fiscal inequality. Unfortunately, regionalism has failed to be adopted on a meaningful scale because it is politically or practically infeasible. Moreover, the regional governments that have been successfully formed have tended to reinforce inequality and free riding. In this Article, I propose a new, more viable theory of regionalism—"equitable fiscal regionalism." This theory envisions a regional government that better distributes the cost of regional benefits throughout the metropolitan area. In doing so, equitable fiscal regionalism seeks to address the free riding by wealthier localities and help reverse the fiscal inequalities that exist in most regions. By using the example of sports stadium districts, this Article demonstrates how equitable fiscal regionalism can help find theoretical common ground for localism and regionalism and move toward bridging the gap between scholarship and practice in this important area.

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I. INTRODUCTION

The problems facing large metropolitan regions[1] are well known and well documented: segregation, economic inequality, urban sprawl, a lack of affordable housing, a decaying urban core, environmental degradation, and ineffective transportation systems.[2] Many localities now struggle to secure and stabilize their tax bases. There is great disparity among different municipalities' services. Inequality pervades most regions—stratified by race and poverty. The lack of a coordinated effort among localities has led to uncontrolled, or at least unplanned, growth in regions causing urban sprawl and its attendant maladies.[3]

These regional problems are due, in large part, to fiscal inequalities that exist within a region.[4] The effects of suburbanization and white flight have resulted in central cities facing eroding tax bases and increasing social service costs for the poor

1. For purposes of this Article, I use the term "region" to describe a metropolitan area that contains many cities, suburbs, towns, villages, municipalities, and other local government entities. As Professor Janice Griffith points out, regions can also be understood as a geographic area that comprises a single economic unit. Janice C. Griffith, *Regional Governance Reconsidered*, 21 J.L. & POL. 505, 506–09 (2005). However, most regions or metropolitan areas do not have formal legal or political entities that help govern the geographic area that they encompass. Richard Briffault, *Localism and Regionalism*, 48 BUFF. L. REV. 1, 4 (2000).

2. *See* Gerald E. Frug, *Beyond Regional Government*, 115 HARV. L. REV. 1763, 1765 (2002) (listing educational inequality, unaffordable housing, and interminable traffic congestion as some of the ills characteristic of urban America).

3. *Id.* at 1766–70.

4. *Id.* at 1765.

communities left behind.[5] Central cities experience a concentration of poor and ethnic minority communities. By contrast, the suburbs tend to be wealthier with largely white residents. Suburbs have been able to keep their tax burdens low, while central cities struggle to raise revenue to meet the social service needs of its residents.[6] This fiscal inequality is compounded by a free-rider problem that exists in many metropolitan areas: wealthier localities in a region obtain the desirable benefits of a regional economy—such as a revitalized downtown shopping district, a new sports stadium, or a museum—without helping pay for the costs. In fact, such municipalities free ride off of the work and expenditures of the central city and other poorer localities that pay for these regional assets.[7]

This free riding exacerbates the fiscal inequalities in a region because central cities spend money on these metropolitan assets in an attempt to spur economic development in hopes that it will provide jobs for their residents, tax dollars to fund the social services that they need, and a better quality of life for those in the community. Central cities thus cannot afford to pay for all of the needed social service programs, repairs of decaying infrastructure, public employee pensions, and other traditional costs associated with a major city. Wealthier localities in the region want and use these regional benefits paid for by their associated central city, but they are able to avoid paying for these assets and thus keep their costs and tax burdens low. These systemic problems have become self-perpetuating and are getting worse. While this free-rider issue is not the sole cause of these systemic problems, it significantly contributes to the fiscal inequalities within most metropolitan areas.[8]

Many attribute the current dismal state of affairs in these regions to localism, which is a descriptive and normative theory of a system of decentralized, independent local governments as opposed to a more centralized, regional form of government.[9] The localist structure of municipal governments has provided cities with significant independence and autonomy in our federalism system, and for many years, these municipalities functioned well in this structure. Indeed, this dominant theory has shaped local government law for much of the past century. However, localism has failed to account for regional changes that have brought to light a far greater interdependence among localities than previously realized and created significant problems for metropolitan areas.[10] In particular, localism does not address the

5. Craig R. Bucki, *Regionalism Revisited: The Effort to Streamline Governance in Buffalo and Erie County, New York*, 71 ALB. L. REV. 117, 121–22 (2008).

6. Laurie Reynolds, *Taxes, Fees, Assessments, Dues, and the "Get What You Pay For" Model of Local Government*, 56 FLA. L. REV. 373, 374 (2004).

7. Clayton P. Gillette, *Regionalization and Interlocal Bargains*, 76 N.Y.U. L. REV. 190, 246 (2001).

8. *Id.*

9. *See* Sheryll D. Cashin, *Localism, Self-Interest, and the Tyranny of the Favored Quarter: Addressing the Barriers to New Regionalism*, 88 GEO. L.J. 1985, 1988 (2000) (defining localism as an "ideological commitment to local governance"). In this Article, I use the terms "local governments," "cities," "suburbs," "municipalities," and "localities" interchangeably to refer to local government entities.

10. *Cf.* Keith Aoki, *All the King's Horses and All the King's Men: Hurdles to Putting the Fragmented Metropolis Back Together Again? Statewide Land Use Planning, Portland Metro and Oregon's Measure 37*, 21 J.L. & POL. 397, 402–06 (2005) (noting a general "refusal to recognize increasing interlocal interdependence"); Amnon Lehavi, *Intergovernmental Liability Rules*, 92 VA. L. REV. 929, 981–82 (2006)

significant regional problem of fiscal inequality that is exacerbated by the free riding of wealthier municipalities.

It is no wonder, then, that scholars and government officials alike have been searching for a regional solution to these challenges. Regionalism—a theory focused on creating a level of government that encompasses multiple localities and works to facilitate cooperation and collaboration between them—offers solutions to the free-rider and fiscal inequality problems through various regional government proposals.[11] However, almost none of the proposed regional government models have been adopted. One possible explanation for this is that the debate about local versus regional governments has been an all or nothing proposition—that is, either the current, decentralized localist structure should be maintained or it should be replaced by a centralized regional government. While perhaps normatively desirable, a dramatic paradigm shift from a localist system of municipal governments to a centralized, consolidated regional government is a political impossibility.[12] Other regional government proposals—even if seeking less dramatic change—still suffer from either being impractical or standing no chance of adoption given engrained biases for the status quo in local communities. Those proposals that have been adopted have had limited success in addressing the free-rider problem or, unintentionally, further reinforced the problems with the localist system. In short, despite the vast amounts of ink that has been shed on the topic, there has been little meaningful movement toward regionalism.[13]

In this Article, I propose a more viable approach to regionalism—which I call "equitable fiscal regionalism"—by analyzing how the cost of regional benefits might be shared more broadly within a metropolitan area. Equitable fiscal regionalism envisions a regional governmental entity whose purpose is to raise revenue throughout a metropolitan area to pay for the costs of popular community benefits, such as sports stadiums[14] and cultural facilities. In this regard, equitable fiscal regionalism attempts to reduce the free riding that occurs when more affluent suburbs use and benefit from regional assets that are funded by central cities and poorer localities. By reducing such free riding and better distributing the costs of certain types of metropolitan benefits, equitable fiscal regionalism helps address the existing fiscal inequalities in a region. While this approach may require some divestment of powers from local governments, most local powers would remain intact. In this regard, equitable fiscal regionalism preserves the positive aspects of localism, such as local autonomy. At the same time, I propose a regional government model that addresses some of the regional fiscal inequalities and free riding highlighted by the regionalist critique. In addition, by

(noting the efficiency and political advantages of an intergovernmental liability model); Laurie Reynolds, *Intergovernmental Cooperation, Metropolitan Equity, and the New Regionalism*, 78 WASH. L. REV. 93, 144 (2003) (advocating for regional special districts to free local governments from their artificial political boundaries).

11. Note, *Old Regionalism, New Regionalism, and Envision Utah: Making Regionalism Work*, 118 HARV. L. REV. 2291, 2292 (2005).

12. *Id.*

13. Frug, *supra* note 2, at 1770.

14. In this Article, I use the terms "stadiums," "arenas," and "ballparks" interchangeably to refer to large venues where professional sports teams play.

focusing on having the regional government pay for regional assets that people tend to want in their communities, I offer a model that has a better chance of being adopted in practice. In short, this Article attempts to find both a theoretical and practical common ground for localism and regionalism and offers the next step towards bridging that gap in scholarship and practice.

Section II of this Article describes the theory of localism and explains its importance in local government scholarship. This Section also explains how localism serves as the theoretical foundation for the current system of local government structuring that pervades most metropolitan areas today. In addition, this Section describes how localism creates, or at least fails to address, the problems of inequality in most metropolitan areas. Section III analyzes regionalism and its various iterations. It describes the tension between regionalism and localism and offers explanations for why there remain few examples of meaningful regional government or governance. Section IV lays out the theory of equitable fiscal regionalism. In particular, this Section analyzes sports stadium districts, which can be characterized as an example of equitable fiscal regionalism. This Section delves deeper into the various financing structures existing for sports stadium districts and uses them to propose possible models for crafting certain tax and revenue sources for the type of regional governments contemplated by equitable fiscal regionalism. These tax and revenue models will be contextualized in taxation theory to determine how best to allocate the cost of such metropolitan assets. Section IV will also address some of the challenges that regions will face in attempting to adopt the type of regional government envisioned by equitable fiscal regionalism. Finally, Section V concludes with some reflections on the implications of the possible adoption of such regional governments.

II. LOCALISM

To understand the renewed interest in regionalism, one must first understand the local government theory to which it responds: localism. Localism is a descriptive and normative theory based on a preference for a system of decentralized, independent local governments and local control as opposed to a more centralized, regional form of government.[15] The theory advocates for decentralization of government authority to better facilitate self-government and local community formation.[16] Localists believe this structure of municipal government to be superior because it allows for more efficient, innovative, and democratic local governments.[17] Localists thus support the decentralization of governing powers among various independent local governments instead of having power concentrated in one regional or state government.[18] These

15. *See* Cashin, *supra* note 9, at 1988.

16. *See* Jerry Frug, *Decentering Decentralization*, 60 U. CHI. L. REV. 253, 294–99 (1993) (analyzing how decentralized local and regional governments enhance the identity of represented localities).

17. *See* Briffault, *supra* note 1, at 15 (noting the argument that localism "promotes allocational efficiency in the provision of public services, democratic citizenship, and self-determination by territorial communities").

18. *Id.* Most states delegate significant amounts of power and authority to local governments on a variety of governmental and policy matters such as the ability to establish a municipality through a city charter, elected local officials through popular elections, regulatory authority for local matters, land use and zoning,

powers relate to areas such as public safety (police, fire, and local court systems), public health, education, taxation, and zoning and land use planning.[19] Localism thus represents "the view that the existing system of a large number of relatively small governments wielding power over . . . critical matters . . . ought to be preserved."[20] In fact, some local government scholars have advocated for even greater powers for local governments beyond those that they are currently afforded.[21]

This focus on local government power and significance, at first, may seem unwarranted and unnecessary. Local governments are not even mentioned or contemplated in the United States Constitution.[22] When originally created by states, local governments encompassed small urban and rural areas—quite different from the cities and metropolitan areas today.[23] Local governments are now far more complex and have considerably more social, economic, and political power than when they were originally devised.[24] In fact, nine cities have populations of more than one million people, and twenty-four cities—including the aforementioned nine—have more than half a million people living within their boundaries.[25] Two cities boast gross domestic products of more than $500 billion dollars per year.[26]

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and revenue generation through taxation. David J. Barron & Gerald E. Frug, *Defensive Localism: A View of the Field from the Field*, 21 J.L. & POL. 261, 263 (2005).

19. 39 ROBERT L. LINEBERRY, EQUALITY AND URBAN POLICY: THE DISTRIBUTION OF MUNICIPAL PUBLIC SERVICES 10 (1977).

20. Briffault, *supra* note 1, at 1.

21. *See, e.g.*, Richard Briffault, *Home Rule for the Twenty-first Century*, 36 URB. LAW. 253 (2004) (discussing the importance of home rule); Clayton P. Gillette, *Fiscal Home Rule*, 86 DENV. U. L. REV. 1241 (2009) (advocating for local revenue-raising initiatives); Matthew Parlow, *A Localist's Case for Decentralizing Immigration Policy*, 84 DENV. U. L. REV. 1061 (2007) (asserting that local governments supplement federal efforts to regulate immigration). For a further discussion regarding the scholarly debate about local governments' power or lack of power see Daniel B. Rodriguez, *Localism and Lawmaking*, 32 RUTGERS L.J. 627, 632–35 (2001), and Richard Briffault, *Our Localism: Part I—The Structure of Local Government Law*, 90 COLUM. L. REV. 1, 16–20 (1990).

22. Frayda S. Bluestein, *Do North Carolina Local Governments Need Home Rule?*, 84 N.C. L. REV. 1983, 1988 (2006).

23. *See* Gerald E. Frug, *The City as a Legal Concept*, 93 HARV. L. REV. 1059, 1096–97 (1980) (detailing the state of local governments at the time of the American Revolution).

24. Matthew J. Parlow, *Progressive Policy-Making on the Local Level: Rethinking Traditional Notions of Federalism*, 17 TEMP. POL. & CIV. RTS. L. REV. 371, 372–73 (2008). Indeed, as Professor Paul Peterson contends, a modern theory of federalism views local governments as a third tier in our federal system. PAUL E. PETERSON, CITY LIMITS 15 (1981) ("A modern theory of federalism becomes possible only when cities, states, and national governments are understood to differ in their essential character.").

25. *Top 50 Cities in the U.S. by Population and Rank*, INFOPLEASE.COM, http://www.infoplease.com/ipa/A0763098.html (last visited Oct. 1, 2012). To provide some perspective, there are seven states with a population of less than one million people: Montana, 974,989; Delaware, 885,122; South Dakota, 812,383; Alaska, 698,473; North Dakota, 646,844; Vermont, 621,760; and Wyoming, 544,270. *Resident Population—July 2009*, U.S. CENSUS BUREAU, http://www.census.gov/compendia/statab /2011/ranks/rank01.html (last visited Oct. 1, 2012). In fact, New York City has a greater population—8,391,881—than thirty-nine of the fifty states. *Id*. The City of Los Angeles, with a population of 3,831,868, has a greater population than twenty-four states. *Id*.

26. *See The 150 Richest Cities in the World by GDP in 2005*, CITY MAYORS, http://www.citymayors.com/statistics/richest-cities-2005.html (last visited Oct. 28, 2012) (noting New York City, New York and Los Angeles, California, as having gross domestic products of $1.113 trillion and $639

In addition to their significant populations and economies, local governments deliver a meaningful amount of critical public goods, services, and regulations that affect people's day-to-day lives.[27] Given local governments' ascendance and prominence in the last century, it comes as no surprise that some scholars have touted the significance of localities and promoted increased powers for these governmental entities.[28]

To this end, localists correctly argue that because local governments are smaller than state or federal governments, they are more efficient, more innovative, and more democratic than other levels of government.[29] Professor Charles Tiebout's seminal theory attributes local government efficiency to the ability of consumer-voters to "vote with their feet" and leave one locality that fails to meet their needs and interests for another.[30] The threat of such an exodus creates an efficient local government marketplace.[31] Local governments fear losing these consumer-voters—and their attendant tax dollars—and thus compete for residents and businesses by offering a distinct package of goods, services, and regulations.[32] Citizens can freely choose where to live or relocate and can thus "shop" for the local government that best meets their needs, interests, and desires.[33] In this regard, localities have an incentive to respond and cater to their consumer-voters.[34] Indeed, local governments must compete for citizens and businesses or face the consequences of an eroding tax base.[35] This market-like competition, in turn, creates an efficient allocation of public goods and services—a

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billion, respectively).

27. *See* LINEBERRY, *supra* note 19, at 10 ("The services performed by municipalities are those most vital to the preservation of life (police, fire, sanitation, public health), liberty (police, courts, prosecutors), property (zoning, planning, taxing), and public enlightenment (schools, libraries).").

28. See *supra* note 21 for a short list of scholars advocating for greater powers for localities.

29. Briffault, *supra* note 1, at 15–17.

30. Charles M. Tiebout, *A Pure Theory of Local Expenditures*, 64 J. POL. ECON. 416, 419 (1956). Citizens who require a high and quality level of goods and services will be more likely to be willing to pay higher taxes, while those who have less of a need for such goods and services are more likely to gravitate to lower-taxing localities. *Id.* at 418.

31. *See id.* at 419 (suggesting that every community has an optimal size and will tailor resources accordingly). If localities have less control to set their own priorities and provide a unique and tailored set of goods, services, and regulations, the value of diversity in local communities is undermined. Robert M. Bastress, Jr., *Localism and the West Virginia Constitution*, 109 W. VA. L. REV. 683, 686 (2007).

32. Tiebout, *supra* note 30, at 419–20. Indeed, if public choice theory is correct that elected officials act to further their own self-interest—that is to be reelected—then local officials will monitor and be responsive to this market. *See* William N. Eskridge, Jr., *Politics Without Romance: Implications of Public Choice Theory for Statutory Interpretation*, 74 VA. L. REV. 275, 288 (1988) ("Public choice theory argues that legislative behavior is driven by one central goal—the legislator's desire to be reelected.").

33. Briffault, *supra* note 1, at 15–16. *But see* Erin Ryan, *Federalism and the Tug of War Within: Seeking Checks and Balance in the Interjurisdictional Gray Area*, 66 MD. L. REV. 503, 615 (2007) (noting that citizen mobility based on policy preference is difficult to demonstrate and may be influenced by other factors such as family ties); Richard C. Schragger, *Cities, Economic Development, and the Free Trade Constitution*, 94 VA. L. REV. 1091, 1115 (2008) (noting a few reasons why residents are not as mobile as Tiebout theorized).

34. *See* Jim Rossi, *The Political Economy of Energy and Its Implications for Climate Change Legislation*, 84 TUL. L. REV. 379, 397–98 (2009).

35. Michael Burger, *"It's Not Easy Being Green": Local Initiatives, Preemption Problems, and the Market Participant Exception*, 78 U. CIN. L. REV. 835, 867–68 (2010).

desirable result in a metropolitan region.[36] Local governments are also more innovative than the federal and state governments. Due to this efficient local government marketplace, those with similar values and preferences tend to gravitate to the same localities.[37] This homogeneity allows local governments to experiment and push policy agendas that might be less politically palatable or feasible at higher levels of government.[38] This ability to overcome partisan gridlock by focusing on common, local issues, allows for policy innovation and experimentation without affecting those beyond the locality's smaller, finite borders.[39] Local governments have been on the forefront of innovative policy making in a variety of areas, such as health care,[40] gay marriage,[41] domestic partner benefits,[42] climate change,[43] immigration,[44] minimum wage,[45] and medical marijuana,[46] where state and federal governments have been

36. Erika K. Wilson, *Leveling Localism and Racial Inequality in Education Through the No Child Left Behind Act Public Choice Provision*, 44 U. MICH. J.L. REFORM 625, 632 (2011). *But see* Reynolds, *supra* note 10, at 113–14 (citing studies demonstrating the inefficiencies of the Tieboutian local government marketplace).

37. Briffault, *supra* note 1, at 15.

38. *See generally* Richard Briffault, *Home Rule and Local Political Innovation*, 22 J.L. & POL. 1 (2006).

39. Briffault, *supra* note 21, at 260. *But see* Brian H. Bix, *State of the Union: The States' Interest in the Marital Status of Their Citizens*, 55 U. MIAMI L. REV. 1, 19 (2000) (questioning the desirability or impact of such innovation when "one cannot promote significant local autonomy and diversity without causing people to lose rights and liberties when they move across state or municipal boundaries").

40. *See generally* Michael Serota & Michelle Singer, *Maintaining Healthy Laboratories of Experimentation: Federalism, Health Care Reform, and ERISA*, 99 CALIF. L. REV. 557 (2011) (analyzing the City and County of San Francisco's Health Care Security Ordinance—that provides universal access to health care for uninsured residents of the city and county—and explaining the value of local experimentation in the area of health care).

41. *See* Paul A. Diller, *The Partly Fulfilled Promise of Home Rule in Oregon*, 87 OR. L. REV. 939, 965–66 (2008) (noting the statewide initiative that voters in Oregon passed depriving local governments from being able to regulate in the area of gay marriage—a move in direct response to Multnomah County's attempt to recognize gay marriage); Richard C. Schragger, *Cities as Constitutional Actors: The Case of Same-Sex Marriage*, 21 J.L. & POL. 147, 148–53 (2005) (explaining the City and County of San Francisco's provision of marriage licenses to same-sex couples and exploring the role of local governments to act in this policy area).

42. *See* Ryiah Lilith, *Caring for the Ten Percent's 2.4: Lesbian and Gay Parents' Access to Parental Benefits*, 16 WIS. WOMEN'S L.J. 125, 139–41 (2001) (reviewing various local governments that extended domestic partnership benefits to their employees); Brodie M. Butland, Note, *The Categorical Imperative:* Romer *as the Groundwork for Challenging State "Defense of Marriage" Amendments*, 68 OHIO ST. L.J. 1419, 1457 (2007) (noting that domestic partnership benefits began and proliferated on the local level starting in the City of Berkeley, California, in 1984 and growing to more than seventy local governments by 2004—in stark contrast to the four states that had done so by 2004).

43. *See* Hari M. Osofsky & Janet Koven Levit, *The Scale of Networks?: Local Climate Change Coalitions*, 8 CHI. J. INT'L L. 409, 410–11 (2008) (noting the proactive and aggressive measures taken by many U.S. cities to address harmful emissions); Katherine A. Trisolini, *All Hands on Deck: Local Governments and the Potential for Bidirectional Climate Change Regulation*, 62 STAN. L. REV. 669, 692–734 (2010) (explaining the variety of ways in which local governments can regulate to help reduce greenhouse gas emissions).

44. *See* Parlow, *supra* note 21, at 1063–66 (detailing the different types of local immigration ordinances); Rick Su, *Local Fragmentation as Immigration Regulation*, 47 HOUS. L. REV. 367, 371–405 (2010) (analyzing local government immigration regulations and their interdependence with federal immigration laws).

45. *See* Clayton P. Gillette, *Local Redistribution, Living Wage Ordinances, and Judicial Intervention*, 101 NW. U. L. REV. 1057, 1057–88 (2007) (describing why local governments attempt to redistribute wealth and how living wage ordinances—adopted by many cities—attempt to do so); David Neumark, *Living Wages:*

unable or unwilling to act. In these regards, local governments are perhaps a better laboratory of democracy than Justice Louis Brandeis envisioned the states to be.[47]

Local governments are also more democratic than higher levels of government because they are the level of government closest to its constituents and thus enable more robust citizen participation.[48] Although federal and state governments have larger budgets and legislate in a wider array of policy areas than local governments, these broader levels of government are simply too big, remote, and inaccessible for the average citizen to engage with and participate in.[49] Local governments, on the other hand, are better able to engage citizens in local governance as they are smaller in size.[50] This enables local government officials to be more in touch with their constituents and thus more responsive to their needs because local officials are better able to interact with their constituents.[51] Similarly, community stakeholders are more likely to engage with their local governments because the costs of doing so are lower at the local level, as it takes them less time, effort, and money to participate.[52] This, in turn, leads to better decisions and policies, as those living and working within a community know best what its needs are and how to address them most effectively.[53] Moreover, because local governments are smaller, community stakeholders are more likely to think that they will "be effective in determining local policy, winning local office, or [at] least in shaping the local debate."[54]

Protection for or Protection from Low-Wage Workers?, 58 INDUS. & LAB. REL. REV. 27, 28–29 (2004) (detailing various living wage laws in the United States).

46. *See generally* Patricia E. Salkin & Zachary Kansler, *Medical Marijuana Meets Zoning: Can You Grow, Sell, and Smoke That Here?*, 62 PLAN. & ENVTL. L. 3 (2010) (describing local governments' laws related to medical marijuana).

47. New State Ice Co. v. Liebmann, 285 U.S. 262, 311 (1932) (Brandeis, J., dissenting) ("It is one of the happy incidents of the federal system that a single courageous state may, if its citizens choose, serve as a laboratory; and try novel social and economic experiments without risk to the rest of the country."); *see also* Richard C. Schragger, *Decentralization and Development*, 96 VA. L. REV. 1837, 1859–63 (2010) (discussing how local governments encourage policy innovation). *See generally* Brian Galle & Joseph Leahy, *Laboratories of Democracy? Policy Innovation in Decentralized Governments*, 58 EMORY L.J. 1333 (2009).

48. *See* Richard Briffault, *Our Localism: Part II—Localism and Legal Theory*, 90 COLUM. L. REV. 346, 397 (1990) (discussing how individuals can be more easily heard where the governmental unit is small).

49. *Id.* at 447. Most citizens cannot attend—regularly or perhaps even at all—congressional meetings in Washington, D.C., or state legislative sessions conducted in each state's respective capitol city. Parlow, *supra* note 24, at 373. However, community stakeholders oftentimes can attend city council meetings held at city hall or elsewhere in the community. Richard Briffault, *The Rise of Sublocal Structures in Urban Governance*, 82 MINN. L. REV. 503, 505 (1997).

50. Richard Briffault, *The Local Government Boundary Problem in Metropolitan Areas*, 48 STAN. L. REV. 1115, 1126–27 (1996). *But see* Aoki, *supra* note 10, at 409–10 (noting that localism may not be as democratic as it could be because most localities do not meaningfully engage neighboring localities' residents in the political process because they live outside of the jurisdiction, even though they may bear the costs of various spillover effects of that municipality's decisions or policies).

51. Nicole Stelle Garnett, *Suburbs as Exit, Suburbs as Entrance*, 106 MICH. L. REV. 277, 297 (2007).

52. Briffault, *supra* note 1, at 16. *But see* Wilson, *supra* note 36, at 633 (describing how citizen participation in local school boards of education is usually very limited, especially in poorer school districts).

53. Bastress, *supra* note 31, at 685.

54. Briffault, *supra* note 1, at 16–17. Indeed, community stakeholders are unlikely

> to participate in the decisionmaking of an entity of any size unless that participation will make a difference in [their lives]. Power and participation are inextricably linked: a sense of powerlessness

Such local autonomy and the ability to participate in local governance also helps build a sense of community in a locality as citizens with shared values and interests work together to govern themselves.[55] Likewise, due to local government accessibility, constituents can better hold their local officials accountable for their actions and decisions, which is consistent with Tiebout's efficient marketplace theory.[56]

Finally, cities are better able to engage citizens through various local government substructures that provide stakeholders with a forum for community dialogue to help inform the local policy- and decision-making process.[57] In these regards, an empowered system of local governments is more democratic—and thus more desirable—than other higher levels of government.

For these reasons, there is much to commend localism. The localist structure of municipal governments provides the type of efficiency, innovation, and local participation that make so many of the country's cities vibrant and enjoyable places to live and work.[58] Equitable fiscal regionalism recognizes the merits of localism and seeks to maintain most of the localist system to ensure that localism values continue to imbue our local governments. Localism, however, is not without its shortcomings. For one, localism focuses almost entirely on each individual municipality without concern for interaction with, or externalities imposed upon, neighboring localities.[59] Municipalities in a region are not isolated from one another, where citizens interact with one another solely within the boundaries of their city.[60] While a city's boundaries once defined the locality and isolated it from other communities, the nature and growth of metropolitan areas have blurred those once clearly demarcated lines.[61] Today, "[a] person is likely to live in one locality, work in another, shop in a third, seek entertainment in a fourth, and move through a large number of others in the course of a day."[62] Localities are now more connected and dependent on one another, and this reality leads—or should lead—to public policy decisions that consider the entire region rather than simply the interests of those located within the metes and bounds of a

> tends to produce apathy rather than participation, while the existence of power encourages those able to participate in its exercise to do so.

