
SUBSTITUTE SENATE BILL 6116

State of Washington

61st Legislature

2009 Regular Session

By Senate Ways & Means (originally sponsored by Senators Murray and Kohl-Welles)

READ FIRST TIME 04/20/09.

1 AN ACT Relating to excise taxes in a county with a population of
2 one million five hundred thousand or more and a county east of the
3 crest of the Cascade mountains that has pledged lodging tax revenue for
4 payment of bonds prior to June 26, 1975; amending RCW 67.28.180,
5 82.14.0485, 82.14.049, 82.14.0494, and 82.14.360; adding a new section
6 to chapter 67.28 RCW; providing an effective date; and declaring an
7 emergency.

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

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

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

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

18 (a) Any county ordinance or resolution adopted pursuant to this
19 section shall contain, in addition to all other provisions required to

1 conform to this chapter, a provision allowing a credit against the
2 county tax for the full amount of any city tax imposed pursuant to this
3 section upon the same taxable event.

4 (b) In the event that any county has levied the tax authorized by
5 this section and has, prior to June 26, 1975, either pledged the tax
6 revenues for payment of principal and interest on city revenue or
7 general obligation bonds authorized and issued pursuant to RCW
8 67.28.150 through 67.28.160 or has authorized and issued revenue or
9 general obligation bonds pursuant to the provisions of RCW 67.28.150
10 through 67.28.160, such county shall be exempt from the provisions of
11 (a) of this subsection, to the extent that the tax revenues are pledged
12 for payment of principal and interest on bonds issued at any time
13 pursuant to the provisions of RCW 67.28.150 through 67.28.160:
14 PROVIDED, That so much of such pledged tax revenues, together with any
15 investment earnings thereon, not immediately necessary for actual
16 payment of principal and interest on such bonds may be used: (i) In
17 any county with a population of one million or more, for repayment
18 either of limited tax levy general obligation bonds or of any county
19 fund or account from which a loan was made, the proceeds from the bonds
20 or loan being used to pay for constructing, installing, improving, and
21 equipping stadium capital improvement projects, and to pay for any
22 engineering, planning, financial, legal and professional services
23 incident to the development of such stadium capital improvement
24 projects, regardless of the date the debt for such capital improvement
25 projects was or may be incurred; (ii) in any county with a population
26 of one million or more, for repayment or refinancing of bonded
27 indebtedness incurred prior to January 1, 1997, for any purpose
28 authorized by this section or relating to stadium repairs or
29 rehabilitation, including but not limited to the cost of settling legal
30 claims, reimbursing operating funds, interest payments on short-term
31 loans, and any other purpose for which such debt has been incurred if
32 the county has created a public stadium authority to develop a stadium
33 and exhibition center under RCW 36.102.030; or (iii) in other counties,
34 for county-owned facilities for agricultural promotion until January 1,
35 2009, and thereafter for any purpose authorized in this chapter.

36 A county is exempt under this subsection with respect to city
37 revenue or general obligation bonds issued after April 1, 1991, only if
38 such bonds mature before January 1, 2013. If any county located east

1 of the crest of the Cascade mountains has levied the tax authorized by
2 this section and has, prior to June 26, 1975, pledged the tax revenue
3 for payment of principal and interest on city revenue or general
4 obligation bonds, the county is exempt under this subsection with
5 respect to revenue or general obligation bonds issued after January 1,
6 2007, only if the bonds mature before January 1, (~~2021~~) 2035. Such
7 a county may only use funds under this subsection (2)(b) for
8 constructing or improving facilities authorized under this chapter,
9 including county-owned facilities for agricultural promotion, and must
10 perform an annual financial audit of organizations receiving funding on
11 the use of the funds.

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

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

23 (ii) No city within a county with a population of one million five
24 hundred thousand or more may levy the tax authorized by this section.

25 (iii) However, in the event that any city in a county described in
26 (c)(i) or (ii) of this subsection (2) has levied the tax authorized by
27 this section and has, prior to June 26, 1975, authorized and issued
28 revenue or general obligation bonds pursuant to the provisions of RCW
29 67.28.150 through 67.28.160, such city may levy the tax so long as the
30 tax revenues are pledged for payment of principal and interest on bonds
31 issued at any time pursuant to the provisions of RCW 67.28.150 through
32 67.28.160.

