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SENATE BILL 5834

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State of Washington

62nd Legislature

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By Senators Murray, Litzow, McAuliffe, Nelson, Hill, White, Kohl-  
Welles, Fain, and Eide

Read first time 02/18/11. Referred to Committee on Ways & Means.

1 AN ACT Relating to permitting counties to direct an existing  
2 portion of local lodging taxes to programs for arts and heritage; and  
3 amending RCW 67.28.180.

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

5 **Sec. 1.** RCW 67.28.180 and 2010 1st sp.s. c 26 s 8 are each amended  
6 to read 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~~) is subject to  
13 the following:

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

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

35 (ii) A county is exempt under this subsection with respect to city  
36 revenue or general obligation bonds issued after April 1, 1991, only if  
37 such bonds mature before January 1, 2013. If any county located east  
38 of the crest of the Cascade mountains has levied the tax authorized by

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

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

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

23 ~~((If bonds have been issued under RCW 43.99N.020 and any  
24 necessary property transfers have been made under RCW 36.102.100,))~~ No  
25 city within a county with a population of one million five hundred  
26 thousand or more may levy the tax authorized by this section (~~before~~  
27 ~~January 1, 2021~~)).

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

36 (3) Any levy authorized by this section by a county that has levied  
37 the tax authorized by this section and has, prior to June 26, 1975,  
38 either pledged the tax revenues for payment of principal and interest

1 on city revenue or general obligation bonds authorized and issued  
2 pursuant to RCW 67.28.150 through 67.28.160 or has authorized and  
3 issued revenue or general obligation bonds pursuant to the provisions  
4 of RCW 67.28.150 through 67.28.160 (~~shall be~~) is subject to the  
5 following:

6 (a) Taxes collected under this section in any calendar year before  
7 2013 in excess of five million three hundred thousand dollars (~~shall~~)  
8 may only be used as follows:

9 (i) (~~Seventy five percent from January 1, 1992, through December~~  
10 ~~31, 2000, and~~) Seventy percent from January 1, 2001, through December  
11 31, 2012, for art museums, cultural museums, heritage museums, the  
12 arts, and the performing arts. Moneys spent under this subsection  
13 (3)(a)(i) (~~shall~~) must be used for the purposes of this subsection  
14 (3)(a)(i) in all parts of the county.

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

23 (b) From January 1, 2013, through December 31, 2015, in a county  
24 with a population of one million five hundred thousand or more, all  
25 revenues under this section shall be used to retire the debt on the  
26 stadium, (~~or deposited in the stadium and exhibition center account~~  
27 ~~under RCW 43.99N.060 after~~) until the debt on the stadium is retired.  
28 On and after the date the debt on the stadium is retired, and through  
29 December 31, 2015, all revenues under this section in a county of one  
30 million five hundred thousand or more must be deposited in the special  
31 account under (e) of this subsection.

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

36 (d) (~~At least seventy percent of moneys spent under (a)(i) of this~~  
37 ~~subsection for the period January 1, 1992, through December 31, 2000,~~  
38 ~~shall be used only for the purchase, design, construction, and~~

1 remodeling of performing arts, visual arts, heritage, and cultural  
2 facilities, and for the purchase of fixed assets that will benefit art,  
3 heritage, and cultural organizations. For purposes of this subsection,  
4 fixed assets are tangible objects such as machinery and other equipment  
5 intended to be held or used for ten years or more. Moneys received  
6 under this subsection (3)(d) may be used for payment of principal and  
7 interest on bonds issued for capital projects. Qualifying  
8 organizations receiving moneys under this subsection (3)(d) must be  
9 financially stable and have at least the following:

- 10 (i) A legally constituted and working board of directors;
- 11 (ii) A record of artistic, heritage, or cultural accomplishments;
- 12 (iii) Been in existence and operating for at least two years;
- 13 (iv) Demonstrated ability to maintain net current liabilities at  
14 less than thirty percent of general operating expenses;
- 15 (v) Demonstrated ability to sustain operational capacity subsequent  
16 to completion of projects or purchase of machinery and equipment; and
- 17 (vi) Evidence that there has been independent financial review of

18 the organization.) On and after January 1, 2021, at least thirty-seven  
19 and one-half percent of the revenues under this section in a county of  
20 one million five hundred thousand or more must be deposited in the  
21 special account under (e) of this subsection. The account may only be  
22 used for the purposes of (a)(i) of this subsection.

23 (e) At least forty percent of the revenues distributed pursuant to  
24 (a)(i) of this subsection (~~for the period January 1, 2001, through~~  
25 ~~December 31, 2012, shall~~) must be deposited in (~~an~~) a special  
26 account (~~and shall be used to establish an endowment. Principal in~~  
27 ~~the account shall remain permanent and irreducible~~). The (~~earnings~~  
28 ~~from investments of balances in the~~) account may only be used for the  
29 purposes of (a)(i) of this subsection.

30 (f) School districts and schools (~~shall~~) may not receive revenues  
31 distributed pursuant to (a)(i) of this subsection.

32 (g) Moneys distributed to art museums, cultural museums, heritage  
33 museums, the arts, and the performing arts, and moneys distributed for  
34 tourism promotion (~~shall~~) must be in addition to and may not be used  
35 to replace or supplant any other funding by the legislative body of the  
36 county.

37 (h) As used in this section, "tourism promotion" includes  
38 activities intended to attract visitors for overnight stays, arts,

1 heritage, and cultural events, and recreational, professional, and  
2 amateur sports events. Moneys allocated to tourism promotion in a  
3 county with a population of one million or more (~~shall~~) must be  
4 allocated to nonprofit organizations formed for the express purpose of  
5 tourism promotion in the county. Such organizations (~~shall~~) must use  
6 moneys from the taxes to promote events in all parts of the county.

7 (i) No taxes collected under this section may be used for the  
8 operation or maintenance of a public stadium that is financed directly  
9 or indirectly by bonds to which the tax is pledged. Expenditures for  
10 operation or maintenance include all expenditures other than  
11 expenditures that directly result in new fixed assets or that directly  
12 increase the capacity, life span, or operating economy of existing  
13 fixed assets.

14 (j) No ad valorem property taxes may be used for debt service on  
15 bonds issued for a public stadium that is financed by bonds to which  
16 the tax is pledged, unless the taxes collected under this section are  
17 or are projected to be insufficient to meet debt service requirements  
18 on such bonds.

19 (k) If a substantial part of the operation and management of a  
20 public stadium that is financed directly or indirectly by bonds to  
21 which the tax is pledged is performed by a nonpublic entity or if a  
22 public stadium is sold that is financed directly or indirectly by bonds  
23 to which the tax is pledged, any bonds to which the tax is pledged  
24 shall be retired. This subsection (3)(k) does not apply in respect to  
25 a public stadium under chapter 36.102 RCW transferred to, owned by, or  
26 constructed by a public facilities district under chapter 36.100 RCW or  
27 a stadium and exhibition center.

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

35 (4) If a court of competent jurisdiction declares any provision of  
36 (~~this~~) subsection (3) of this section invalid, then that invalid

1 provision (~~shall be~~) is null and void and the remainder of this  
2 section is not affected.

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