Frug, *supra* note 23, at 1070.

55. Briffault, *supra* note 1, at 17.

56. *See* Archon Fung & Erik Olin Wright, *Deepening Democracy: Innovations in Empowered Participatory Governance*, 29 POL. & SOC'Y. 5, 26 (2001) (discussing "feedback loop" between constituents and local government).

57. *See, e.g.*, Richard Briffault, *The Business Improvement District Comes of Age*, 3 DREXEL L. REV. 19, 21–28 (2010) (providing an overview of business improvement districts); Matthew J. Parlow, *Civic Republicanism, Public Choice Theory, and Neighborhood Councils: A New Model for Civic Engagement*, 79 U. COLO. L. REV. 137, 166–87 (2008) (detailing neighborhood councils).

58. *See* Briffault, *supra* note 1, at 15–17 (identifying benefits of localism as increased efficiency, participatory democracy, and stronger communities).

59. Richard Briffault, *Beyond City and Suburb: Thinking Regionally*, 116 YALE L.J. POCKET PART 203, 206 (2006), http://thepocketpart.org/2006/12/11/briffault.html.

60. Briffault, *supra* note 50, at 1116.

61. Briffault, *supra* note 59, at 204–05.

62. *Id.* at 205. Briffault also agues that society must change its conception and definition of "city" and "suburb" as the traditional definitions for both do not accurately reflect the metropolitan regions of the twenty-first century. *Id.*

particular locality.[63]

Localism thus fails to recognize the crucial interdependence between the central city and its suburbs in modern metropolitan areas. Nor does the theory seem to value or attempt to incentivize collaboration among municipalities in a region.[64] Rather than encouraging mutually beneficial regional cooperation, localism has led to suburban self-interest and an attendant disregard for the health and strength of the central city in the region.[65] However, this attitude is shortsighted, as the prosperity of suburbs is tied to the fate of their central city.[66] Indeed, suburban economic health appears directly correlated to the relative economic health of their central cities: stronger and healthier central cities have wealthier suburbs, while struggling central cities have less suburban wealth surrounding them.[67] Localism thus fails to account for this interdependence and, instead, incentivizes suburbs to ignore the fate of their central city.

The localist structure of municipalities has also failed to effectively deal with the problems faced by these large, complex metropolitan regions. This inability of localities to effectively address the challenges, problems, and opportunities in a region dates back to the end of World War II when veterans returned from overseas.[68] Instead of settling in the inner cities, these veterans moved their families to the suburbs.[69] This was a harbinger of things to come in subsequent decades and resulted in the formation of many new, fragmented municipal governments and a steady withdrawal of the inner cities' property tax bases.[70] Such suburbanization led to urban sprawl and all of the maladies that it brings, including obesity, environmental impacts, socioeconomic and racial segregation, and insufficient or ineffective transportation infrastructure.[71]

63. Briffault, *supra* note 1, at 2.

64. *See* Briffault, *supra* note 59, at 207 (noting the general distaste localists have for regionalism).

65. *See* Briffault, *supra* note 1, at 26–27.

66. *See* Reynolds, *supra* note 10, at 114–15. As parochialism theory describes, the localist system engenders a very narrow view of one's self-interest that precludes people from understanding the benefits of regionalism. Cashin, *supra* note 9, at 2033. For better or worse, the central city and its suburbs are inextricably linked by factors such as the image of the central city, employment patterns and markets, social problems that lead to higher costs in the criminal justice system, environmental issues, and other such regional problems. Reynolds, *supra* note 10, at 114–15.

67. *See* Reynolds, *supra* note 10, at 115. Indeed, when the central city and its suburbs collaborate on regional matters, the region becomes more competitive and that leads to economic improvement for all of the localities. *See* David D. Troutt, *Katrina's Window: Localism, Resegregation, and Equitable Regionalism*, 55 BUFF. L. REV. 1109, 1175 (2008) ("As tax and poverty rates decline, the area becomes more attractive to businesses and other institutions.").

68. Bucki, *supra* note 5, at 120–21.

69. *Id.* at 121.

70. *See id.* at 121–22 (discussing negative consequences of strict annexation provisions). Historically, inner cities attempted to counter this trend through annexation, but these efforts either failed or only provided minimal mitigation to the trend of suburbanization, which led to numerous, fragmented local governments. *See* Frug, *supra* note 2, at 1766–70.

71. *See* Robert D. Bullard, *Addressing Urban Transportation Equity in the United States*, 31 FORDHAM URB. L.J. 1183, 1183–97 (2004) (describing the transportation issues facing urban areas); William W. Buzbee, *Urban Sprawl, Federalism, and the Problem of Institutional Complexity*, 68 FORDHAM L. REV. 57, 72–75 (1999) (describing the environmental impacts of urban sprawl); Vanessa Russell-Evans & Carl S. Hacker, *Expanding Waistlines and Expanding Cities: Urban Sprawl and Its Impact on Obesity, How the Adoption of Smart Growth Statutes Can Build Healthier and More Active Communities*, 29 VA. ENVTL. L.J. 63, 93–94

In particular, the localist system has helped create a great wealth and resource disparity between the central city and many of its suburbs.[72] This is due, in part, to the ability of affluent suburbs to capture wealth and regional benefits by imposing externalities onto the central city and other parts of the metropolitan region.[73] The spillover effects of various local decisions—land use, housing, transportation, etc.—demonstrate that enhanced local power encourages localities to act in a self-interested manner that imposes negative costs on its neighbors.[74] This problem is exacerbated by the fact that when local governments act in a manner that imposes externalities onto its neighboring cities, localism provides few legal or political means to address them.[75] The wealth and resource disparity is also attributable to the localist intergovernmental system where these affluent suburbs have the same powers as the central city, but are not constrained by the same increasing social service costs and declining tax bases.[76] These suburbs can thus use their land use and zoning powers—for example, through exclusionary zoning—to ensure that those with high social service needs cannot relocate into their suburbs, thus minimizing their costs.[77] Nor do these suburbs have to

(2011) (describing the link between urban sprawl and obesity); Jennifer Frericks, Note, *A Regional Government for Fragmented St. Louis: Even the "Favored Quarter" Would Benefit*, 83 WASH. U. L.Q. 361, 362 (2005) (explaining how suburbanization led to urban sprawl); Jeremy R. Meredith, Note, *Sprawl and the New Urbanist Solution*, 89 VA. L. REV. 447, 458–61 (2003) (detailing the socioeconomic and racial segregation caused by urban sprawl). While the terms "sprawl" or "urban sprawl" have been defined in different ways, for the purposes of this Article, the terms are generally understood to mean "low-density, land-consuming, automobile-dependent, haphazard, non-contiguous (or 'leapfrog') development on the fringe of settled areas, often near a deteriorating central city or town, that intrudes into rural or other undeveloped areas." Timothy J. Dowling, *Reflections on Urban Sprawl, Smart Growth, and the Fifth Amendment*, 148 U. PA. L. REV. 873, 874 (2000). *But see* David J. Barron, *Reclaiming Home Rule*, 116 HARV. L. REV. 2255, 2334–37 (2003) (arguing that local governments have been unfairly criticized for causing urban sprawl and other regional inequities when the blame may be more aptly targeted at the way in which states have delineated local powers).

72. *See* Laurie Reynolds, *Taxes, Fees, Assessments, Dues, and the "Get What You Pay For" Model of Local Government*, 56 FLA. L. REV. 373, 374 (2004) (arguing that local government powers have helped to preserve and enhance the economic gap between affluent suburbia and the central city).

73. *Id*. at 375; *see also* Lee Anne Fennell & Julie A. Roin, *Reassessing the State and Local Government Toolkit: Controlling Residential Stakes*, 77 U. CHI. L. REV. 143, 171 (2010) (noting "the ability of some jurisdictions to reap the general agglomeration benefits of the metropolitan area without fully sharing in the costs of that agglomeration, and indeed, by failing to share, increasing overall costs").

74. Richard C. Schragger, *The Limits of Localism*, 100 MICH. L. REV. 371, 444–45 (2001); *see also* Note, *supra* note 11, at 2292 ("Fragmented local governments . . . are often able to reap the rewards of low-density development while externalizing the costs onto neighboring jurisdictions.").

75. Nestor M. Davidson, *Fostering Regionalism: Comment on the Promise and Perils of "New Regionalist" Approaches to Sustainable Communities*, 38 FORDHAM URB. L.J. 675, 678 (2011).

76. Cashin, *supra* note 9, at 2042.

77. *See* Briffault, *supra* note 1, at 8–9 (explaining that because most local governments are dependent upon the property tax revenue from within their boundaries, the localist structure provides incentives for such municipalities to use their land use and zoning powers to keep residents, businesses, and activities that cost more in services than they pay in tax revenues from locating within their borders); Paul Diller, *Intrastate Preemption*, 87 B.U. L. REV. 1113, 1132 (2007) (discussing how local governments seek to maximize property values—while simultaneously minimizing property taxes—with their land use and zoning powers); Jerry Frug, *The Geography of Community*, 48 STAN. L. REV. 1047, 1083–89 (1996) (describing the exclusionary zoning practices of many municipalities); *cf.* Alex M. Johnson, *How Race and Poverty Intersect to Prevent Integration: Destabilizing Race as a Vehicle to Integrate Neighborhoods*, 143 U. PA. L. REV. 1595, 1611

subsidize, nor have an incentive to contribute to, the social services for the poor and other government costs associated with maintaining and upgrading an older central city—costs such as infrastructure repairs and upgrades and favorable public employee pensions.[78]

In fact, the localist structure of municipalities leads to a free-rider problem that only reinforces and exacerbates the segregation and social and economic inequalities that exist in a region.[79] Such free riding occurs when one locality or more obtains the benefits of the regional economy—such as a revitalized downtown shopping district, music halls, hospitals, museums, a new sports stadium, beaches, and parks—without contributing to their costs.[80] These regional assets are locations that people within the region either want or use, even if they do not live within the municipality that pays for them. Moreover, even if residents in the metropolitan area do not use such facilities, they benefit from having these regional assets within the larger community because such assets add to the quality of life in the region and thus make it a more desirable place to live and work.[81] Under the current localist structure of municipal governments, those living within the region, but not within the locality that pays for such regional assets, enjoy the benefit of having such a facility nearby without having to pay for it.[82] Regional costs are thus not evenly distributed among municipalities in most metropolitan areas because some receive the public benefits without sharing in the burdens or costs.[83] In this regard, small, affluent (oftentimes white) suburbs are free riding off of their respective central cities' efforts to bolster its economy and provide desirable public goods and services for its residents and businesses.[84] Consequently, those most able to pay and contribute to the regional economy, and the public goods

(1995) (describing how white flight to the suburbs not only maintains segregation, but also exacerbates problems facing central cities with regard to inadequate tax bases for school funding and other social service programs). For purposes of this Article, exclusionary zoning is defined as instances where

> local governments use their land-use authority to define who may live in a community through the facially race- and class- neutral regulation of residential densities, dwelling types (such as prohibitions against mobile homes), minimum lot or building sizes, bedroom and bath minimums, or amenity requirements that establish de facto property value requirements within a certain jurisdiction.

Michelle Wilde Anderson, *Mapped Out of Local Democracy*, 62 STAN. L. REV. 931, 953 n.74 (2010).

78. *See* Briffault, *supra* note 1, at 10–11 (describing how poverty, particularly among ethnic minority groups, has become even more concentrated within regions as middle- and upper-class taxpayers flee higher tax jurisdictions (like central cities) that provide basic social services to the impoverished—thus exacerbating the fiscal distress experienced by these central cities and further segregating the region by race and class).

79. *See id*. at 25 (noting that mobility, which is "at the heart" of regionalism, "is not equally available to all members of the metropolitan area").

80. Cashin, *supra* note 9, at 2014–15.

81. *See id.* at 2009–10, 2014 (describing access to regional labor markets, infrastructure investment, and regional highway systems as benefitting a community's overall competitiveness with other communities).

82. *See* Note, *Zoning for the Regional Welfare*, 89 YALE L.J. 748, 754–56 (1980) (discussing how municipalities use zoning to enjoy the benefits of neighboring municipalities' services without incurring the costs).

83. Cashin, *supra* note 9, at 2014. Such free riding arises in more than just the context of the provision of public goods. For example, in the land use context, municipalities free ride by restricting their own land uses while enjoying the unrestricted land uses of neighboring localities. Note, *supra* note 82, at 756.

84. Cashin, *supra* note 9, at 2014.

and services contained therein, are those most likely to free ride off of those communities that struggle financially with heavier social service burdens. These privileged communities can enjoy the amenities, benefits, and public goods and services provided by the central city without being subject to its taxation or regulation.[85] This free-rider problem exposes a significant weakness in localism theory.

This is not to say that the impulse to free ride is irrational. Free riding has been hypothesized as the desire of people "to reduce their own tax burden while enjoying the benefits of services supplied by another taxpayer."[86] This hypothesis seems descriptively accurate of the self-interested actions taken by those affluent, largely white communities when they free ride off of other localities' collective action. In fact, the localist system incentivizes those who are able to defect from the central city and free ride on the contributions and collective actions of others.[87] A suburb that contributes to a central city's collective action effort in a region receives, in most instances, no more benefit than a noncontributing suburb.[88] Under the localist system, affluent suburbs have little incentive to collectively act with the central city. In these regards, the wealthy and oftentimes segregated suburbs gain the benefits of the local autonomy provided by the localist structure while greatly disadvantaging a majority of those living in a metropolitan area.[89] These problems with localism gave rise to the theory of regionalism.

III. REGIONALISM

A. *Regionalism and Its Variations*

The failure of localism to provide solutions to intraregional problems, like the free rider and fiscal inequality problem, led scholars and practitioners alike to explore the theory of regionalism. While regionalism lacks a clear definition, it is generally used to describe a government or form of governance that focuses not only on a particular geographic region, but also on how the component parts of the region—cities, communities, neighborhood, businesses, etc.—relate to and interact with each other.[90] Regionalism thus views a metropolitan area as one economic and social unit—a broad

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85. Paul Boudreaux, *E Pluribus Unum Urbs: An Exploration of the Potential Benefits of Metropolitan Government on Efforts to Assist Poor Persons*, 5 VA. J. SOC. POL'Y & L. 471, 526–27 (1998).

86. Edward J. Huck, *Tiebout or Samuelson: The 21st Century Deserves More*, 88 MARQ. L. REV. 185, 185 (2004) (citing Paul A. Samuelson, *The Pure Theory of Public Expenditures*, 36 REV. ECON. & STAT. 350 (1954)). *See also* Francesco Parisi, *The Market for Votes: Coasian Bargaining in an Arrovian Setting*, 6 GEO. MASON L. REV. 745, 764 (1998) ("Every individual wishes to be the free rider, having somebody else pay the price of the common good.").

87. *See* Gillette, *supra* note 7, at 246 (noting that noncontributing suburbs receive increased benefits as long as other regional localities contribute sufficiently to the central city).

88. Clayton P. Gillette, *The Conditions of Interlocal Cooperation*, 21 J.L. & POL. 365, 374 (2005).

89. Cashin, *supra* note 9, at 2042–43. *But see* Barron & Frug, *supra* note 18, at 261–62 (arguing that not only do local governments not enjoy the autonomy that many claim, but that what powers they do have are not the cause of the problems that plague metropolitan areas).

90. *See* Briffault, *supra* note 1, at 3–7 (defining regionalism by listing and describing its elements); Griffith, *supra* note 1, at 509 (discussing the connections between the various components of a region and how regionalism analyzes those connections distinctly from the formal boundaries of municipal governments).

area where people live, work, and play, and where public policy decisions made by individual localities affect all in the region.[91] To this end, regionalists seek regional rather than purely (or exclusively) local solutions for issues such as land use and zoning, transportation, affordable housing, economic development, and the financing of public services.[92]

This goal has been proposed through the establishment of regional governments and regional governance. The regional government approach focuses on structure, particularly "formal institutions and elections and established decision-making processes and administrative structures."[93] This model envisions a hierarchical structure where each component of the regional government has different responsibilities and accountabilities.[94] This hierarchical structuring creates a vertical government with formal top-down authority with centralized decision making.[95] This is not to say that such centralized governmental authority would not consider the various localities contained in the region and their interests. Rather, such a centralized regional government would likely take into account the various interests of communities in the region and attempt to accommodate them and meet the net interests of those in the region.[96]

Governance, on the other hand, focuses less on organizational structure and more on cooperation between existing local governments. The regional governance model attempts to harness these local governments in new ways to spur cooperation and coordination to address an issue or set of issues that affect the entire region, not just one locality.[97] Such governance is "horizontal and flexible. . . . informal and self-regulating. . . . [and] stresses the decentralizing virtues of local cooperation."[98] In this regard, regional governance leaves local governments in place but superimposes regional goals and norms on localities to guide their decision making towards thinking about the entire metropolitan area and not just their immediate jurisdiction.[99]

Different forms of regionalism—while tracking this government versus governance distinction to a large degree—differ on how a regional entity (or set of entities) should be structured. One approach is to make as few changes as possible to

91. Briffault, *supra* note 1, at 3.

92. *See* Sheila R. Foster, *The City as an Ecological Space: Social Capital and Urban Land Use*, 82 NOTRE DAME L. REV. 527, 580–81 (2006) (discussing the positive impact of regionalism on land use, environmental, and transportation issues).

93. H.V. Savitch & Ronald K. Vogel, *Paths to New Regionalism*, 32 ST. & LOC. GOV'T REV. 158, 161 (2000).

94. *Id.*

95. *Id.*

96. Gillette, *supra* note 7, at 191–92.

97. *See* DAVID Y. MILLER, THE REGIONAL GOVERNING OF METROPOLITAN AMERICA 8 (2002).

98. Savitch & Vogel, *supra* note 93, at 161–62. It is worth noting that while some scholars use the terms "governance" and "cooperation" interchangeably, others object because doing so may "render the term [cooperation] without theoretical or conceptual meaning." Donald F. Norris, *Prospects for Regional Governance Under the New Regionalism: Economic Imperatives Versus Political Impediments*, 23 J. URB. AFF. 557, 560 (2001). While governance embraces cooperation, governance is more authoritative and can involve a coercive element. *Id.* at 561.

99. Briffault, *supra* note 1, at 5.

the current localist system and simply create single purpose government units to address specific regional concerns.[100] Another approach involves preserving local power but allowing for a radical reformulation of how local governments may exercise their various powers.[101] Finally, a third approach calls for creating general purpose regional governments that would take over responsibility for regional public policy decisions and work with local governments to ensure that local decisions do not have spillover effects.[102] As scholars have struggled to conceptualize the optimal regionalist structure, the following forms of regionalism have emerged: old regionalism, new regionalism, fiscal regionalism, and equitable regionalism.[103]

1. Old Regionalism

Old regionalism is a traditional notion that is seldom explicitly referred to in current local government scholarship, but it represents the foundational theory and approach to regionalism.[104] This approach advocates for the consolidation or centralization of decision-making authority into a regional government to address policy issues that transcend traditional local boundaries.[105] Such a model contemplates divesting local governments of many, if not all, of the powers they enjoy in the current localist system and consolidating such powers in a regional government.[106] Old regionalists acknowledge that such consolidation of decision-making authority comes at the expense of municipal autonomy. However, they believe such an approach would be politically tenable because it would be embraced by business leaders and elected officials in local communities.[107] This model of general purpose, centralized decision making on a regional level clearly falls within the government, rather than governance, approach to regionalism.

2. New Regionalism

New regionalism focuses less on—though does not entirely abandon the possibility of—a regional structure of government, but rather emphasizes voluntary cooperation between central cities and their suburbs.[108] To this end, while new regionalists stress the interdependence of cities and their suburbs, they also advocate

100. Reynolds, *supra* note 6, at 374. In this regard, a move towards regional government or governance could be seen as a logical extension of localism. *See* Briffault, *supra* note 1, at 2 (arguing that theoretical underpinnings of localism can promote regionalism).

101. Reynolds, *supra* note 6, at 374.

102. *Id.* at 374–75.

103. Scholars have noted other forms of regionalism—including coordinating regionalism, administrative regionalism, and structural regionalism—as well. *E.g.*, MILLER, *supra* note 97, at 101.

104. The phrase "old regionalism" has been linked to terms such as "metropolitan reformers" by some scholars. *E.g.*, Norris, *supra* note 98, at 558.

105. Note, *supra* note 11, at 2305–07.

106. *See* Frug, *supra* note 2, at 1788 (describing the zero sum game between local and regional power).

107. *See* Bucki, *supra* note 5, at 119 (explaining that under old regionalism theories, business leaders and elected officials must present proposals for consolidation of governments).

108. Lisa T. Alexander, *The Promise and Perils of "New Regionalist" Approaches to Sustainable Communities*, 38 FORDHAM URB. L.J. 629, 632 (2011).

for the preservation of existing local government structures.[109] In this regard, new regionalism prefers regional governance to regional government.[110] The new regionalist approach thus seeks to harness existing local governments and encourage and spur cooperation among them in a manner that benefits the entire region.[111]

There are several such approaches that new regionalists point to as desirable for addressing regional matters. The first is the consolidation model, which is similar to the model contemplated by old regionalism. Consolidation involves creating a single regional government to solve or help address problems spanning numerous municipalities rather than only having many smaller, independent local governments that will focus only on their own interests.[112] New regionalists that advocate for this approach believe that it solves the problem of regional fragmentation that the current localist system creates, and better addresses regional problems such as segregation and sprawl that independent local governments are incapable or unwilling to tackle.[113]

While voters have tended to reject consolidation referenda when placed on the ballot, some regions have adopted this consolidation form of new regionalism.[114] The Indianapolis, Indiana region—through its consolidated regional government called UniGov—provides an example of this approach.[115] Forty years ago, the Indiana state legislature consolidated the City of Indianapolis with the County of Marion—creating a regional government that also included many small municipalities.[116] The UniGov regional government consolidated some power and services, while other services and powers remained with the still-existing smaller municipal governments.[117] In this regard—in contrast to the regionalist government envisioned by old regionalists—UniGov creates a multilayered form of consolidated regional government. This structure thus preserves some local autonomy while investing important regional powers related to matters such as land use and economic development in the broader UniGov entity.[118] To this end, this consolidated structure requires regional cooperation on these important policy matters as the smaller local government must work with

109. Cashin, *supra* note 9, at 2027. While some new regionalist scholars advocate for consolidation of local governments into a centralized regional government, most seek cooperation and coordination to address regional issues. Savitch & Vogel, *supra* note 93, at 161–64.

110. Cashin, *supra* note 9, at 2027.

111. Savitch & Vogel, *supra* note 93, at 161.

112. *Id.* at 162. Consolidation has also been referred to as the "big box" approach where the "big box"—a single regional government—replaces the "little boxes," the independent local governments. *Id.* (quoting DAVID RUSK, INSIDE GAME OUTSIDE GAME: WINNING STRATEGIES FOR SAVING URBAN AMERICA 6 (1999)).

113. *Id.*

114. *Id.* A 2000 study revealed that voters approved only twenty percent of consolidation referenda. *Id.* For example, voters twice rejected a proposed consolidation of the City of Louisville and Jefferson County in Kentucky. H.V. Savitch & Ronald K. Vogel, *Metropolitan Consolidation Versus Metropolitan Governance in Louisville*, 32 ST. & LOC. GOV'T REV. 198, 200 (2000). Louisville instead adopted a different approach to new regionalism with the linked functions approach. *Id.* at 200–02.

115. Savitch & Vogel, *supra* note 93, at 165–67. Other regions that have similarly adopted consolidated regional governments include Nashville, Tennessee; Athens, Georgia; and Augusta, Georgia. *Id.*

116. Mark S. Rosentraub, *City-County Consolidation and the Rebuilding of Image: The Fiscal Lessons from Indianapolis's UniGov Program*, 32 ST. & LOC. GOV'T REV. 180, 180 (2000).

117. *Id.* at 181.

118. *Id.* at 182.

UniGov to accomplish their goals in these areas.[119]

Other new regionalists argue for a multitiered approach where different levels of government manage and address the problems for which they are best suited.[120] The multitiered model does not involve hierarchy as its name might suggest or as is the case with the consolidated approach. Rather, the multi-tiered model seeks to recognize which policy matters are more regional or local in nature and apportion powers and responsibilities among various levels of government accordingly.[121] Under this approach, independent local governments might be responsible for providing police and fire services, while the broader regional government might deal with transboundary issues such as transportation.[122] To effect this model, a region would need to adopt a new regional government to handle these broader policy matters to complement the existing independent local governments that would continue to provide services and regulate in areas that were germane largely, if not solely, to its own boundaries.[123]

Another new regionalist model is the "linked functions" approach.[124] This model does not create any new level of government, but instead fosters local government agreements to share services or consolidate services in some fashion.[125] These types of agreements tend to be between city and county governments, but there are examples of various localities entering into such arrangements.[126] The subjects of these linked function agreements can range from narrower services, such as trash collection, to broader matters, like tax sharing.[127] These types of agreements allow for economies of scale for local government services that help the partnering jurisdictions save money while providing essential services to their constituents. For example, the City of Louisville and Jefferson County entered into a linked function agreement, in the form of the Louisville-Jefferson Compact, to improve the allocation and management of the provision of services throughout Jefferson County (which encompasses the City of Louisville).[128] The compact divided the provision of various local government services between the two levels of government, with the City of Louisville assuming responsibility for the zoo and emergency services, and Jefferson County addressing issues such as air pollution, crime, and land use planning.[129] As this example

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119. *Id.*

120. Savitch & Vogel, *supra* note 93, at 162–64. The Minneapolis-St. Paul, Minnesota region provides a good example of a multi-tiered approach to new regionalism. MILLER, *supra* note 97, at 105.

121. Savitch & Vogel, *supra* note 93, at 162.

122. MILLER, *supra* note 97, at 100.

123. *Id.*

124. Savitch & Vogel, *supra* note 93, at 163.

125. *Id.* The "linked functions" approach is sometimes also referred to as "functional consolidation" or "interlocal service agreements." *Id.*

126. *Id.*

127. *Id.*; *see also* Timothy D. Mead, *Governing Charlotte-Mecklenburg*, 32 ST. & LOC. GOV'T REV. 192, 194–95 (2000) (discussing the interlocal service contract between the City of Charlotte and Mecklenburg County in North Carolina, where the City provided police and land use planning services while the County collected taxes and provided parks and recreation services).

128. Savitch & Vogel, *supra* note 114, at 201. This linked functions agreement came about only after a failed consolidation attempt between the two governmental entities. *Id.*

129. *Id.* The County and the City also jointly administered certain services like the library and transit

demonstrates, the linked functions approach does not propose the creation of a new regional government but fosters the creation of advantageous alliances for the provision of services in a region.[130]

Finally, some new regionalists advocate for the "complex networks" approach.[131] While this model is similar to the linked functions approach in spurring interlocal agreements between various localities, it differs in that it leads to a significant amount of overlap whereby multiple local governments provide the same service for the same geographic area.[132] In this regard, the complex networks model values and emphasizes citizen control over the provision of various governmental services by allowing residents to choose which local government entity they want to provide these services.[133] Citizens thus choose their own optimal service arrangements, thereby creating a complex network of arrangements with various local government entities to fulfill their service needs.[134]

3. Fiscal Regionalism

Fiscal regionalism is rarely mentioned in local government scholarship. However, it has a distinct approach to attempting to remedy many regional issues. The theoretical underpinning of fiscal regionalism lies in the belief that the monetary resources of a metropolitan area—i.e., tax bases—should collectively address the regional needs, particularly those related to poorer communities.[135] By sharing the region's social service costs for the poor and other regional expenses, each local government would thus become less dependent on its own limited tax base.[136] This approach does not require the creation of a centralized regional government.[137] Rather, the various fiscal regionalist approaches—tax-base sharing arrangements, peaceful coexistence strategies, and special assessment districts—achieve the same fiscal benefits that such a centralized regional government would enjoy.[138] Tax-base sharing "take[s] a regional resource of revenue, such as the property tax or sales tax, and distribute[s] the proceeds to constituent local governments on objective criteria that reflect the needs of the region."[139] Peaceful coexistence strategies involve localities entering into agreements

authority. *Id.*

130. Savitch & Vogel, *supra* note 93, at 163.

131. *E.g.*, *id.*

132. *Id.* at 161–64.

