
SUBSTITUTE HOUSE BILL 2804

State of Washington 59th Legislature 2006 Regular Session

By House Committee on Finance (originally sponsored by Representatives Conway, Holmquist, Serben, McIntire, Ahern, McDermott, Rodne, Buri, McDonald, McCune and Dunn; by request of Office of the Lieutenant Governor)

READ FIRST TIME 2/7/06.

1 AN ACT Relating to the property tax exemption for nonprofit schools
2 and colleges; amending RCW 84.36.050 and 84.36.805; and creating a new
3 section.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that independent
6 nonprofit schools, colleges, and universities are vital educational
7 resources to the state of Washington. For the state to be competitive
8 in a global economy, all educational resources must be competitive and
9 provide high-quality programs and services for students.

10 The legislature recognizes that independent nonprofit schools,
11 colleges, and universities are important economic drivers in their
12 communities, and encourages institutions to support local communities,
13 to provide public benefit, and to respond to community expectations
14 that they share facilities, offer programs, and attract students on par
15 with Washington's publicly owned institutions and out-of-state schools
16 and colleges. Further, the legislature encourages innovative programs
17 and educational opportunities, sustainable practices, and increased use
18 of facilities so that operations of institutions can be more cost-
19 effective.

1 The legislature wishes to remove barriers that discourage
2 institutions from being more collaborative, that make it more difficult
3 to provide high-quality services and necessities to their students, and
4 that discourage appropriate and beneficial use of institutional
5 facilities by the broader community. To this end, the legislature
6 seeks to provide consistent, predictable, and easily administrable
7 rules for reference by the state department of revenue and schools and
8 colleges.

9 **Sec. 2.** RCW 84.36.050 and 2001 c 126 s 2 are each amended to read
10 as follows:

11 The following property is exempt from taxation:

12 (1) Property owned or used by or for any nonprofit school or
13 college in this state for educational purposes or cultural or art
14 educational programs as defined in RCW 82.04.4328. Real property so
15 exempt shall not exceed four hundred acres (~~((in extent and, except as~~
16 ~~provided in RCW 84.36.805, shall be used exclusively for college or~~
17 ~~campus purposes))~~ including, but not limited to, buildings and grounds
18 designed for the educational, athletic, or social programs of the
19 institution, the housing of students, (~~((the housing of))~~) religious
20 faculty, (~~((the housing of))~~) and the chief administrator, athletic
21 buildings, and all other school or college facilities, the need for
22 which would be nonexistent but for the presence of the school or
23 college (~~((and which are))~~). The property must be principally designed
24 to further the educational, athletic, or social functions of the
25 college or school(~~((s))~~). If the property is leased, the benefit of the
26 exemption must inure to (~~((the user+))~~) such school or college.

27 (2) Real or personal property owned by a not-for-profit foundation
28 that is established for the exclusive support of an institution of
29 higher education, as defined in RCW 28B.10.016. If the property is
30 (~~((exempt if it is))~~) leased to and used by the institution
31 (~~((exclusively))~~) for college or campus purposes (~~((and is))~~), it must be
32 principally designed to further the educational, athletic, or social
33 functions of the institution. The exemption is only available for
34 property actively utilized by currently enrolled students. The benefit
35 of the exemption must inure to the (~~((user))~~) college.

36 (3) Subject to subsection (4) of this section, if the property
37 exempt under subsection (1) or (2) of this section is used by an

1 individual or organization not entitled to a property tax exemption,
2 except as provided in this subsection, the exemption is nullified for
3 the assessment year in which such use occurs. The exemption is not
4 nullified as a result of any of the uses listed in (a) or (b) of this
5 subsection:

6 (a) The property is used by students, alumni, faculty, staff, or
7 other persons or entities in a manner consistent with the educational,
8 social, or athletic programs, including property used for related
9 administrative and support functions, of the school or college and not
10 for pecuniary gain or to promote business activities. Notwithstanding
11 the foregoing, the school or college may contract with and permit the
12 use of school or college property by persons or entities to provide
13 school or college-related programs or services including, but not
14 limited to, the provision of food services to students, faculty, and
15 staff, the operation of a bookstore on campus, and the provision to the
16 school or college of maintenance, operational, or administrative
17 services without nullifying the exemption; or

18 (b) The property is used for pecuniary gain or to promote business
19 activities for not more than seven days in the calendar year, such uses
20 to be measured separately with respect to each specific portion of such
21 property. If exempt property is used as a sports or educational camp
22 or program taught, operated, or conducted by a faculty member who is
23 required or permitted to do so as part of his or her compensation
24 package, the days when the property is so used will not be included in
25 calculating the seven day limitation of this subsection (3)(b).

