
SUBSTITUTE SENATE BILL 5741

State of Washington

63rd Legislature

2014 Regular Session

By Senate Trade & Economic Development (originally sponsored by Senators Fain, Nelson, Kohl-Welles, Brown, and Kline)

READ FIRST TIME 02/05/14.

1 AN ACT Relating to allowing the use of lodging taxes for financing
2 workforce housing and tourism promotion activities or facilities; and
3 amending RCW 67.28.080, 67.28.150, 67.28.160, 67.28.180, and
4 67.28.1816.

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

6 **Sec. 1.** RCW 67.28.080 and 2013 c 196 s 2 are each amended to read
7 as follows:

8 The definitions in this section apply throughout this chapter
9 unless the context clearly requires otherwise.

10 (1) "Acquisition" includes, but is not limited to, siting,
11 acquisition, design, construction, refurbishing, expansion, repair, and
12 improvement, including paying or securing the payment of all or any
13 portion of general obligation bonds, leases, revenue bonds, or other
14 obligations issued or incurred for such purpose or purposes under this
15 chapter.

16 (2) "Municipality" means any county, city, or town of the state of
17 Washington, or a public facilities district created under chapters
18 35.57 and 36.100 RCW.

1 (3) "Operation" includes, but is not limited to, operation,
2 management, and marketing.

3 (4) "Person" means the federal government or any agency thereof,
4 the state or any agency, subdivision, taxing district or municipal
5 corporation thereof other than county, city or town, any private
6 corporation, partnership, association, or individual.

7 (5) "Tourism" means economic activity resulting from tourists,
8 which may include sales of overnight lodging, meals, tours, gifts, or
9 souvenirs.

10 (6) "Tourism promotion" means activities, operations, and
11 expenditures designed to increase tourism, including but not limited to
12 advertising, publicizing, or otherwise distributing information for the
13 purpose of attracting and welcoming tourists; developing strategies to
14 expand tourism; operating tourism promotion agencies; and funding the
15 marketing of or the operation of special events and festivals designed
16 to attract tourists.

17 (7) "Tourism-related facility" means real or tangible personal
18 property with a usable life of three or more years, or constructed with
19 volunteer labor that is: (a)(i) Owned by a public entity; (ii) owned
20 by a nonprofit organization described under section 501(c)(3) of the
21 federal internal revenue code of 1986, as amended; or (iii) owned by a
22 nonprofit organization described under section 501(c)(6) of the federal
23 internal revenue code of 1986, as amended, a business organization,
24 destination marketing organization, main street organization, lodging
25 association, or chamber of commerce and (b) used to support tourism,
26 performing arts, or to accommodate tourist activities.

27 **Sec. 2.** RCW 67.28.150 and 1997 c 452 s 9 are each amended to read
28 as follows:

29 (1) To carry out the purposes of this chapter including, but not
30 limited to, financing loans or grants to nonprofit organizations or
31 public housing authorities for affordable workforce housing within one-
32 half of a mile of a transit station, or loans or grants for tourism
33 promotion, any municipality ((shall have)) has the power to issue
34 general obligation bonds within the limitations now or hereafter
35 prescribed by the laws of this state. Such general obligation bonds
36 ((shall)) must be authorized, executed, issued, and made payable as
37 other general obligation bonds of such municipality((:—PROVIDED,

1 ~~That~~). However, the governing body of such municipality may provide
2 that such bonds mature in not to exceed forty years from the date of
3 their issue, may provide that such bonds also be made payable from any
4 special taxes provided for in this chapter, and may provide that such
5 bonds also be made payable from any otherwise unpledged revenue which
6 may be derived from the ownership or operation of any properties.

7 (2) Notwithstanding subsection (1) of this section, no more than
8 fifty percent of the projected available funds in 2021 may be bonded
9 for the financing of each of the following categories:

10 (a) Loans or grants to nonprofit organizations or public housing
11 authorities for affordable workforce housing within one-half mile of a
12 transit station; or

13 (b) Loans or grants for tourism promotion prior to 2021.