133. *Id.* at 164.

134. *Id.*

135. MILLER, *supra* note 97, at 109.

136. *Id.* Fiscal regionalist theory posits that if a locality is less dependent on its own limited resources, there will be less of an incentive for these cities to compete with each other in the local government marketplace. *See id.* (describing several ways in which fiscal regionalism can overcome competitive tendencies associated with traditional localities).

137. *Id.*

138. *Id.* at 109–19.

139. *Id.* at 110–11. Revenue for tax-base sharing can be collected from a particular tax or all relevant taxes in the jurisdiction. Myron Orfield & Nicholas Wallace, *The Minnesota Fiscal Disparities Act of 1971: The Twin Cities' Struggle and Blueprint for Regional Cooperation*, 33 WM. MITCHELL L. REV. 591, 602 (2007). Such taxes can include property, sales, income, real estate transfer, and other such taxes. *Id.* at 605–06.

to remedy fiscal problems that they face in an attempt to avoid adversarial battles over issues such as land use decisions.[140]

Special assessment districts are the most prominent examples of fiscal regionalism. These districts take different forms and operate in various fashions depending on the state and locality, though they tend to be single-purpose entities.[141] While these districts may be contained only within one municipality, the vast majority encompass more than one locality. Oftentimes such special districts encompass most, if not all, of the localities in a metropolitan region.[142] One model sets special assessment districts as designated geographic areas determined by the state or city where local governments provide a direct, but limited, service to the area—such as street improvements, sewer upgrades, and fire and medical rescue services—that are funded through taxes levied against property owners within the district.[143] In this regard, special assessment districts can be viewed as imposing a "benefit" tax, where those in the jurisdiction receiving the direct benefit pay for it.[144] However, special assessment districts have also been used to fund somewhat more regional and optional services,

Tax-base sharing approaches use objective criteria to determine a locality's needs. *Id.* at 601–02. Such criteria vary by jurisdiction, but they may include a locality's taxing capacity, land use decision, and service costs. *Id.* at 602. The criteria are almost certain not to merely replicate the original contribution rate or percentage. *Id.* These distribution formulas tend to give greater proportional resources to less affluent localities. MILLER, *supra* note 97, at 117. The most prominent example of tax-base sharing is found in Minnesota where the Minnesota Fiscal Disparities Act of 1971 enables the seven counties in the Minneapolis-St. Paul metropolitan region to contribute to, and receive revenues from, a tax-base sharing program. MINN. STAT. ANN. §§ 473F.001–.13 (West 2012). For more information about the specific details and operation of the tax-base sharing in the Minneapolis-St. Paul metropolitan region, see Orfield & Wallace, *supra* note 139, at 599–03.

140. MILLER, *supra* note 97, at 118. A prominent example of a peaceful coexistence strategy is the Louisville-Jefferson Compact, an agreement in Kentucky between the City of Louisville and Jefferson County. *Id.* In the agreement, the city and county agreed to share tax revenues, with the county being responsible for some services—such as air pollution control and public health—and the city being charged with others, such as the zoo and museums. *Id.* Other states have such agreements, such as Michigan and Virginia, and they are oftentimes brought about when a central city seeks to annex portions of the larger county in a manner that would have a negative impact on the county. *Id.*

141. *See* Laurie Reynolds, *Local Governments and Regional Governance*, 39 URB. LAW. 483, 484–85 (2007) (noting that the number of special districts or single-purpose governments has more than tripled in the last fifty years). Special districts can be created by localities within a region, state legislatures, or by the voters themselves. *Id.* at 503–04. The powers of special districts vary—from providing public services to taxing—and can be governed by elected or appointed officials. *Id.* at 504–05.

142. Reynolds, *supra* note 10, at 139.

143. Göktuğ Morçöl, *Center City Districts: A Case of Comprehensive Downtown BIDs*, 3 DREXEL L. REV. 271, 272 (2010) (noting that special assessment districts differ from special purpose districts as the latter are legally independent from other local government entities and have their own boards that govern them); *see also* Richard Briffault, *A Government for Our Time? Business Improvement Districts and Urban Governance*, 99 COLUM. L. REV. 365, 418 (1999) (noting that special purpose districts are similar to special assessment districts in some of the limited, targeted services that they provide, but that they differ in legal and governmental form).

144. Lynda J. Oswald, *The Role of the "Harm/Benefit" and "Average Reciprocity of Advantage" Rules in Comprehensive Takings Analysis*, 50 VAND. L. REV. 1449, 1496 (1997). There are variations of this model of special assessment district—such as business improvement districts—but the reasons for creating them and the methods of funding them are very similar if not identical. David J. Kennedy, Note, *Restraining the Power of Business Improvement Districts: The Case of the Grand Central Partnership*, 15 YALE L. & POL'Y REV. 283, 287–88 (1996).

such as parks and park systems, in cities such as Los Angeles, Chicago, and Minneapolis.[145]

New regionalists hold out special assessment districts as forms of regional government that achieve some of the values of regionalism while preserving the localist structure of municipal governments.[146] They argue that localities can create better efficiencies and achieve economies of scale by banding together with other municipalities in the region—overcoming the traditional approach of merely thinking and acting within a locality's geographic boundaries—in creating these regional governments to provide various public services to those within the district.[147] Moreover, new regionalists posit that special assessment districts embody the acknowledgement of a region's economic interdependence because they enable the provision of public services in a more cost-effective manner to various socioeconomic groups.[148]

4. Equitable Regionalism

Equitable regionalism seeks to address the inequities created by the current localist structuring of local governments—such as poverty, affordable housing, and revenue sharing—and focus on the interdependence of regions and thus the need for region-wide economic and social equality.[149] This theory acknowledges and attempts to respond to the problems created by concentrated poverty—particularly among African Americans and other ethnic minority groups—due to the central city and even older suburbs losing significant portions of their tax bases to affluent suburbs.[150] Equitable regionalism thus responds to the local resistance to racial and economic integration and seeks a reallocation of the costs and burdens related to poverty in a region, which, the theory posits, should help not just the poor, but the middle class as well.[151] The theory's goal is to distribute regional resources more evenly among wealthier and poorer communities, to better integrate marginalized localities, and to reduce—if not eliminate—the disparity and inequality in the services that municipalities receive in the region.[152]

To effect these goals—and in response to the aforementioned localist resistance to region-wide cooperation—equitable regionalism envisions state enactment of legislation that would compel cooperation among localities to more evenly distribute resources, to create more integrated communities, and to reduce the significant disparities that exist with regard to services offered in different localities in a metropolitan region.[153] Equitable regionalists posit that such an approach would better

145. R. Lisle Baker, *Using Special Assessments as a Tool for Smart Growth: Louisville's New Metro Government as a Potential Example*, 45 BRANDEIS L.J. 1, 28 (2006).

146. Reynolds, *supra* note 10, at 144.

147. *Id.*

148. *Id.*

149. Troutt, *supra* note 67, at 1171–72.

150. *Id.* at 1172.

151. *Id.*

152. *Id.* at 1173.

153. *Id.*

address racial and economic justice than other forms of regionalism.[154] They also contend that this model would remedy the fiscal disparities between the central city and its suburbs.[155] Another approach to equitable regionalism was proposed by Professor Georgette Poindexter in the form of a regional tax base.[156] Through region-wide taxation, a region would be better able to distribute resources where they are needed in an attempt to address regional problems such as poverty and segregation.[157] In doing so, a region could better spread the costs and resources and avoid the free-rider problem that benefits the affluent localities in the current localist structure. In these and other regards, equitable regionalism would trigger a "regional revenue balance mechanism[]" that seeks to encourage fiscal transparency, limit inequitable interlocal subsidization, and diminish the negative externalities that localities impose on one another.[158]

B. *Regionalism: Its Merits and Shortcomings*

These regionalist approaches seek to address the "sense that legal and political institutions have failed to keep up with the economic, social, and ecological existence of regions."[159] Regionalism considers and addresses metropolitan-wide issues and provides theoretical models that can help properly allocate burdens and benefits within the region.[160] Indeed, regionalists claim that their approaches attempt to solve problems of inequality that localism cannot or will not fix. Regionalism takes aim at the "concentration of wealth and resources in metropolitan areas and . . . the allocation of local government powers . . . [that] help[s] . . . preserve[] and . . . enhance[] the schism between the 'favored quarter' and the inner urban core."[161] This problem reflects the reality of the modern metropolitan region: affluent suburbs garner a disproportionate amount of the benefits of the regional economy while not contributing proportionally to the regional social costs and burdens.[162] Moreover, many affluent local governments

154. *Id.*

155. *Id.* at 1174.

156. Georgette C. Poindexter, *Towards a Legal Framework for Regional Redistribution of Poverty-Related Expenses*, 47 WASH. U. J. URB. & CONTEMP. L. 3, 24–30 (1995).

157. *Id.*; *see also* Orfield & Wallace, *supra* note 139, at 603 (noting that the Minnesota Fiscal Disparities Act—which implemented tax-based sharing among localities in a region—reduced interlocal tax disparities by approximately twenty percent).

158. Troutt, *supra* note 67, at 1174–75.

159. Briffault, *supra* note 1, at 5.

160. *See id.* at 18–19.

161. Reynolds, *supra* note 6, at 374 (footnote omitted) (quoting MYRON ORFIELD, METROPOLITICS: A REGIONAL AGENDA FOR COMMUNITY AND STABILITY 5 (1997)). Professor Sheryll Cashin defines the "favored quarter" as an area that:

> (1) . . . captures the largest or a disproportionate share of public infrastructure investments in the region; (2) . . . has the region's largest tax base and is the area of highest job growth; and (3) . . . retains local powers, which it uses in a manner that closes its housing markets to non-affluent regional workers, thus becoming "both socially and politically isolated from regional responsibilities."

Cashin, *supra* note 9, at 2004 (quoting MYRON ORFIELD, SEATTLE METROPOLITICS: A REGIONAL AGENDA FOR COMMUNITY AND STABILITY IN THE PUGET SOUND REGION 1–2 (1999)).

162. Cashin, *supra* note 9, at 2014.

use their localist powers to recruit wealthy residents and businesses from neighboring jurisdictions.[163] The local government recruitment of these desirable constituencies is further enabled by the fact that mobility—a key assumption in the localist paradigm—is not shared equally by all.[164] As Professor Richard Briffault points out, "corporations are more mobile than are people[, a]ffluent people are more mobile than are poor people[, and p]eople without children are more mobile than families with children."[165] The more desirable constituencies are also those most able to move—leading to the consolidation of wealth described above.[166] In this regard, the benefits of mobility in our localist system are disproportionately available to the wealthy.[167] This incidence also leads to interlocal taxing and spending inequalities, resulting in poorer localities being unable to pay for the services their residents need because they lack the necessary tax base.[168] To counter these inequalities, regionalists seek to better redistribute resources and provide more equal services to all in a metropolitan region by creating a centralized regional government or by fostering collaboration among localities.[169] In this regard, regionalism seeks to address and solve that which localism cannot—indeed, what localism fosters.

But herein lies a dilemma. The current localist system of municipal governments is incredibly popular among voters, which makes it quite unlikely that dramatic change from localism to regionalism can take place.[170] At the same time, the question arises as to whether a regional government can be effective while maintaining much of the current localist structure. If a regional government does not have authority that can trump or supersede certain local government powers, it would likely be unable to accomplish its goals in those targeted policy areas, as the local governments would likely ignore directives from that regional government.[171] In this regard, a regional government without meaningful and preempting authority would be akin to no regional government at all. For regionalism to work, local governments must almost certainly need to be divested of at least some of their current powers. This reality raises a serious question posed by both opponents and advocates: Is regionalism simply impractical and politically infeasible?[172]

For regional government to succeed, both state and local governments would, most likely, need to give up a significant amount of their fiercely guarded power.[173]

163. *See* Briffault, *supra* note 1, at 25.

164. *Id.*

165. *Id. See also* Nicole Stelle Garnett, *Save the Cities, Stop the Suburbs?*, 116 YALE L.J. 598, 601 (2006) ("the urban poor, many of whom live in cities not by choice but because they have no choice").

166. Briffault, *supra* note 1, at 25.

167. *Id.*

168. *Id.* at 25–26.

169. Cashin, *supra* note 9, at 2033–34.

170. *See* Sara C. Bronin, *The Quiet Revolution Revived: Sustainable Design, Land Use Regulation, and the States*, 93 MINN. L. REV. 231, 265 (2008) (predicting that localities would resist change if government took steps to transition from localism to regionalism).

171. *Id.* at 264–65.

172. *See* Frug, *supra* note 2, at 1780–81 (discussing how "the demand for regional equity and the protection of local autonomy conflict with each other," creating a potentially unsolvable conflict).

173. *See* Griffith, *supra* note 1, at 555 ("[G]overnmental entities fiercely fight to retain power granted to

This seems highly unlikely from a political standpoint, which likely explains why the old regionalist consolidation approach gained little traction in practice or in legal scholarship. Localities, for one, are self-interested and have grown accustomed to operating in this manner under the current localist governing structure.[174] Consistent with the Tieboutian vision, many residents have chosen to live in suburbs—oftentimes affluent and homogeneous—to reflect the lifestyle they want. A regional government would force these citizens who have fled to the suburbs to help residents of the central city, and "having escaped the central city, suburban residents . . . do not want to look back and do not want to contribute their time, energy, and especially their tax dollars, to help the central city."[175]

Indeed, affluent localities would likely view contributing their tax dollars to address regional concerns, like poverty in the central city, as taking money from them without gaining any benefit in return. These localities have a vested interest in the current localist structure, as they benefit from a system where they can keep their costs low, benefits high, and can free ride on the benefits provided at the cost to others in the region.[176] Those who benefit from the status quo—local governments and, specifically, affluent ones—will want to maintain it.[177] Yet even those who could benefit from a regionalist structure may still be difficult to persuade, as they will likely fear that the new structure would take away their political voices or the power that they currently enjoy.[178] Local governments value their autonomy in the current localist system, and they view it as antithetical to their self-interest to divest any such power in favor of a regional government.[179] Established local government bureaucracies and entrenched special interest groups will thus inevitably object to ceding powers to a regional entity and thus resist a move away from the current localist system where they enjoy significant power and autonomy.[180] In these regards, as one scholar noted, for a regionalist solution to be implemented, "[t]he cry for regionalism would have to reach

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them and will cooperatively cede it only when it appears to be in their best interest to do so.").

174. Briffault, *supra* note 1, at 27. Self-interest may come in many forms, including territory, race and class, autonomy, and financing and tax structure. Norris, *supra* note 98, at 563–66.

175. Norris, *supra* note 98, at 565.

176. Briffault, *supra* note 1, at 27.

177. *Id.*

178. *Id.* at 28–30. This is to say nothing of the difficulty that a regional structure would face if it were implemented, but merely voluntary; localities, left to their own devices, might well choose merely not to enter into agreements to cooperate with their neighbors, continue the self-interested actions permitted (even encouraged) in the current localist structure, and free ride on the work of other localities nearby. *See* Shelley Ross Saxer, *Local Autonomy or Regionalism?: Sharing the Benefits and Burdens of Suburban Commercial Development*, 30 IND. L. REV. 659, 691 (1997).

179. *See* Norris, *supra* note 98, at 566 (discussing the parochialism of municipalities).

180. Such resistance helps explain why the multi-tiered approach to new regionalism has been met with great resistance. Localities fear that such an approach will take away some of their current powers and vest them in a different layer of government that may overstep its boundaries and infringe on their autonomy, powers, or jurisdiction. *See* Savitch & Vogel, *supra* note 93, at 163 ("[E]fforts to impose regional solutions on 'locals' have met resistance: small cities dislike being told they must accept an unwanted incinerator or low-income housing for the good of the metropolis."). This explains why the multi-tiered approach to new regionalism may resonate with some in theory, but it has not been adopted by many regions nor proven very successful. *Id.*

tsunami force."[181] The viability of regionalism may well depend on suburban voters not only understanding, but also believing, that their economic interests are dependent on their attendant central city, and that regional solutions may ultimately solve existing inequalities, lower taxes, and improve public services.[182]

Regional governments also face another political problem: voters. When regional governments have been proposed, they have usually been submitted to the voters for approval under the rationale that a regional government adopted by those who will be governed by it will have more legitimacy than one imposed upon them by the state.[183] However, such approvals have been quite rare. For despite regional government adoptions in Jacksonville, Florida, Indianapolis, Indiana, and Nashville, Tennessee, voters have usually rejected such proposals, including in metropolitan areas such as San Antonio, Texas, Portland, Oregon, Louisville, Kentucky, and Sacramento, California.[184] Voters traditionally reject regional governments, as they oftentimes do not want to relinquish certain powers from their local governments and vest them in a regional one.[185] Most voters favor the current localist structure because they are accustomed to receiving various goods and services from local governments, not some regional entity.[186] Citizens have also found the most success in effecting change in their communities through working with their local government, thus perpetuating their perception that municipalities are the most responsive level of government.[187] Voters thus act defensively in voting to preserve local autonomy.[188]

The practicality of regional government also encounters issues related to integration and cost. For example, layering a regional government into the current intergovernmental structure may prove challenging. Local governments are recognized in state constitutions, whereas most regional forms of governments are not.[189] Indeed,

181. Griffith, *supra* note 1, at 522.

182. *See* ORFIELD, *supra* note 161, at 37 (1997) ("For middle-class *inner* suburban neighborhoods, which have their fair share of the region's poor residents already, regionalism promises to *limit* their commitment to affordable housing and end overwhelming waves of poor people arriving from the city.").

183. *See* Briffault, *supra* note 50, at 1166–67 ("[O]nly an elected regional government would enjoy the legitimacy that would enable it to displace the decisions of component local governments.").

184. Savitch & Vogel, *supra* note 93, at 162.

185. *Cf.* Norris, *supra* note 98, at 564 (noting that citizens have difficulty "attach[ing] psychologically or emotionally to regional institutions as they do to their local governments").

186. *Id.* at 562.

187. *Id.*

188. Bronin, *supra* note 170, at 265. Regional governments may also face political obstacles in a state legislature. State legislatures may be unlikely to pass legislation that divests local governments of some of their power and authority, and vest it in a regional government, due to the popularity of the current localist system. *See* Griffith, *supra* note 1, at 521–22 ("[T]he prospects for state legislators using their authority to establish regional governments do not look promising."). State legislators may well conclude that such actions might be met with great resistance and potentially significant political consequences. They may also be mindful of the fact that a meaningful regional government or regional governance would likely require government funding and possibly new taxes. The prospect of increased taxes or state funding remains questionable given the strong anti-tax and anti-government spending sentiment that currently pervades all levels of government in the country. *See* Reynolds, *supra* note 72, at 438 ("The strength of anti-tax sentiment is evident nationwide, articulated over the past several decades in the form of numerous strict limitations imposed by the voters on the government's ability to tax.").

189. Norris, *supra* note 98, at 563.

most states structure their state and local governments to avoid conflict and interference between the two levels of government.[190] This structure provides local governments with significant independence, and state governments tend to respect local autonomy so as to avoid a backlash from local constituents due to the state government overstepping its boundaries.[191] Therefore, one hurdle to a regional government would be attempting to fit it into the existing state and local government legal frameworks that currently exist. Another practical concern is the cost of a regional government. Regional governments are distinct from both state and local governments, thus requiring funding to staff and operate.[192] Given the current budget crises being experienced at all levels of government and the antitax and antigovernment rhetoric that pervades current political discourse, such additional public funding may be impractical. Even if regional governments could be interwoven into the existing intergovernmental structure and they were supported politically, there still remains the significant and complex question as to how to enforce them.[193] Regionalism could make it difficult for residents and other community stakeholders to know whom to hold accountable for certain government functions, particularly if there are state, regional, and local government entities involved.[194]

Finally, and ironically, regionalism may actually further the problems with the current localist structure of municipal governments rather than make positive changes in the metropolitan area.[195] The experience of special assessment districts—the most prominent form of regional government—is instructive. Special assessment districts fail to facilitate regional thinking about the common good and the interdependence of localities. Rather, special assessment districts oftentimes raise revenue for a single purpose, and those that pay this cost almost always receive a proportional amount of benefits in the form of public goods or services.[196] These types of regional governments tend to benefit more affluent localities by providing a more cost-effective public service through the economies of scale that it provides, while not helping address the socioeconomic problems that plague most metropolitan areas.[197] In fact,

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190. *See id.* at 564 ("[F]or the most part, states establish or provide the mechanisms for the establishment of local governments and expect the local governments to function properly and effectively.").

191. *Id.* Moreover, many state legislators began their political careers in local politics, and they thus have a respect for the work done by local governments and work hard to avoid usurping local power and autonomy. *Id.*

192. Bronin, *supra* note 170, at 264–65.

193. *See* Saxer, *supra* note 178, at 681–82. ("Until states decide to truly reclaim the police power they have delegated to local authorities by taking a state or region-centered approach to land use planning, the ideology of localism will pervade any state or regional planning efforts that are not supported by adequate enforcement and the incentive to cooperate.").

194. Gillette, *supra* note 7, at 204–05.

195. *See* Myron Orfield, *The Region and Taxation: School Finance, Cities, and the Hope for Regional Reform*, 55 BUFF.L. REV. 91, 104–05 (2007) (indicating scholarly agreement that regional self-interest and limited cooperation create barriers to effectuating positive changes through regional government). Scholars have also criticized special districts for being unaccountable to citizens—whether they have elected or appointed representatives governing them—and because they take power from the government or governments that created them. *E.g.*, Reynolds, *supra* note 10, at 140–43.

196. Reynolds, *supra* note 141, at 516–17.

197. *Id.* at 517. Critics argue that this result occurs with most, if not all, of the voluntary, cooperative

some studies suggest that special assessment districts do not have a positive impact on a region's economy and social and racial inequalities.[198] This may be due, in part, to the ability of citizens to draw the boundaries for special assessment districts.[199] This power allows affluent localities to work together to draw boundaries that will enhance their property values—a feat most often accomplished by not including poorer municipalities within the district's boundaries and thus avoiding the sharing of regional costs and burdens. Indeed, even if poorer, urban areas are included in a special assessment district with more affluent suburbs, the affluent suburbs may still gain an advantage in pooling their resources with the central city in such districts because it is more costly to provide services in suburbs—where there is lower density and more sprawling communities—than in urban areas.[200] Herein lies the folly of a key new regionalism premise: new regionalists assume that affluent localities will be willing to enter into interlocal agreements. However, studies show that municipalities do not enter into such voluntary agreements without inducements and without measurable gains for their community.[201] Affluent localities will most likely enter into such agreements if they can both (1) maintain or improve their existing level of public goods or services and (2) reduce their costs. It is thus unlikely that local governments will be convinced that a short-term cost will lead to long-term benefits sufficient to share some of the financial burdens of the impoverished localities in the region.[202] The current localist structure provides for free riding on the part of wealthier local governments, which makes convincing them of the interdependence of the central city and its attendant suburbs—and thus the need to burden-share within a region—very difficult. With many affluent localities driven by self-interest and their ability to free ride off of the contributions of other municipalities within their region, the result is "that no one engages in the conduct from which all would benefit."[203] This free-rider problem poses a significant challenge to regionalism for it provides little incentive for a locality to contribute to a regional effort if they can simply allow other municipalities to invest the time and money into such efforts and then free ride on the benefits.[204]

models of regionalism. Consistent with public choice theory, such models only make sense and have a chance to succeed if they advance local self-interest, which such models rarely seek to do. *See* Briffault, *supra* note 50, at 1121–22 (pointing out that "[p]ublic choice theory relies entirely on self-interested local action," thus raising the question of whether localists would even be receptive to voluntary, cooperative forms of regionalism). In this regard, such voluntary, cooperative attempts at regionalism have not proven successful in addressing social and economic inequalities in those metropolitan regions. Reynolds, *supra* note 141, at 496.

198. *Id.* at 517. Similarly, the complex networks approach—while helpful to certain segments of a region's populace for purposes of providing various local government services—does nothing to address difficult regional issues such as land use planning, transportation, and affordable housing. Savitch & Vogel, *supra* note 93, at 164.

199. Reynolds, *supra* note 10, at 145–46.

200. *Id.* at 146.

201. *See* Note, *supra* note 11, at 2308 ("Empirically . . . voluntary burden sharing does not seem to occur without inducement.").

202. *Id.* at 2308–09.

203. Gillette, *supra* note 7, at 246. Similarly, the linked functions approach to new regionalism may also serve as a tool to help wealthier, homogenous suburbs save money while failing to help poorer, more diverse communities with whom such suburbs have no interest in partnering.

204. Aoki, *supra* note 10, at 417–18.

In these regards, special assessment districts may actually run contrary to the goal of coordinated governmental action and "constrain[] opportunities for comprehensive regional policy discussions and tradeoffs."[205] Special assessment districts may eliminate much, if not all, of the incentive for localities in a region to work together and distribute the cost of regional benefits throughout the area. For if affluent suburbs can join special assessment districts and receive comparable public services for less cost and not give up local autonomy or otherwise share in the costs of regional benefits and burdens, they will only engage in regional cooperation in these self-interested circumstances but not in broader region-wide initiatives that may cost them more money or take away some of their current powers.[206] Indeed, because localities tend to receive a proportional amount in services to the amount of money they pay these special districts, they are even less likely to view special districts as anything more than a cheaper form of receiving various government services.[207] This arrangement does not help better distribute regional costs and does not help build an appreciation of a region's economic interdependence and thus a willingness to explore more meaningful regional government or governance approaches. Special assessment districts thus allow the more affluent localities to benefit from these regional governments without helping pay for its share of other significant regional costs, such as transportation, affordable housing, and social services for the poor—something one scholar dubbed "cherry picking regionalism."[208]

Finally, these special assessment districts have also been criticized for being unaccountable to citizens—whether they have elected or appointed representatives governing them.[209] They are unaccountable in at least two significant ways. First, citizens rarely know much about the operations of these special assessment districts and, even if they did, it is difficult to hold their governing representatives accountable because they are usually appointed.[210] Moreover, even if a special assessment district's governing officials are elected, citizens almost never know who these representatives are, also making it difficult to hold them accountable. Second, these single purpose districts are also unaccountable because they receive their funding usually through a

205. Scott A. Bollens, *Concentrated Poverty and Metropolitan Equity Strategies*, 8 STAN. L. & POL'Y REV. 11, 13 (1997).

206. Reynolds, *supra* note 10, at 148–49.

207. Reynolds, *supra* note 141, at 517. *But see* Reynolds, *supra* note 10, at 146 (noting that special districts may actually not be as self-sufficient and cost-effective as once thought, as some such districts require significant upfront capital expenditures that, at least for some time, make them more costly to the user than the same type of service provision done by their locality).

208. Reynolds, *supra* note 141, at 517 (internal quotation mark omitted). This explanation provides the foundation for regionalist critics' rejection of the linked functions approach to new regionalism. Critics dismiss this approach because while these types of voluntary, intergovernmental agreements consolidate the provision of various public services, they are incomplete from a regionalist perspective for not consolidating local governments or requiring regional governance in a manner that would address broader challenges in the metropolitan area. *E.g.*, Savitch & Vogel, *supra* note 93, at 162–64. Moreover, such agreements are precarious at best, as they can be added, deleted, or rearranged rather easily—providing no real foundation for sustained and systemic changes to address regional challenges. *See id.* at 163 ("Citizens may view linked functions as a 'Band-aid,' because they are not comprehensive.").

