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HOUSE BILL 3054

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State of Washington

60th Legislature

2008 Regular Session

By Representatives Hunter, Priest, Sullivan, Kagi, McIntire, Anderson, Pettigrew, Pedersen, Goodman, Jarrett, Ericks, Springer, Eddy, Clibborn, Schual-Berke, Chase, Miloscia, Roach, Hurst, Kessler, and Nelson

Read first time 01/21/08. Referred to Committee on Community & Economic Development & Trade.

1 AN ACT Relating to reallocation of existing lodging taxes for  
2 support of heritage and arts programs in a county with a population of  
3 one million or more; amending RCW 67.28.180, 67.28.1815, and 82.14.049;  
4 creating a new section; and providing an effective date.

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

6 NEW SECTION. **Sec. 1.** The legislature finds that locally funded  
7 heritage and arts programs build vital communities and preserve  
8 community history and culture. It further finds that within existing  
9 revenue sources, local jurisdictions should have the capability to  
10 preserve these programs in the future.

11 The locally funded heritage and arts program in the state's most  
12 populated county was established in 1989 using a portion of hotel-motel  
13 tax revenues. This program was structured to provide for inflation and  
14 an expanding population of the county.

15 In 1997, the legislature acted to assure the future of the heritage  
16 and arts program by creating an endowment fund using these same local  
17 funds. This funding mechanism has proved to be inadequate and unless  
18 immediately modified will result in a seventy-five percent reduction of  
19 funds for the program.

1 This act will provide a stable and predictable flow of funds to the  
2 program, provide for inflation and an expanding population, and assure  
3 the future viability of the program within existing revenue flows.

4 **Sec. 2.** RCW 67.28.180 and 2007 c 189 s 1 are each amended to read  
5 as follows:

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

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

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

18 (b) In the event that any county has levied the tax authorized by  
19 this section and has, prior to June 26, 1975, either pledged the tax  
20 revenues for payment of principal and interest on city revenue or  
21 general obligation bonds authorized and issued pursuant to RCW  
22 67.28.150 through 67.28.160 or has authorized and issued revenue or  
23 general obligation bonds pursuant to the provisions of RCW 67.28.150  
24 through 67.28.160, such county shall be exempt from the provisions of  
25 (a) of this subsection, to the extent that the tax revenues are pledged  
26 for payment of principal and interest on bonds issued at any time  
27 pursuant to the provisions of RCW 67.28.150 through 67.28.160:  
28 PROVIDED, That so much of such pledged tax revenues, together with any  
29 investment earnings thereon, not immediately necessary for actual  
30 payment of principal and interest on such bonds may be used: (i) In  
31 any county with a population of one million or more, for repayment  
32 either of limited tax levy general obligation bonds or of any county  
33 fund or account from which a loan was made, the proceeds from the bonds  
34 or loan being used to pay for constructing, installing, improving, and  
35 equipping stadium capital improvement projects, and to pay for any  
36 engineering, planning, financial, legal and professional services  
37 incident to the development of such stadium capital improvement

1 projects, regardless of the date the debt for such capital improvement  
2 projects was or may be incurred; (ii) in any county with a population  
3 of one million or more, for repayment or refinancing of bonded  
4 indebtedness incurred prior to January 1, 1997, for any purpose  
5 authorized by this section or relating to stadium repairs or  
6 rehabilitation, including but not limited to the cost of settling legal  
7 claims, reimbursing operating funds, interest payments on short-term  
8 loans, and any other purpose for which such debt has been incurred if  
9 the county has created a public stadium authority to develop a stadium  
10 and exhibition center under RCW 36.102.030; or (iii) in other counties,  
11 for county-owned facilities for agricultural promotion until January 1,  
12 2009, and thereafter for any purpose authorized in this chapter.

13 A county is exempt under this subsection with respect to city  
14 revenue or general obligation bonds issued after April 1, 1991, only if  
15 such bonds mature before January 1, 2013. If any county located east  
16 of the crest of the Cascade mountains has levied the tax authorized by  
17 this section and has, prior to June 26, 1975, pledged the tax revenue  
18 for payment of principal and interest on city revenue or general  
19 obligation bonds, the county is exempt under this subsection with  
20 respect to revenue or general obligation bonds issued after January 1,  
21 2007, only if the bonds mature before January 1, 2021. Such a county  
22 may only use funds under this subsection (2)(b) for constructing or  
23 improving facilities authorized under this chapter, including county-  
24 owned facilities for agricultural promotion, and must perform an annual  
25 financial audit of organizations receiving funding on the use of the  
26 funds.

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

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

1       (ii) (~~If bonds have been issued under RCW 43.99N.020 and any~~  
2 ~~necessary property transfers have been made under RCW 36.102.100,~~) No  
3 city within a county with a population of one million or more may levy  
4 the tax authorized by this section (~~before January 1, 2021~~).

