
SENATE BILL 5741

State of Washington

63rd Legislature

2013 Regular Session

By Senators Fain, Nelson, Kohl-Welles, Brown, and Kline

Read first time 02/13/13. Referred to Committee on Trade & Economic Development.

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 67.28.150, 67.28.160, and 67.28.180.

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

5 **Sec. 1.** RCW 67.28.150 and 1997 c 452 s 9 are each amended to read
6 as follows:

7 To carry out the purposes of this chapter including, but not
8 limited to, financing loans or grants to nonprofit organizations or
9 public housing authorities for affordable workforce housing within one-
10 half of a mile of a transit station, or loans or grants for tourism
11 promotion, any municipality (~~shall have~~) has the power to issue
12 general obligation bonds within the limitations now or hereafter
13 prescribed by the laws of this state. Such general obligation bonds
14 (~~shall~~) must be authorized, executed, issued, and made payable as
15 other general obligation bonds of such municipality(~~PROVIDED,~~
16 ~~That~~). However, the governing body of such municipality may provide
17 that such bonds mature in not to exceed forty years from the date of
18 their issue, may provide that such bonds also be made payable from any

1 special taxes provided for in this chapter, and may provide that such
2 bonds also be made payable from any otherwise unpledged revenue which
3 may be derived from the ownership or operation of any properties.

4 **Sec. 2.** RCW 67.28.160 and 1997 c 452 s 10 are each amended to read
5 as follows:

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

25 (b) Such revenue bonds and the interest thereon issued against such
26 fund or funds (~~shall~~) constitute a claim of the owners thereof only
27 as against such fund or funds and the revenue pledged therefor, and
28 (~~shall~~) do not constitute a general indebtedness of the municipality.

29 (c) Each such revenue bond (~~shall~~) must state upon its face that
30 it is payable from such special fund or funds, and all revenue bonds
31 issued under this chapter (~~shall be~~) are negotiable securities within
32 the provisions of the law of this state. Such revenue bonds may be
33 registered either as to principal only or as to principal and interest
34 as provided in RCW 39.46.030, or may be bearer bonds; (~~shall~~) must be
35 in such denominations as the legislative body shall deem proper;
36 (~~shall~~) must be payable at such time or times and at such places as

1 ((~~shall be~~)) determined by the legislative body; ((~~shall~~)) must be
2 executed in such manner and bear interest at such rate or rates as
3 ((~~shall be~~)) determined by the legislative body.

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

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

24 (f) The legislative body may include in the principal amount of any
25 such revenue bond issue an amount for engineering, architectural,
26 planning, financial, legal, and other services and charges incident to
27 the acquisition or construction of public stadium facilities,
28 convention center facilities, performing arts center facilities, and/or
29 visual arts center facilities, an amount to establish necessary
30 reserves, an amount for working capital and an amount necessary for
31 interest during the period of construction of any facilities to be
32 financed from the proceeds of such issue plus six months. The
33 legislative body may, if it deems it in the best interest of the
34 municipality, provide in any contract for the construction or
35 acquisition of any facilities or additions or improvements thereto or
36 replacements or extensions thereof that payment therefor ((~~shall~~)) must
37 be made only in such revenue bonds.

1 (g) If the municipality (~~shall~~) fails to carry out or perform any
2 of its obligations or covenants made in the authorization, issuance,
3 and sale of such bonds, the owner of any such bond may bring action
4 against the municipality and compel the performance of any or all of
5 such covenants.

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

8 **Sec. 3.** RCW 67.28.180 and 2011 1st sp.s. c 38 s 1 are each amended
9 to read as follows:

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

15 (2) Any levy authorized by this section is subject to the
16 following:

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

22 (b)(i) In the event that any county has levied the tax authorized
23 by this section and has, prior to June 26, 1975, either pledged the tax
24 revenues for payment of principal and interest on city revenue or
25 general obligation bonds authorized and issued pursuant to RCW
26 67.28.150 through 67.28.160 or has authorized and issued revenue or
27 general obligation bonds pursuant to the provisions of RCW 67.28.150
28 through 67.28.160, such county is exempt from the provisions of (a) of
29 this subsection, to the extent that the tax revenues are pledged for
30 payment of principal and interest on bonds issued at any time pursuant
31 to the provisions of RCW 67.28.150 through 67.28.160. However, so much
32 of such pledged tax revenues, together with any investment earnings
33 thereon, not immediately necessary for actual payment of principal and
34 interest on such bonds may be used: (A) In any county with a
35 population of one million five hundred thousand or more, for repayment
36 either of limited tax levy general obligation bonds or of any county
37 fund or account from which a loan was made, the proceeds from the bonds

1 or loan being used to pay for constructing, installing, improving, and
2 equipping stadium capital improvement projects, and to pay for any
3 engineering, planning, financial, legal and professional services
4 incident to the development of such stadium capital improvement
5 projects, regardless of the date the debt for such capital improvement
6 projects was or may be incurred; (B) in any county with a population of
7 one million five hundred thousand or more, for repayment or refinancing
8 of bonded indebtedness incurred prior to January 1, 1997, for any
9 purpose authorized by this section or relating to stadium repairs or
10 rehabilitation, including but not limited to the cost of settling legal
11 claims, reimbursing operating funds, interest payments on short-term
12 loans, and any other purpose for which such debt has been incurred if
13 the county has created a public stadium authority to develop a stadium
14 and exhibition center under RCW 36.102.030; or (C) in other counties,
15 for county-owned facilities for agricultural promotion until January 1,
16 2009, and thereafter for any purpose authorized in this chapter.