209. Reynolds, *supra* note 10, at 140–43.

210. Reynolds, *supra* note 141, at 507.

direct tax, which means it does not have to compete with other government entities or services for budget dollars expended by the same local government.[211] In all of these respects, special assessment districts may actually reduce or hurt regionalism, rather than advance it.

This skepticism of the ability for regionalism to impact a metropolitan area positively is also due to the belief that local autonomy allows for tailor-made policies that respond to unique local conditions.[212] If more decisions were centralized at a regional government level, such case-specific tailoring might be more difficult, if not impossible. Moreover, the farther away a level of government is from the local community it governs, the less likely that residents and other community stakeholders will participate in the decision- and policy-making process.[213] In addition, for a regional government to be successful, many significant changes would need to occur—including the current allocation of governmental powers, the current legal structure, and the current mindset of residents, businesses, and local governments.[214] These realities pose a daunting practical hurdle for the implementation of a regionalist structure.

IV. EQUITABLE FISCAL REGIONALISM

A. A Model for the Theory

Despite the variety of proposed approaches and theories of regionalism, the reality is that there has been very limited movement toward the adoption of meaningful regional governments or governance.[215] This may be due, in part, to the theoretical tension between regionalism and localism. But it is also likely due to the setting forth of regional proposals that either do not actually advance regionalism's values and goals or that are too dramatic a shift from the current localist system such that they are rendered politically and practically infeasible.[216] The theory of equitable fiscal regionalism responds to the failure of past attempts at regional government to gain traction. It proposes a form of regional government that would do more than maintain or exacerbate the localist status quo—as special districts seem to do. At the same time, this theory offers a more modest step than more ambitious proposals that have had limited-to-no success in being implemented because they constitute too aggressive a change from the localist system that people are accustomed to and feel favorably toward.

211. *See* Reynolds, *supra* note 10, at 145 ("[S]ervices provided by special districts get a higher percentage of the available revenues than would be allocated to that service if it were provided by the general purpose government.").

212. Frug, *supra* note 16, at 1070.

213. *See id.* at 1070 ("No one is likely to participate in the decision making of an entity of any size unless that participation will make a difference in his life.").

214. Orfield, *supra* note 195, at 104–05.

215. In fact, there are still no major metropolitan regions that have a single, general-purpose regional government that governs the area. Briffault, *supra* note 59, at 205–06.

216. *See* Reynolds, *supra* note 141, at 517 (contending that certain types of regionalism actually fail to address the broad, region-wide problems that regionalism is meant to fix); *see also* Briffault, *supra* note 1, at 27 (asserting that resistance to regionalism is based heavily in efforts to maintain the political status quo).

Equitable fiscal regionalism envisions a regional government whose purpose is to raise revenue and pay for the costs of metropolitan benefits, such as sports stadiums and cultural facilities.[217] The costs of such regional benefits could be merely the debt service payments on public financing used to construct the facilities, or they could also include paying for the continuing operational expenses of these metropolitan assets. To these ends, the responsibilities of this regional government could be to plan, develop, construct, finance, maintain, and/or operate such facilities, depending on whether the structure is pre-existing or planned and whether financing involves continued operation or merely debt repayment. The regional government should encompass a geographic area that realistically and legitimately benefits from such a facility. While this is a somewhat subjective determination, states and regions have had some history in drawing such boundaries to include those areas that benefit from, and thus should help pay for, a metropolitan asset.[218]

These newly formed governments would be administered by elected or appointed officials, depending on the preferences of the state or region creating them. If the role of the governing board is merely ministerial in nature—that is, approving the payment of the yearly, predetermined debt service on the public bonds—then appointment of officials may be sufficiently uncontroversial. Indeed, even if the board of such a regional government had the authority to approve using extra revenue in a given year to pay down the public debt faster than the forecasted projections, residents would likely not object to having appointed officials overseeing the entity, as the need for accountability would be low. However, if these boards have the authority to change or increase the tax forms or rates, then a region's constituents—specifically those that might bear the burden of the change or increase in taxes—would likely seek to elect their regional government officials so that they could hold them accountable for such adjustments. Similarly, the broader the board's authority—which could include entering into contracts, acquiring land, and borrowing money to finance construction or other expenses related to the facility—the more likely constituents will want direct election of the regional government's board.

The regional governments envisioned by equitable fiscal regionalism would raise the revenue required to pay for these regional benefits through a tax or set of taxes. Ideally, the tax or taxes would be predetermined as part of the approval process for the regional government for those instances where the entity was created merely to repay public financing of such a metropolitan asset and granted the ability to extend the number of years if the tax revenues do not pay off the debt within the projected timeframe. In doing so, a region can depoliticize the role of those elected or appointed officials tasked with administering the entity, as well as ensure clarity and certainty about taxing policy going forward. However, if a region anticipates using the tax revenue to pay for ongoing operation and upkeep of the facility, then the regional government would need to have the ability to adjust the tax forms and rates to ensure continued operation of the regional benefit.

There are various sources for tax revenues that might be used for financing such a

217. Other regional benefits could include parks, beaches, and other recreational destinations or locations that are used by the region, rather than just the immediate community.

218. See *infra* Part IV.B.1 for examples of states and regions creating such boundaries.

regional asset: sales taxes, user taxes (such as parking and ticket taxes), income taxes, tourist taxes (such as car rental and hotel room taxes), and sin taxes (on products such as alcohol and tobacco). A regional government must carefully consider various factors and interests in properly structuring and balancing the types and allocations of taxes used to fund the metropolitan asset.[219] This decision will not only help determine whether such a regional government may be approved, but it will also help better allocate the costs of the benefits across the region in a manner that other forms of regionalism have failed to do. Moreover, the better able a region is in allocating such taxes to reflect the benefits gained by various taxpayers of a region from the metropolitan asset, the more equitable these taxes will be and thus the more legitimate they are likely to be in the eyes of those paying the taxes.

Equitable fiscal regionalism responds to the inadequacies of current regionalism proposals and the values they seek, but seemingly fail, to embody. Regionalism, generally, seeks to help develop a form of government or governance that appreciates and gives credence to the complexity and interdependence of the metropolitan area and all of the economic, social, and other challenges facing it. Such a recognition and embodiment of the region as a whole, instead of its localist component municipal parts, necessarily envisions a more even distribution of the benefits and burdens of the region throughout the metropolitan area. However, the current proposed models for regionalism have failed to bring about such regional governments or governance.[220] Specifically, they have failed to better allocate the costs of metropolitan benefits and burdens across the region. For while existing regional governments like special assessment districts constitute interlocal cooperation, they usually advantage wealthier localities because they merely consolidate or reallocate various public services in a manner that reduces costs for each locality. Moreover, special districts usually require municipalities only to pay for the proportional amount of services that they receive—thus not bridging any of the fiscal disparities and economic inequalities that currently exist within many metropolitan regions.

Equitable fiscal regionalism thus finds untenable and undesirable the current localist structure—but not for the autonomy it gives local governments. Indeed, equitable fiscal regionalism respects local autonomy, particularly as it relates to policy matters that affect an individual municipality, and does so in a manner that does not impose externalities onto neighboring jurisdictions. To this end, equitable fiscal regionalism seeks to preserve local autonomy, but do so in a manner that attempts to reduce the free riding by more affluent suburbs off of the efforts and expenditures of central cities and poorer suburbs and more evenly distribute the costs of certain types of metropolitan benefits.[221] The theory thus strives to address the phenomenon of

219. See *infra* Part IV.B.3 for a discussion of the ways in which regional governments fund metropolitan assets.

220. See *supra* Part III.A for a discussion of the current proposed models of regionalism.

221. There have been proposed solutions to the regional free-rider problem, though none have really gained any traction. One possible solution would be for higher levels of government—perhaps the state government—to coerce local governments into contributing to regional arrangements or enter into interlocal service agreements. Aoki, *supra* note 10, at 424. Another possible solution would be a commuter tax to attempt to capture revenue from suburban residents who would be otherwise free riding on the central city's public goods, services, and amenities. Gillette, *supra* note 88, at 386–87. Another potential solution would be

wealthier localities limiting their tax burden and refusing to contribute financially to the severe social and economic challenges faced in the region by putting a regional government in place that ensures that the entire region that enjoys a particular metropolitan benefit also pays for it.[222]

Yet equitable fiscal regionalism is not Pollyannaish about the dysfunctional and self-interested relationship between the central city and its more affluent suburbs. Equitable fiscal regionalism acknowledges that wealthier suburbs do not want to pay higher taxes for social services and other costs related to the concentrated poverty in central cities. Those who choose to locate in wealthier suburbs tend to look for low-tax jurisdictions that allow them to only pay for services that they enjoy, not those that are used by others. However, people want sports stadiums and cultural facilities such as museums and music halls—as evidenced by the existence of cultural asset districts and sports stadium districts. People also want other regional benefits such as parks, beaches, and entertainment complexes. These types of desired regional benefits could also serve as the focus of other regional governments consistent with equitable fiscal regionalism.

The theory of equitable fiscal regionalism thus proposes a regional government that seeks to get everyone in a region to contribute financially to a metropolitan asset that people want. It also looks to ensure that residents in the region that benefit from the presence of these regional benefits in the community—whether they use them or not—still contribute to their costs. All of those who transact business within a region—whether buying lunch or buying a car—benefit from the existence of a regional benefit—like a sports stadium—in the metropolitan area. Municipalities compete with each other for professional sports teams, because of the perceived value in being labeled a "major league city."[223] This moniker not only builds civic pride and community, but it can be an important factor in economic development in attracting businesses to, or retaining them in, the region.[224] Therefore, even those who do not use the sports facility benefit from its presence in the region and should thus help pay for its costs. While residents of these suburbs might well prefer to continue their free riding off of the efforts of other municipalities in the region, equitable fiscal regionalism

the creation of a voting system whereby residents of a region would vote on matters affecting the region and the vote would bind all localities within the region. *Id.* at 387–88. For a variety of political and practical reasons, however, none of these solutions have been meaningfully implemented.

222. *See* Gillette, *supra* note 7, at 246 (indicating that localities will often act in their own self-interest—regardless of the impact on the rest of the region).

223. Peter Asselin, Note, *Supporting the Home Team…in More Ways Than One: An Analysis of the Public Financing of Philadelphia's New Sports Stadia*, 3 RUTGERS J. L. & URB. POL'Y 389, 389–90 (2006). (noting that the presence of a major sports team can produce an "increased sense of community and civic pride").

224. *See, e.g.*, Will Hendrick, Comment, *Pay or Play?: On Specific Performance and Sports Franchise Leases*, 87 N.C. L. REV. 504, 532–33 (2009) (noting that the coalition supporting public financing for new stadiums in Cincinnati for the Reds and Bengals used the slogan "Keep Cincinnati a Major League City," arguing that there is substantial reputational value to the informal designation); *see also* Ian Dobson, *The Wrong Gameplan: Why the Minnesota Vikings' Failure to Understand Minnesota's Values Dooms Their Proposal for a New Stadium and How the Team Can Improve Its Future Chances*, 33 WM. MITCHELL L. REV. 485, 498–502 (2006) (describing the arguments made in favor of a city building a new sports stadium in order to keep a professional sports franchise within its boundaries).

focuses on the incentives that drive people to live in low-tax jurisdictions: that is, only paying for something from which one benefits.

In these regards, equitable fiscal regionalism proposes a form of regional government that might succeed where other models have failed—at least in terms of widespread adoption. Regional government, generally, is unpopular, so the model proposed must be compelling and nonthreatening enough to withstand inevitable political resistance. Take consolidation as an example. Consolidating various municipalities into a heavily empowered regional government is far too dramatic a shift from the localist structure that people are not only familiar with, but favor. Politically, consolidation is extremely unpalatable because it represents a complete paradigm shift from the present structuring of local governments. Tax-based sharing is similarly unpopular and thus nearly impossible to implement. Residents of affluent suburbs make a deliberate decision to flee the central city to reduce their tax burdens and not share the costs of maintaining the central city and providing services to the poor.[225] The notion of sharing taxes in a region would be completely unacceptable to residents of these suburbs.[226] Equitable fiscal regionalism thus proposes a model that fits within the current localist structure, but that better apportions the costs of certain regional benefits. The theory does not seek to get those who flee for wealthier suburbs to pay for something they do not want, but rather to have them help pay for a regional benefit that they desire, but that they would otherwise free ride off of at the expense of other localities.

To be sure, many regionalists will argue that equitable fiscal regionalism does not go far enough as it does not propose a regional government or form of governance that addresses broader social and economic issues—such as affordable housing, segregation, and sprawl. However, current proposals for regional government or governance have been unsuccessful thus far in effecting this goal as well.[227]

Equitable fiscal regionalism thus seeks to take a practical step toward regionalism by proposing something that is potentially politically viable. This model would provide an example of how a region can share costs—here, for a metropolitan benefit desired by most in the community. In addition, this model may well prove capable of being extended to other regional costs, perhaps even ones that do not lead to a direct benefit to all who contribute financially.

Similarly, some regionalists may criticize equitable fiscal regionalism for proposing only a single-purpose regional government. However, if this model works, it could well be expanded into other policy areas and thus used to help address—and pay for—larger problems and costs that face most metropolitan regions. In these regards, equitable fiscal regionalism seeks to take the theory of regionalism and take a step toward application.

Two examples of regional governments that embody the principles of equitable

225. See *supra* notes 79–89 and accompanying text for a discussion of free riding and the benefits reaped by suburban dwellers.

226. See *supra* notes 79–89 and accompanying text for a discussion of free riding and the benefits reaped by suburban dwellers.

227. See *supra* notes 195–203 and accompanying text for failures of current regional government proposals to address these issues.

fiscal regionalism currently exist: cultural asset districts and sports stadium districts. A cultural asset district is a form of regional government that provides funding to cultural and civic institutions, such as museums, theaters, and other "nonprofit institutional organization[s] having as [their] primary purpose the advancement and preservation of art, music, theater, or dance."[228] These types of districts were created in response to declining tax bases due to suburban flight, even though those who fled the central city continued to use these regional assets. States thus created cultural asset districts and designated their boundaries to include localities surrounding the central city in the region.[229] These districts are funded by taxes—usually sales taxes—that are applied within the region to help fund these cultural and civic facilities.[230]

Similarly, a sports stadium district[231] is a form of regional government created by states or metropolitan regions to finance and manage the construction and operation of sports stadiums, arenas, or facilities.[232] While cultural asset districts provide a good

228. *See, e.g.*, COLO. REV. STAT. ANN. § 32-13-103(4) (West 2012) (defining Colorado's "cultural facility"). Voters usually approve the creation of such districts by referendum. *See* Reynolds, *supra* note 141, at 503–04.

229. *See* MILLER, *supra* note 97, at 110 (holding out Denver and Kansas City as examples of cities that have created cultural asset districts). Denver's Scientific and Cultural Facilities District is comprised of seven counties surrounding the City of Denver. COLO. REV. STAT. ANN. § 32-13-104 (West 2012). The Kansas and Missouri Metropolitan Culture District actually spans a region over two states. KAN. STAT. ANN. § 12-2536 (West 2012).

230. *See* MILLER, *supra* note 97, at 110.

231. For purposes of this Article, I use the term "sports stadium district" to describe both sports stadium districts and sports authorities. While there are distinctions between the two, such distinctions are irrelevant for purposes of this analysis—particularly in serving as models for regional governments consistent with equitable fiscal regionalism. *See* Andrew H. Goodman, Comment, *The Public Financing of Professional Sports Stadiums: Policy and Practice*, 9 SPORTS LAW. J. 173, 177–78 (2002) (defining a special district as "an entity charged with the performance of a particular governmental task, such as the building or oversight of water and sewer services" and a sports authority as "a private corporation borrowing funds by issuing bonds, and subsequently raising revenues sufficient to retire that debt. In a similar vein, an operating authority is a publicly owned business that administers an enterprise . . . and earns commercial (nontax) revenues from its private users.").

232. *See* Goodman, *supra* note 231, at 177 n.13 (citing Gilbert Nicholson, *New Law Gives Hope for Alabama Dome,* SPORTS BUS. J. (Mar. 13, 2000), http://www.sportsbusinessdaily.com/Journal/Issues/2000/03/20000313/No-Topic-Name/New-Law-Gives-Hope-For-Alabama-Dome.aspx) (stating that an improvement district in Alabama was empowered to borrow money, build facilities, and hire employees to manage the facilities). At least twenty-six states and the District of Columbia have created sports stadium districts: Arizona, California, Colorado, Florida, Georgia, Hawaii, Illinois, Indiana, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nevada, New Jersey, North Carolina, Ohio, Oregon, Pennsylvania, Tennessee, Texas, Utah, Virginia, Washington, and Wisconsin. ARIZ. REV. STAT. ANN. §§ 5-1102, 48-4202 (2012); CAL. GOV'T CODE § 6532 (2012); COLO. REV. STAT. ANN. §§ 32-14-102, 32-15-102 (West 2012); D.C. CODE § 10-1202.02 (2012); FLA. STAT. ANN. § 189.438 (West 2012); GA. CODE ANN. § 48-13-51 (West 2012); HAW. REV. STAT. § 109-1 (West 2012); 70 ILL. COMP. STAT. ANN. 3205/2, 3210/5 (West 2012); IND. CODE ANN. § 5-1-17-11 (West 2012); LA. CONST. of 1921, art. XIV, § 47 (1966) (continued as statute 1974) MASS. GEN. LAWS ANN. ch. 23A, § 13D (West 2012); MD. CODE ANN., ECON. DEV. § 10-604 (West 2012); MASS. GEN. LAWS ANN. ch. 23A, § 13D (West 2012); MICH. COMP. LAWS ANN. § 123.958 (West 2012); MINN. STAT. ANN. § 473.553 (West 2012); MO. ANN. STAT. § 67.660 (West 2012); NEV. REV. STAT. ANN. § 244A.830 (West 2011); N.J. STAT. ANN. § 5:10-4 (2012); N.C. GEN. STAT. ANN. § 160A-479.7 (West 2011); OHIO REV. CODE ANN. § 3383.02 (West 2011); OR. REV. STAT. ANN. § 263.230 (West 2012); 16 PA. CONS. STAT. ANN. § 6110-B (West 2012); TENN. CODE ANN. § 7-67-109 (West 2012); TEX. LOC. GOV'T CODE

example of a form of regional government consistent with equitable fiscal regionalism, this Article will focus on analyzing sports stadium districts—which are more prevalent—and therefore provide an analysis of the variations of this regional government and demonstrate how regions might adopt this theory's model.

B. *Sports Stadium Districts*

1. Creation and Boundaries

Many states have created sports stadium districts directly through a state statute.[233] For example, Colorado created the Major League Baseball Stadium District in 1989 to build a professional baseball stadium in order to secure a Major League Baseball (MLB) franchise.[234] Seven years later, Colorado also adopted the Metropolitan Football Stadium District to facilitate the construction of a new football stadium for the Denver Broncos.[235] In both instances, the state statutes did not provide for voter approval of the creation of the districts.[236] Louisiana, on the other hand, adopted the Louisiana Stadium and Exposition District through an amendment to its state constitution.[237] Louisiana created this sports stadium district to help finance, maintain, and operate several metropolitan facilities, including the Louisiana Superdome, where the New Orleans Saints of the National Football League (NFL) play.[238]

Other states have codified a general sports stadium district provision but left the creation of the district to the individual counties or regions within the state. In Arizona, for example, the state provided three avenues for a region to create a sports stadium district. A county—through a vote of its board of supervisors—may create such a district if it has more than 1,500,000 residents or has a major league baseball team that

ANN. § 335.031 (2011); UTAH CODE ANN. § 11-11-1 (West 2012), *invalidated by* Backman v. Salt Lake County, 375 P.2d 756 (Utah 1962); VA. CODE Ann. §§ 15.2-5801, -5901 (West 2012); WASH. REV. CODE ANN. § 36.102.020 (West 2012); WIS. STAT. ANN. §§ 229.66, 229.822 (West 2011).

233. *E.g.*, COLO. REV. STAT. ANN. § 32-14-102; 16 PA. CONS. STAT. ANN. § 6110-B; WIS. STAT. ANN. § 229.66.

234. COLO. REV. STAT. ANN. § 32-14-102. The history that led to the creation of the district is discussed in Op. Colo. Att'y Gen. No. 90-12 AG Alpha No. EX AD AGARV (Oct. 29, 1990), *available at* http://www.coloradoattorneygeneral.gov/ag_opinions/1990/no_90_12_ag_alpha_no_ex_ad_agarv_october_29_1990.

235. COLO. REV. STAT. ANN. § 32-15-102.

236. *Id.* §§ 32-14-105, -15-107.

237. LA. CONST. of 1921, art. XIV, § 47. Pennsylvania, while adopting the Allegheny Regional Asset District directly through a state statute, relied on its state constitution, which expressly allows the General Assembly to create such a district. *See* PA. CONST. art. IX, § 7; 16 PA. CONS. STAT. ANN. § 6110-B (codifying the creation of the Allegheny Regional Asset District). The Allegheny Regional Asset District helps fund, among other regional facilities, the region's Sports and Exhibition Authority, which is responsible for sports stadiums such as Heinz Field (home of the NFL's Pittsburgh Steelers). *Current Assets: 2012 Final Budget*, ALLEGHENY REGIONAL ASSET DISTRICT, http://www.radworkshere.org/interior.php?pageID=58 (last visited Oct. 28, 2012); *Stadium Authority*, PITT. SPORTS & ENT. AUTHORITY, http://www.pgh-sea.com/StadiumAuthority.htm (last visited Oct. 28, 2012).

238. LA. CONST. of 1921, art. XIV, § 47; LA. STADIUM & EXPOSITION DISTRICT, http://www.lsedgov.com/index.php?option=com_content&view=frontpage&Itemid=28 (last visited Oct. 28, 2012).

seeks to establish a spring training facility within its boundaries.[239] Municipalities within a county were also able to create a sports stadium district if the governing bodies of two or more of the localities within the county determined that adopting such a district was in their best interest.[240] Finally, a county board of supervisors may create a sports stadium district to support athletic facilities for a state-sponsored university within its jurisdiction.[241] Under these state enabling statutes, Maricopa County created a stadium district that manages Chase Field (home to MLB's Arizona Diamondbacks), and Pima County adopted a stadium district within whose boundaries is the Kino Sports Complex, which hosts major and minor league baseball events.[242]

Sports stadium districts cover defined geographic areas detailed by the enabling state statute or the metropolitan area voting to create such sports stadium districts. Sometimes the jurisdictional area is defined by the boundaries of a county, as is the case with the Allegheny Regional Asset District, which encompasses all of Allegheny County in Pennsylvania.[243] Other states have defined the geographic area of the sports stadium district by the boundaries of more than one municipality within the region. For example, Louisiana defined the Louisiana Stadium and Exposition District as the area constituted by the Parishes of Orleans and Jefferson.[244] Finally, other states, such as Arizona, have allowed specific groups of municipalities to collaborate and define the district's jurisdiction as encompassing their collective boundaries.[245]

2. Purpose, Powers, and Governing Boards

States provide these sports stadium districts with sufficient powers to accomplish their goals, which usually consist of constructing, financing, maintaining, and operating such regional assets. The mission statements of these districts confirm the similarity and consistency of the animating impetuses for these regional governments. For example, the Maricopa County Stadium District in Arizona explains its mission as "provid[ing] fiscal resources and asset management for the community and visitors to Maricopa County so they can attend Major League Baseball games and other

239. ARIZ. REV. STAT. ANN. § 48-4202(A) (2012). The board of supervisors must also "determine[] that the public convenience, necessity or welfare will be promoted by establishing the district." *Id.*

240. *Id.* § 48-4202(B). Interestingly, even if the board of supervisors of a county had voted to establish a sports stadium district, such action would not preclude two or more municipalities within the region from establishing a district themselves. *Id.* However, the state statute had a limiting provision for this method of creating a sports stadium district: municipalities could not create such a district after October 31, 1999, unless they had voted prior to that date to form a district. *Id.* Given that more than twelve years has elapsed since that cut-off date, it is highly unlikely that Arizona will see any additional stadium districts created by two or more municipalities in this fashion.

241. *Id.* § 48-4202(C).

242. *Chase Field*, MARICOPA COUNTY STADIUM DISTRICT, http://www.maricopa.gov/StadiumDistrict/about.aspx (last updated Sept. 28, 2010, 1:08 PM); *see also Amateur Sports at Kino Sports Complex Benefits the Whole Community*, TUSCON CITIZEN, Aug. 7, 2012, http://tucsoncitizen.com/pima-county-news/category/kino-sports-complex/.

243. *What is RAD?*, ALLEGHENY REGIONAL ASSET DISTRICT, http://radworkshere.org/interior.php?pageID=10 (last visited Oct. 28, 2012); *see also Chase Field, supra* note 242 (explaining that Maricopa County Stadium District shares the same geographic boundaries as Maricopa County).

244. LA. CONST. of 1921, art. XIV, § 47 (1966) (continued as statute 1974).

245. *E.g.*, ARIZ. REV. STAT. ANN. § 48-4202(B).

entertainment events in state-of-the-art, well-maintained facilities."[246] The Pima County Stadium District in Arizona describes itself as "a tax-levying, public improvement district and political taxing subdivision of the state of Arizona whose purpose is to protect the interests of [the] . . . Kino Sports Complex."[247] In short, these regional governments raise revenue to help pay for the construction of a new sports stadium, upgrade and maintain an existing sports facility, and operate new or existing sports stadiums.

These sports stadium districts are typically operated by a board of directors.[248] Most states provide for the boards of directors for these regional governments to be appointed rather than elected.[249] Such appointments are oftentimes made by the governor, a county executive, a city mayor within the jurisdiction, or other governmental entities.[250] However, some states provide for the election of at least some of the board of directors for these sports stadium districts. For example, the Maricopa County Stadium District has five directors that are each elected from the five districts that comprise the regional government's jurisdiction.[251] Each of the three largest cities within the district also appoints a member to the board of directors, and then the board as a whole appoints the remaining members.[252]

3. Revenue, Debt Repayment, and Taxes

Whether they provide for appointment or election of the boards of directors of such regional governments, states vest the board of directors—and thus the sports stadium districts they oversee—with various powers, including to enter into contracts,[253] to acquire land for stadium construction,[254] to borrow money to pay for stadium costs, including construction of the facility,[255] to sue and be sued,[256] to impose and collect fees for use of the stadium,[257] and to condemn property.[258] In particular,

246. *Chase Field*, *supra* note 242.

247. KINO SPORTS COMPLEX, http://www.kinosportscomplex.com/ (last visited Oct. 28, 2012).

248. *E.g.*, ARIZ. REV. STAT. ANN. § 48-4202; COLO. REV. STAT. ANN. § 32-14-106 (West 2012); 16 PA. CONS. STAT. ANN. § 6111-B (West 2012); WIS. STAT. ANN. § 229.66(2)–(3), (6) (West 2012); *see also The Creation of the LSED*, LA. STADIUM & EXPOSITION DISTRICT, http://www.lsedgov.com/index.php?option=com_content&view=article&id=67&Itemid=83 (last visited Oct. 1, 2012).

249. *E.g.*, ARIZ. REV. STAT. ANN. § 48-4202(E); COLO. REV. STAT. ANN. § 32-14-106(2); FLA. STAT. ANN. § 189.434(2) (West 2012); GA. CODE ANN. § 10-9-6(a) (West 2012); 70 ILL. COMP. STAT. ANN. 3205/4 (West 2012) 16 PA. CONS. STAT. ANN. § 6111-B(a); WIS. STAT. § 229.66(2).

