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SENATE BILL 6564

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State of Washington

59th Legislature

2006 Regular Session

By Senators Zarelli, Regala, Rockefeller, Doumit, Hewitt, Rasmussen, Johnson and Shin; by request of Lieutenant Governor

Read first time 01/16/2006. Referred to Committee on Ways & Means.

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 new  
3 sections.

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 faculty,  
20 the housing of the chief administrator, athletic buildings and all  
21 other school or college facilities))~~), the need for which would be  
22 nonexistent but for the presence of the school or college and which are  
23 principally designed to further the educational functions of the  
24 college or schools. If the property is leased to the nonprofit school  
25 or college by another person or entity, the benefit of the exemption  
26 must inure to the user;

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. The property is exempt  
30 if it is leased to and used by the institution exclusively for college  
31 or campus purposes and is principally designed to further the  
32 educational functions of the institution. The exemption is only  
33 available for property actively utilized by currently enrolled  
34 students. The benefit of the exemption must inure to the user.

35 (3) For the purposes of this section, "used exclusively for college  
36 or campus purposes" includes the use of real or personal property in a

1 manner that is in furtherance of or consistent with school or college  
2 purposes, including, but not limited to, all school or college property  
3 used for any of the following:

4 (a) The educational, athletic, recreational, social, employee and  
5 other similar programs of the school or college, including the support  
6 or administration of such programs and including, but not limited to,  
7 programs for reputation enhancing, alumni relations, relations with  
8 community members and community organizations, student services, and  
9 employee compensation and benefits;

10 (b) Residential facilities for students, religious faculty, or the  
11 president or chief administrator;

12 (c) Any activity by any person using the exempt property without  
13 charge, that is consistent with the educational, athletic, or social  
14 programs of the school or college;

15 (d) The loan or rental by the school or college to students, staff,  
16 or alumni, of exempt property for educational, athletic, or social  
17 activities that are consistent with school or college programs;

18 (e) The loan or rental by the school or college to third parties,  
19 of exempt property for educational or athletic activities conducted by  
20 the third parties that are consistent with school or college programs;

21 (f) Any use of school or college property by third parties for  
22 pecuniary gain or to promote business, for not more than a total of  
23 seven days for all such activities by third parties, where such third  
24 party use is measured separately with respect to each specific venue or  
25 location located on such property, in one calendar year. However, any  
26 use of school or college property described in (a) through (e) of this  
27 subsection is not subject to the limitation of this subsection (3)(f),  
28 whether or not a third party uses such property for pecuniary gain or  
29 to promote business.

30 (4) The amount of any rent or donations received by the school or  
31 college with respect to loans or rentals under subsection (3)(d) or (e)  
32 of this section must be reasonable and not exceed maintenance and  
33 operation expenses attributable to the portion of the property loaned  
34 or rented. The requirements set forth in RCW 84.36.805(2)(a)(ii) shall  
35 not apply for purposes of determining eligibility for the exemption  
36 provided under this section with respect to uses of the property set  
37 forth in subsection (3)(a) through (f) of this section.

1       (5) The exemption under this section is not nullified by an  
2 inadvertent use of the property in a manner inconsistent with the  
3 purpose for which exemption is granted, if the inadvertent use is not  
4 part of a pattern of use. A pattern of use is presumed when an  
5 inadvertent use is repeated in the same assessment year or in two or  
6 more successive assessment years.

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

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

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

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

18       (i) The rents and donations received for the use of the portion of  
19 the property are reasonable and do not exceed the maintenance and  
20 operation expenses attributable to the portion of the property loaned  
21 or rented; and

22       (ii) Except for the exemptions under RCW 84.36.030(4), 84.36.037,  
23 84.36.050, and 84.36.060(1) (a) and (b), the property would be exempt  
24 from tax if owned by the organization to which it is loaned or rented;

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

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

1 lease or rental agreement the nonprofit organization, association, or  
2 corporation receives the benefit of the exemption.

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

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

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

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

14 (b) A governmental entity established under RCW 35.21.660,  
15 35.21.670, or 35.21.730;

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

17 (d) A housing authority meeting the definition in RCW  
18 35.82.210(2)(a); or

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

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

23 (8) This section does not apply to exemptions granted under RCW  
24 84.36.020, 84.36.032, 84.36.250, and 84.36.260.

25 NEW SECTION. **Sec. 4.** This act applies to taxes levied for  
26 collection in 2007 and thereafter.

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