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

1 issued revenue or general obligation bonds pursuant to the provisions
2 of RCW 67.28.150 through 67.28.160 shall be subject to the following:

3 (a) Taxes collected under this section in any calendar year before
4 2013 in excess of five million three hundred thousand dollars shall
5 only be used as follows:

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

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

20 (b) From January 1, 2013, through December 31, 2015, in a county
21 with a population of one million five hundred thousand or more, all
22 revenues under this section shall be used to retire the debt on the
23 stadium, until the debt on the stadium is retired. On and after the
24 date the debt on the stadium is retired, and through December 31, 2015,
25 ~~((all))~~ one-half of the revenues under this section in a county of ~~((a~~
26 ~~tone))~~ one million five hundred thousand or more shall be deposited in
27 the ~~((special))~~ arts and cultural account under ~~((+f))~~ (d)(i) of this
28 subsection, and the remainder of the revenues shall be deposited in the
29 affordable housing account under (d)(ii) of this subsection.

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

34 (d) On and after January 1, 2021, ~~((at least thirty seven and~~
35 ~~one half percent of))~~ revenues under this section in a county of ~~((a~~
36 ~~tone))~~ one million five hundred thousand or more shall be deposited
37 ~~((in the special account under (f) of this subsection))~~ as follows:

1 (i) At least thirty-seven and one-half percent of the revenues
2 shall be deposited in an arts and cultural account. The account may
3 only be used for the purposes of (a)(i) of this subsection.

4 (ii) At least thirty-seven and one-half percent of the revenues
5 shall be deposited in an affordable housing account for the purposes of
6 distributions to nonprofit organizations or public housing authorities
7 for affordable workforce housing near or at transit stations. For the
8 purposes of this section, "affordable workforce housing" means housing
9 for a single person, family, or unrelated persons living together whose
10 income is at or below one hundred twenty percent of the median income,
11 adjusted for household size, for the county where the housing is
12 located.

13 (iii) The balance of the revenues shall be deposited in a special
14 purposes account under section 6 of this act.

15 (e) At least seventy percent of moneys spent under (a)(i) of this
16 subsection for the period January 1, 1992, through December 31, 2000,
17 shall be used only for the purchase, design, construction, and
18 remodeling of performing arts, visual arts, heritage, and cultural
19 facilities, and for the purchase of fixed assets that will benefit art,
20 heritage, and cultural organizations. For purposes of this subsection,
21 fixed assets are tangible objects such as machinery and other equipment
22 intended to be held or used for ten years or more. Moneys received
23 under this subsection (3)(e) may be used for payment of principal and
24 interest on bonds issued for capital projects. Qualifying
25 organizations receiving moneys under this subsection (3)(e) must be
26 financially stable and have at least the following:

- 27 (i) A legally constituted and working board of directors;
- 28 (ii) A record of artistic, heritage, or cultural accomplishments;
- 29 (iii) Been in existence and operating for at least two years;
- 30 (iv) Demonstrated ability to maintain net current liabilities at
31 less than thirty percent of general operating expenses;
- 32 (v) Demonstrated ability to sustain operational capacity subsequent
33 to completion of projects or purchase of machinery and equipment; and
- 34 (vi) Evidence that there has been independent financial review of
35 the organization.

36 (f) At least forty percent of the revenues distributed pursuant to
37 (a)(i) of this subsection for the period January 1, 2001, through July

1 1, 2008, shall be deposited in a special account. The account may only
2 be used for the purposes of (a)(i) of this subsection.

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

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

10 (i) As used in this section, "tourism promotion" includes
11 activities intended to attract visitors for overnight stays, arts,
12 heritage, and cultural events, and recreational, professional, and
13 amateur sports events. Moneys allocated to tourism promotion in a
14 class AA county shall be allocated to nonprofit organizations formed
15 for the express purpose of tourism promotion in the county. Such
16 organizations shall use moneys from the taxes to promote events in all
17 parts of the class AA county.