14 **Sec. 3.** RCW 67.28.160 and 1997 c 452 s 10 are each amended to read
15 as follows:

16 (1)(a) To carry out the purposes of this chapter including, but not
17 limited to, financing loans or grants to nonprofit organizations or
18 public housing authorities for affordable workforce housing within one-
19 half of a mile of a transit station, or loans or grants for tourism
20 promotion, the legislative body of any municipality (~~shall have~~) has
21 the power to issue revenue bonds without submitting the matter to the
22 voters of the municipality(~~:- PROVIDED, That~~). However, the
23 legislative body (~~shall~~) must create a special fund or funds for the
24 sole purpose of paying the principal of and interest on the bonds of
25 each such issue, into which fund or funds the legislative body may
26 obligate the municipality to pay all or part of amounts collected from
27 the special taxes provided for in this chapter, and/or to pay such
28 amounts of the gross revenue of all or any part of the facilities
29 constructed, acquired, improved, added to, repaired, or replaced
30 pursuant to this chapter, as the legislative body (~~shall determine:-~~
31 ~~PROVIDED, FURTHER, That~~) determines. The principal of and interest on
32 such bonds (~~shall~~) must be payable only out of such special fund or
33 funds, and the owners of such bonds (~~shall~~) have a lien and charge
34 against the gross revenue pledged to such fund.

35 (b) Such revenue bonds and the interest thereon issued against such
36 fund or funds (~~shall~~) constitute a claim of the owners thereof only

1 as against such fund or funds and the revenue pledged therefor, and
2 (~~shall~~) do not constitute a general indebtedness of the municipality.

3 (c) Each such revenue bond (~~shall~~) must state upon its face that
4 it is payable from such special fund or funds, and all revenue bonds
5 issued under this chapter (~~shall be~~) are negotiable securities within
6 the provisions of the law of this state. Such revenue bonds may be
7 registered either as to principal only or as to principal and interest
8 as provided in RCW 39.46.030, or may be bearer bonds; (~~shall~~) must be
9 in such denominations as the legislative body shall deem proper;
10 (~~shall~~) must be payable at such time or times and at such places as
11 (~~shall be~~) determined by the legislative body; (~~shall~~) must be
12 executed in such manner and bear interest at such rate or rates as
13 (~~shall be~~) determined by the legislative body.

14 (d) Such revenue bonds (~~shall~~) must be sold in such manner as the
15 legislative body shall deem to be for the best interests of the
16 municipality, either at public or private sale.

17 (e) The legislative body may at the time of the issuance of such
18 revenue bonds make such covenants with the owners of said bonds as it
19 may deem necessary to secure and guaranty the payment of the principal
20 thereof and the interest thereon, including but not being limited to
21 covenants to set aside adequate reserves to secure or guaranty the
22 payment of such principal and interest, to pledge and apply thereto
23 part or all of any lawfully authorized special taxes provided for in
24 this chapter, to maintain rates, charges or rentals sufficient with
25 other available moneys to pay such principal and interest and to
26 maintain adequate coverage over debt service, to appoint a trustee or
27 trustees for the bond owners, to safeguard the expenditure of the
28 proceeds of sale of such bonds and to fix the powers and duties of such
29 trustee or trustees and to make such other covenants as the legislative
30 body may deem necessary to accomplish the most advantageous sale of
31 such bonds. The legislative body may also provide that revenue bonds
32 payable out of the same source may later be issued on a parity with
33 revenue bonds being issued and sold.

34 (f) The legislative body may include in the principal amount of any
35 such revenue bond issue an amount for engineering, architectural,
36 planning, financial, legal, and other services and charges incident to
37 the acquisition or construction of public stadium facilities,
38 convention center facilities, performing arts center facilities, and/or

1 visual arts center facilities, an amount to establish necessary
2 reserves, an amount for working capital and an amount necessary for
3 interest during the period of construction of any facilities to be
4 financed from the proceeds of such issue plus six months. The
5 legislative body may, if it deems it in the best interest of the
6 municipality, provide in any contract for the construction or
7 acquisition of any facilities or additions or improvements thereto or
8 replacements or extensions thereof that payment therefor (~~shall~~) must
9 be made only in such revenue bonds.

10 (g) If the municipality (~~shall~~) fails to carry out or perform any
11 of its obligations or covenants made in the authorization, issuance,
12 and sale of such bonds, the owner of any such bond may bring action
13 against the municipality and compel the performance of any or all of
14 such covenants.

15 (2) Notwithstanding subsection (1) of this section, such bonds may
16 be issued and sold in accordance with chapter 39.46 RCW.

