
SUBSTITUTE HOUSE BILL 2590

State of Washington 59th Legislature 2006 Regular Session

By House Committee on Finance (originally sponsored by
Representatives Dickerson and McIntire)

READ FIRST TIME 01/27/06.

1 AN ACT Relating to the excise taxation of nonprofit organizations
2 organized and operated for zoological purposes; amending RCW
3 82.04.4328, 82.04.4322, 82.04.4324, 82.04.4326, 82.04.4327, 82.08.031,
4 and 82.12.031; and creating new sections.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** The legislature finds that publicly owned
7 zoological facilities in Washington serve a public purpose by providing
8 educational and recreational opportunities for Washington citizens and
9 spurring economic development in the state. The legislature also finds
10 that private funds are critical to the survival of publicly owned
11 zoological facilities. When a public owner of a zoological facility
12 contracts with a nonprofit corporation to raise private funds through
13 the management and operations of the facility, additional excise taxes
14 apply. The legislature intends these nonprofit organizations to pay
15 the same taxes as other nonprofit artistic and cultural organizations
16 within the state.

17 **Sec. 2.** RCW 82.04.4328 and 1985 c 471 s 7 are each amended to read
18 as follows:

1 (1) For the purposes of RCW 82.04.4322, 82.04.4324, 82.04.4326,
2 82.04.4327, 82.08.031, and 82.12.031, the term "artistic or cultural
3 organization" means an organization which is organized and operated
4 exclusively for the purpose of providing artistic ~~((or))~~, cultural, or
5 zoological exhibitions, presentations, ~~((or))~~ performances, or
6 ~~((cultural or art))~~ education programs, as defined in subsection (2) of
7 this section, for viewing or attendance by the general public. The
8 organization must be a not-for-profit corporation under chapter 24.03
9 RCW and managed by a governing board of not less than eight individuals
10 none of whom is a paid employee of the organization or by a corporation
11 sole under chapter 24.12 RCW. In addition, to qualify for deduction or
12 exemption from taxation under RCW 82.04.4322, 82.04.4324, 82.04.4326,
13 82.04.4327, 82.08.031, and 82.12.031, the corporation shall satisfy the
14 following conditions:

15 (a) No part of its income may be paid directly or indirectly to its
16 members, stockholders, officers, directors, or trustees except in the
17 form of services rendered by the corporation in accordance with its
18 purposes and bylaws;

19 (b) Salary or compensation paid to its officers and executives must
20 be only for actual services rendered, and at levels comparable to the
21 salary or compensation of like positions within the state;

22 (c) Assets of the corporation must be irrevocably dedicated to the
23 activities for which the exemption is granted and, on the liquidation,
24 dissolution, or abandonment by the corporation, may not inure directly
25 or indirectly to the benefit of any member or individual except a
26 nonprofit organization, association, or corporation which also would be
27 entitled to the exemption;

28 (d) The corporation must be duly licensed or certified when
29 licensing or certification is required by law or regulation;

30 (e) The amounts received that qualify for exemption must be used
31 for the activities for which the exemption is granted;

32 (f) Services must be available regardless of race, color, national
33 origin, or ancestry; and

34 (g) The director of revenue shall have access to its books in order
35 to determine whether the corporation is exempt from taxes.

36 (2) For the purposes of RCW 82.04.4322, 82.04.4324, 82.04.4326,
37 82.04.4327, 82.08.031, and 82.12.031, the term "artistic ~~((or))~~,

1 cultural, or zoological exhibitions, presentations, ~~((or))~~
2 performances, ~~or ((cultural or art))~~ education programs," ~~((includes~~
3 ~~and is limited to))~~ means:

4 (a) An exhibition or presentation of works of art or objects of
5 cultural or historical significance, such as those commonly displayed
6 in art or history museums;

7 (b) A musical or dramatic performance or series of performances;
8 ~~((or))~~

9 (c) An educational seminar or program, or series of such programs,
10 offered by the organization to the general public on an artistic,
11 cultural, or historical subject; or

12 (d) Exhibitions, presentations, performances, or education programs
13 provided at a publicly owned zoological facility operated by a
14 nonprofit organization.

15 **Sec. 3.** RCW 82.04.4322 and 1981 c 140 s 1 are each amended to read
16 as follows:

17 (1) In computing tax there may be deducted from the measure of tax
18 amounts received from the United States or any instrumentality thereof
19 or from the state of Washington or any municipal corporation or
20 subdivision thereof as compensation for, or to support, artistic
21 ~~((or)),~~ cultural, or zoological exhibitions, presentations,
22 performances, or education programs provided by an artistic or cultural
23 organization for attendance or viewing by the general public.

24 (2) The definitions and conditions in RCW 82.04.4328 apply to this
25 section.

26 **Sec. 4.** RCW 82.04.4324 and 1981 c 140 s 2 are each amended to read
27 as follows:

28 (1) In computing tax there may be deducted from the measure of tax
29 by persons subject to payment of the tax on manufacturing under RCW
30 82.04.240, the value of articles to the extent manufacturing activities
31 are undertaken by an artistic or cultural organization solely for the
32 purpose of manufacturing articles for use by the organization in
33 displaying art objects or presenting artistic ~~((or)),~~ cultural, or
34 zoological exhibitions, presentations, performances, or education
35 programs for attendance or viewing by the general public.