17 (ii) A county is exempt under this subsection with respect to city
18 revenue or general obligation bonds issued after April 1, 1991, only if
19 such bonds mature before January 1, 2013. If any county located east
20 of the crest of the Cascade mountains has levied the tax authorized by
21 this section and has, prior to June 26, 1975, pledged the tax revenue
22 for payment of principal and interest on city revenue or general
23 obligation bonds, the county is exempt under this subsection with
24 respect to revenue or general obligation bonds issued after January 1,
25 2007, only if the bonds mature before January 1, 2035. Such a county
26 may only use funds under this subsection (2)(b) for constructing or
27 improving facilities authorized under this chapter, including county-
28 owned facilities for agricultural promotion.

29 (iii) As used in this subsection (2)(b), "capital improvement
30 projects" may include, but not be limited to a stadium restaurant
31 facility, restroom facilities, artificial turf system, seating
32 facilities, parking facilities and scoreboard and information system
33 adjacent to or within a county owned stadium, together with equipment,
34 utilities, accessories and appurtenances necessary thereto. The
35 stadium restaurant authorized by this subsection (2)(b) must be
36 operated by a private concessionaire under a contract with the county.

37 (c)(i) No city within a county exempt under (b) of this subsection

1 may levy the tax authorized by this section so long as said county is
2 so exempt.

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

5 (iii) However, in the event that any city in a county described in
6 (c)(i) or (ii) of this subsection (2) has levied the tax authorized by
7 this section and has, prior to June 26, 1975, authorized and issued
8 revenue or general obligation bonds pursuant to the provisions of RCW
9 67.28.150 through 67.28.160, such city may levy the tax so long as the
10 tax revenues are pledged for payment of principal and interest on bonds
11 issued at any time pursuant to the provisions of RCW 67.28.150 through
12 67.28.160.

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

16 (a) Taxes collected under this section in any calendar year before
17 2013 in excess of five million three hundred thousand dollars may only
18 be used as follows:

19 (i) Seventy percent from January 1, 2001, through December 31,
20 2012, for art museums, cultural museums, heritage museums, the arts,
21 and the performing arts. Moneys spent under this subsection (3)(a)(i)
22 must be used for the purposes of this subsection (3)(a)(i) in all parts
23 of the county.

24 (ii) Thirty percent from January 1, 2001, through December 31,
25 2012, for the following purposes and in a manner reflecting the
26 following order of priority: Stadium purposes as authorized under
27 subsection (2)(b) of this section; acquisition of open space lands;
28 youth sports activities; and tourism promotion. If all or part of the
29 debt on the stadium is refinanced, all revenues under this subsection
30 (3)(a)(ii) must be used to retire the debt.

31 (b) From January 1, 2013, through December 31, 2015, all revenues
32 under this section shall be used to retire the debt on the stadium,
33 until the debt on the stadium is retired. On and after the date the
34 debt on the stadium is retired, and through December 31, 2015, all
35 revenues under this section in a county of one million five hundred
36 thousand or more must be deposited in the special account under (e) of
37 this subsection.

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

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

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

9 (ii) At least thirty-seven and one-half percent of the revenues
10 under this section must be used for contracts, loans, or grants to
11 nonprofit organizations or public housing authorities for affordable
12 workforce housing within one-half of a mile of a transit station, as
13 described under RCW 9.91.025 or for services for homeless youth, or to
14 repay general obligation bonds issued pursuant to RCW 67.28.150 to
15 finance such contracts, loans, or grants or revenue bonds issued
16 pursuant to RCW 67.28.160 to finance a fund to make such contracts,
17 loans, or grants.

18 (iii) The remainder must be used for contracts, loans, or grants to
19 fund capital or operating programs ((that promote tourism and attract
20 tourists to the county)) for tourism promotion, or to repay general
21 obligation or revenue bonds issued pursuant to RCW 67.28.150 and
22 67.28.160 to finance such contracts, loans, or grants.

23 (e) At least forty percent of the revenues distributed pursuant to
24 (a)(i) of this subsection must be deposited in a special account. The
25 account may only be used for the purposes of (a)(i) of this subsection.

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

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

32 (h) For the purposes of this section:

33 (i) "Affordable workforce housing" means housing for a single
34 person, family, or unrelated persons living together whose income is
35 between thirty percent and eighty percent of the median income,
36 adjusted for household size, for the county where the housing is
37 located; and

1 (ii) "Tourism promotion" includes activities intended to attract
2 visitors for overnight stays, arts, heritage, and cultural events, and
3 recreational, professional, and amateur sports events. Moneys
4 allocated to tourism promotion in a county with a population of one
5 million or more must be allocated to local public organizations and
6 nonprofit organizations formed for the express purpose of tourism
7 promotion in the county. Such organizations must use moneys from the
8 taxes to promote events in all parts of the county.

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

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

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

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

37 (4) If a court of competent jurisdiction declares any provision of

1 subsection (3) of this section invalid, then that invalid provision is
2 null and void and the remainder of this section is not affected.

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