
SUBSTITUTE SENATE BILL 6051

State of Washington

61st Legislature

2009 Regular Session

By Senate Ways & Means (originally sponsored by Senators Murray, Pflug, Kohl-Welles, McAuliffe, Jarrett, Eide, Kline, Fairley, Jacobsen, and McDermott)

READ FIRST TIME 03/02/09.

1 AN ACT Relating to removing an expiration date applicable to
2 heritage and arts program funding; amending RCW 67.28.180; providing an
3 effective date; and declaring an emergency.

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

5 **Sec. 1.** RCW 67.28.180 and 2008 c 264 s 2 are each amended to read
6 as follows:

7 (1) Subject to the conditions set forth in subsections (2) and (3)
8 of this section, the legislative body of any county or any city, is
9 authorized to levy and collect a special excise tax of not to exceed
10 two percent on the sale of or charge made for the furnishing of lodging
11 that is subject to tax under chapter 82.08 RCW.

12 (2) Any levy authorized by this section shall be subject to the
13 following:

14 (a) Any county ordinance or resolution adopted pursuant to this
15 section shall contain, in addition to all other provisions required to
16 conform to this chapter, a provision allowing a credit against the
17 county tax for the full amount of any city tax imposed pursuant to this
18 section upon the same taxable event.

1 (b) In the event that any county has levied the tax authorized by
2 this section and has, prior to June 26, 1975, either pledged the tax
3 revenues for payment of principal and interest on city revenue or
4 general obligation bonds authorized and issued pursuant to RCW
5 67.28.150 through 67.28.160 or has authorized and issued revenue or
6 general obligation bonds pursuant to the provisions of RCW 67.28.150
7 through 67.28.160, such county shall be exempt from the provisions of
8 (a) of this subsection, to the extent that the tax revenues are pledged
9 for payment of principal and interest on bonds issued at any time
10 pursuant to the provisions of RCW 67.28.150 through 67.28.160:
11 PROVIDED, That so much of such pledged tax revenues, together with any
12 investment earnings thereon, not immediately necessary for actual
13 payment of principal and interest on such bonds may be used: (i) In
14 any county with a population of one million or more, for repayment
15 either of limited tax levy general obligation bonds or of any county
16 fund or account from which a loan was made, the proceeds from the bonds
17 or loan being used to pay for constructing, installing, improving, and
18 equipping stadium capital improvement projects, and to pay for any
19 engineering, planning, financial, legal and professional services
20 incident to the development of such stadium capital improvement
21 projects, regardless of the date the debt for such capital improvement
22 projects was or may be incurred; (ii) in any county with a population
23 of one million or more, for repayment or refinancing of bonded
24 indebtedness incurred prior to January 1, 1997, for any purpose
25 authorized by this section or relating to stadium repairs or
26 rehabilitation, including but not limited to the cost of settling legal
27 claims, reimbursing operating funds, interest payments on short-term
28 loans, and any other purpose for which such debt has been incurred if
29 the county has created a public stadium authority to develop a stadium
30 and exhibition center under RCW 36.102.030; or (iii) in other counties,
31 for county-owned facilities for agricultural promotion until January 1,
32 2009, and thereafter for any purpose authorized in this chapter.

33 A county is exempt under this subsection with respect to city
34 revenue or general obligation bonds issued after April 1, 1991, only if
35 such bonds mature before January 1, 2013. If any county located east
36 of the crest of the Cascade mountains has levied the tax authorized by
37 this section and has, prior to June 26, 1975, pledged the tax revenue
38 for payment of principal and interest on city revenue or general

1 obligation bonds, the county is exempt under this subsection with
2 respect to revenue or general obligation bonds issued after January 1,
3 2007, only if the bonds mature before January 1, 2021. Such a county
4 may only use funds under this subsection (2)(b) for constructing or
5 improving facilities authorized under this chapter, including county-
6 owned facilities for agricultural promotion, and must perform an annual
7 financial audit of organizations receiving funding on the use of the
8 funds.