250. *See, e.g.*, FLA. STAT. ANN. § 189.434 (providing for the appointment of the Florida sports stadium district board of directors by the governor, the county commission, the county executive, and the mayor and city commission of the largest city within the district); GA. CODE ANN. § 10-9-6 (providing for appointment of all fifteen members of the Georgia World Congress Authority's board of directors by the Governor of Georgia); 70 ILL. COMP. STAT. ANN. 3205/4 (providing for appointment of the Illinois Sports Facilities Authority by the Governor of Illinois and the Mayor of the City of Chicago).

251. ARIZ. REV. STAT. ANN. § 5-1102.

252. *Id.* § 5-1103.

253. *E.g.*, *id.* § 48-4203(A)(3); CAL. GOV'T CODE § 6532 (West 2012).

254. *E.g.*, COLO. REV. STAT. ANN. § 32-14-107(m); N.C. GEN. STAT. ANN. § 160A-479.7 (West 2012).

255. *E.g.*, N.J. STAT. ANN. § 5:10-5 (West 2012); 16 PA. CONS. STAT. ANN. § 6112-B(8)(i) (West 2012).

256. *E.g.*, COLO. REV. STAT. ANN. § 32-15-106(k); 70 ILL. COMP. STAT. ANN. 3205/8 (West 2012).

257. *E.g.*, TENN. CODE ANN. § 7-67-109(9) (West 2012); WIS. STAT. § 229.68(13) (West 2011).

states give sports stadium districts the authority to issue government bonds to finance the construction of a new sports facility.[259] With the significant rise in the number of publicly financed sports facilities and the amount of tax-exempt bonds used to fund them, the issue of bond repayment has become paramount in the area of sports stadium districts.[260]

The tax-exempt status of the bonds used to fund construction of the sports facility limits, in some ways, the ability of the sports stadium district to repay this debt. Pursuant to the Tax Reform Act of 1986, in order for bonds to remain tax-exempt, they must pass either the private business use test or the private payment test.[261] To pass the private business use test, no more than ten percent of the bonds proceeds can be used for a private business use.[262] The private payment test requires that no more than ten percent of the debt service be secured or repaid by a private business.[263] Most sports stadiums exceed the private business use test due to professional sports teams using more than ten percent of the stadium's use. Therefore, in order to meet the private payment test, a sports stadium district must pay the bond indebtedness with largely outside monies—that is, at least ninety percent of the revenue for the debt service must come from sources other than those generated by private business activity at the sports facility.[264]

To enable sports stadium districts to pay the debt service on these bonds, states also vest in these regional governments the ability to levy and collect taxes.[265] This authority can include the creation of a new tax or an increase in an existing tax. However, while some states have the ability to tax without voter approval—due to the express provisions of the enabling legislation for the sports stadium districts—others

258. *E.g.*, ARIZ. REV. STAT. ANN. § 5-1104(C)(3); IND. CODE ANN. § 5-1-17-11(a)(4) (West 2012).

259. *E.g.*, N.C. GEN. STAT. ANN. § 160A-479.7; WIS. STAT. ANN. § 229.68(8); *see also* Logan E. Gans, *Take Me Out to the Ballgame, But Should the Crowd's Taxes Pay for It?*, 29 VA. TAX. REV. 751, 753–63 (2010) (providing an overview of the tax-exempt bonds and stadium construction).

260. *See generally* Marc Edelman, *The House that Taxpayers Built: Exploring the Rise in Publicly Funded Baseball Stadiums from 1953 Through the Present*, 16 VILL. SPORTS & ENT. L.J. 257 (2009).

261. 26 U.S.C § 141(a) (2006); Gregory W. Fox, Note, *Public Finance and the West Side Stadium: The Future of Stadium Subsidies in New York*, 71 BROOK. L. REV. 477, 484–85 (2005).

262. *See* Fox, *supra* note 261, at 484–85.

263. *See* Nathan R. Scott, *Take Us Back to the Ball Game: The Laws and Policy of Professional Sports Ticket Prices*, 39 U. MICH. J.L. REFORM 37, 49–50 (2005) (labeling the private payment test the "private security test" and stating that the test requires no more than ten percent of a bond's interest payments come from, or no more than ten percent of the bond be secured by, property used for a private business purpose).

264. *See* Laurie C. Frey, Note, *How the Smallest Market in Professional Sports Had the Easiest Financial Journey: The Renovation of Lambeau Field*, 18 SPORTS LAW J. 259, 265–66 (2011) (discussing that cities must service at least ninety percent of the debt in order to qualify for the tax-exempt bonds). The private payment test all but forces sports stadium districts to give professional sports teams very favorable lease terms to avoid exceeding this ten percent threshold. *See* Katherine C. Leone, *No Team, No Peace: Franchise Free Agency in the National Football League*, 97 COLUM. L. REV. 473, 486 (1997) (describing different ways a city can attempt to attract professional sports organizations and finance a stadium).

265. *See, e.g.*, LA. CONST. of 1921, art. XIV, § 47 (1966) (continued as statute 1974) (authorizing the stadium district to impose a hotel-occupancy tax); 16 PA. CONS. STAT. ANN. § 6152-B (West 2012) (authorizing the imposition of a tax on the purchase of services or tangible personal property); WIS. STAT. ANN. § 77.705 (West 2011) (authorizing a sales and a use tax).

require voter approval before implementing or increasing a tax for the district.[266] The revenue created by these taxes help fund the sports stadium districts and the sports facilities they oversee.

Sports stadium districts use several sources of tax revenue to repay their public debt. Some taxes apply to the general public within the sports stadium district's boundaries, while others apply to certain purchases, services, or people within the geographic region. Sports stadium district taxes include sales taxes, tourism taxes, user taxes, sin taxes, and proceeds from lottery revenue.[267] Under a sales tax approach, a sports stadium district implements a new sales tax, or an increase in the existing sales tax, with the yearly revenue going to service the debt on the bonds used to construct the new sports facility.[268] Such a sales tax usually applies to every taxable transaction within the district's boundaries. For example, the Southeast Wisconsin Professional Baseball Park District—which encompasses five counties in the southeastern Wisconsin region—imposes a 0.1% general sales tax increase on all purchases made within the region to fund the debt service on Miller Park, the home of the Milwaukee Brewers.[269]

Tourism taxes are the most popular form of revenue generation employed by sports stadium districts to repay their tax-exempt bonds.[270] Tourism taxes include taxes

266. *E.g.*, ARIZ. REV. STAT. ANN. § 48-4236 (2012); COLO. REV. STAT. ANN. §§ 32-14-105, -15-107 (West 2012); WIS. STAT. ANN. § 229.824(15).

267. *Cf.* Gans, *supra* note 259, at 763–69 (discussing several forms of taxes including property taxes, stadium-related service taxes, sales tax increases, hotel and rent-a-car taxes, sin taxes, and business taxes).

268. *Id.* at 766.

269. Avrum D. Lank, *Bond Sale Approved to Build Miller Park*, MILWAUKEE J. SENTINAL, Mar. 7, 1997, Business 1; *see also* Alex B. Porteshawver, Comment, *Green Sports Facilities: Why Adopting New Green-Building Policies Will Improve the Environment and the Community*, 20 MARQ. SPORTS L. REV. 241, 250 (2009). In fact, many regions used a sales tax to repay the tax-exempt bonds on their new sports facilities or renovations to their existing ones: Chase Field in Maricopa County, Arizona; Coors Field and Invesco Field at Mile High in Denver, Colorado; Raymond James Stadium in Hillsborough County, Florida; Lucas Oil Field in Indianapolis, Indiana; Arrowhead Stadium and Kauffman Stadium in Jackson County, Missouri; Target Field in Hennepin County, Minnesota; Great America Ballpark and Paul Brown Stadium in Hamilton County, Ohio; Chesapeake Energy Arena in Oklahoma City, Oklahoma; Heinz Field and PNC Park in Allegheny County, Pennsylvania; Cowboys Stadium and Rangers Ballpark in Arlington County, Texas; Safeco Field in King County, Washington; Lambeau Field in Brown County, Wisconsin. Further details are compiled in tabular form in Appendix.

270. See *infra* Appendix for a comprehensive table listing the forms of revenue generation. In addition to Cowboys Stadium, other stadiums that were funded through tourism taxes include University of Phoenix Stadium in Maricopa County, Arizona; Qualcomm Stadium in San Diego, California; BankAtlantic Center in Broward County, Florida; Tropicana Field in Pinellas County, Florida; Everbank Field in Jacksonville, Florida; the Georgia Dome in Fulton County, Georgia; U.S. Cellular Field and Soldier Field in Chicago, Illinois; Lucas Oil Field in Indianapolis, Indiana; Louisiana Superdome and New Orleans Arena in New Orleans, Louisiana; Busch Stadium and Edward Jones Dome in St. Louis, Missouri; Comerica Park in Detroit, Michigan; and Ford Field in Wayne County, Michigan; First Niagara Center in Erie County, New York; Time Warner Cable Arena in Mecklenberg County, North Carolina; RBC Center in Wake County, North Carolina; Heinz Field and PNC Park in Allegheny County, Pennsylvania; LP Field in Nashville, Tennessee; FedEx Forum in Shelby County, Tennessee; American Airlines Arena in Dallas, Texas; Minute Maid Park, Reliant Stadium, and the Toyota Center in Harris County, Texas; AT&T Center in Bexar County, Texas; and Qwest Field in King County, Washington. *Id.*

on hotels, rental cars, and other services geared towards those visiting the region.[271] For example, in addition to a $.005 sales tax-increase, Arlington, Texas, implemented a 2% hotel-motel tax increase and a 5% rental car tax to help pay back the publicly financed debt on the $1.2 billion Cowboys Stadium, home of the Dallas Cowboys.[272]

A significant number of sports stadium districts fund, at least in part, the debt service on their sports facilities through a user tax.[273] A user tax imposes a tax on the people who use the sports stadium, as opposed to a general tax—like a sales tax—which taxes a larger, more general group of people regardless of their use of the facility.[274] These user taxes usually come in the form of a ticket or admissions tax or surcharge and a parking tax or fee. For example, the Allegheny Regional Asset District imposes a five percent ticket surcharge on tickets to PNC Park, where MLB's Pittsburgh Pirates play, to help repay the tax-exempt bonds used to build the stadium.[275] To help service the debt on Lucas Oil Stadium, Indianapolis, Indiana increased its ticket surcharge by one percent.[276] Due to the ten percent tax-exempt tests detailed above, these types of user taxes cannot be relied upon exclusively for the debt service, but as these examples demonstrate, they can be coupled with other taxes, as described in this Part, to repay the bonds.

A small number of regions use sin taxes to repay their tax-exempt bonds. Sin taxes are special excise taxes on goods that the government wants to discourage, such as alcohol and tobacco products.[277] Cuyahoga County, Ohio, is one of only two regions that appear to use a sin tax to repay public debt for its sports stadiums.[278] The debt

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271. Todd Senkiewicz, Comment, *Stadium and Arena Financing: Who Should Pay?*, 8 SETON HALL J. SPORT L. 575, 586–87 (1998).

272. Jeff Mosier, *Tax Income to Pay Cowboys Stadium Debt is Beating Projections*, DALLAS MORNING NEWS, (July 11, 2010, 11:54 AM), http://www.dallasnews.com/news/cowboys-stadium/20100710-Tax-income-to-pay-Cowboys-Stadium-9172.ece.

273. For the purposes of this Article, I will use the term "user tax" to refer to usage taxes and user fees.

274. Brent Bordson, Comment, *Public Sports Stadium Funding: Communities Being Held Hostage by Professional Sports Team Owners*, 21 HAMLINE L. REV. 505, 520 (1998). See *infra* Appendix for a list of regions that have adopted a user tax to help fund sports stadiums including the University of Phoenix Stadium in Maricopa County, Arizona; Staples Center in Los Angeles, California; Oracle Arena in Oakland, California; Candlestick Park in San Francisco, California; EverBank Field in Jacksonville, Florida; Joe Louis Arena in Detroit, Michigan; Target Center in Minneapolis, Minnesota; First Niagara Center in Erie County, New York; Quicken Loans Arena in Cleveland, Ohio; Paul Brown Stadium in Hamilton County, Ohio; Rose Garden in Portland, Oregon; Bridgestone Arena in Nashville, Tennessee; Reliant Stadium in Harris County, Texas; and Verizon Center in Washington, D.C.

275. *See* Tom Barnes & Robert Dvorchak, *Plan B: Play Ball! RAD Board Votes 6-1 to Fund New Stadiums, Expansion of Convention Center*, PITT. POST-GAZETTE, July 10, 1998, at A1 (noting that a five percent surcharge on tickets amongst other tax increases would aid in repaying the bonds used to build the stadium).

276. Judd Zulgad, *Colts Show Vikings How to Get a Stadium: A Combination of Taxes and User Fees Helped Indianapolis Put Up Its New Football Playground*, STAR TRIB., Sept. 15, 2008, at 1B.

277. *See* Gans, *supra* note 259, at 767–68.

278. *See* OHIO REV. CODE ANN. §§ 307.696, 697 (West 2012) (giving Cuyahoga County the authority to adopt its sin tax). The other region is Minneapolis, Minnesota, which helped pay for the Hubert H. Humphrey Metrodome through a three percent tax on beer and liquor. *See* Mike Kaszuba & Steve Brandt, *Duel Over Stadium Site Heads to Climax in a Scramble, Minneapolis Enters the Race*, STAR TRIB., May 8, 2011, at 1A (referencing revenues from the current three-percent tax on downtown on-sale liquor).

service on the Cleveland Browns Stadium, Progressive Field, and Quicken Loans Arena in Cleveland, Ohio, is paid, in part, by a sin tax on alcohol and cigarettes: $0.045 per pack of cigarette; $3 per gallon of hard liquor; $0.16 per gallon of wine or beer; and $0.32 per gallon of mixed beverages.[279]

Finally, there are also other creative revenue sources that regions have used or propose to use to help fund their sports facilities. For example, in attempting to secure public financing for a new football stadium, the Minnesota Vikings had proposed using the revenue generated by income tax paid by its players and employees, and visiting teams' players as well, to help pay for the construction of a new football stadium.[280] Another creative source of revenue is from lottery tickets. Some states have developed special lottery games for generating revenues to help fund a sports stadium.[281] For example, the state of Maryland provides lottery ticket revenue to help pay for M&T Stadium at Camden Yards, home of the NFL's Baltimore Ravens, and Oriole Park at Camden Yards, home of MLB's Baltimore Orioles.[282]

In these various manners, sports stadium districts are able to spread the costs of the metropolitan benefits of sports facilities throughout the region—consistent with the theory of equitable fiscal regionalism. However, there are still significant challenges facing a region that seeks to adopt a sports stadium district.

C. Challenges to Equitable Fiscal Regionalism

Metropolitan areas seeking to adopt a regional government consistent with equitable fiscal regionalism will face many of the same challenges described above that other regionalist efforts experienced. For example, state constitutional and statutory provisions regarding intergovernmental cooperation and municipal home rule powers may pose certain obstacles to creating the legal framework for this type of regional government.[283] Similarly, other state governmental powers or limitations may affect or curtail equitable fiscal regionalism efforts: the anti-delegation doctrine, debt delegations, public purpose requirements, and prohibitions on special commissions and special legislation.[284]

279. Joan Mazzolini, *"Sin Tax" Has More Than Paid Its Fair Share*, CLEVELAND PLAIN DEALER, Aug. 28, 2005, at B1; *see also* Appendix.

280. Don Walker, *The Vikings' Fascinating New Stadium Plan*, JSONLINE, (Nov. 28, 2011), http://www.jsonline.com/blogs/sports/134600258.html. The $975 million stadium was approved by the State of Minnesota and the City of Minneapolis, with $348 million of public financing from the state in the form of state gambling revenues and the city contributing $150 million from tax dollars formerly designated for the city's convention center. Mike Kaszuba, *Dayton Cheered—and Heckled—as He Signs Vikings Stadium Bill*, STAR TRIB. (May 14, 2012, 5:13 PM), http://www.startribune.com/politics/statelocal/151405495.html.

281. *See* Goodman, *supra* note 231, at 196–97 (discussing the use of lottery games to generate revenues to fund sports stadiums). See *infra* Appendix for examples of sport stadiums that are supported by lottery ticket revenue including FedEx Field in Maryland; Lucas Oil Stadium in Indianapolis, Indiana; and Qwest Field and Safeco Field in Seattle, Washington.

282. Shane Mecham, *The House that Consensus Built: Consensus Building in Stadium Construction*, 38 URB. LAW. 1087, 1115 (2006).

283. Reynolds, *supra* note 10, at 119–21.

284. *Id.* at 121–22; *see, e.g.*, Backman v. Salt Lake Cnty., 375 P.2d 756, 760 (Utah 1962) (citing UTAH CONST. art. VI, § 29 (current Section 28)) (holding that the creation of the Civic Auditorium and Sports Arena

Assuming these legal and constitutional considerations can be addressed—which is likely the case—many in the metropolitan area may be concerned that a regional government like a cultural asset district or sports stadium district might strip local governments of the autonomy that the localist system provides.[285] To address these fears, it will be important for advocates to explain that this model of equitable fiscal regionalism will maintain local power—consistent with the values of localism—while creating a system where all who benefit from a regional asset will help pay for it, thus avoiding the free-rider problem described above.

Another significant challenge facing equitable fiscal regionalism is the proposed manner of adopting such regional governments. Voters have generally been opposed to approving new regional governments and have successfully rejected regional government at the ballot box due, in part, to referenda processes that allow a minority or even a single jurisdiction to reject such a proposal.[286] However, despite this general voter opposition, several regions—including Jacksonville, Florida; Indianapolis, Indiana; and Nashville, Tennessee—have adopted regional government by popular vote.[287] These limited examples, however, demonstrate the difficulty a region will likely face in installing a regional government through the ballot process.

State legislatures could also approve these regional governments. In this circumstance, the concern may arise that suburbs are well represented in state legislatures, and they will inevitably resist such legislation.[288] Given that a state legislature would only need to approve such a regional government by a simple majority vote, even a significant number of suburban opponents may not be able to thwart passage of such legislation on the state level.[289] States must thus be careful to avoid capture of the legislative process by wealthier and more powerful localities that might seek to impose the costs of such regional benefits on neighboring jurisdictions by exempting themselves from the regional tax, thus perpetuating the type of free riding that equitable fiscal regionalism seeks to prevent.

On the other hand, there is clearly merit to a decentralized decision-making

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District violated the Utah Constitution, which states "[t]he legislature shall not delegate to any special commission . . . any power to . . . interfere with any municipal improvement . . . to levy taxes . . . or to perform any municipal functions" (omission in original)).

285. Most courts have denied constitutional and legal challenges to sport stadium districts. *E.g.*, Ginsberg v. Denver, 436 P.2d 685, 688 (Colo. 1968) (upholding the acquisition of a sports stadium by the City of Denver, Colorado); Poe v. Hillsborough Cnty., 695 So.2d 672, 676 (Fla. 1997) (upholding the stadium proposal for the Raymond James Stadium in Tampa, Florida); Lifteau v. Metro. Sports Facilities Comm'n, 270 N.W.2d 749, 755 (Minn. 1978) (upholding the construction of a sports stadium pursuant to the Metropolitan Sports Facilities Act); Ragsdale v. City of Memphis, 70 S.W.3d 56, 74 (Tenn. Ct. App. 2001) (upholding financing plan for the construction of the FedEx Forum in Memphis, Tennessee); King Cnty. v. Taxpayers of King Cnty., 949 P.2d 1260, 1274 (Wash. 1997) (upholding the financing plan for Safeco Field in Seattle, Washington); Libertarian Party of Wis. v. State, 546 N.W.2d 424, 440 (Wis. 1996) (upholding the constitutionality of the Southeast Wisconsin Professional Baseball District, which helped construct Miller Park in Milwaukee, Wisconsin).

286. *See* Frug, *supra* note 2, at 1831.

287. Savitch & Vogel, *supra* note 93, at 162.

288. Frug, *supra* note 2, at 1831.

289. *Id.* Regional governments in Portland, Oregon, and Minneapolis-St. Paul, Minnesota serve as successful examples of state legislative adoption of regional entities. *Id.* at 1777–78.

process in which municipalities choose to collaborate and act together in creating a regional government like a sports stadium district. Localism theory highlights the desirability of this approach: those living in the immediate communities will know best what they need and want and what they are willing to pay. These communities, then, can work together to craft a solution that is informed by their collective interests and needs. The regionalist critique of localism identifies the risk of a decentralized decision-making approach. Many municipalities—often the more affluent suburbs—will seek to avoid sharing the costs of regional benefits or burdens and, instead, seek to free ride off of the work and expenditures of other localities in the region (oftentimes the central city and poorer suburbs). In this regard, states must carefully consider how best to craft state statutes that create or help implement these types of regional governments to avoid repeating the mistakes of previous attempts at regionalism.

With either approval process, inevitably there will be fierce political challenges. Take sports stadium districts as an example. Repayment projections for the public debt used to fund the construction of stadiums traditionally have been based on unrealistic economic models that envisioned healthy year-to-year revenue growth.[290] Moreover, politicians have also had a tendency to overestimate the projected tax revenue in order to make the imposition of the taxes seem more palatable to the voting public.[291] Due to these factors, political opposition may arise when a sports stadium district is proposed because the public has oftentimes felt misled on how quickly such public debt will be repaid. Indeed, to appreciate public opposition to the creation of sports stadium districts, one only need look at the example of Wisconsin State Senator George Petak who was recalled from office a year after casting the deciding vote on the legislation that provided for the financing and construction of Miller Park in Milwaukee.[292]

One way that a region might minimize political resistance is by crafting a debt repayment model that properly balances the tax burden in an equitable fashion. Many of the current approaches for repaying public bonds used to finance the construction of new sports facilities rely too heavily on one form of tax, thus placing the burden disproportionately on a particular group in the region. For example, to help repay the debt on Miller Park in Milwaukee, the Southeast Wisconsin Professional Baseball Park District relies solely on a 0.1% sales tax assessed on purchases made within one of the five counties that comprise the District.[293] This type of general tax is justified, to a

290. *See* Ken Belson, *As Revenue Plunges, Stadium Boom Deepens Municipal Woes*, N.Y. TIMES, Dec. 25, 2009, at B8. The recent and prolonged economic downturn definitely played a role in the inaccuracy of these projections as well. *Id.*

291. *See, e.g.*, Mark Yost, *The Price of Football that Even Nonfans Pay*, WALL ST. J., Feb. 3, 2011, at D6 (discussing politicians using money set aside for other debts to fund stadium that did not increase tax revenue as promised).

292. Senator Petak twice voted against the legislation but changed his mind and voted to approve the legislation on the third and final vote, subsequently, Senator Petak became the first state official to be recalled from office. Don Walker, *Economic Promises Got It Built. Has It Paid? The Team Is Successful, Miller Park May Draw 3 Million this Year, but Economists Debate Whether the Community is Benefiting*, MILWAUKEE J. SENTINEL, April 4, 2008, at A1.

293. Martin J. Greenberg, *Sports Facility Financing and Development Trends in the United States*, 15 MARQ. SPORTS L. REV. 93, 133 (2004). The five counties are Milwaukee, Ozaukee, Racine, Washington, and Waukesha. *Summary of the Stadium District*, SOUTHEAST WIS. PROF. BASEBALL PARK DISTRICT, http://www.millerparkdistrict.com/ (last visited Oct. 28, 2012).

degree, because even if people within the region do not use the sports stadium, they benefit from its presence in the community because of the prestige of being a major league city.

However, a sales tax is regressive and unfairly burdens the poor, who may be the least likely to use or benefit from a sports stadium.[294] In addition, residents other than the poor may also feel as though they do not receive enough benefit from the stadium to warrant their paying the increased sales tax or that repayment of the public debt relies entirely on the tax.[295] Moreover, sales tax revenue can fluctuate dramatically depending on the overall health of the economy, which can lead to an extension of the tax beyond original projections given a downturn in the economy.[296] In these regards, a region's sole reliance on an increase in the sales tax to help fund a sports stadium district may not only be politically unwise, but it does not properly distribute the burden of the debt service equitably throughout the metropolitan area.

Tourism taxes—such as increased taxes on hotel rooms and rental cars—attempt to do the opposite of the sales tax model: that is, shift the tax burden for repaying public debt on sports stadiums away from those living in the region and onto those who, most often, are merely visiting the area. The political appeal of this approach is obvious as it shifts that which is undesirable—the payment of taxes to repay a public debt—onto those who do not vote in local elections.[297] The underlying justification for tourism taxes is that because a region experiences an increase in tourism—and thus revenue—when it has a professional sports team and sports facility located there, such activities should contribute to repaying a sports stadium's debt.[298]

However, tourism taxes often require higher taxes or taxes for longer periods of time to repay public debt, as taxing tourism activities does not usually reap the same yearly revenue as other forms of taxes, such as sales taxes. Tourism taxes may also jeopardize a region's ability to stay competitive to lure tourists, as well as conferences and conventions, to the area. These taxes, if driven too high, may create a disincentive for tourists and conventions to visit that city.[299] Moreover, tourism taxes may be the tax most susceptible to fluctuation, as travel and tourism tend to be some of the hardest hit sectors of the economy when an economic downturn occurs. Finally, tourism taxes affect those who generally do not use regional benefits such as a sports stadium—which seems unfair and illegitimate when weighing who should be paying for a regional benefit. These taxes are also underinclusive in not capturing visitors and

294. *See* Senkiewicz, *supra* note 271, at 585.

295. *See* Goodman, *supra* note 231, at 194–95.

296. *See* Porteshawver, *supra* note 269, at 250 (noting that the Miller Park Stadium District sales tax may need to be extended beyond the anticipated 2014–2017 time frame due to lower than expected revenues following the recent economic downturn); Don Walker, *Miller Park Sales-Tax Collections Jump*, JSONLINE, (July 7, 2011), http://www.jsonline.com/blogs/sports/125094354.html (projecting that the sunset year for the sales tax will likely be between 2016–2018).

297. Zachary A. Phelps, Note, *Stadium Construction for Professional Sports: Reversing the Inequities Through Tax Incentives*, 18 ST. JOHN'S J. LEGAL COMMENT. 981, 991 (2004).

298. *See* Frank A. Mayer III, *Stadium Financing: Where We Are, How We Got Here, and Where We Are Going*, 12 VILL. SPORTS & ENT. L.J. 195, 212 (2005).

299. Garrett Johnson, *The Economic Impact of New Stadiums and Arenas on Cities*, 10 U. DENV. SPORTS & ENT. L.J. 1, 12–13 (2011).

tourists that stay outside of the sports stadium district's boundaries (thus avoiding the tourism tax) but who still use the sports facility.[300] For these reasons, a region cannot be overly reliant on tourism taxes to service a sports stadium's debt, even if they are politically popular with the voters in the area.

Similarly, sin taxes—such as those on tobacco and alcohol products—seem like another politically popular avenue for repaying public debt on sports stadiums. While there is little to no correlation between these type of taxes and the use of the stadium, the perceptions of moral correctness in taxing these undesirable products overcomes any vocal opposition.[301] However, sin taxes can be overinclusive of those who buy alcohol or tobacco products but do not use the stadium. They are also underinclusive of those who do not purchase these products but who derive benefits from the use, or the mere existence, of the stadium.[302] Perhaps this explains why very few regions use these types of taxes to repay stadium debt.

Many regions have adopted user taxes—those assessed on tickets and parking for a stadium—to fund the debt service for new sports stadiums.[303] The underlying justification for this approach is that only those people who use the sports facility should have to pay for it.[304] Practically, however, this theory does not work due to the ten percent tests in the federal tax code related to tax-exempt bonds and sports stadiums.[305] Most sports stadiums exceed the first ten percent test related to a stadium's use given the professional team playing in it. Regions thus have to repay the bonds with ninety percent or more in revenue generated separate from the stadium.[306] Accordingly, a region cannot rely exclusively on user taxes for their debt service for a sports stadium. Moreover, even if a region met the first ten percent test and thus could draw greater—if not exclusive—revenue from user taxes, these taxes may not be sufficient to cover the yearly debt service payments unless they are at a significantly high rate. The higher the user taxes, the more difficult it will be for a region to meet the tax revenue projections needed to repay the debt in a traditional amount of time, which is usually close to thirty years.[307] Moreover, the user tax model fails to account for the fact that a region benefits, to some degree, from being viewed as a "major league city" because it hosts a professional sports team.[308] While the regional benefit and value of a

300. *See* Christopher B. Carbot, *The Odd Couple: Stadium Naming Rights Mitigating the Public-Private Stadium Finance Debate*, 4 FIU L. REV. 515, 534–35 (2009) (noting that tourist taxes do not necessarily raise revenue from everyone benefiting from and using new stadiums).