1 (2) The definitions and conditions in RCW 82.04.4328 apply to this
2 section.

3 **Sec. 5.** RCW 82.04.4326 and 1981 c 140 s 3 are each amended to read
4 as follows:

5 (1) In computing tax there may be deducted from the measure of tax
6 amounts received by artistic or cultural organizations as tuition
7 charges collected for the privilege of attending artistic ~~((~~or~~))~~,
8 cultural, or zoological education programs.

9 (2) The definitions and conditions in RCW 82.04.4328 apply to this
10 section.

11 **Sec. 6.** RCW 82.04.4327 and 1985 c 471 s 6 are each amended to read
12 as follows:

13 (1) In computing tax there may be deducted from the measure of tax
14 those amounts received by artistic or cultural organizations which
15 represent income derived from business activities conducted by the
16 organization.

17 (2) The definitions and conditions in RCW 82.04.4328 apply to this
18 section.

19 **Sec. 7.** RCW 82.08.031 and 1981 c 140 s 4 are each amended to read
20 as follows:

21 (1) The tax levied by RCW 82.08.020 shall not apply to sales to
22 artistic or cultural organizations of objects which are acquired for
23 the purpose of artistic, cultural, or zoological exhibitions ~~((~~or~~))~~,
24 presentations, or performances to the general public if the objects
25 are:

- 26 ~~((+1))~~ (a) Objects of art;
- 27 ~~((+2))~~ (b) Objects of cultural value;
- 28 ~~((+3))~~ (c) Objects to be used in the creation of a work of art,
29 other than tools; or
- 30 ~~((+4))~~ (d) Objects to be used in displaying art objects or
31 presenting artistic ~~((~~or~~))~~, cultural, or zoological exhibitions or
32 performances.

33 (2) The definitions and conditions in RCW 82.04.4328 apply to this
34 section.

1 **Sec. 8.** RCW 82.12.031 and 1981 c 140 s 5 are each amended to read
2 as follows:

3 (1) The provisions of this chapter shall not apply in respect to
4 the use by artistic or cultural organizations of objects which are
5 acquired for the purpose of artistic, cultural, or zoological
6 exhibitions, presentations, or performances to the general public if
7 the objects are:

8 ~~((1))~~ (a) Objects of art;

9 ~~((2))~~ (b) Objects of cultural value;

10 ~~((3))~~ (c) Objects to be used in the creation of a work of art,
11 other than tools; or

12 ~~((4))~~ (d) Objects to be used in displaying art objects or
13 presenting artistic ~~((or))~~, cultural, or zoological exhibitions or
14 performances.

15 (2) The definitions and conditions in RCW 82.04.4328 apply to this
16 section.

17 NEW SECTION. **Sec. 9.** (1) The department of revenue shall review
18 the tax exemptions benefitting zoological exhibitions, presentations,
19 performances, and education programs under sections 2 through 7 of this
20 act. The department shall consider, but not be limited to, the
21 following factors in the review:

22 (a) The classes of individuals, types of organizations, or types of
23 industries whose state tax liabilities are directly affected by the
24 exemptions;

25 (b) Public policy objectives that might provide a justification for
26 the exemptions, including but not limited to the legislative history,
27 any legislative intent, or the extent to which the exemption encourages
28 business growth or relocation into this state, promotes growth or
29 retention of high wage jobs, or helps stabilize communities;

30 (c) Evidence that the existence of the exemptions has contributed
31 to the achievement of any of the public policy objectives;

32 (d) The extent to which continuation of the exemptions might
33 contribute to any of the public policy objectives;

34 (e) The extent to which the exemptions may provide unintended
35 benefits to an individual, organization, or industry other than those
36 the legislature intended;

1 (f) The extent to which terminating the exemptions may have
2 negative effects on the category of taxpayers that currently benefit
3 from the exemptions, and the extent to which resulting higher taxes may
4 have negative effects on employment and the economy;

5 (g) The feasibility of modifying the exemptions to provide for
6 adjustment or recapture of the tax benefits of the exemptions if the
7 objectives are not fulfilled;

8 (h) Fiscal impacts of the exemptions, including past impacts and
9 expected future impacts if they are continued. For the purposes of
10 this subsection, "fiscal impact" includes an analysis of the general
11 effects of the exemptions on the overall state economy including, but
12 not limited to, the effects of the exemptions on the consumption and
13 expenditures of persons and businesses within the state;

14 (i) The extent to which termination of the exemptions would affect
15 the distribution of liability for payment of state taxes;

16 (j) Consideration of similar exemptions adopted in other states,
17 and potential public policy benefits that might be gained by
18 incorporating corresponding provisions in Washington.

19 (2) The department shall report its findings and recommendations to
20 the finance committee of the house of representatives and the ways and
21 means committee of the senate by December 1, 2016. The department
22 shall provide a recommendation as to whether the exemptions should be
23 continued without modification, modified, scheduled for sunset review
24 at a future date, or terminated immediately. The department may
25 recommend accountability standards for the future review of the
26 exemptions.

27 NEW SECTION. **Sec. 10.** If any provision of this act or its
28 application to any person or circumstance is held invalid, the
29 remainder of the act or the application of the provision to other
30 persons or circumstances is not affected.

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