9 As used in this subsection (2)(b), "capital improvement projects"
10 may include, but not be limited to a stadium restaurant facility,
11 restroom facilities, artificial turf system, seating facilities,
12 parking facilities and scoreboard and information system adjacent to or
13 within a county owned stadium, together with equipment, utilities,
14 accessories and appurtenances necessary thereto. The stadium
15 restaurant authorized by this subsection (2)(b) shall be operated by a
16 private concessionaire under a contract with the county.

17 (c)(i) No city within a county exempt under subsection (2)(b) of
18 this section may levy the tax authorized by this section so long as
19 said county is so exempt.

20 (ii) No city within a county with a population of one million or
21 more may levy the tax authorized by this section.

22 (iii) However, in the event that any city in a county described in
23 (c)(i) or (ii) of this subsection (2) has levied the tax authorized by
24 this section and has, prior to June 26, 1975, authorized and issued
25 revenue or general obligation bonds pursuant to the provisions of RCW
26 67.28.150 through 67.28.160, such city may levy the tax so long as the
27 tax revenues are pledged for payment of principal and interest on bonds
28 issued at any time pursuant to the provisions of RCW 67.28.150 through
29 67.28.160.

30 (3) Any levy authorized by this section by a county that has levied
31 the tax authorized by this section and has, prior to June 26, 1975,
32 either pledged the tax revenues for payment of principal and interest
33 on city revenue or general obligation bonds authorized and issued
34 pursuant to RCW 67.28.150 through 67.28.160 or has authorized and
35 issued revenue or general obligation bonds pursuant to the provisions
36 of RCW 67.28.150 through 67.28.160 shall be subject to the following:

37 (a) Taxes collected under this section in any calendar year before

1 2013 in excess of five million three hundred thousand dollars shall
2 only be used as follows:

3 (i) Seventy-five percent from January 1, 1992, through December 31,
4 2000, and seventy percent from January 1, 2001, through December 31,
5 2012, for art museums, cultural museums, heritage museums, heritage and
6 preservation programs, the arts, and the performing arts. Moneys spent
7 under this subsection (3)(a)(i) shall be used for the purposes of this
8 subsection (3)(a)(i) in all parts of the county.

9 (ii) Twenty-five percent from January 1, 1992, through December 31,
10 2000, and thirty percent from January 1, 2001, through December 31,
11 2012, for the following purposes and in a manner reflecting the
12 following order of priority: Stadium purposes as authorized under
13 subsection (2)(b) of this section; acquisition of open space lands;
14 youth sports activities; and tourism promotion. If all or part of the
15 debt on the stadium is refinanced, all revenues under this subsection
16 (3)(a)(ii) shall be used to retire the debt.

17 (b) From January 1, 2013, through December 31, 2015, in a county
18 with a population of one million or more, all revenues under this
19 section shall be used to retire the debt on the stadium, until the debt
20 on the stadium is retired. On and after the date the debt on the
21 stadium is retired, and through December 31, 2015, all revenues under
22 this section in a county of (~~(a-one)~~) one million or more shall be
23 deposited in the special account under (f) of this subsection.

24 (c) From January 1, 2016, through December 31, 2020, in a county
25 with a population of one million or more, all revenues under this
26 section shall be deposited in the stadium and exhibition center account
27 under RCW 43.99N.060.

28 (d) On and after January 1, 2021, at least thirty-seven and
29 one-half percent of revenues under this section in a county of (~~(a~~
30 ~~one)~~) one million or more shall be deposited in the special account
31 under (f) of this subsection.