301. Goodman, *supra* note 231, at 196.

302. *Id.*

303. See *supra* notes 273–76 and accompanying text for a discussion and example of such a region.

304. *See* Bordson, *supra* note 274, at 520.

305. *See* Fox, *supra* note 261, at 484–85 (citing 26 U.S.C. § 141 (2006)) (noting the federal government's attempt to curtail indirect federal funding of private sports through the tax code).

306. *Id.*

307. *See* Kevin J. Liss, *The Option Conundrum in Tax Law: After All These Years, What Exactly Is an Option?*, 63 TAX LAW. 307, 328 (2010) (describing the anticipated useful life of a stadium as thirty years).

308. Brion Doherty, Comment, *NFL Stadiums and Antitrust: Yesterday, Today and Tomorrow*, 4 DEPAUL J. SPORT L. & CONTEMP. PROBS. 39, 45–46 (2007) (describing civic pride as a regional benefit of hosting a major sports team). This is not to overstate the importance of sports facilities and professional sports teams. In fact, municipalities should carefully and deliberately consider whether the public financing of a

sports stadium may not always be able to be quantified, it is nevertheless a relevant consideration in determining how the region should shoulder the burden of repaying the public debt used to construct it.[309] User taxes, in this regard, do not distribute some of the costs of a sports stadium to those who do not use the facility, yet still benefit from its presence in the region.

Finally, some regions find lottery ticket revenue as an attractive funding source for new sports stadiums. Buying lottery tickets is a self-imposed tax that applies only to those who choose to buy lottery tickets and thus cost general taxpayers nothing.[310] However, similar to sales taxes, a tax on lottery tickets is a regressive tax that targets and burdens low-income populations that tend to spend more on lottery tickets than higher-income earners.[311] The result, then, is that wealthier residents in a region attend games at the expenses of lower-income citizens who buy lottery tickets.[312] Therefore, while lottery tickets may present a complementary form of revenue for a sports stadium district, a region should not rely on it exclusively because it places the burden on a segment of the population that does not necessarily gain a proportional benefit from the stadium.

In order to avoid, or at least mitigate, political opposition to a sports stadium district and its attendant tax burden, a region must carefully consider how to craft the forms of taxation it uses. Any of the tax proposals detailed above, taken alone, will not only draw political ire, but will run afoul of the principles of equitable fiscal regionalism. An exclusive use of one tax unnecessarily places the costs of a regional benefit on only one group of people that may or may not receive many, if any, benefits from the sports stadium. In this regard, a sports stadium district would be merely emulating the problems with the current attempts at regional government that have perpetuated problems in metropolitan areas, not solved them.[313]

The most politically palatable approach—which is also consistent with equitable fiscal regionalism—is one that utilizes a variety of the tax sources currently used by different sports stadium districts. A portion of debt service revenue coming from a user tax on tickets and parking related to the stadium makes sense because users obviously receive some of the greatest benefits from building and the activity within it.[314] Ideally, this revenue would constitute a significant portion of the debt repayment. However, due to the tax-exempt bond limitations, most sports stadium districts would only be able to allocate up to ten percent of debt repayment monies from this source.[315] Even if this

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sports stadium is economically justifiable and desirable for their community. *See generally* Matthew J. Parlow, *Publicly Financed Sports Facilities: Are They Economically Justifiable? A Case Study of the Los Angeles Staples Center*, 10 U. MIAMI BUS. L. REV. 483 (2002).

309. *See* Howard M. Wasserman, *Fans, Free Expression, and the Wide World of Sports*, 67 U. PITT. L. REV. 525, 545 (2006) (discussing the regional tangible and intangible benefits of sports stadiums).

310. Goodman, *supra* note 231, at 196–97.

311. *Id.*

312. Kerry M. Fraas, *"Bankers Up!" Professional Sports Facility Financing and Other Opportunities for Bank Involvement in Lucrative Professional Sports*, 3 N.C. BANKING INST. 201, 211 (1999).

313. See *supra* notes 195–214 and accompanying text for a discussion of the shortcomings of current attempts at regional government for metropolitan areas.

314. See *supra* notes 273–76 and accompanying text for a discussion of user taxes.

315. See *supra* notes 261–66 and accompanying text for a discussion of tax-exempt bond regulations.

were not the case, a sports stadium district should adopt other funding sources that garner contributions from others in the region that benefit from the stadium's presence in their community, even if they only use it occasionally (or not at all). In this regard, a sales tax increase would also make sense to include in a model for a sports stadium district to repay its public bonds.[316] As it would be generally applicable in the region, such a sales tax increase ensures that everyone in the region contributes to the regional benefit that brings certain desired results of being a major league city. Of course, the sales tax should not be overemphasized in the funding model, as such benefits are far more indirect than, say, the direct benefit of attending a sporting event at the stadium and paying an admissions and parking tax.

Tourist taxes are also justifiable, as one of the benefits of a sports stadium and its professional sports team is the likely increase in visitors to such a major league city. Moreover, deriving taxes from those living outside of the region allows for some minimizing of the community's financial burden of repaying the sports facility. Sports stadium districts should be mindful not to be overly reliant on this form of taxation in its economic model, as it is subject to sometimes dramatic fluctuations depending on the general economy. Finally, depending on its circumstances, a region might also consider adding a sin tax[317] and/or lottery ticket revenue to its package of taxes.[318] Similar to tourist taxes, these taxes target a particular segment of taxpayers that the general public within the region may deem worthy of taxing for purposes of paying for the stadium. These alternative taxes would lighten the tax burden on residents of the region—to whatever extent they are employed—and spreads the tax burden across broader potential revenue sources, thus helping mitigate against economic declines.

The use of several of these taxes in crafting an economic model for a sports stadium district will help address some of the political concerns that many raise, as they will more equitably distribute the costs of the regional benefit across the metropolitan region. There is no one precise equation or package of taxes that will work for every region. Indeed, equitable fiscal regionalism embraces the localist notion that no one-size-fits-all policy will work on a local level. Therefore, each region must understand its own economy and possible sources of tax revenue in building its financing plan. However, the broad parameters detailed in the aforementioned analysis will help minimize resistance experienced by current regional models—which tend to be too heavily weighted in one tax direction. Moreover, a package of multiple taxing sources will also enable the region to remain consistent with the theory of equitable fiscal regionalism by ensuring that the costs of regional benefits are more equitably distributed throughout the metropolitan area.[319]

V. CONCLUSION

To be sure, equitable fiscal regionalism, in its current conceptualization, will not solve all of the problems and challenges that many metropolitan areas face. However, it

316. See *supra* notes 268–69 and accompanying text for a discussion of sales taxes.

317. See *supra* notes 277–79 and accompanying text for a discussion of sin taxes.

318. See *supra* notes 281–82 and accompanying text for a discussion of lottery tickets.

319. See *supra* Part III.A.4 proposing the theory of equitable fiscal regionalism.

envisions a regional government that can succeed where other regional entities have failed or fallen short of some basic regionalist goals. As the example of the sports stadium district demonstrates, equitable fiscal regionalism can help avoid the free riding of wealthier localities off of the work and expenditures of central cities and less wealthy suburbs. In doing so, the theory helps provide a practical framework that enables a metropolitan area to spread the costs of a regional benefit more equitably in the region. Moreover, these types of governmental entities could help bridge regional divides and move towards regional governance driven by consensus and recognition of regional interdependence.

The social and economic segregation reinforced and exacerbated by the current localist system reduces the opportunity and ability for residents of one locality within a region to work collaboratively with others. By proposing such a regional level of government, equitable fiscal regionalism may begin to help various communities within a region recognize and appreciate their interdependence. This recognition, in turn, could lead those localities to look to craft more regional solutions—either regional governments or governance—to think and act collectively as a region, rather than in the self-interested, unilateral manner that localism fosters. Old regionalism and new regionalism failed to bring about any significant change in the way in which various levels of government operate in a metropolitan area. Equitable fiscal regionalism builds on the strengths of these theories, while embracing the many values of localism, in proposing a model that has a greater likelihood of being adopted.[320] In advancing this model for a regional government, equitable fiscal regionalism provides a first and significant step towards the possibility of greater regional collaboration in the future.

320. Indeed, even if this model of equitable fiscal regionalism expanded to address broader, systemic regional problems, any resulting regional governmental system would almost surely still keep separate, independent local governments with significant powers—consistent with localism theory.

APPENDIX

Preface: In certain circumstances, the sources cited may provide different methods for calculating debt repayment methods, total venue costs, or the cited costs may have changed since figures were reported. The figures enclosed herein have been gathered as the most authoritative in the view of the author, but additional sources have been retained in the endnotes to provide additional information, context, and data for reference.

Table 1. Major League Baseball

<table>
<tr><th>Team</th><th>Stadium / Arena</th><th>Year Opened</th><th>Total Cost (in millions)</th><th>Public Finance %</th></tr>
<tr><td rowspan="2">Arizona Diamondbacks</td><td>Chase Field</td><td>1998</td><td>$354</td><td>75%</td></tr>
<tr><td colspan="4">Debt Repayment Method: From April 1995 to November 1997, there was a 0.25% increase in the Maricopa County sales tax (estimated to have generated $70–$75 million annually and the amount of revenue to be raised by the tax was capped at $238 million). The Stadium District also issued $15 million in bonds to be paid off with stadium-generated revenue. The last of the debt was repaid in 2007, nineteen years early.[1]</td></tr>
<tr><td rowspan="2">Atlanta Braves</td><td>Turner Field</td><td>1997</td><td>$235</td><td>0%</td></tr>
<tr><td colspan="4">Debt Repayment Method: There is no tax burden if capital improvements do not exceed an average of $1 million per year for twenty years.[2]</td></tr>
<tr><td rowspan="2">Baltimore Orioles</td><td>Oriole Park at Camden Yards</td><td>1992</td><td>$107</td><td>96%</td></tr>
<tr><td colspan="4">Debt Repayment Method: The debt is being repaid from revenue generated by special sports themed lottery tickets and a 10% tax on stadium tickets. The remaining costs were paid for out of a lottery fund established in 1988 to finance sports stadiums. The Orioles pay $6 million in rent to Maryland Stadium Authority (MSA) annually; the MSA also recovers $5 million in admission tax revenues. The sports lottery reportedly will bring in approximately $16 million per year for thirty years to pay the debt service on the Orioles and Ravens stadiums.[3]</td></tr>
<tr><td rowspan="2">Boston Red Sox</td><td>Fenway Park (renovated)</td><td>2011 (originally 1912)</td><td>$285 (originally $0.450)</td><td>0%</td></tr>
<tr><td colspan="4">Debt Repayment Method: N/A[4]</td></tr>
<tr><td rowspan="2">Chicago Cubs</td><td>Wrigley Field (renovated)</td><td>2002 (originally 1914)</td><td>$11 (originally $0.250)</td><td>0%</td></tr>
<tr><td colspan="4">Debt Repayment Method: N/A[5]</td></tr>
</table>

<table>
<tr><th>Team</th><th>Stadium / Arena</th><th>Year Opened</th><th>Total Cost (in millions)</th><th>Public Finance %</th></tr>
<tr><td rowspan="2">Chicago White Sox</td><td>U.S. Cellular Field</td><td>1991</td><td>$167</td><td>100%</td></tr>
<tr><td colspan="4">Debt Repayment Method: There is a 2% hotel tax in Chicago, though no end date is noted in the Illinois law establishing the tax. During the season, the White Sox pay $1.24 million in rent, plus $4 for every full-priced ticket sold above 1.5 million and $1.50 for every nondiscounted ticket above $2 million. Bonds were initially approved in 1989, placed in service in 1991, and refinanced in 1999 with an outstanding balance of nearly $396 million, with estimated capital appreciation, due 2026, 2030, and 2032, according to bond type. The 1999 bonds expired in 2010. The city and state both contribute $5 million annually.[6]</td></tr>
<tr><td rowspan="2">Cincinnati Reds</td><td>Great American Ball Park</td><td>2003</td><td>$325</td><td>86%</td></tr>
<tr><td colspan="4">Debt Repayment Method: The Reds pay a rent of $2.5 million for nine years, then $1 million thereafter in each subsequent year. The remaining debt will be paid by a 0.5% Hamilton County sales tax increase. Important note: Hamilton County has not been collecting enough revenue from the tax to pay the debt service; the plan is failing. The team's lease was initially thirty years, but the Reds agreed to extend their lease to thirty-five years because of the revenue shortfalls. To help Hamilton County reduce the deficit, the Reds agreed to pay $2.2 million in rent over five years beginning in 2011.[7]</td></tr>
<tr><td rowspan="2">Cleveland Indians</td><td>Progressive Field</td><td>1994</td><td>$175</td><td>48%</td></tr>
<tr><td colspan="4">Debt Repayment Method: Voter approved countywide sin taxes on alcohol ($3 per gallon on liquor, $0.16 per gallon on beer) and cigarettes ($0.045 per pack) for fifteen years. Sin tax has been extended to year 2015. Some stadium revenue and early seat sales have also paid the debt service.[8]</td></tr>
<tr><td rowspan="2">Colorado Rockies</td><td>Coors Field</td><td>1995</td><td>$215</td><td>75%</td></tr>
<tr><td colspan="4">Debt Repayment Method: There is a 0.1% sales tax within the six-county Denver area to fund stadium; the tax is to remain until the stadium debt has been repaid in approximately ten years. The six counties are: Arapahoe, Denver, Boulder, Douglas, Jefferson and Adams. The team pays the stadium district a minimum of $100,000 per year, plus $0.50 on every ticket sold beyond 2.575 million tickets per season, and $1 for each ticket beyond 3 million. Rockies also give 20% of parking profits to the district.[9]</td></tr>
<tr><td rowspan="2">Detroit Tigers</td><td>Comerica Park</td><td>2000</td><td>$361</td><td>38%</td></tr>
<tr><td colspan="4">Debt Repayment Method: Citywide 2% car rental tax and a 1% hotel tax, and money from Native American casino revenue. Further reliable information on the casino could not be located.[10]</td></tr>
<tr><td rowspan="2">Florida Marlins</td><td>Sun Life Stadium (Land Shark Stadium (2009))</td><td>1987</td><td>$115</td><td>3%</td></tr>
<tr><td colspan="4">Debt Repayment Method: N/A[11]</td></tr>
</table>

Team	Stadium / Arena	Year Opened	Total Cost (in millions)	Public Finance %
Miami Marlins	Marlins Park	2012	$515	76%
	Debt Repayment Method: There is a thirty-five-year lease with annual rent payments of $2.3 million the first year, increasing by 2% per year thereafter. Miami contributed $13 million. Miami-Dade County owns the venue and contributed $347 million. $50 million comes from a general obligation bond approved by voters in 2004 for an earlier ballpark proposal. The remainder comes from hotel bed and professional sports facilities franchise taxes. No new taxes were levied for the project. There is a forty-year bond repayment plan.[12]			
Houston Astros	Minute Maid Park	2000	$250	68%
	Debt Repayment Method: There is a 2% hotel tax and a 5% rental car tax in Harris County totaling $180 million. The debt service is also paid by stadium revenues and revenues from the Houston Livestock Show and Rodeo. The Harris County-Houston Sports Authority (Authority) was created to build the stadium and issue bonds. The revenues from the car rental tax and hotel tax have been below original projections. Coupled with this, in 2009 a balloon payment became due on a number of variable-rate bonds. The Authority has since turned to additional revenue sources to cover the debt service, including parking revenues and Authority cash reserves. If the Authority is unable to make payments on the bonds, the bond insurance company, MBIA, would be required to pay the debt service on the bonds. The bonds are for 30 years.[13]			
Kansas City Royals	Kauffman Stadium (renovated)	2009	$250	100%
	Debt Repayment Method: There was a .0375% sales tax increase in Jackson County to pay for renovations. The stadium is run by Jackson County Sports Authority (Authority)—which also runs the stadium for the Chiefs. The team pays rent of $450,000 per year, plus a percentage of revenues above $7.5 million. The State of Missouri contributes $3 million per year to the Authority, the county $3.5 million per year, and Kansas City $2 million per year.[14]			
Los Angeles Angels of Anaheim	Angel Stadium of Anaheim (renovated)	1998	$117	26%
	Debt Repayment Method: Public contributed $30 million—$10 million from external stadium advertising, and $20 million from hotel taxes and reserve funds.[15]			
Los Angeles Dodgers	Dodger Stadium	1962	$23	0%
	Debt Repayment Method: N/A[16]			
Milwaukee Brewers	Miller Park	2001	$414	77.5%
	Debt Repayment Method: There is a five-county, 0.01% sales tax, (Milwaukee, Ozaukee, Racine, Washington and Waukesha Counties). The debt is expected to be retired somewhere between 2014 and 2018. The tax collected $26.6 million in 2009 while the debt service for 2010 is only $17.4 million, less than the expected tax revenues.[17]			

Team	Stadium / Arena	Year Opened	Total Cost (in millions)	Public Finance %
Minnesota Twins	Hubert H. Humphrey Metrodome	1982	$55	93%
	Debt Repayment Method: Financed by selling $55 million in revenue bonds. A short-lived hotel and entertainment tax ended two years after the stadium opened, and no tax subsidy has been used to finance the Metrodome since. These two taxes raised $15.8 million total, the 2% Metro liquor tax raised $8 million. Using $13 million from interest earned on the bonds and $7 million for Vikings and Twins auxiliary facilities, the remaining costs were financed. The Metrodome is the only public stadium in the country does not rely on an ongoing tax subsidy to finance its operations, maintenance, or debt payments. The Metrodome was paid off in 1998—about half the allotted thirty years—thanks in part to a tax on tickets. [18]			
Minnesota Twins	Target Field	2010	$545	72%
	Debt Repayment Method: There was a .015% sales tax increase in Hennepin County to service the thirty-year bonds; the tax will run until the bonds are repaid plus after adequate reserves are collected to meet future obligations (approx. two years). The sales tax on goods and services purchased in Hennepin County went into effect Jan. 1, 2007. The tax does not apply to motor vehicles, clothing, most groceries, or medical supplies and services. The Twins signed a thirty-year lease. Twins commitments: $130 million cash contribution, thirty-year ironclad lease, assumption of ballpark cost overruns, payment of 100% of annual ballpark operating expenses ($10 million per year estimate), $600,000 per year (with escalation) for capital improvements over 30 years, $250,000 per year for youth activities and amateur sports, and sharing up to 18% of franchise sale proceeds if sold before 2016. Twins ownership added $55 million estimated annual debt service of $21.5 million; estimated annual tax income of $28 million. An entertainment tax of 3% applies to tickets sold at Target Field, which goes to the state and city. That tax did not apply to the Hubert H. Humphrey Metrodome. The county also agreed to contribute $1.4 million per year for capital improvements.[19]			
New York Mets	Citi Field	2009	$688	19%
	Debt Repayment Method: Payment in Lieu of Taxes—the city owns the land (thus tax exempt), and the Mets pay the city the money they would have paid in taxes. There is a forty-year repayment period, and the Mets will use "basically everything but ticket revenue" necessary to make the payments.[20] The Mets received $697 million in tax-free bonds.[21]			
New York Yankees	New Yankee Stadium	2009	$1,500	32%
	Debt Repayment Method: Payment in Lieu of Taxes (PILOT)—the city owns the land (thus tax exempt), and the Yankees pay the city the money they would have paid in taxes. The Yankees plan on using ticket revenue to make PILOT payments (over $50 million per year for forty years). The Yankees received $1.2 billion in tax-exempt bonds.[22]			

Team	Stadium / Arena	Year Opened	Total Cost (in millions)	Public Finance %
Oakland Athletics	Oakland-Alameda County Coliseum (renovated)	1996	$200	100%
	Debt Repayment Method: Intended to be funded by personal seat licenses. The sales program collapsed, leaving the authority to pay for its loans from reserve funds. "[B]onds are limited obligations of the Authority payable from revenues of the Authority, consisting primarily of rental payments payable by the County and City to the Authority . . . . The rental payments . . . are calculated to be sufficient to pay principal of and the interest on the bonds when due."[23] The rental payments fluctuate depending upon the amount of Authority revenues available to pay operating expense and debt service. The bonds are scheduled to be retired in 2025.[24]			
Philadelphia Phillies	Citizens Bank Park	2004	$458	50%
	Debt Repayment Method: 2% city car rental tax.[25]			
Pittsburgh Pirates	PNC Park	2001	$262	70%
	Debt Repayment Method: 1% Allegheny County sales tax and 7% hotel tax. The management authority collects 5% of ticket revenues above $44.5 million, 10% above $52.5 million, and 1% wage tax for players who do not live in the city. The Regional Asset District (RAD) contributes $13.4 million annually for PNC Park and Heinz Field. The RAD funding comes from the 1% Allegheny sales tax. Expected amortization period of thirty years, and the Pirates signed a thirty-year lease.[26]			
San Diego Padres	Petco Park	2004	$456	66%
	Debt Repayment Method: Money was raised through hotel taxes, $75.4 million from the City Center Development Corp., and $21 million from the Port of San Diego. The city currently pays $11.3 million per year in debt service. Because of city budget shortfalls, the city is looking to shift the debt payments to the city's redevelopment agency for the next five years. The redevelopment agency is looking to tax increment financing for income; if no further action is taken, the payments would revert to the city in 5 years. With the associated redevelopment of the formerly blighted Gaslight District, "the investment stands to pay for itself and then some, with excess tax revenue going back into city funds."[27] The final cost of the stadium facilities, according to most estimates, was $456.8 million. The Padres chipped in $153 million, 33.5% of the total cost. The other 66.5% ($303.8 million) came from public funds: $225 million from bonds, $21 million from the San Diego Unified Port District, and $57.8 million from the City's redevelopment agency.[28]			
San Francisco Giants	AT&T Park	2000	$325	0%
	Debt Repayment Method: N/A[29]			

<table>
<tr><th>Team</th><th>Stadium / Arena</th><th>Year Opened</th><th>Total Cost (in millions)</th><th>Public Finance %</th></tr>
<tr><td rowspan="2">Seattle Mariners</td><td>Safeco Field</td><td>1999</td><td>$517</td><td>76%</td></tr>
<tr><td colspan="4">Debt Repayment Method: Washington State contribution: 0.017% sales tax credit; proceeds from sale of sports lottery tickets ($3 million per year guaranteed, currently at $3.2 million); and proceeds from the sale of commemorative ballpark license plates. Sales tax credit: state authorized, county imposed 0.017% sales tax, which is offset against the sales tax now collected by the state in King County. (This results in no sales tax increase to the general public.) Lottery contribution of $3 million per year and increasing at 4% per year; continues until the debt is extinguished, which is expected between 2012 and 2016. King County: 0.5% sales tax on food and beverages in King County restaurants, taverns, and bars; 2% sales tax on rental car rates in King County; 5% admission tax on events at the new ballpark. Mariners must share profits with the public once cumulative losses (the debt) are wiped out; the bonds were initially scheduled for twenty years.[30]</td></tr>
<tr><td rowspan="2">St. Louis Cardinals</td><td>Busch Stadium</td><td>2006</td><td>$357</td><td>12%</td></tr>
<tr><td colspan="4">Debt Repayment Method: Extension of St. Louis County 3.5% hotel tax; the tax was initially passed in 1990 to build the Edward Jones Dome for the Rams; the county pays $6 million per year for the football stadium, but the tax brings in excess revenues which have been accruing interest. The money is a loan for the stadium; the loan is to be repaid by the investors, who own the stadium, presumably from Cardinals' rent payments of $14 million per year. The county gave tax breaks for stadium as well, including abatement of ticket taxes and twenty-five-year real estate tax relief.[31]</td></tr>
<tr><td rowspan="2">Tampa Bay Rays</td><td>Tropicana Field</td><td>1990</td><td>$138</td><td>100%</td></tr>
<tr><td colspan="4">Debt Repayment Method: 1% increase in Pinellas County bed tax; debt is serviced by a combination of bed tax revenues, stadium revenues, and city general fund monies. The fourth and fifth cents of the tax are scheduled to sunset in 2021. Stadium revenues consist of St. Petersburg collecting $0.50 per ticket sold. Existing debt service on stadium consists of four different bond issues, including commitments by the state, the city, and Pinellas County. St. Petersburg pays $4.6 million in debt service each year, with the county contributing $3.8 million, and the state $2 million. State uses sales tax money for their contribution; the bonds are expected to be retired in 2016, twenty-six years after the stadium opened. The contribution from the state is a law that allows teams to receive $2 million in sales tax per year, for thirty years, to repay the costs of arena construction and improvements. Rays have a lease for thirty years, until 2027. Discussions about building a new stadium are underway, though, it seems nothing has been determined yet.[32]</td></tr>
<tr><td rowspan="2">Tampa Bay Rays</td><td>Tropicana Field</td><td>1998</td><td>$85 (renovated)</td><td>79%</td></tr>
<tr><td colspan="4">Debt Repayment Method: In 1998, Tropicana field underwent a $85 million dollar renovation with the team providing 21% of the funds and the remaining 79% coming from public funding. [33]</td></tr>
<tr><td rowspan="2">Texas Rangers</td><td>Rangers Ballpark in Arlington</td><td>1994</td><td>$191</td><td>71%</td></tr>
<tr><td colspan="4">Debt Repayment Method: $3.5 million annual rental payment by the team and a 0.5% local Arlington sales tax in effect for twelve to fifteen years. As of 2001, $135 million of the $191 million debt has been paid off, and the sports authority collects $2 million in rent from the Rangers and $1 million per year on the remaining $14 million debt for land acquisition.[34]</td></tr>
</table>

Team	Stadium / Arena	Year Opened	Total Cost (in millions)	Public Finance %
Toronto Blue Jays	Rogers Centre	1989	$570 (Canadian)	63%
	Debt Repayment Method: Even in the first year, SkyDome made only $17 million in revenue against a $40 million debt service. Because the debt continued to grow each year, the Province of Ontario paid off the nearly $400 million debt from the provincial treasury; the stadium was then sold for $151 million.[35]			
Washington Nationals	Nationals Park	2008	$611+	100%
	Debt Repayment Method: In-stadium taxes on tickets, concessions, and merchandise (estimated $11–$14 million annually), a new tax on businesses with gross receipts of $3 million or more (estimated $21–$24 million annually); $5.5 million in annual rent payments over a thirty-year lease term from the team. In-stadium sales tax of 10%; all taxes are levied by the District of Columbia; the stadium was financed with thirty-year bonds.[36]			

