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SENATE BILL 6848

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State of Washington                      60th Legislature                      2008 Regular Session

By Senators Prentice, Delvin, Kohl-Welles, Brandland, McAuliffe, Murray, Regala, and Shin; by request of University of Washington

Read first time 01/28/08. Referred to Committee on Ways & Means.

1            AN ACT Relating to financing stadium facilities at a state research  
2 university in a county with a population of one million or more;  
3 amending RCW 67.28.180, 82.14.049, and 82.14.360; adding a new section  
4 to chapter 82.32 RCW; and providing an effective date.

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

6            NEW SECTION.    **Sec. 1.** A new section is added to chapter 82.32 RCW  
7 to read as follows:

8            (1) The board of regents of a state research university may apply  
9 for deferral of taxes on the design, renovation, remodeling,  
10 alteration, repair, or improvement of, and the acquisition of related  
11 machinery and equipment for, a university stadium renovation project.  
12 Application must be made to the department in a form and manner  
13 prescribed by the department. The application must contain estimated  
14 or actual costs, time schedules for completion and operation, and other  
15 information required by the department. The department must approve  
16 the application within sixty days if it meets the requirements of this  
17 section.

18            (2) The department of revenue must issue a sales and use tax

1 deferral certificate for state and local sales and use taxes due under  
2 chapters 82.08, 82.12, and 82.14 RCW for the project. The use of the  
3 certificate must be governed by rules established by the department.

4 (3) The university must begin paying the deferred taxes in the  
5 fifth year after the date certified by the department as the date on  
6 which the project is operationally complete. The first payment is due  
7 on December 31st of the fifth calendar year after such certified date,  
8 with subsequent annual payments due on December 31st of the following  
9 nine years. Each payment shall equal ten percent of the deferred tax.

10 (4) The department may authorize an accelerated repayment schedule  
11 upon request of the board of regents.

12 (5) Interest is not to be charged on any taxes deferred under this  
13 section for the period of deferral, although all other penalties and  
14 interest applicable to delinquent excise taxes may be assessed and  
15 imposed for delinquent payments under this section. The debt for  
16 deferred taxes is not extinguished by insolvency or other failure of  
17 the board of regents.

18 (6) Applications and any other information received by the  
19 department under this section are not confidential and are subject to  
20 disclosure. This chapter applies to the administration of this  
21 section.

22 (7) The definitions in this subsection apply throughout this  
23 section unless the context clearly requires otherwise.

24 (a) "University stadium renovation project" means a project for  
25 design, renovation, remodeling, alteration, repair, or improvement of  
26 a university stadium, if the renovation, remodeling, alteration,  
27 repair, or improvement activities are initiated before January 1, 2011.

28 (b) "University stadium" means an open-air stadium located at a  
29 state research university in a county with a population of one million  
30 or more, and suitable for intercollegiate football competition,  
31 including associated ancillary facilities.

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

34 (1) Subject to the conditions set forth in subsections (2) and (3)  
35 of this section, the legislative body of any county or any city, is  
36 authorized to levy and collect a special excise tax of not to exceed

1 two percent on the sale of or charge made for the furnishing of lodging  
2 that is subject to tax under chapter 82.08 RCW.

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

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

10 (b) In the event that any county has levied the tax authorized by  
11 this section and has, prior to June 26, 1975, either pledged the tax  
12 revenues for payment of principal and interest on city revenue or  
13 general obligation bonds authorized and issued pursuant to RCW  
14 67.28.150 through 67.28.160 or has authorized and issued revenue or  
15 general obligation bonds pursuant to the provisions of RCW 67.28.150  
16 through 67.28.160, such county shall be exempt from the provisions of

17 (a) of this subsection, to the extent that the tax revenues are pledged  
18 for payment of principal and interest on bonds issued at any time  
19 pursuant to the provisions of RCW 67.28.150 through 67.28.160:

20 PROVIDED, That so much of such pledged tax revenues, together with any  
21 investment earnings thereon, not immediately necessary for actual  
22 payment of principal and interest on such bonds may be used: (i) In

23 any county with a population of one million or more, for repayment  
24 either of limited tax levy general obligation bonds or of any county  
25 fund or account from which a loan was made, the proceeds from the bonds

26 or loan being used to pay for constructing, installing, improving, and  
27 equipping stadium capital improvement projects, and to pay for any  
28 engineering, planning, financial, legal and professional services

29 incident to the development of such stadium capital improvement  
30 projects, regardless of the date the debt for such capital improvement  
31 projects was or may be incurred; (ii) in any county with a population

32 of one million or more, for repayment or refinancing of bonded  
33 indebtedness incurred prior to January 1, 1997, for any purpose  
34 authorized by this section or relating to stadium repairs or

35 rehabilitation, including but not limited to the cost of settling legal  
36 claims, reimbursing operating funds, interest payments on short-term  
37 loans, and any other purpose for which such debt has been incurred if

38 the county has created a public stadium authority to develop a stadium

1 and exhibition center under RCW 36.102.030; or (iii) in other counties,  
2 for county-owned facilities for agricultural promotion until January 1,  
3 2009, and thereafter for any purpose authorized in this chapter.