32 (e) At least seventy percent of moneys spent under (a)(i) of this
33 subsection for the period January 1, 1992, through December 31, 2000,
34 shall be used only for the purchase, design, construction, and
35 remodeling of performing arts, visual arts, heritage, and cultural
36 facilities, and for the purchase of fixed assets that will benefit art,
37 heritage, and cultural organizations. For purposes of this subsection,
38 fixed assets are tangible objects such as machinery and other equipment

1 intended to be held or used for ten years or more. Moneys received
2 under this subsection (3)(e) may be used for payment of principal and
3 interest on bonds issued for capital projects. Qualifying
4 organizations receiving moneys under this subsection (3)(e) must be
5 financially stable and have at least the following:

6 (i) A legally constituted and working board of directors;

7 (ii) A record of artistic, heritage, or cultural accomplishments;

8 (iii) Been in existence and operating for at least two years;

9 (iv) Demonstrated ability to maintain net current liabilities at
10 less than thirty percent of general operating expenses;

11 (v) Demonstrated ability to sustain operational capacity subsequent
12 to completion of projects or purchase of machinery and equipment; and

13 (vi) Evidence that there has been independent financial review of
14 the organization.

15 (f) At least forty percent of the revenues distributed pursuant to
16 (a)(i) of this subsection for the period January 1, 2001, through July
17 1, 2008, shall be deposited in a special account. The account may only
18 be used for the purposes of (a)(i) of this subsection.

19 (g) School districts and schools shall not receive revenues
20 distributed pursuant to (a)(i) of this subsection.

21 (h) Moneys distributed to art museums, cultural museums, heritage
22 museums, heritage and preservation programs, the arts, and the
23 performing arts, and moneys distributed for tourism promotion shall be
24 in addition to and may not be used to replace or supplant any other
25 funding by the legislative body of the county.

26 (i) As used in this section, "tourism promotion" includes
27 activities intended to attract visitors for overnight stays, arts,
28 heritage, and cultural events, and recreational, professional, and
29 amateur sports events. Moneys allocated to tourism promotion in a
30 class AA county shall be allocated to nonprofit organizations formed
31 for the express purpose of tourism promotion in the county. Such
32 organizations shall use moneys from the taxes to promote events in all
33 parts of the class AA county.

34 (j) No taxes collected under this section may be used for the
35 operation or maintenance of a public stadium that is financed directly
36 or indirectly by bonds to which the tax is pledged. Expenditures for
37 operation or maintenance include all expenditures other than

1 expenditures that directly result in new fixed assets or that directly
2 increase the capacity, life span, or operating economy of existing
3 fixed assets.

4 (k) No ad valorem property taxes may be used for debt service on
5 bonds issued for a public stadium that is financed by bonds to which
6 the tax is pledged, unless the taxes collected under this section are
7 or are projected to be insufficient to meet debt service requirements
8 on such bonds.

9 (l) If a substantial part of the operation and management of a
10 public stadium that is financed directly or indirectly by bonds to
11 which the tax is pledged is performed by a nonpublic entity or if a
12 public stadium is sold that is financed directly or indirectly by bonds
13 to which the tax is pledged, any bonds to which the tax is pledged
14 shall be retired. This subsection (3)(l) does not apply in respect to
15 a public stadium under chapter 36.102 RCW transferred to, owned by, or
16 constructed by a public facilities district under chapter 36.100 RCW or
17 a stadium and exhibition center.

18 (m) The county shall not lease a public stadium that is financed
19 directly or indirectly by bonds to which the tax is pledged to, or
20 authorize the use of the public stadium by, a professional major league
21 sports franchise unless the sports franchise gives the right of first
22 refusal to purchase the sports franchise, upon its sale, to local
23 government. This subsection (3)(m) does not apply to contracts in
24 existence on April 1, 1986.

25 If a court of competent jurisdiction declares any provision of this
26 subsection (3) invalid, then that invalid provision shall be null and
27 void and the remainder of this section is not affected. Section 2,
28 chapter 264, Laws of 2008 expires July 1, ((2009)) 2012.

29 NEW SECTION. **Sec. 2.** This act is necessary for the immediate
30 preservation of the public peace, health, or safety, or support of the
31 state government and its existing public institutions, and takes effect
32 July 1, 2009.

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