Table 2. National Football League

Team	Stadium / Arena	Year Opened	Total Cost (in millions)	Public Finance %
Arizona Cardinals	University of Phoenix Stadium	2006	$455	76%
	Debt Repayment Method: Arizona Sports and Tourism Authority (ASTA) owns the stadium and provided $346 million in funding. ASTA collects a 1% hotel bed tax: $14.9 million; 3.25% car rental surcharge: $9 million; sales tax recapture from Arizona Cardinals games at the University of Phoenix Stadium: $3.4 million; Arizona Cardinals' stadium rent: $250,000 and growing by 2% each year; Fiesta Bowl ticket surcharge: $1.2 million. Debt service totals $12.6 million per year. Sales tax recapture are funds collected by the state and the City of Glendale related to sales taxes collected at the University of Phoenix stadium. Glendale tax is 1.2% generally and 2.2% for food services at the stadium. Cardinals pay an annual rent of $250,000, increasing by 2% annually; Fiesta Bowl has a $2.50 per ticket surcharge increasing by $0.20 annually; facility use fee for non-Cardinals/Fiesta Bowl games: $4.50 per ticket for 18,001+ fan events, $1.00 per ticket for events up to 18,000. Facility use fee increases by $.025 per year for events with an estimated attendance of over 18,000 events and by $1.00 each seven years for events with an estimated attendance up to 18,000. Cardinals and Fiesta Bowl also pay facility use fee of $4.25 per ticket, which increases by $0.25 per year. Fiesta pays this on top of the other surcharge bonds of twenty-eight years and thirty-one years, expiring in 2031 and 2036, respectively. The hotel and car rental tax recovery for ASTA runs through 2031, and the Glendale tax recovery for ASTA runs through 2036. Both the Cardinals and the Fiesta Bowl signed thirty-year leases, and also have event revenue coming from concessions, catering, building rents, novelties, exhibitions, and other sources.[37]			
Atlanta Falcons	Georgia Dome	1992	$214	100%
	Debt Repayment Method: Debt is covered by money generated by the stadium and from 39% (by 1997) of a 7% hotel tax imposed in Fulton County (this would equate to a 2.75% tax). Stadium revenues consist of executive suite and club seat lease income, advertising, and event revenue from concessions, parking and rent. The bonds are thirty-year bonds and repayment lasts until 2020; the Falcons lease requires the team to play in the dome until the bonds are paid off. The hotel tax alone has paid most of the annual debt service; the county refinanced the bonds in 2000 with a 5.5-6% interest, still due in 2021. In 2010, legislation was approved which aimed to keep the Falcons in Atlanta. It would extend the hotel/motel tax for Atlanta until 2045, providing money to build a new Falcons stadium in the future.[38]			
Baltimore Ravens	M&T Bank Stadium	1998	$220	87%
	Debt Repayment Method: State lottery revenues, stadium revenues (10% tax on tickets which earns approximately $2.6 million per year). Ravens are responsible for all maintenance, but pay no rent to the Maryland Stadium Authority (ownership authority). Stadium is financed by four means: (1) $88 million in revenue bonds, (2) $5 million short term borrowing, (3) $63 million in lottery revenue over 3 years (1997–2000), and (4) $44 million from admission taxes and Ravens rent. State paid total of $200 million.[39]			

Team	Stadium / Arena	Year Opened	Total Cost (in millions)	Public Finance %
Buffalo Bills	Ralph Wilson Stadium (renovated)	1999	$63	100%
	Debt Repayment Method: $11 million per year for five years from luxury boxes and club seat fees; Erie County owns and operates the stadium. The lease between the Buffalo Bills and Erie County expires July 2013. The current lease included the $63 million improvements, along with a $3 million per year capital grant. The Bills will pay rent to the county based on a formula that equates to half of the team's net ticket revenues, minus the NFL average for ticket revenue. The Bills receive all parking and concessions profits.[40]			
Carolina Panthers	Bank of America Stadium	1996	$247.7	0%
	Debt Repayment Method: N/A[41]			
Chicago Bears	Soldier Field (renovated)	2003	$660	62%
	Debt Repayment Method: Bears and NFL contributed $250 million. Illinois Sports Facility Authority contributed $406 million. Extension of the original 2% citywide hotel tax used to build U.S. Cellular Field portion of its 5% statewide hotel tax along with $10 million in state and city subsidies secures the Soldier Field bonds. The state advances the funds needed to cover debt service and then reimburses itself with funds from the sports agency's 2% tax on hotels in Chicago. If the hotel revenue was ever to fall short, the state could dip into Chicago's share of state income tax funds that are pledged for reimbursement. Over the last twenty years, the hotel tax income has increased by 5.8% annually, but only at 2.8% annually in the last ten years. Revenue would have to consistently grow an average of 4.2% per year to cover debt service in the final year. The bonds are scheduled to be retired in 2032. In December 2009, the stadium bond rating was downgraded due to the downgrade of the State of Illinois's rating.[42]			
Cincinnati Bengals	Paul Brown Stadium	2000	$453	89%
	Debt Repayment Method: 1% city sales tax, a ticket surcharge, seat licenses, and nine years of rent payments by the Bengals ($11.7 million). The county pays all operating costs (except game day), which includes staffing, utilities, and other expenses. The remaining debt will be paid by a 0.5% Hamilton County sales tax increase. The county issued thirty-year bonds for the stadium. In 2006, officials restructured the stadium bonds, pushing back the debt's maturity by several years. Sales tax collections began to flatten out in 2002 and have weakened considerably during the last two years amid the national recession. The county has tried twice since 2006 to raise the sales tax from its current rate of 6.5%, but voters have rejected both efforts. When the county tax increase was approved, county commissioners projected tax revenues to increase by 3% per year. From 2002–2007, the tax revenues only increased by 1.9% per year. The county currently spends 16.9% of the budget paying for the stadium. As of 2009, the Bengals ceased paying rent payments under the lease agreement. The Bengals are trying to use the county's financial problems to get out of the lease ten years early, by offering $40 million in concessions, including capital repairs and staffing. The county continues to struggle to support its debt obligations, and alternative plans to bail out the stadium have been proposed.[43]			

<table>
<tr><th>Team</th><th>Stadium / Arena</th><th>Year Opened</th><th>Total Cost (in millions)</th><th>Public Finance %</th></tr>
<tr><td rowspan="2">Cleveland Browns</td><td>Cleveland Browns Stadium</td><td>1999</td><td>$315</td><td>76.5%</td></tr>
<tr><td colspan="4">Debt Repayment Method: County taxes: voters of Cuyahoga County approved an extension of the existing county tax on alcohol and cigarettes from August 1, 2005, through July, 31, 2015. City taxes: 8% off-street parking tax; increase in admissions tax from 6% to 8%; increase in motor vehicle leasing transaction tax from $4 to $6. The Browns signed a thirty-year lease, pay an annual rent of $250,000; thirty-year stadium bonds to be retired in 2031.[44]</td></tr>
<tr><td rowspan="2">Dallas Cowboys</td><td>Cowboys Stadium</td><td>2009</td><td>$1,150</td><td>30%</td></tr>
<tr><td colspan="4">Debt Repayment Method: The City of Arlington issued $325 million in bonds, which are being repaid through a 0.5% increase in the city's sales tax, 2% increase in its hotel occupancy tax, and 5% increase in its car rental tax. The Cowboys issued an additional $113 million in bonds, which are being repaid by a $3 per vehicle parking tax and 10% ticket tax. These taxes have produced larger than anticipated revenues for both Arlington and the Cowboys, making it possible that each will be able to pay off the bonds earlier than scheduled.[45]</td></tr>
<tr><td rowspan="2">Denver Broncos</td><td>Sports Authority Field at Mile High</td><td>2001</td><td>$364.2</td><td>73%</td></tr>
<tr><td colspan="4">Debt Repayment Method: The stadium was financed by a 0.1% increase in the sales tax on retail sales in the six-county Denver metro area (which includes Araphoe, Denver, Boulder, Douglas, Jefferson, and Adams counties). The counties' voters originally approved the sales tax to finance nearby Coors Field (home of the Colorado Rockies) and extended the tax to finance Invesco Field at Mile High (now named Sports Authority Field at Mile High) through a 1998 voter referendum. The NFL contributed $150 million towards the stadium.[46]</td></tr>
<tr><td rowspan="2">Detroit Lions</td><td>Ford Field</td><td>2002</td><td>$500</td><td>36% to 51% (including Wayne County revenue bonds)</td></tr>
<tr><td colspan="4">Debt Repayment Method: Public funding came from City of Detroit, Wayne County and Detroit Downtown Development Authority. Wayne County taxes of 2% rental car tax and 1% hotel room tax. In 2005, Michigan's Attorney General issued an opinion preventing the county from subjecting taxis, buses, and limousines to the rental car tax. Rather, the tax could only be applied to rental car companies. The Lions have entered into a thirty-five year lease with the Wayne County Stadium Authority, the stadium's owner.[47]</td></tr>
<tr><td rowspan="2">Green Bay Packers</td><td>Lambeau Field (renovated)</td><td>2003</td><td>$295</td><td>59%</td></tr>
<tr><td colspan="4">Debt Repayment Method: A 0.5% sales tax in Brown County brings in $13.8 million per year. $9.7 million per year is used for debt service, with another $4.1 million for stadium maintenance. The debt was repaid as of August 1, 2011, almost seven years early, but the tax will continue until 2015 to bolster the long-term maintenance fund for the Stadium. The Brown County Stadium District issued $160 million in construction bonds which are secured by (1) the district's interest in any football stadium facilities, (2) income from those facilities, (3) proceeds from district bonds, and (4) revenue from the sales and use taxes. The Stadium District also collects revenue from the sale of stadium bricks and from state sales of Packer license plates.[48]</td></tr>
</table>

Team	Stadium / Arena	Year Opened	Total Cost (in millions)	Public Finance %
Houston Texans	Reliant Stadium	2002	$352	73%
	Debt Repayment Method: The Harris-County Sports Authority (Authority) was created to build the Texans' stadium along with Minute Maid Park (home of the Houston Astros) and Toyota Center (home of the Houston Rockets). The Authority financed construction of these arenas through issuing bonds, which are being repaid by a 2% hotel tax and 5% rental car tax. The Authority has had trouble repaying the bonds for two primary reasons: first, revenues from these taxes fell short of expectations and second, a large balloon payment was due in 2009 on a number of variable-rate bonds. In response to speculation that Houston's taxpayers would need to bail the Authority out if it defaults on its debt payments, its chairman noted that this obligation would fall on Authority's bond insurer, not the public. The Authority has since tapped additional revenue sources to pay off the bonds, including a 10% ticket tax (which may not exceed $2) and parking tax. The Texans pay $6.2 million annually in rent, while another tenant of the stadium, a rodeo, pays $1.5 million annually in rent.[49]			
Indianapolis Colts	Lucas Oil Stadium	2008	$720	86%
	Debt Repayment Method: Public funding for the stadium came from a variety of sources, with Marion County contributing the most. Nine of the ten counties that surround Indianapolis (all but Morgan County) agreed to levy a 1% tax on prepared food. Marion County doubled its existing 1% tax on prepared food, which had been used to pay for the RCA Dome, the Colts previous stadium. In addition, the county increased its hotel tax by 3% and car rental tax by 2%. Other funds came from the sale of Colts license plates, lottery tickets, and a 1% increase in the tax charged on Colts tickets. The Capital Improvement Board of Managers of Marion County (CIB), which manages the stadium, has the option of charging an additional $3 surcharge on Colts tickets and a 1% surcharge on tickets for other events at the stadium. The City of Indianapolis raised its hotel taxes in order to cover a portion of CIB's $47 million deficit in 2010. This shortfall prompted the city to explore the possibility of turning operations over to a private management company, though further action has not taken place.[50]			
Jacksonville Jaguars	Jacksonville Municipal Stadium; Renamed EverBank Field (renovated 2010)	1995	$121	90%
	Debt Repayment Method: The City of Jacksonville issued $124 million in bonds. Its annual debt payment was initially $6 million, though it eventually increased to $7.3 million. The debt is being repaid through a 2% hotel tax, rent from the Jaguars, and parking and ticket surcharges. While the city retained a 25% share of any naming rights deal, it recently allowed the Jaguars to keep the entire amount of a $16.6 million naming rights deal with EverBank in 2010 in order to show its long-term commitment to the team. Currently, Jacksonville receives $14 million per year in revenue from these various sources, though this has not been enough to cover both debt service and operational costs. To account for the shortfall, the city has tapped into its general funds to pay for infrastructure maintenance and police costs.[51]			

<table>
<tr><th>Team</th><th>Stadium / Arena</th><th>Year Opened</th><th>Total Cost (in millions)</th><th>Public Finance %</th></tr>
<tr><td rowspan="2">Kansas City Chiefs</td><td>Arrowhead Stadium (renovated)</td><td>2010</td><td>$375</td><td>67%</td></tr>
<tr><td colspan="4">Debt Repayment Method: The Jackson County Sports Complex Authority owns and manages both Arrowhead Stadium and Kauffman Stadium (home of the Kansas City Royals). In 2006, Jackson County voters approved a 0.0375% sales tax increase to fund renovations for both stadiums. The Authority receives funding from a variety of sources, including the city, county, and state. Specifically, Kansas City, the State of Missouri, and Jackson County contribute $2 million, $3 million, and $3.5 million per year, respectively. The county's contribution is funded by a park levy of 0.08% per $100 assessed valuation. In 2006, both the Chiefs and Royals entered into twenty-five year leases with two five-year renewal options. The Chiefs pay $450,000 annually in rent and a certain percentage of its gross receipts in excess of $7.5 million.[52]</td></tr>
<tr><td rowspan="2">Miami Dolphins</td><td>Sun Life Stadium</td><td>1987</td><td>$250</td><td>10%</td></tr>
<tr><td colspan="4">Debt Repayment Method: N/A. Recently, the Dolphins asked for public funding for further renovations.[53]</td></tr>
<tr><td rowspan="2">Minnesota Vikings</td><td>Hubert H. Humphrey Metrodome</td><td>1982</td><td>$68</td><td>81%</td></tr>
<tr><td colspan="4">Debt Repayment Method: Financed by selling $55 million in revenue bonds. A short-lived hotel and entertainment tax ended two years after the stadium opened, and no tax subsidy has been used to finance the Metrodome since. These two taxes raised $15.8 million total, the 2% Metro liquor tax raised $8 million. Using $13 million from interest earned on the bonds and $7 million for Vikings and Twins auxiliary facilities, the remaining costs were financed. The Metrodome is the only public stadium in the country does not rely on an ongoing tax subsidy to finance its operations, maintenance, or debt payments. The Metrodome was paid off in 1998—about half the allotted thirty years—thanks in part to a tax on tickets. The Metropolitan Sports Facilities Commission (Sports Commission) receives 90% of gross concession sales to pay for maintenance and upkeep. The State receives 10% of concession sales, 10% of admission taxes, and rental leases from the luxury boxes. Construction of a new, $975 million Metrodome is underway. The Vikings will contribute $477 million and the State of Minnesota will contribute $348 million through gaming fees and an additional $150 million through a hospitality tax.[54]</td></tr>
<tr><td rowspan="2">New England Patriots</td><td>Gillette Stadium</td><td>2002</td><td>$350</td><td>0%</td></tr>
<tr><td colspan="4">Debt Repayment Method: Although the public did not directly pay anything towards the stadium itself, the City of Foxborough did pay $70 million in infrastructure (road and sewers) improvements around the stadium. The bonds for these improvements were issued in 2000, with some lasting twenty years while others lasted twenty-five years. Though the bonds are issued by the town, the state is repaying the bonds. The team must pay $250,000 in rent for as long as the bonds are outstanding. Both the team and the towns of Sharon, Walpole, Wrentham, and Foxborough must also pay administration fees each year, which are due until the bonds are retired. The towns collect fees from each of the parking spaces they lease, while the team's fee is a $750,000 annual payment.[55]</td></tr>
</table>

Team	Stadium / Arena	Year Opened	Total Cost (in millions)	Public Finance %
New Orleans Saints	Louisiana Superdome	1975	$134	100%
	Debt Repayment Method: The Louisiana Stadium and Exposition District (LSED) operates the stadium and imposed a 4% hotel tax in two parishes (counties), Jefferson and Orleans, to finance the project. The LSED brings in approximately $40 million per year in taxes and $23 million per year of operations revenues. However, between contractual payments owed to the team and debt service costs, there is a budget shortfall. The bonds for the stadium are still outstanding; they are auction-rate bonds, which shot up drastically in 2008 due to the economic crisis.[56]			
New Orleans Saints	Mercedes-Benz Superdome (renovated)	2006	$336	95% (including FEMA funds)
	Debt Repayment Method: Since 2006, over $336 million has been spent on renovations, of which $156 million came from the Federal Emergency Management Agency, $121 million from the State of Louisiana, $44 million from Louisiana Stadium and Exposition District, and $15 million from the NFL. The Saints' lease has been extended to 2025.[57]			
New York Giants / Jets	Giants Stadium	1976	$78	100%
	Debt Repayment Method: The debt on Giants Stadium was repaid with revenue from a nearby racetrack. Even though it was demolished in 2010, $110 million of debt remains on the stadium.[58]			
New York Giants / Jets	MetLife Stadium	2010	$1,600	0%
	Debt Repayment Method: N/A. NFL is providing $300 million, and each team is financing $650 million through private loans.[59]			
Oakland Raiders	Overstock.com Coliseum (renovated)	1996	$197	100%
	Debt Repayment Method: The original plan was to repay the stadium renovation debt with revenues from personal seat licenses. Because these sales did not rise to expected levels, the stadium authority has had to rely on its reserve funds and an annual subsidy from the City of Oakland and Alameda County. The amount of the subsidy varies because it covers the stadium authority's annual budget shortfall (i.e., revenues less operational and debt service costs). Alameda County and Oakland split the cost of an annual subsidy to the stadium. The county uses penalties, fees, and interest on delinquent properties to fund the subsidy, while Oakland uses general funds. As a result of this subsidy, the city actually loses money each time the Raiders play. This comes in addition to the $20 million that the city pays on bond debt from the renovation. Even after fifteen years, approximately $99 million remains in bond payments. These thirty-year bonds are due in 2026. There have been recent discussions that Oakland and the 49ers should share a new stadium, as the New York Giants and New York Jets have done.[60]			
Philadelphia Eagles	Lincoln Financial Field	2003	$512	40%
	Debt Repayment Method: State committed to contribute $85 million, and the city put up $96 million, some of which is from car rental taxes and wage taxes (mostly from players' salaries).[61]			

Team	Stadium / Arena	Year Opened	Total Cost (in millions)	Public Finance %
Pittsburgh Steelers	Heinz Field	2001	$281	69%
	Debt Repayment Method: Allegheny Regional Asset District (RAD) collects a 1% Allegheny County sales tax. RAD contributes $13.4 million per year for thirty years to help pay the debt service on both Heinz Field and PNC Park, home of the Pittsburgh Pirates. Allegheny County also instituted a 7% hotel tax to help pay the debt service. The Steelers signed a thirty-year lease to play in the new stadium until 2031. The Sports and Exhibition Authority contributed $31 million for construction, which is to be recouped by revenue from parking lots adjacent to the stadium. Stadium funded as part of package providing for city's hockey and baseball teams. County hotel tax accounts for 10% of annual financing of construction bonds. 5% surcharge added to tickets. Steelers have to pay 15% of non-sporting event revenues.[62]			
San Diego Chargers	Qualcomm Stadium (renovated)	1997	$78	77%
	Debt Repayment Method: The bonds are being repaid with stadium-generated revenues and a 10.5% hotel tax. The thirty-year bonds, which are scheduled to be paid in full in 2027, are not tax exempt because they funded a percentage of private uses beyond the IRS limits on such municipal bonds. As of 2010, there is a $52 million balance on the bonds. Combining bond payments and operational costs, San Diego estimates that it loses $10 to $12 million per year by owning and operating the stadium. The Chargers pay a maximum of $2.5 million per year in rent on a lease that expires in 2020. If the team leaves earlier, it is subject to a termination fee ($25.8 million in 2011), which decreases in value each year. There is concern that the Chargers will relocate to Los Angeles, where a new stadium is in the works. Chargers say an $800 million stadium is needed to keep them in San Diego and expect the cost of such a stadium to be about 65% publicly funded.[63]			
San Francisco 49ers	Candlestick Park	1960	$24.6	100%
	Debt Repayment Method: Fully financed by city. Operating expenses have not met the debt service on the stadium. As a result, the city has had to pay the debt with general city funds; the city charges ticket surtaxes of $.75 for tickets, which cost less than $25.01, $1.75 for tickets costing $25.01 to $25.50, and $2.25 for tickets priced above $25.50. Ticket surcharge revenue is used first for debt service and, if any is remaining, it goes directly into the city's general fund. The bonds are expected to be repaid in 2021.[64]			
San Francisco 49ers	49ers New Stadium	2015	$987 (Final cost to be determined)	Ultimately to be determined
	Debt Repayment Method: 49ers agreed to move to Santa Clara after the city voted to provide new stadium. Despite this move, to retain the name "San Francisco 49ers," Santa Clara will pay $79 million for infrastructure and stadium construction costs. The team would keep all revenue from ticket sales, advertising, and luxury seats for non-NFL related events. The Santa Clara Stadium Authority would receive revenue from naming rights, concessions sales, parking lots, and annual rents payments of $1 million.[65]			

Team	Stadium / Arena	Year Opened	Total Cost (in millions)	Public Finance %
Seattle Seahawks	CenturyLink Field	2002	$430	83%
	Debt Repayment Method: $127 million from new lottery games, $101 million in King County sales taxes collected from stadium events, stadium admissions, and parking, $56 million from facility admissions and parking taxes, $15 million from King County's hotel-motel tax. King County may levy up to a 10% tax on stadium admissions at CenturyLink Field; King County may impose a sales tax of 0.016% for CenturyLink Field.[66]			
St. Louis Rams	Edward Jones Dome	1995	$280	100%
	Debt Repayment Method: Half the stadium debt is serviced by the state through an annual general fund appropriation; county services 25% of debt with proceeds from a 3.5% hotel tax, and remaining 25% is serviced by city through convention center income. Annual debt service paid by state ($12 million from tax revenue); county ($6 million from hotel/motel tax); city ($6 million from tax revenue).[67]			
Tampa Bay Buccaneers	Raymond James Stadium	1998	$168.5	100%
	Debt Repayment Method: 0.05% increase of Hillsborough County sales tax. 11% of the tax will be dedicated to stadium construction with the remaining portion going to schools, fire/law enforcement, and infrastructure. Team pays $3.5 million per year in rent, and collects the first $2 million in after-expense earnings from other events at the stadium, and half of all profits above $2 million. The stadium authority also receives funds from a 1% Hillsborough County tourism tax and a state sales tax rebate. Tampa is considering options for building a new stadium.[68]			
Tennessee Titans	LP Field	1999	$292	100%
	Debt Repayment Method: Financed by City of Nashville hotel taxes, surplus state funds, and a state facility sales tax; There is an annual $4.0 million Water & Sewer payment in lieu of taxes.[69]			
Washington Redskins	FedEx Field	1997	$250.5	28%
	Debt Repayment Method: Redskins received a property tax break, but the county still receives between $7–10 million in taxes on tickets and hotel rooms, and still collects the remaining property taxes.[70]			

Table 3. National Basketball Association

Team	Stadium / Arena	Year Opened	Total Cost (in millions)	Public Finance %
Atlanta Hawks	Philips Arena	1999	$213.5	91%
	Debt Repayment Method: The city contributed $62.5 million to be paid by a 3% city car rental tax. Turner Broadcasting System/Time Warner was the initial owner and assumed all debt service. The teams and stadium were then sold to Atlanta Spirit LLC, which now owns the Thrashers and Hawks, holds the operating rights to the area, and is responsible for the debt service. Debt service payments are approximately $12 million per year for thirty years.[71]			
Boston Celtics	TD Garden	1995	$160	0%
	Debt Repayment Method: N/A[72]			
Charlotte Bobcats	Time Warner Cable Arena	2005	$265	100%
	Debt Repayment Method: A 3% hotel tax and 3% car rental tax in the City of Charlotte and Mecklenburg County. Charlotte also pledged several government buildings as collateral for the debt. The debt service is back-loaded in order to allow sufficient tourism fund reserves to accumulate because annual revenues will not match debt service requirements until the fiscal year 2025, assuming a 4% annual increase in those revenues beginning in 2006. If the hotel and car rental taxes fall short, Charlotte would have to make payments from its general fund. The thirty-year bonds are due in 2033. The stadium is operated by Bobcat Sports & Entertainment but built by Charlotte.[73]			
Chicago Bulls	United Center	1994	$175	7%
	Debt Repayment Method: The City Council agreed to spend $12 million on infrastructure improvements. Otherwise, the stadium is privately financed. There does not seem to be any repayment to Chicago, only that the infrastructure improvements were paid by the city.[74]			
Cleveland Cavaliers	Quicken Loans Arena	1994	$152	48%
	Debt Repayment Method: Taxes on alcohol ($3 per gallon on liquor, $0.16 per gallon on beer) and cigarettes ($0.045 per pack) for fifteen years in Cuyahoga County. The team signed a thirty-year lease at the arena and rent is figured as a share of suite revenue and tickets sold. The City of Cleveland imposed a 3% ticket tax at the arena. The bonds are for thirty years.[75]			
Dallas Mavericks	American Airlines Center	2001	$420	30%
	Debt Repayment Method: The City of Dallas imposed a 5% car rental tax and 2% hotel tax for debt service. The team also pays $3.4 million per year for its thirty-year lease. The public bonds' ratings were upgraded in December 2009 due to their strong income streams. In fact, Dallas has been able to pay back a number of the bonds early: public bonds were issued in 1998 for $125 million, but in 2009 only $33 million were still outstanding. The Center was completely paid off in the summer of 2011.[76]			
Denver Nuggets	Pepsi Center	1999	$164.5	3%
	Debt Repayment Method: Denver paid for road and other infrastructure improvements and gave up a "seat tax" which it had collected from the old arena. In return, the Nuggets agreed to remain in Denver for at least the next thirty years.[77]			

Team	Stadium / Arena	Year Opened	Total Cost (in millions)	Public Finance %
Detroit Pistons	The Palace of Auburn Hills	1988	$70	0%
	Debt Repayment Method: N/A[78]			
Golden State Warriors	Oracle Arena (renovated)	1997	$140	100%
	Debt Repayment Method: A 5% ticket surcharge on all events. The Warriors signed a twenty-year lease until 2017, and if they were to move before then, they would have to pay all of the remaining debt on the venue, currently $105 million. The team pays $7.4 million per year towards debt service. The rent is $1.5 million. The City of Oakland and the County of Alameda issued $140 million to pay for the renovations. 80% was refinanced by private loans guaranteed by the Warriors, and 20% was paid by the city and county. The city and county paid $38 million in debt service for the Arena and Oakland Coliseum in 1999. This number was reduced to $19 million in 2005 due to increased revenues and restructured bonds. The Oakland-Alameda County Coliseum Authority also collects parking and concession revenues. Both the city and the county pay approximately $10 million per year towards the two stadiums out of their respective general funds.[79]			
Houston Rockets	Toyota Center	2003	$235	100%
	Debt Repayment Method: The Harris County-Houston Sports Authority (Authority) was created to build the stadium and issue bonds; the debt service is paid by 2% hotel and 5% rental car taxes, stadium revenues, and revenues from the Houston Livestock Show and Rodeo. Revenues from the car rental tax and hotel tax have been below original projections, and in 2009 a balloon payment became due on a number of variable-rate bonds. The Authority has since had to turn to additional revenue sources to cover the debt service, including parking revenues and the Authority's cash reserves. If the Authority is unable to make payments on the bonds, the bond insurance company, MBIA, would be required to pay the debt service on the bonds. The Rockets pay $8.5 million per year in rent for thirty years. The stadium bonds are for thirty years.[80]			
Indiana Pacers	Bankers Life Fieldhouse	1999	$183	43%
	Debt Repayment Method: The County Capital Improvement Board (CIB) created a professional sports developmental tax district around the facility, also using cash reserves and Circle Centre Mall revenues. In 2010, eleven years after the Fieldhouse opened, the CIB owed $214 million in principal and interest; current debt service payments were $13 million per year, and will rise to $24 million per year by 2027, when the bonds are fully repaid. In 2010, the team also requested that the city pay for the Fieldhouse's operating costs, which are an additional $15 million per year. Under the terms of the current lease, the Pacers keep all stadium revenues but must pay for all expenses of the venue, excluding major capital improvements. In 2010, the CIB entered into an amended agreement with the Pacers. Under this amendment, the CIB agreed to provide $3.5 million dollars of capital improvements to Bankers Life Fieldhouse, $1.5 million of which were provided in 2010. The CIB expected the remaining $2 million of improvements to be completed during 2011.[81]			