18 (j) No taxes collected under this section may be used for the
19 operation or maintenance of a public stadium that is financed directly
20 or indirectly by bonds to which the tax is pledged. Expenditures for
21 operation or maintenance include all expenditures other than
22 expenditures that directly result in new fixed assets or that directly
23 increase the capacity, life span, or operating economy of existing
24 fixed assets.

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

30 (l) If a substantial part of the operation and management of a
31 public stadium that is financed directly or indirectly by bonds to
32 which the tax is pledged is performed by a nonpublic entity or if a
33 public stadium is sold that is financed directly or indirectly by bonds
34 to which the tax is pledged, any bonds to which the tax is pledged
35 shall be retired. This subsection (3)(l) does not apply in respect to
36 a public stadium under chapter 36.102 RCW transferred to, owned by, or
37 constructed by a public facilities district under chapter 36.100 RCW or
38 a stadium and exhibition center.

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

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

12 **Sec. 2.** RCW 82.14.0485 and 1995 3rd sp.s. c 1 s 101 are each
13 amended to read as follows:

14 (1) The legislative authority of a county with a population of one
15 million five hundred thousand or more may impose a sales and use tax in
16 accordance with the terms of this chapter. The tax is in addition to
17 other taxes authorized by law and shall be collected from those persons
18 who are taxable by the state under chapters 82.08 and 82.12 RCW upon
19 the occurrence of any taxable event within the county. The rate of tax
20 shall not exceed 0.017 percent of the selling price in the case of a
21 sales tax or value of the article used in the case of a use tax.

22 (2) The tax imposed under subsection (1) of this section shall be
23 deducted from the amount of tax otherwise required to be collected or
24 paid over to the department of revenue under chapter 82.08 or 82.12
25 RCW. The department of revenue shall perform the collection of such
26 taxes on behalf of the county at no cost to the county.

27 (3) Until the bonds issued for the construction of the baseball
28 stadium are retired, moneys collected under this section shall only be
29 used for the purpose of paying the principal and interest payments on
30 bonds issued by a county to construct a baseball stadium. After the
31 bonds issued for the construction of the baseball stadium are retired,
32 moneys collected under this section must be deposited in the special
33 purposes account under section 6 of this act.

34 (4) (~~No tax may be collected under this section before January 1,~~
35 ~~1996, and no tax may be collected under this section unless the taxes~~
36 ~~under RCW 82.14.360 are being collected.~~) The tax imposed in this
37 section shall expire (~~when the bonds issued for the construction of~~

1 ~~the baseball stadium are retired, but not more than twenty years after~~
2 ~~the tax is first collected)) on the first day that there is no tax~~
3 ~~under RCW 82.14.390 in effect anywhere in the state.~~

4 (5) As used in this section, "baseball stadium" means a baseball
5 stadium with natural turf and a retractable roof or canopy, together
6 with associated parking facilities, constructed in the largest city in
7 a county with a population of one million or more.

8 **Sec. 3.** RCW 82.14.049 and 2008 c 264 s 4 are each amended to read
9 as follows:

10 The legislative authority of any county may impose a sales and use
11 tax, in addition to the tax authorized by RCW 82.14.030, upon retail
12 car rentals within the county that are taxable by the state under
13 chapters 82.08 and 82.12 RCW. The rate of tax shall be one percent of
14 the selling price in the case of a sales tax or rental value of the
15 vehicle in the case of a use tax. Proceeds of the tax shall not be
16 used to subsidize any professional sports team and shall be used solely
17 for the following purposes:

18 (1) Acquiring, constructing, maintaining, or operating public
19 sports stadium facilities;

20 (2) Engineering, planning, financial, legal, or professional
21 services incidental to public sports stadium facilities;

22 (3) Youth or amateur sport activities or facilities; ~~((or))~~

23 (4) Debt or refinancing debt issued for the purposes of subsection
24 (1) of this section; or

25 (5) For deposit into a special purposes account under section 6 of
26 this act.

