

---

ENGROSSED SUBSTITUTE SENATE BILL 6051 - CC

---

State of Washington

61st Legislature

2010 Regular Session

By Senate Ways & Means (originally sponsored by Senators Murray, Pflug, Kohl-Welles, McAuliffe, Jarrett, Eide, Kline, Fairley, Jacobsen, and McDermott)

READ FIRST TIME 03/02/09.

1 AN ACT Relating to lodging taxes; and amending RCW 67.28.180.

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

3 **Sec. 1.** RCW 67.28.180 and 2007 c 189 s 1 are each amended to read  
4 as follows:

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

10 (2) Any levy authorized by this section (~~shall be~~) is subject to  
11 the following:

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

17 (b)(i) In the event that any county has levied the tax authorized  
18 by this section and has, prior to June 26, 1975, either pledged the tax  
19 revenues for payment of principal and interest on city revenue or

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

32 (ii) A county is exempt under this subsection with respect to city  
33 revenue or general obligation bonds issued after April 1, 1991, only if  
34 such bonds mature before January 1, 2013. If any county located east  
35 of the crest of the Cascade mountains has levied the tax authorized by  
36 this section and has, prior to June 26, 1975, pledged the tax revenue  
37 for payment of principal and interest on city revenue or general  
38 obligation bonds, the county is exempt under this subsection with

1 respect to revenue or general obligation bonds issued after January 1,  
2 2007, only if the bonds mature before January 1, 2021. Such a county  
3 may only use funds under this subsection (2)(b) for constructing or  
4 improving facilities authorized under this chapter, including county-  
5 owned facilities for agricultural promotion, and must perform an annual  
6 financial audit of organizations receiving funding on the use of the  
7 funds.

8 (iii) As used in this subsection (2)(b), "capital improvement  
9 projects" may include, but not be limited to a stadium restaurant  
10 facility, restroom facilities, artificial turf system, seating  
11 facilities, parking facilities and scoreboard and information system  
12 adjacent to or within a county owned stadium, together with equipment,  
13 utilities, accessories and appurtenances necessary thereto. The  
14 stadium restaurant authorized by this subsection (2)(b) (~~shall~~) must  
15 be operated by a private concessionaire under a contract with the  
16 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 ~~((If bonds have been issued under RCW 43.99N.020 and any  
21 necessary property transfers have been made under RCW 36.102.100,))~~ No  
22 city within a county with a population of one million five hundred  
23 thousand or more may levy the tax authorized by this section (~~before~~  
24 ~~January 1, 2021~~)).

25 (iii) However, in the event that any city in a county described in  
26 (i) or (ii) of this subsection (2)(c) 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~~) is subject to the  
3 following:

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

7 (i) Seventy-five percent from January 1, 1992, through December 31,  
8 2000, and seventy percent from January 1, 2001, through December 31,  
9 2012, for art museums, cultural museums, heritage museums, a performing  
10 arts center in a city with a population greater than eighty-five  
11 thousand persons but less than one hundred thousand persons, heritage  
12 and preservation programs, the arts, and the performing arts. Moneys  
13 spent under this subsection (3)(a)(i) (~~shall~~) must be used for the  
14 purposes of this subsection (3)(a)(i) in all parts of the county.

15 (ii) Twenty-five percent from January 1, 1992, through December 31,  
16 2000, and thirty percent from January 1, 2001, through December 31,  
17 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~~) must be used to retire the debt  
26 on the stadium, (~~or deposited in the stadium and exhibition center~~  
27 ~~account under RCW 43.99N.060 after~~) until the debt on the stadium is  
28 retired. On and after the date the debt on the stadium is retired, and  
29 through December 31, 2015, all revenues under this section in a county  
30 of one million five hundred thousand or more must be deposited in the  
31 special account under (f) of this subsection.

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

36 (d) On and after January 1, 2021, at least thirty-seven and one-  
37 half percent of revenues under this section in a county of one million

1 five hundred thousand or more must be deposited in the special account  
2 under (f) of this subsection.

3 (e) At least seventy percent of moneys spent under (a)(i) of this  
4 subsection for the period January 1, 1992, through December 31, 2000,  
5 ~~((shall))~~ must be used only for the purchase, design, construction, and  
6 remodeling of performing arts, visual arts, heritage, and cultural  
7 facilities, and for the purchase of fixed assets that will benefit art,  
8 heritage, and cultural organizations. For purposes of this subsection,  
9 fixed assets are tangible objects such as machinery and other equipment  
10 intended to be held or used for ten years or more. Moneys received  
11 under this subsection ~~(3)((+d))~~ (e) may be used for payment of  
12 principal and interest on bonds issued for capital projects.  
13 Qualifying organizations receiving moneys under this subsection  
14 ~~(3)((+d))~~ (e) must be financially stable and have at least the  
15 following:

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

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

33 ~~((+f))~~ (g) School districts and schools ~~((shall))~~ may not receive  
34 revenues distributed pursuant to (a)(i) of this subsection.

35 ~~((+g))~~ (h) Moneys distributed to art museums, cultural museums,  
36 heritage museums, heritage and preservation programs, the arts, and the  
37 performing arts, and moneys distributed for tourism promotion ~~((shall))~~

1 must be in addition to and may not be used to replace or supplant any  
2 other funding by the legislative body of the county.

3 ~~((h))~~ (i) As used in this section, "tourism promotion" includes  
4 activities intended to attract visitors for overnight stays, arts,  
5 heritage, and cultural events, and recreational, professional, and  
6 amateur sports events. Moneys allocated to tourism promotion in a  
7 class AA county ~~((shall))~~ must be allocated to nonprofit organizations  
8 formed for the express purpose of tourism promotion in the county.  
9 Such organizations ~~((shall))~~ must use moneys from the taxes to promote  
10 events in all parts of the class AA county.

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

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

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

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

1        (4) If a court of competent jurisdiction declares any provision of  
2        (~~this~~) subsection (3) invalid, then that invalid provision (~~shall~~  
3        ~~be~~) is null and void and the remainder of this section is not  
4        affected.

--- END ---