Team	Stadium / Arena	Year Opened	Total Cost (in millions)	Public Finance %
Los Angeles Clippers / Lakers	Staples Center	1999	$375	19%
	Debt Repayment Method: The Los Angeles Convention Center reserves, arena revenues, and tax incremental financing from the City's Community Redevelopment Agency. The construction bonds for the arena were issued in 1999 and the final targeted maturity is 2021. The final rated maturity is 2026. The arena revenues are a portion of the parking fees and a ticket surcharge. The debt service for the loans from the city amounts to $3.8 million per year. The agreement for the arena contained a Debt Service Agreement, which stipulates that the city is guaranteed enough money through parking and ticket fees to cover its annual debt service on the stadium.[82]			
Memphis Grizzlies	FedEx Forum	2004	$250	83%
	Debt Repayment Method: A $1.15 ticket fee, sales tax on merchandise and concessions sold at the arena (0.5%), car-rental taxes, city (1.75%) and county hotel taxes, and a contribution from Memphis Light, Gas and Water Division (payment in lieu of taxes). In 2009, the Memphis and Shelby County Sports Authority asked the city and county for up to $160 million in new debt in order to obtain lower interest payments, which had increased significantly. To reduce payments, the Authority refinanced some of its fixed-rate debt to variable-rate debt, reducing the interest rate from 5.25% to 4.25%. When the economy worsened, the interest rate shot up to 9%. The revenue sources were not enough to meet this higher debt burden, and the Authority had to use reserve funds for the debt service. In 2009, the Authority still owed nearly $130 million in principal and interest on the stadium. Shelby County has 5% hotel tax and Memphis has 1.7% hotel tax.[83]			
Miami Heat	American Airlines Arena	1999	$213	59%
	Debt Repayment Method: A portion of the Dade County Convention Development Tax and a portion of the Dade County Professional Sports Facilities Franchise Tax are used, and two thirds of the 4% Convention Development Tax is used for repayment, as well as portions of the 1% Sports Facilities Franchise Tax. In sum, this provides $8.5 million per year to pay for debt service.[84]			
Milwaukee Bucks	Bradley Center	1988	$90	0%
	Debt Repayment Method: N/A. There recently has been some discussion of extending the Miller Park (home of the Milwaukee Brewers) tax to help pay for a new arena for the Bucks. The arena was donated by Jane Bradley Pettit in memory of her father.[85]			
Minnesota Timberwolves	Target Center	1990	$104	100%
	Debt Repayment Method: Initially, the stadium was paid for by the team owners in 1988, but by 1994 the City of Minneapolis had to buy the arena for $85 million. The city issued $84.65 million in bonds to finance the purchase. To repay the debt, the city pays $6.25 million in debt service and capital costs annually—$750,000 in capital maintenance and $5.5 million in debt service. Additionally, the city has provided $14 million in capital funds since 2003 for improvement projects. The state contributes $750,000 per year towards debt service through its Amateur Sports Commission. The city pays its share of the debt service through a number of revenue streams, including a 3% ticket tax, the stadium's property taxes and tax increment financing revenue, other related tax incremental financing revenues, and revenues from the city-owned parking structure.[86]			

<table>
<tr><th>Team</th><th>Stadium / Arena</th><th>Year Opened</th><th>Total Cost (in millions)</th><th>Public Finance %</th></tr>
<tr><td rowspan="2">New Jersey Nets</td><td>Izod Center</td><td>1981</td><td>$85</td><td>100%</td></tr>
<tr><td colspan="4">Debt Repayment Method: Debt is serviced by revenue from an adjacent racetrack. As of 2009, the stadium was $77 million in debt, although it has been roughly revenue neutral over the past few years. Revenues and income at the racetrack have declined, and this has impaired the debt service for the arena.[87]</td></tr>
<tr><td rowspan="2">New Orleans Hornets</td><td>New Orleans Arena</td><td>1999</td><td>$110</td><td>100%</td></tr>
<tr><td colspan="4">Debt Repayment Method: The Louisiana Stadium and Exposition District (District) built the arena and relies on a 4% hotel tax for the debt service. The total debt service, including interest, is estimated to be approximately $170 million. The District comprises the entire Orleans and Jefferson Parishes, and it has the power to impose hotel taxes within these two parishes. The Hornets receive inducement payments from the District.[88]</td></tr>
<tr><td rowspan="2">New York Knicks</td><td>Madison Square Garden (renovated)</td><td>1991</td><td>$200</td><td>0%</td></tr>
<tr><td colspan="4">Debt Repayment Method: N/A. However, the owners do receive a property tax break as long as the professional teams continue to play there. Madison Square Garden is also undergoing a three-phase, $850 million renovation that began in 2011 and is expected to be complete in 2013.[89]</td></tr>
<tr><td rowspan="2">Oklahoma City Thunder</td><td>Chesapeake Energy Arena (renovated)</td><td>2010</td><td>$121</td><td>100%</td></tr>
<tr><td colspan="4">Debt Repayment Method: The arena, formerly named the Ford Center, opened in 2002 using money from a $0.01 tax generated as part of Metropolitan Area Projects, an urban redevelopment program. In 2008, the citizens of Oklahoma City voted to extend the $0.01 tax for fifteen months to finance these arena renovations and to build a new practice facility in order to entice the Supersonics to move from Seattle.[90]</td></tr>
<tr><td rowspan="2">Orlando Magic</td><td>Amway Arena</td><td>1989</td><td>$102</td><td>100%</td></tr>
<tr><td colspan="4">Debt Repayment Method: The City of Orlando collects revenue from the Magic through a $7,000 per game rental charge. It also receives 50% of the profits from concession sales, 25% of the rental revenue from skyboxes, and all parking income. The city pays approximately $18.3 million per year in debt service on the arena. The primary debt-service mechanism for the Arena is the Tourist Development Tax, which by state law can only be imposed for the promotion of tourism, construction of convention centers, sports, arts, and cultural facilities. The tourism tax applies to all of Orange County, Florida short-term rentals of six months or less, which primarily encompasses hotels and timeshares.[91]</td></tr>
<tr><td rowspan="2">Orlando Magic</td><td>Amway Center</td><td>2010</td><td>$480</td><td>87.5%</td></tr>
<tr><td colspan="4">Debt Repayment Method: $160 million in local taxes were used, having been collected in a special taxing district that was formed years ago to stimulate downtown Orlando. The Magic’s contribution was $50 million in construction costs, and a commitment to help finance $100 million in debt over thirty years and pay for cost overruns. The Magic will also owe rent of $1 million for twenty-five years, and $1.75 million, which increases by 3% per year, from revenue created from suites, advertising, and naming rights.[92]</td></tr>
</table>

Team	Stadium / Arena	Year Opened	Total Cost (in millions)	Public Finance %
Philadelphia 76ers	Wells Fargo Center	1996	$206	11%
	Debt Repayment Method: The arena was built with minimal public financing. The state provided $27 million, and the city provided an $8.5 million loan for infrastructure improvements. To help finalize the loan, Comcast Spectacor promised to use more minority workers in the construction of the arena and to allow the city to use the old and new arenas for fundraising events. Comcast Spectacor provided most of the remaining money through private financing and its own contribution. Stadium revenue is used to make debt payments.[93]			
Phoenix Suns	U.S. Airways Center	1992, 2002 renovated	$90, $79 for renovation ($169 total)	41% (of $169 total cost)
	Debt Repayment Method: The Suns have committed to repaying the city a portion of the contribution at $500,000 per year, which increases 3% per year. The city also receives 40% of the revenue from luxury boxes and advertising. The Phoenix Arena Development Limited Partnership operates the arena and pays all debt service from stadium revenues. After debt service is paid from arena revenues, the net profits are shared between the city and the management company. The city receives 70% and the management company keeps 30%. The city originally contributed $35 million to the project. The team is supposed to collect 60% of the revenue from luxury boxes and advertising, but because the annual arena profits only barely cover the debt service, the team is owed approximately $53 million in deferred payments from this revenue source. Once the bonds are repaid in 2022, the Suns will then collect the entirety of the revenues until their deferred payments have been paid off, including 4% interest and rental car and lodging taxes.[94]			
Portland Trial Blazers	Rose Garden	1995	$262	82%
	Debt Repayment Method: City of Portland imposed a 6% ticket tax and brings in revenues from city-owned parking lots. The city has outstanding debt of $23 million and makes an annual debt service payment of approximately $2.8 million per year. The bonds will be retired in 2017–18. If the Spectator Fund (the 6% tax) does not collect enough money to cover all debts, then the city's general fund is responsible for any such shortfalls. Portland collects roughly $3.6 million annually in parking fees.[95]			
Sacramento Kings	Power Balance Pavilion	1988	$40	0%
	Debt Repayment Method: N/A[96]			
San Antonio Spurs	AT&T Center	2002	$186	84%
	Debt Repayment Method: Money collected from a 1.75% hotel tax and a 5% rental car tax in Bexar County helps pay some of the debt. Additionally, since the beginning, the Spurs and the Rodeo have paid a base rent of $1.3 and $1.2 million per year respectively, which increased by $50,000 per year for the first five years but now increases by the consumer price index.[97]			
Toronto Raptors	Air Canada Centre	1999	$265 (Canadian)	0%
	Debt Repayment Method: N/A[98]			

Team	Stadium / Arena	Year Opened	Total Cost (in millions)	Public Finance %
Utah Jazz	Energy Solutions Arena	1991	$94	22%
	Debt Repayment Method: In 1990, the Salt Lake City Redevelopment Agency issued a $26 million bond in order to buy the land for the Arena and to build parking lots. The bond repayments came from property taxes in the Agency's redevelopment area and from certain local taxing entities releasing their portions of the redevelopment area property taxes.[99]			
Washington Wizards	Verizon Center	1997, 2007 renovated	$260, $58.5 for renovation	23%, 100% for renovation
	Debt Repayment Method: The District of Columbia contributed $53.8 million for the acquisition of the site and pre-development costs. The District issued bonds to raise the money, and pays the principal and interest with money from a special tax on businesses. In 2007, the District agreed to pay $50 million for renovations to the arena.[100]			

Table 4. National Hockey League

<table>
<tr><th>Team</th><th>Stadium / Arena</th><th>Year Opened</th><th>Total Cost (in millions)</th><th>Public Finance %</th></tr>
<tr><td rowspan="2">Anaheim Ducks</td><td>Honda Center</td><td>1993, 2011 renovated</td><td>$123, $25 for renovation</td><td>100%, 100% for renovation</td></tr>
<tr><td colspan="4">Debt Repayment Method: The city issued bonds to finance the arena, and Ogden Entertainment assumed the debt for the bonds. [101] Renovations were undertaken to make the Honda Center ready for an NBA team. [102]</td></tr>
<tr><td rowspan="2">Atlanta Thrashers</td><td>Philips Arena</td><td>1999</td><td>$213.5</td><td>91%</td></tr>
<tr><td colspan="4">Debt Repayment Method: The city contributed $62.5 million to be paid by a 3% city car rental tax. Time Warner was the initial owner and assumed all debt service. Teams and stadium were then sold to Atlanta Spirit LLC, who now own the Thrashers and Hawks, hold the operating rights to the area, and are responsible for the debt service payments, which are approximately $12.5 million per year for thirty years. [103]

Additional Note: Beginning with the 2011–12 season, the Thrashers franchise began play in Winnipeg, Manitoba as the Winnipeg Jets; for further information, see the Winnipeg Jets table entry. [104]</td></tr>
<tr><td rowspan="2">Boston Bruins</td><td>TD Garden</td><td>1995</td><td>$160</td><td>0%</td></tr>
<tr><td colspan="4">Debt Repayment Method: N/A[105]</td></tr>
<tr><td rowspan="2">Buffalo Sabres</td><td>First Niagra Center</td><td>1996</td><td>$127.5</td><td>44%</td></tr>
<tr><td colspan="4">Debt Repayment Method: 2.25% ticket surcharge. 50% of an Erie County bed tax goes to the debt service of the arena and a convention center. In 2002–2003, this bed tax brought in approximately $5 million per year. The Erie County Hotel Occupancy Tax is a 3% tax on all establishments with thirty or less rooms and a 5% tax on all establishments with more than thirty rooms. The team signed a twenty-seven year lease for the arena.[106]</td></tr>
<tr><td rowspan="2">Calgary Flames</td><td>Scotiabank Saddledome</td><td>1983</td><td>$176 (Canadian)</td><td>100%</td></tr>
<tr><td colspan="4">Debt Repayment Method: Federal government money came from “non-tax revenue-generating programs” created by the federal sports pool legislation.[107] The stadium was built for the 1988 Olympics with money from the City of Calgary, the Alberta Province, the federal government, and the Olympic Organizing Committee. The federal government’s contribution came from “non-tax revenue-generating programs” created by the federal sports pool legislation. [108]</td></tr>
<tr><td rowspan="2">Carolina Hurricanes</td><td>PNC Arena</td><td>1999</td><td>$158</td><td>84%</td></tr>
<tr><td colspan="4">Debt Repayment Method: Raleigh and Wake County issued twenty-year bonds set to expire in 2019 to the Centennial Authority, the landlord of the arena. The bond payments come from money generated by a 1% tax on prepared food and beverage and a 6% hotel tax. The project has gone so well that the mayor of Raleigh is proposing to build a new downtown arena once the bonds are repaid in 2019. The Centennial Authority was also paid 38% of the income above $10 million from the sale of the naming rights. Additionally, for the first three years, the team paid $2.75 million per year in rent and has paid $3 million per year since then. The team signed a twenty-year lease with two five-year renewal options. [109]</td></tr>
</table>

<table>
<tr><th>Team</th><th>Stadium / Arena</th><th>Year Opened</th><th>Total Cost (in millions)</th><th>Public Finance %</th></tr>
<tr><td rowspan="2">Chicago Blackhawks</td><td>United Center</td><td>1994</td><td>$175</td><td>7%</td></tr>
<tr><td colspan="4">Debt Repayment Method: The arena is privately financed save for the city's $3.2 million contribution for infrastructure payments. In return for the city's contribution, the owners of the Blackhawks and Bulls agreed to strict quotas for minority hiring during the arena's construction. [110]</td></tr>
<tr><td rowspan="2">Colorado Avalanche</td><td>Pepsi Center</td><td>1999</td><td>$180</td><td>0%</td></tr>
<tr><td colspan="4">Debt Repayment Method: The city paid for road and other infrastructure improvements, gave up a "seat tax" it had collected in its old arena, and provided favorable tax breaks and rebates to Ascent Entertainment, the owner of the team. In return, the Avalanche agreed to a twenty-five year lease, guaranteeing the city a minimum of $1 million per year for the first five years and $1.3 million for the last year. The costs for the arena itself, however, were 100% privately financed by Ascent Entertainment.[111]</td></tr>
<tr><td rowspan="2">Columbus Blue Jackets</td><td>Nationwide Arena</td><td>2000</td><td>$150</td><td>0%</td></tr>
<tr><td colspan="4">Debt Repayment Method: N/A[112]</td></tr>
<tr><td rowspan="2">Dallas Stars</td><td>American Airlines Center</td><td>2001</td><td>$420</td><td>30%</td></tr>
<tr><td colspan="4">Debt Repayment Method: The City of Dallas imposed a 5% car rental tax and 2% hotel tax for debt service. The team also pays $3.4 million per year for thirty years under a lease agreement. The public bonds were issued in 1998 for $125 million, but as of 2010, $26.23 million was still outstanding. This outstanding sum was completely paid off in 2011.[113]</td></tr>
<tr><td rowspan="2">Detroit Red Wings</td><td>Joe Louis Arena</td><td>1979</td><td>$57</td><td>100%</td></tr>
<tr><td colspan="4">Debt Repayment Method: An increase in parking rates in Detroit from $0.20–$0.80 per hour (400% increase), $450,000 in annual rent from the team, and $2 million per year in parking revenues. The arena was built by the City of Detroit in 1979 and financed with thirty-year bonds. In conjunctions, the team signed a thirty-year lease. The team pays property taxes on the city-owned arena, but the taxes have an annual cap of $252,000; taxes would be approximately $1 million per year without the cap. The Red Wings pay $25,000 per month in rent, and the city collects a 10% ticket tax on all events at the arena. Detroit also imposes a 10% surcharge on concessions at the arena.[114]</td></tr>
</table>

<table>
<tr><th>Team</th><th>Stadium / Arena</th><th>Year Opened</th><th>Total Cost (in millions)</th><th>Public Finance %</th></tr>
<tr><td rowspan="2">Edmonton Oilers</td><td>Rexall Place</td><td>1974</td><td>$17.3 (Canadian)</td><td>100%</td></tr>
<tr><td colspan="4">Debt Repayment Method: The arena was built with $3.7 million from the City of Edmonton, $3.7 million from the Province of Alberta, $10 million from a federal low-interest loan, and $2 million in federal lottery tax money. The Oilers signed a thirty-year lease in 1974 and extended it for ten years in 2004. The arena management company collects parking revenues from one lot at the arena, and the team keeps all other game-day revenues and pays an annual rent of one dollar. Edmonton Northlands is a non-profit entity designed to promote Edmonton events. Although the company does not make money on the Oilers, it does make $5.8 million per year in profit from over 100 other events it holds at the arena each year. Northlands currently holds a debt of $59.1 million as of this writing. This figure, however, represents the company's total debt, and the arena is only a small part of its overall assets. Northlands has an agreement with the City of Edmonton in which the city receives 20% of excess net earnings. The city agreed to contribute $2.2 million per year for arena improvements through 2013. The Oilers have entered into a new agreement to build a $450 million arena for the team. Under this Agreement, the city will provide $125 million, while the owners of the Oilers will contribute $100 million, and $125 million will come from user paid facility fees. The remainder will come from the federal government.[115]</td></tr>
<tr><td rowspan="2">Florida Panthers</td><td>BB&T Center</td><td>1998</td><td>$212</td><td>87%</td></tr>
<tr><td colspan="4">Debt Repayment Method: $13.4 million debt service per year, repaid with 2% Broward County hotel tax (which makes $8 million per year), $2 million per year from Florida sales taxes (from the state's arena and convention fund), and arena profits and investment income. Sunshine Sports and Entertainment owns the team and manages the stadium. It is also responsible for paying back some of the stadium loans, paying approximately $4 million per year. In 2011, the team tried to restructure its share of the payments to reduce the yearly payment from $4 million per year to $1.5 million per year through 2016 and then up to $2.5 million per year starting in 2017. This restructuring would add $23 million to the final cost, but the team says it would pay the difference. The arena bonds were refinanced in 2006. The Panthers are looking to renovate the BB&T Center with public funds. As of 2012, the BellAtlantic Center was renamed the BB&T Center as a result of a ten-year partnership between BB&T Bank and Sunrise Sports and Entertainment.[116]</td></tr>
<tr><td rowspan="2">Los Angeles Kings</td><td>Staples Center</td><td>1999</td><td>$375</td><td>19%</td></tr>
<tr><td colspan="4">Debt Repayment Method: Los Angeles Convention Center reserves, arena revenues, and tax incremental financing from the City's Community Redevelopment Agency. The construction bonds for the stadium were issued in 1999, and the final targeted maturity is 2021. The final rated maturity is 2026. The arena revenues are generated from a portion of the parking fees and a ticket surcharge. The debt service for the loans from the city amounts to $3.8 million per year. The stadium agreement contains a Debt Service Agreement, which stipulates that the city is guaranteed enough money through parking and ticket fees to cover its annual debt service on the stadium.[117]</td></tr>
</table>

Team	Stadium / Arena	Year Opened	Total Cost (in millions)	Public Finance %
Minnesota Wild	Xcel Energy Center	2000	$130	74%
	Debt Repayment Method: The Wild currently pays an annual rent of $3.5 million. Rent is an annual payment in lieu of taxes, which grows from $2.5 million to $6 million during twenty-five year lease with the city. The City of St. Paul and State of Minnesota both paid $65 million to build the arena; $17 million of the state's contribution is a grant that does not have to be repaid. Under the agreement between the Wild and the city and state, the Wild allow the arena to be used for public events. St. Paul has a tax increment financing plan in the area around the arena. The state's remaining $48 million contribution is an interest free loan to St. Paul which is to be repaid solely by rentals from the team over a twenty-year period. The team's loan repayments to the state are graduated and increase over time.[118]			
Montreal Canadiens	Bell Centre	1996	$270 (Canadian)	0%
	Debt Repayment Method: N/A[119]			
Nashville Predators	Bridgestone Arena	1996	$144	100%
	Debt Repayment Method: The debt service is $10.3 million per year, paid for by Davidson County property taxes. The stadium also operates in negative figures, costing the public approximately $13 million per year. The county also collects rent from the team, ticket surcharges, and state and local sales tax rebates. Starting in 2005, some revenues from the county hotel tax were shifted to help pay for the arena. The property tax rate is 0.62% in Davidson County. The lease agreement provides that the city pays $7 million in subsidies to the team to offset costs of operating and managing the building.[120]			
New Jersey Devils	Prudential Center	2007	$375	66%
	Debt Repayment Method: $12.5 million per year from Port Authority of New York and New Jersey paid to City of Newark to extend the Port Authority's lease of airport and seaport for thirty-three years. The debt service on the area is approximately $12.6 million per year. The team pays $2 million per year in rent. Newark gets 7% of luxury suite sales, concessions, and general advertising and 4% gross revenues from other arenas.[121]			
New York Islanders	Nassau Veterans Memorial Coliseum	1972	$31.3	100%
	Debt Repayment Method: Sportsplex Management Group (SMG) manages the stadium and pays a set rent to the county that increases based on the consumer price index. Nassau County also gets a percentage of the parking and concession revenues and 5% of Islanders' advertising revenue. The Islanders pay a percentage of ticket sales as rent to SMG, not to the county. Even though the county places a $1.50 surcharge on all event tickets at the arena, it currently loses about $2 million annually on the arena. The team currently has a lease through 2015. A new project entitled "Lighthouse" is in development, which would require the Islanders to extend their lease through 2025.[122]			

<table>
<tr><th>Team</th><th>Stadium / Arena</th><th>Year Opened</th><th>Total Cost (in millions)</th><th>Public Finance %</th></tr>
<tr><td rowspan="2">New York Rangers</td><td>Madison Square Garden (renovated)</td><td>1991</td><td>$200</td><td>0%</td></tr>
<tr><td colspan="4">Debt Repayment Method: N/A. However, the owners receive a property tax break as long as the professional teams continue to play there. Madison Square Garden is currently undergoing an estimated $850 million renovation. The renovation has three phases and will be completed by 2014.[123]</td></tr>
<tr><td rowspan="2">Ottawa Senators</td><td>Scotiabank Place</td><td>1996</td><td>$170 (Canadian)</td><td>0%</td></tr>
<tr><td colspan="4">Debt Repayment Method: Both the federal and provincial governments provided loans, but no repayment information is widely available. [124]</td></tr>
<tr><td rowspan="2">Philadelphia Flyers</td><td>Wells Fargo Center</td><td>1996</td><td>$210</td><td>11%</td></tr>
<tr><td colspan="4">Debt Repayment Method: The arena was built with minimal public financing. The state provided $27 million, and the city provided an $8.5 million loan for infrastructure improvements. To help finalize the loan, Comcast Spectacor promised to use more minority workers in the construction of the arena and to allow the city to use the old and new arenas for fundraising events (the city's older arena, the Spectrum, was demolished in 2010). Comcast Spectacor provded most of the remaining money through private financing and its own contribution. Stadium Revenue is used to make debt payments.[125]</td></tr>
<tr><td rowspan="2">Phoenix Coyotes</td><td>Jobing.com Arena</td><td>2003</td><td>$220</td><td>82%</td></tr>
<tr><td colspan="4">Debt Repayment Method: The debt is repaid via sales and property taxes collected from the arena and adjacent retail complex, City of Glendale property taxes, and parking revenues from arena lots. $30 million in general obligation funding and $150 million in excise tax funding will be repaid through the project itself. The team signed a thirty-year lease at the arena. The team also pays the City of Glendale $2.70 per vehicle, therefore, instead of making $10 million through parking, the team pays approximately $2 million per year and the city nets the $10 million. The team pays $42,708 per month in rent, plus sales tax, security costs, and repairs. In 2009, the team went bankrupt and the NHL bought the team out. As of 2012, the NHL is still looking to sell the team. To help the sale close, the city has agreed to a more favorable lease, covering $100 million of the Coyotes operating losses by selling bonds, and contributing fees from the community facilities district.[126]</td></tr>
<tr><td rowspan="2">Pittsburgh Penguins</td><td>Mellon Arena</td><td>1961</td><td>$22</td><td>100%</td></tr>
<tr><td colspan="4">Debt Repayment Method: Even though the team recently moved out of the arena, the city still owes $9.3 million, and it will take until 2018 to retire the debt. Allegheny County has a Regional Asset District (RAD), which collects a 1% sales tax, pays $800,000 towards the debt per year, and will pay $6.4 of the remaining amount. The city and the county will split the remaining $2.9 million debt. Through 2006, RAD had been paying $2.4 million per year to debt service, which decreased to $1 million per year as the remaining debt shrunk. The city imposed a ticket surcharge.[127]</td></tr>
</table>

Team	Stadium / Arena	Year Opened	Total Cost (in millions)	Public Finance %
Pittsburgh Penguins	Consol Energy Center	2010	$321	0%
	Debt Repayment Method: $290 million will be paid by the Isle of Capri casino ($7.5 million per year for thirty years). Additionally, the state will pay $7.5 million per year from slot machine revenues, and the team will pay $4.1 million per year in rent. Of the extra $31 million cost of the arena, the team will pay $15.5 million, the state will pay $10 million, and the Sports and Exhibition Authority will pay $5.5 million. The debt service on the arena is for 30 years.[128]			
San Jose Sharks	HP Pavilion at San Jose	1993	$162.5	82%
	Debt Repayment Method: Tax increment financing revenues. The city makes approximately $5.7 million on the arena each year from the Sharks' annual rent of $5.7 million.[129]			
St. Louis Blues	Scottrade Center	1994	$135	46%
	Debt Repayment Method: The city contributed $34.5 million for demolition, site preparation, and garages. The team has a lease through 2011 and pays $1.5 million per year in amusement tax to the city, which the city has since used as debt service for an opera house renovation.[130]			
Tampa Bay Lightning	St. Pete Times Forum	1996	$139	62%
	Debt Repayment Method: The Hillsborough County Tourist Development Tax and ticket surcharges on events at the St. Pete Times Forum are the source of payments for debt service. The ticket surcharge is $0.75, with $0.50 going to Hillsborough County and $0.25 going to the City of Tampa. In 2006, the county pledged $35 million in tourist-tax money for renovations to the Times Forum of which the team has used only about 25%.[131]			
Toronto Maple Leafs	Air Canada Centre	1999	$265 (Canadian)	0%
	Debt Repayment Method: N/A[132]			
Vancouver Canucks	Rogers Arena	1995	$160 (Canadian)	0%
	Debt Repayment Method: N/A[133]			
Washington Capitals	Verizon Center	1997, 2007 renovated	$260, $50 for renovation	23%
	Debt Repayment Method: In 2007, the District of Columbia agreed to pay $50 million for renovations to the arena. These renovations would be financed by raising the tax on tickets and merchandise sold at the arena by 4.25%. This excess tax revenue would pay the debt service on the renovation bonds. The total cost of the renovations, however, rose to $58.5 million by 2007.[134]			
Winnipeg Jets	MTS Centre	2004	$133.5	30%
	Debt repayment method: The City of Winnipeg contributed $40.5 million for the construction of the centre. The remaining costs were provided privately.[135]			

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