27 In a county with a population less than one million five hundred
28 thousand, at least seventy-five percent of the tax imposed under this
29 section shall be used for the purposes of subsections (1), (2), and (4)
30 of this section. In a county of one million five hundred thousand or
31 more, at least seventy-five percent of the tax imposed under this
32 section shall be used to retire the debt on the stadium under RCW
33 67.28.180(2)(b)(ii), until that debt is fully retired, and at least
34 seventy-five percent must be deposited under subsection (5) of this
35 section after the debt is fully retired.

1 **Sec. 4.** RCW 82.14.0494 and 1997 c 220 s 204 are each amended to
2 read as follows:

3 (1) The legislative authority of a county that has created a public
4 stadium authority to develop a stadium and exhibition center under RCW
5 36.102.050 may impose a sales and use tax in accordance with this
6 chapter. The tax is in addition to other taxes authorized by law and
7 shall be collected from those persons who are taxable by the state
8 under chapters 82.08 and 82.12 RCW upon the occurrence of any taxable
9 event within the county. The rate of tax shall be 0.016 percent of the
10 selling price in the case of a sales tax or value of the article used
11 in the case of a use tax.

12 (2) The tax imposed under subsection (1) of this section shall be
13 deducted from the amount of tax otherwise required to be collected or
14 paid over to the department of revenue under chapter 82.08 or 82.12
15 RCW. The department of revenue shall perform the collection of such
16 taxes on behalf of the county at no cost to the county.

17 (3) ~~((Before the issuance of bonds in RCW 43.99N.020, all revenues~~
18 ~~collected on behalf of the county under this section shall be~~
19 ~~transferred to the public stadium authority.)) After bonds are issued~~
20 under RCW 43.99N.020, all revenues collected on behalf of the county
21 under this section shall be deposited in the stadium and exhibition
22 center account under RCW 43.99N.060, until the bonds issued for the
23 construction of a stadium and exhibition center are retired. After the
24 bonds issued for the construction of a stadium and exhibition center
25 are retired, all revenues collected on behalf of the county under this
26 section must be deposited in the special purposes account under section
27 6 of this act.

28 (4) The definitions in RCW 36.102.010 apply to this section.

29 (5) This section expires on the earliest of the following dates:

30 (a) December 31, 1999, if the conditions for issuance of bonds
31 under RCW 43.99N.020 have not been met before that date;

32 (b) The date on which all bonds issued under RCW 43.99N.020 have
33 been retired; or

34 (c) Twenty-three years after the date the tax under this section is
35 first imposed. The tax imposed under this section expires on the first
36 day that there is no tax under RCW 82.14.390 in effect anywhere in the
37 state.

1 **Sec. 5.** RCW 82.14.360 and 2008 c 86 s 104 are each amended to read
2 as follows:

3 (1) The legislative authority of a county with a population of one
4 million five hundred thousand or more may impose a special stadium
5 sales and use tax upon the retail sale or use within the county by
6 restaurants, taverns, and bars of food and beverages that are taxable
7 by the state under chapters 82.08 and 82.12 RCW. The rate of the tax
8 shall not exceed five-tenths of one percent of the selling price in the
9 case of a sales tax, or value of the article used in the case of a use
10 tax. The tax authorized under this subsection is in addition to any
11 other taxes authorized by law and shall not be credited against any
12 other tax imposed upon the same taxable event. As used in this
13 section, "restaurant" does not include grocery stores, mini-markets, or
14 convenience stores. A county may not impose the tax authorized in this
15 subsection after December 31, 2015.

16 (2) The legislative authority of a county with a population of one
17 million five hundred thousand or more may impose a special stadium
18 sales and use tax upon retail car rentals within the county that are
19 taxable by the state under chapters 82.08 and 82.12 RCW. The rate of
20 the tax shall not exceed two percent of the selling price in the case
21 of a sales tax, or rental value of the vehicle in the case of a use
22 tax. The tax imposed under this subsection is in addition to any other
23 taxes authorized by law and shall not be credited against any other tax
24 imposed upon the same taxable event.