4 A county is exempt under this subsection with respect to city  
5 revenue or general obligation bonds issued after April 1, 1991, only if  
6 such bonds mature before January 1, 2013. If any county located east  
7 of the crest of the Cascade mountains has levied the tax authorized by  
8 this section and has, prior to June 26, 1975, pledged the tax revenue  
9 for payment of principal and interest on city revenue or general  
10 obligation bonds, the county is exempt under this subsection with  
11 respect to revenue or general obligation bonds issued after January 1,  
12 2007, only if the bonds mature before January 1, 2021. Such a county  
13 may only use funds under this subsection (2)(b) for constructing or  
14 improving facilities authorized under this chapter, including county-  
15 owned facilities for agricultural promotion, and must perform an annual  
16 financial audit of organizations receiving funding on the use of the  
17 funds.

18 As used in this subsection (2)(b), "capital improvement projects"  
19 may include, but not be limited to a stadium restaurant facility,  
20 restroom facilities, artificial turf system, seating facilities,  
21 parking facilities and scoreboard and information system adjacent to or  
22 within a county owned stadium, together with equipment, utilities,  
23 accessories and appurtenances necessary thereto. The stadium  
24 restaurant authorized by this subsection (2)(b) shall be operated by a  
25 private concessionaire under a contract with the county.

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

29 (ii) If bonds have been issued under RCW 43.99N.020 and any  
30 necessary property transfers have been made under RCW 36.102.100, no  
31 city within a county with a population of one million or more may levy  
32 the tax authorized by this section before January 1, 2021. If bonds  
33 have been issued for a university stadium renovation project as defined  
34 in section 1 of this act, no city within a county with a population of  
35 one million or more may levy the tax authorized by this section.

36 (iii) However, in the event that any city in a county described in  
37 (c)(i) or (ii) of this subsection (2)((e)) has levied the tax  
38 authorized by this section and has, prior to June 26, 1975, authorized

1 and issued revenue or general obligation bonds pursuant to the  
2 provisions of RCW 67.28.150 through 67.28.160, such city may levy the  
3 tax so long as the tax revenues are pledged for payment of principal  
4 and interest on bonds issued at any time pursuant to the provisions of  
5 RCW 67.28.150 through 67.28.160.

6 (3) Any levy authorized by this section by a county that has levied  
7 the tax authorized by this section and has, prior to June 26, 1975,  
8 either pledged the tax revenues for payment of principal and interest  
9 on city revenue or general obligation bonds authorized and issued  
10 pursuant to RCW 67.28.150 through 67.28.160 or has authorized and  
11 issued revenue or general obligation bonds pursuant to the provisions  
12 of RCW 67.28.150 through 67.28.160 shall be subject to the following:

13 (a) Taxes collected under this section in any calendar year before  
14 2013 in excess of five million three hundred thousand dollars shall  
15 only be used as follows:

16 (i) Seventy-five percent from January 1, 1992, through December 31,  
17 2000, and seventy percent from January 1, 2001, through December 31,  
18 2012, for art museums, cultural museums, heritage museums, the arts,  
19 and the performing arts. Moneys spent under this subsection (3)(a)(i)  
20 shall be used for the purposes of this subsection (3)(a)(i) in all  
21 parts of the county.

22 (ii) Twenty-five percent from January 1, 1992, through December 31,  
23 2000, and thirty percent from January 1, 2001, through December 31,  
24 2012, for the following purposes and in a manner reflecting the  
25 following order of priority: Stadium purposes as authorized under  
26 subsection (2)(b) of this section; acquisition of open space lands;  
27 youth sports activities; and tourism promotion. If all or part of the  
28 debt on the stadium is refinanced, all revenues under this subsection  
29 (3)(a)(ii) shall be used to retire or defease the debt.

30 (b) From January 1, 2013, through December 31, 2015, in a county  
31 with a population of one million or more, all revenues under this  
32 section shall be used to retire or defease the debt on the stadium, or  
33 deposited in the stadium and exhibition center account under RCW  
34 43.99N.060 after the debt on the stadium is retired or defeased.