17 (3) Notwithstanding subsection (1) of this section, no more than
18 fifty percent of the projected available funds in 2021 may be bonded
19 for the financing of each of the following categories:

20 (a) Loans or grants to nonprofit organizations or public housing
21 authorities for affordable workforce housing within one-half mile of a
22 transit station; or

23 (b) Loans or grants for tourism promotion prior to 2021.

24 **Sec. 4.** RCW 67.28.180 and 2011 1st sp.s. c 38 s 1 are each amended
25 to read as follows:

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

31 (2) Any levy authorized by this section is subject to the
32 following:

33 (a) Any county ordinance or resolution adopted pursuant to this
34 section must contain, in addition to all other provisions required to
35 conform to this chapter, a provision allowing a credit against the
36 county tax for the full amount of any city tax imposed pursuant to this
37 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 is exempt from the provisions of (a) of
8 this subsection, to the extent that the tax revenues are pledged for
9 payment of principal and interest on bonds issued at any time pursuant
10 to the provisions of RCW 67.28.150 through 67.28.160. However, so much
11 of such pledged tax revenues, together with any investment earnings
12 thereon, not immediately necessary for actual payment of principal and
13 interest on such bonds may be used: (A) In any county with a
14 population of one million five hundred thousand 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; (B) in any county with a population of
23 one million five hundred thousand or more, for repayment or refinancing
24 of bonded indebtedness incurred prior to January 1, 1997, for any
25 purpose 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 (C) 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 (ii) 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, 2035. 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.

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

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

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

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

28 (3) Any levy authorized by this section by a county that has a
29 population of one million five hundred thousand or more is subject to
30 the following:

31 (a) Taxes collected under this section in any calendar year before
32 2013 in excess of five million three hundred thousand dollars may only
33 be used as follows:

34 (i) Seventy percent from January 1, 2001, through December 31,
35 2012, for art museums, cultural museums, heritage museums, the arts,
36 and the performing arts. Moneys spent under this subsection (3)(a)(i)
37 must be used for the purposes of this subsection (3)(a)(i) in all parts
38 of the county.

1 (ii) Thirty percent from January 1, 2001, through December 31,
2 2012, for the following purposes and in a manner reflecting the
3 following order of priority: Stadium purposes as authorized under
4 subsection (2)(b) of this section; acquisition of open space lands;
5 youth sports activities; and tourism promotion. If all or part of the
6 debt on the stadium is refinanced, all revenues under this subsection
7 (3)(a)(ii) must be used to retire the debt.

8 (b) From January 1, 2013, through December 31, 2015, all revenues
9 under this section shall be used to retire the debt on the stadium,
10 until the debt on the stadium is retired. On and after the date the
11 debt on the stadium is retired, and through December 31, 2015, all
12 revenues under this section in a county of one million five hundred
13 thousand or more must be deposited in the special account under (e) of
14 this subsection.

15 (c) From January 1, 2016, through December 31, 2020, all revenues
16 under this section must be deposited in the stadium and exhibition
17 center account under RCW 43.99N.060.

18 (d) On and after January 1, 2021, the revenues under this section
19 must be used as follows:

20 (i) At least thirty-seven and one-half percent of the revenues
21 under this section must be deposited in the special account under (e)
22 of this subsection.

23 (ii) At least thirty-seven and one-half percent of the revenues
24 under this section must be used for contracts, loans, or grants to
25 nonprofit organizations or public housing authorities for affordable
26 workforce housing within one-half of a mile of a transit station, as
27 described under RCW 9.91.025 or for services for homeless youth, or to
28 repay general obligation bonds issued pursuant to RCW 67.28.150 to
29 finance such contracts, loans, or grants or revenue bonds issued
30 pursuant to RCW 67.28.160 to finance a fund to make such contracts,
31 loans, or grants.

32 (iii) The remainder must be used for contracts, loans, or grants to
33 fund capital or operating programs ((that promote tourism and attract
34 tourists to the county)) for tourism promotion, or to repay general
35 obligation or revenue bonds issued pursuant to RCW 67.28.150 and
36 67.28.160 to finance such contracts, loans, or grants.