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

13       (3) Any levy authorized by this section by a county that has levied  
14 the tax authorized by this section and has, prior to June 26, 1975,  
15 either pledged the tax revenues for payment of principal and interest  
16 on city revenue or general obligation bonds authorized and issued  
17 pursuant to RCW 67.28.150 through 67.28.160 or has authorized and  
18 issued revenue or general obligation bonds pursuant to the provisions  
19 of RCW 67.28.150 through 67.28.160 shall be subject to the following:

20       (a) Taxes collected under this section in any calendar year before  
21 2013 in excess of five million three hundred thousand dollars shall  
22 only be used as follows:

23       (i) Seventy-five percent from January 1, 1992, through December 31,  
24 2000, and seventy percent from January 1, 2001, through December 31,  
25 2012, for art museums, cultural museums, heritage museums, heritage and  
26 preservation programs, the arts, and the performing arts. Moneys spent  
27 under this subsection (3)(a)(i) shall be used for the purposes of this  
28 subsection (3)(a)(i) in all parts of the county.

29       (ii) Twenty-five percent from January 1, 1992, through December 31,  
30 2000, and thirty percent from January 1, 2001, through December 31,  
31 2012, for the following purposes and in a manner reflecting the  
32 following order of priority: Stadium purposes as authorized under  
33 subsection (2)(b) of this section; acquisition of open space lands;  
34 youth sports activities; and tourism promotion. If all or part of the  
35 debt on the stadium is refinanced, all revenues under this subsection  
36 (3)(a)(ii) shall be used to retire the debt.

37       (b) From January 1, 2013, through December 31, 2015, in a county  
38 with a population of one million or more, all revenues under this

1 section shall be used to retire the debt on the stadium, (~~or deposited~~  
2 ~~in the stadium and exhibition center account under RCW 43.99N.060~~  
3 ~~after~~) until the debt on the stadium is retired. On and after the  
4 date the debt on the stadium is retired, and through December 31, 2015,  
5 all revenues under this section in a county of a million or more shall  
6 be deposited in the special account under (f) of this subsection.

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

11 (d) On and after January 1, 2021, at least thirty-seven and  
12 one-half percent of revenues under this section in a county of a  
13 million or more shall be deposited in the special account under (f) of  
14 this subsection.

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)(~~(d)~~) (e) may be used for payment of  
24 principal and interest on bonds issued for capital projects.  
25 Qualifying organizations receiving moneys under this subsection  
26 (3)(~~(d)~~) (e) must be financially stable and have at least the  
27 following:

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

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

1 through ~~((December 31, 2012,))~~ the effective date of this section shall  
2 be deposited in ~~((an))~~ a special account ~~((and shall be used to~~  
3 ~~establish an endowment. Principal in the account shall remain~~  
4 ~~permanent and irreducible))~~. The ~~((earnings from investments of~~  
5 ~~balances in the))~~ account may only be used for the purposes of (a)(i)  
6 of this subsection.

7 ~~((f))~~ (g) School districts and schools shall not receive revenues  
8 distributed pursuant to (a)(i) of this subsection.

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

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

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

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

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

1 shall be retired. This subsection (3)(~~(k)~~) (l) does not apply in  
2 respect to a public stadium under chapter 36.102 RCW transferred to,  
3 owned by, or constructed by a public facilities district under chapter  
4 36.100 RCW or a stadium and exhibition center.

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

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

15 **Sec. 3.** RCW 67.28.1815 and 1997 c 452 s 4 are each amended to read  
16 as follows:

17 Except as provided in RCW 67.28.180, all revenue from taxes imposed  
18 under this chapter shall be credited to a special fund in the treasury  
19 of the municipality imposing such tax and used solely for the purpose  
20 of paying all or any part of the cost of tourism promotion, acquisition  
21 of tourism-related facilities, or operation of tourism-related  
22 facilities. Municipalities may, under chapter 39.34 RCW, agree to the  
23 utilization of revenue from taxes imposed under this chapter for the  
24 purposes of funding a multijurisdictional tourism-related facility.

25 **Sec. 4.** RCW 82.14.049 and 1997 c 220 s 502 are each amended to  
26 read as follows:

27 The legislative authority of any county may impose a sales and use  
28 tax, in addition to the tax authorized by RCW 82.14.030, upon retail  
29 car rentals within the county that are taxable by the state under  
30 chapters 82.08 and 82.12 RCW. The rate of tax shall be one percent of  
31 the selling price in the case of a sales tax or rental value of the  
32 vehicle in the case of a use tax. Proceeds of the tax shall not be  
33 used to subsidize any professional sports team and shall be used solely  
34 for the following purposes:

- 35 (1) Acquiring, constructing, maintaining, or operating public  
36 sports stadium facilities;

- 1       (2) Engineering, planning, financial, legal, or professional
- 2 services incidental to public sports stadium facilities;
- 3       (3) Youth or amateur sport activities or facilities; or
- 4       (4) Debt or refinancing debt issued for the purposes of subsection
- 5 (1) of this section.

6       At least seventy-five percent of the tax imposed under this section  
7 shall be used for the purposes of subsections (1), (2), and (4) of this  
8 section. In a county of one million or more, at least seventy-five  
9 percent of the tax imposed under this section shall be used to retire  
10 the debt on the stadium under RCW 67.28.180(2)(b)(ii), until that debt  
11 is fully retired.

12       NEW SECTION.   **Sec. 5.** This act takes effect July 1, 2008.

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