26 (4) The amount of rent or donations, if any, received by the
27 college or school for such uses described in subsection (3)(a) or (b)
28 of this section, or by an organization entitled to a property tax
29 exemption, must be reasonable and not exceed maintenance and operation
30 expenses associated with the use by such user.

31 (5) The exemption under this section will not be nullified by an
32 inadvertent use of the property in a manner inconsistent with the
33 purpose for which exemption is granted, if the inadvertent use is not
34 part of a pattern of use. A pattern of use is presumed when an
35 inadvertent use is repeated in the same assessment year or in two or
36 more successive assessment years.

1 **Sec. 3.** RCW 84.36.805 and 2003 c 121 s 2 are each amended to read
2 as follows:

3 (1) In order to qualify for an exemption under this chapter, the
4 nonprofit organizations, associations, or corporations must satisfy the
5 conditions in this section.

6 (2) The property must be used exclusively for the actual operation
7 of the activity for which exemption is granted, unless otherwise
8 provided, and does not exceed an amount reasonably necessary for that
9 purpose, except:

10 (a) The loan or rental of the property does not subject the
11 property to tax if:

12 (i) The rents and donations received for the use of the portion of
13 the property are reasonable and do not exceed the maintenance and
14 operation expenses attributable to the portion of the property loaned
15 or rented; and

16 (ii) Except for the exemptions under RCW 84.36.030(4), 84.36.037,
17 84.36.050, and 84.36.060(1) (a) and (b), the property would be exempt
18 from tax if owned by the organization to which it is loaned or rented;

19 (b) The use of the property for fund-raising activities does not
20 subject the property to tax if the fund-raising activities are
21 consistent with the purposes for which the exemption is granted.

22 (3) The property must be irrevocably dedicated to the purpose for
23 which exemption has been granted, and on the liquidation, dissolution,
24 or abandonment by said organization, association, or corporation, said
25 property will not inure directly or indirectly to the benefit of any
26 shareholder or individual, except a nonprofit organization,
27 association, or corporation which too would be entitled to property tax
28 exemption. This property need not be irrevocably dedicated if it is
29 leased or rented to those qualified for exemption under this chapter or
30 RCW 84.36.560 for leased property, but only if under the terms of the
31 lease or rental agreement the nonprofit organization, association, or
32 corporation receives the benefit of the exemption.

33 (4) The facilities and services must be available to all regardless
34 of race, color, national origin or ancestry.

35 (5) The organization, association, or corporation must be duly
36 licensed or certified where such licensing or certification is required
37 by law or regulation.

1 (6) Property sold to organizations, associations, or corporations
2 with an option to be repurchased by the seller shall not qualify for
3 exempt status. This subsection does not apply to property sold to a
4 nonprofit entity, as defined in RCW 84.36.560(7), by:

5 (a) A nonprofit as defined in RCW 84.36.800 that is exempt from
6 income tax under section 501(c) of the federal internal revenue code;

7 (b) A governmental entity established under RCW 35.21.660,
8 35.21.670, or 35.21.730;

9 (c) A housing authority created under RCW 35.82.030;

10 (d) A housing authority meeting the definition in RCW
11 35.82.210(2)(a); or

12 (e) A housing authority established under RCW 35.82.300.

13 (7) The department shall have access to its books in order to
14 determine whether the nonprofit organization, association, or
15 corporation is exempt from taxes under this chapter.

16 (8) This section does not apply to exemptions granted under RCW
17 84.36.020, 84.36.032, 84.36.250, and 84.36.260.

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