37 (e) At least forty percent of the revenues distributed pursuant to

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

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

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

9 (h) For the purposes of this section:

10 (i) "Affordable workforce housing" means housing for a single
11 person, family, or unrelated persons living together whose income is
12 between thirty percent and eighty percent of the median income,
13 adjusted for household size, for the county where the housing is
14 located; and

15 (ii) "Tourism promotion" includes activities intended to attract
16 visitors for overnight stays, arts, heritage, and cultural events, and
17 recreational, professional, and amateur sports events. Moneys
18 allocated to tourism promotion in a county with a population of one
19 million or more must be allocated to local public organizations and
20 nonprofit organizations formed for the express purpose of tourism
21 promotion in the county. Such organizations must use moneys from the
22 taxes to promote events in all parts of the county.

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

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

35 (k) If a substantial part of the operation and management of a
36 public stadium that is financed directly or indirectly by bonds to
37 which the tax is pledged is performed by a nonpublic entity or if a
38 public stadium is sold that is financed directly or indirectly by bonds

1 to which the tax is pledged, any bonds to which the tax is pledged
2 shall be retired. This subsection (3)(k) does not apply in respect to
3 a public stadium under chapter 36.102 RCW transferred to, owned by, or
4 constructed by a public facilities district under chapter 36.100 RCW or
5 a stadium and exhibition center.

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

13 (4) If a court of competent jurisdiction declares any provision of
14 subsection (3) of this section invalid, then that invalid provision is
15 null and void and the remainder of this section is not affected.

16 **Sec. 5.** RCW 67.28.1816 and 2013 c 196 s 1 are each amended to read
17 as follows:

18 (1) Lodging tax revenues under this chapter may be used, directly
19 by any municipality or indirectly through a convention and visitors
20 bureau or destination marketing organization for:

21 (a) Tourism marketing;

22 (b) The marketing and operations of special events and festivals
23 designed to attract tourists;

24 (c) Supporting the operations and capital expenditures of tourism-
25 related facilities owned or operated by a municipality or a public
26 facilities district created under chapters 35.57 and 36.100 RCW; or

27 (d) Supporting the operations of tourism-related facilities owned
28 or operated by nonprofit organizations described under 26 U.S.C. Sec.
29 501(c)(3) and 26 U.S.C. Sec. 501(c)(6) of the internal revenue code of
30 1986, as amended.

31 (2)(a) Except as provided in (b) of this subsection, applicants
32 applying for use of revenues in this chapter must provide the
33 municipality to which they are applying estimates of how any moneys
34 received will result in increases in the number of people traveling for
35 business or pleasure on a trip:

36 (i) Away from their place of residence or business and staying
37 overnight in paid accommodations;

1 (ii) To a place fifty miles or more one way from their place of
2 residence or business for the day or staying overnight; or

3 (iii) From another country or state outside of their place of
4 residence or their business.

5 (b)(i) In a municipality with a population of five thousand or
6 more, applicants applying for use of revenues in this chapter must
7 submit their applications and estimates described under (a) of this
8 subsection to the local lodging tax advisory committee.

9 (ii) The local lodging tax advisory committee must select the
10 candidates from amongst the applicants applying for use of revenues in
11 this chapter and provide a list of such candidates and recommended
12 amounts of funding to the municipality for final determination. The
13 municipality may choose only recipients from the list of candidates and
14 recommended amounts provided by the local lodging tax advisory
15 committee.

16 (c)(i) All recipients must submit a report to the municipality
17 describing the actual number of people traveling for business or
18 pleasure on a trip:

19 (A) Away from their place of residence or business and staying
20 overnight in paid accommodations;

21 (B) To a place fifty miles or more one way from their place of
22 residence or business for the day or staying overnight; or

23 (C) From another country or state outside of their place of
24 residence or their business. A municipality receiving a report must:
25 Make such report available to the local legislative body and the
26 public; and furnish copies of the report to the joint legislative audit
27 and review committee and members of the local lodging tax advisory
28 committee.

29 (ii) The joint legislative audit and review committee must on a
30 biennial basis report to the economic development committees of the
31 legislature on the use of lodging tax revenues by municipalities.
32 Reporting under this subsection must begin in calendar year 2015.

33 (d) This section does not apply to the portion of revenues of any
34 lodging tax authorized under this chapter that are allocated to fund
35 affordable workforce housing within one-half mile of a transit station
36 or the arts and imposed by a county with a population of one million

1 five hundred thousand or more.

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