25 (3)(a) Except as provided in (b) of this subsection, the revenue
26 from the taxes imposed under the authority of this section shall be
27 used for the purpose of principal and interest payments on bonds,
28 issued by the county, to acquire, construct, own, remodel, maintain,
29 equip, reequip, repair, and operate a baseball stadium. Revenues from
30 the taxes authorized in this section may be used for design and other
31 preconstruction costs of the baseball stadium until bonds are issued
32 for the baseball stadium. The county shall issue bonds, in an amount
33 determined to be necessary by the public facilities district, for the
34 district to acquire, construct, own, and equip the baseball stadium.
35 The county shall have no obligation to issue bonds in an amount greater
36 than that which would be supported by the tax revenues under this
37 section, RCW 82.14.0485, and 36.38.010(4) (a) and (b). If the revenue

1 from the taxes imposed under the authority of this section exceeds the
2 amount needed for such principal and interest payments in any year, the
3 excess shall be used solely:

4 ~~((a))~~ (i) For early retirement of the bonds issued for the
5 baseball stadium; and

6 ~~((b))~~ (ii) If the revenue from the taxes imposed under this
7 section exceeds the amount needed for the purposes in (a)(i) of this
8 subsection in any year, the excess shall be placed in a contingency
9 fund which may only be used to pay unanticipated capital costs on the
10 baseball stadium, excluding any cost overruns on initial construction.

11 (b) After the bonds issued for the construction of the baseball
12 stadium are retired, and except as provided in subsection (6) of this
13 section, the revenue from the taxes imposed under the authority of this
14 section must be deposited in the special purposes account under section
15 6 of this act.

16 (4) The proceeds of any bonds issued for the baseball stadium shall
17 be provided to the district.

18 (5) As used in this section, "baseball stadium" means "baseball
19 stadium" as defined in RCW 82.14.0485.

20 ~~((The taxes imposed under this section shall expire when the~~
21 ~~bonds issued for the construction of the baseball stadium are retired,~~
22 ~~but not later than twenty years after the taxes are first collected))~~

23 (a) After the bonds issued for the construction of the baseball stadium
24 are retired, at the time the conditions in (b) of this subsection are
25 met, the largest city in the county shall retain the portion of the
26 taxes in subsections (1) and (2) of this section from sales within the
27 city.

28 (b) In order to retain the revenue in (a) of this subsection, on or
29 before August 18, 2013, the largest city in the county must have
30 entered into a binding and legally enforceable contractual commitment
31 with a prospective basketball lessee to (i) lease a multipurpose public
32 arena within the city and (ii) pay at least one hundred fifty million
33 dollars, in 2008 dollars adjusted for inflation annually using the
34 engineering news record twenty-city construction cost index, towards
35 the cost of the project to improve a multipurpose public arena within
36 the city.

37 (c) This subsection is only applicable until the time that bonds
38 are paid off for the purposes of (b) of this subsection.

1 (7) The following definitions apply to this section unless the
2 context clearly requires otherwise:

3 (a) "Prospective basketball lessee" means an entity that has a
4 legally binding option or agreement to purchase an existing or
5 expansion national basketball association franchise; and

6 (b) "Multipurpose public arena" means a multipurpose public arena
7 with a seating capacity of sixteen thousand or more that is located on
8 the grounds of a civic center and owned by a city or public
9 corporation.

10 NEW SECTION. Sec. 6. A new section is added to chapter 67.28 RCW
11 to read as follows:

12 (1) Except as provided in subsection (2) of this section, money
13 deposited in a special purposes account under this section may be used
14 only for one or more of the following purposes within the county:

15 (a) Funding tourism promotion as defined in RCW 67.28.080;

16 (b) Funding youth or amateur sports activities or facilities;

17 (c) Funding regional centers;

18 (d) Funding performing arts centers;

19 (e) Maintaining or improving publicly owned stadiums or arenas as
20 long as improvements can be made without economic harm to existing
21 tenants of those stadiums or arenas; or

22 (f) Funding community preservation and development authorities
23 created in chapter 43.167 RCW.

24 (2) Beginning in 2013, funding shall be provided annually in an
25 amount necessary to maintain a stadium constructed by a public
26 facilities district under the authority of RCW 36.100.035.

27 NEW SECTION. Sec. 7. Section 1 of this act is necessary for the
28 immediate preservation of the public peace, health, or safety, or
29 support of the state government and its existing public institutions,
30 and takes effect July 1, 2009.

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