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

1        (d) On and after January 1, 2021, in a county with a population of  
2 one million or more, if bonds have been issued for a university stadium  
3 renovation project as defined in section 1 of this act, at least sixty-  
4 two and one-half percent of revenues under this section shall be used  
5 for, and may be pledged to, the purpose of paying principal and  
6 interest payments on those bonds, including funding reserves for this  
7 purpose, until such time as the bonds are retired or defeased.

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

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

30        ~~((e))~~ (f) At least forty percent of the revenues distributed  
31 pursuant to (a)(i) of this subsection for the period January 1, 2001,  
32 through December 31, 2012, shall be deposited in an account and shall  
33 be used to establish an endowment. Principal in the account shall  
34 remain permanent and irreducible. The earnings from investments of  
35 balances in the account may only be used for the purposes of (a)(i) of  
36 this subsection.

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

1        ~~((g))~~ (h) Moneys distributed to art museums, cultural museums,  
2 heritage museums, the arts, and the performing arts, and moneys  
3 distributed for tourism promotion shall be in addition to and may not  
4 be used to replace or supplant any other funding by the legislative  
5 body of the county.

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

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

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

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

35        ~~((l))~~ (m) The county shall not lease a public stadium that is  
36 financed directly or indirectly by bonds to which the tax is pledged  
37 to, or authorize the use of the public stadium by, a professional major  
38 league sports franchise unless the sports franchise gives the right of

1 first refusal to purchase the sports franchise, upon its sale, to local  
2 government. This subsection (3)((+1)) (m) does not apply to contracts  
3 in existence on April 1, 1986.

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

7 **Sec. 3.** RCW 82.14.049 and 1997 c 220 s 502 are each amended to  
8 read as follows:

9 (1) The legislative authority of any county may impose a sales and  
10 use tax, in addition to the tax authorized by RCW 82.14.030, upon  
11 retail car rentals within the county that are taxable by the state  
12 under chapters 82.08 and 82.12 RCW. The rate of tax shall be one  
13 percent of the selling price in the case of a sales tax or rental value  
14 of the vehicle in the case of a use tax. Proceeds of the tax shall not  
15 be used to subsidize any professional sports team and shall be used  
16 solely for the following purposes:

17 ~~((+1))~~ (a) Acquiring, constructing, maintaining, or operating  
18 public sports stadium facilities;

19 ~~((+2))~~ (b) Engineering, planning, financial, legal, or  
20 professional services incidental to public sports stadium facilities;

21 ~~((+3))~~ (c) Youth or amateur sport activities or facilities; or

22 ~~((+4))~~ (d) Debt or refinancing debt issued for the purposes of  
23 ~~((subsection (1) of this section))~~ (a) of this subsection.

24 (2) At least seventy-five percent of the tax imposed under this  
25 section shall be used for the purposes of subsection~~((s))~~ (1)(a),  
26 ~~((+2))~~ (b), and ~~((+4))~~ (d) of this section, except as provided in  
27 subsection (3) of this section.

28 (3) If bonds have been issued for a university stadium renovation  
29 project as defined in section 1 of this act, the following condition  
30 applies in a county with a population of one million or more: After  
31 retirement or defeasance of bonded indebtedness incurred under RCW  
32 67.28.180(2)(b)(ii) at least seventy-five percent of the tax imposed  
33 under this section shall be used for, and may be pledged to, the  
34 purpose of paying principal and interest payments on bonds issued for  
35 a university stadium renovation project as defined in section 1 of this  
36 act, including funding reserves for this purpose, until those bonds are  
37 retired or defeased.

1       **Sec. 4.** RCW 82.14.360 and 2000 c 103 s 10 are each amended to read  
2 as follows:

3       (1) The legislative authority of a county with a population of one  
4 million or more may impose a special stadium sales and use tax upon the  
5 retail sale or use within the county by restaurants, taverns, and bars  
6 of food and beverages that are taxable by the state under chapters  
7 82.08 and 82.12 RCW. The rate of the tax shall not exceed five-tenths  
8 of one percent of the selling price in the case of a sales tax, or  
9 value of the article used in the case of a use tax. The tax imposed  
10 under this subsection is in addition to any other taxes authorized by  
11 law and shall not be credited against any other tax imposed upon the  
12 same taxable event. As used in this section, "restaurant" does not  
13 include grocery stores, mini-markets, or convenience stores.

14       (2) The legislative authority of a county with a population of one  
15 million or more may impose a special stadium sales and use tax upon  
16 retail car rentals within the county that are taxable by the state  
17 under chapters 82.08 and 82.12 RCW. The rate of the tax shall not  
18 exceed two percent of the selling price in the case of a sales tax, or  
19 rental value of the vehicle in the case of a use tax. The tax imposed  
20 under this subsection is in addition to any other taxes authorized by  
21 law and shall not be credited against any other tax imposed upon the  
22 same taxable event.

