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SENATE BILL 6051

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State of Washington

61st Legislature

2009 Regular Session

By Senators Murray, Pflug, Kohl-Welles, McAuliffe, Jarrett, Eide, Kline, Fairley, Jacobsen, and McDermott

Read first time 02/18/09. Referred to Committee on Ways & Means.

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.~~)

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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