23       (3) Until the date that is the earlier of the date on which bonds  
24 issued for the construction of a baseball stadium are retired or  
25 defeased or twenty years after the taxes in this section are first  
26 collected, the revenue from the taxes imposed under this section shall  
27 be used for the purpose of principal and interest payments on bonds,  
28 issued by the county, to acquire, construct, own, remodel, maintain,  
29 equip, reequip, repair, and operate a baseball stadium. Revenues from  
30 the taxes authorized in this section may be used for design and other  
31 preconstruction costs of the baseball stadium until bonds are issued  
32 for the baseball stadium. The county shall issue bonds, in an amount  
33 determined to be necessary by the public facilities district, for the  
34 district to acquire, construct, own, and equip the baseball stadium.  
35 The county shall have no obligation to issue bonds in an amount greater  
36 than that which would be supported by the tax revenues under this  
37 section, RCW 82.14.0485, and 36.38.010(4) (a) and (b).

1       (4) Until the date that is the earlier of the date on which bonds  
2 issued for the construction of a baseball stadium are retired or  
3 defeased or twenty years after the taxes in this section are first  
4 collected, if the revenue from the taxes imposed under this section  
5 exceeds the amount needed for such principal and interest payments in  
6 any year, the excess shall be used solely:

7       (a) For early retirement or defeasance of the bonds issued for the  
8 baseball stadium; and

9       (b) If the revenue from the taxes imposed under this section  
10 exceeds the amount needed for the purposes in (a) of this subsection in  
11 any year, the excess shall be placed in a contingency fund which may  
12 only be used to pay unanticipated capital costs on the baseball  
13 stadium, excluding any cost overruns on initial construction.

14       ~~((4))~~ (5) The taxes authorized under this section shall not be  
15 collected after June 30, 1997, unless the county executive has  
16 certified to the department of revenue that a professional major league  
17 baseball team has made a binding and legally enforceable contractual  
18 commitment to:

19       (a) Play at least ninety percent of its home games in the stadium  
20 for a period of time not shorter than the term of the bonds issued to  
21 finance the initial construction of the stadium;

22       (b) Contribute forty-five million dollars toward the reasonably  
23 necessary preconstruction costs including, but not limited to  
24 architectural, engineering, environmental, and legal services, and the  
25 cost of construction of the stadium, or to any associated public  
26 purpose separate from bond-financed property, including without  
27 limitation land acquisition, parking facilities, equipment,  
28 infrastructure, or other similar costs associated with the project,  
29 which contribution shall be made during a term not to exceed the term  
30 of the bonds issued to finance the initial construction of the stadium.  
31 If all or part of the contribution is made after the date of issuance  
32 of the bonds, the team shall contribute an additional amount equal to  
33 the accruing interest on the deferred portion of the contribution,  
34 calculated at the interest rate on the bonds maturing in the year in  
35 which the deferred contribution is made. No part of the contribution  
36 may be made without the consent of the county until a public facilities  
37 district is created under chapter 36.100 RCW to acquire, construct,  
38 own, remodel, maintain, equip, reequip, repair, and operate a baseball

1 stadium. To the extent possible, contributions shall be structured in  
2 a manner that would allow for the issuance of bonds to construct the  
3 stadium that are exempt from federal income taxes; and

4 (c) Share a portion of the profits generated by the baseball team  
5 from the operation of the professional franchise for a period of time  
6 equal to the term of the bonds issued to finance the initial  
7 construction of the stadium, after offsetting any losses incurred by  
8 the baseball team after ~~((the effective date of chapter 14, Laws of  
9 1995 1st sp. sess.))~~ June 14, 1995. Such profits and the portion to be  
10 shared shall be defined by agreement between the public facilities  
11 district and the baseball team. The shared profits shall be used to  
12 retire or defease the bonds issued to finance the initial construction  
13 of the stadium. If the bonds are retired or defeased before the  
14 expiration of their term, the shared profits shall be paid to the  
15 public facilities district.

16 ~~((+5))~~ (6) If bonds have been issued for a university stadium  
17 renovation project as defined in section 1 of this act, the following  
18 condition applies: After the earlier of the date the bonds issued for  
19 the construction of a baseball stadium are retired or defeased or  
20 twenty years after the taxes in this section are first collected, money  
21 collected under subsections (1) and (2) of this section shall be used  
22 for, and may be pledged to, the purpose of paying principal and  
23 interest payments on the bonds issued for the university stadium  
24 renovation project, including funding reserves for this purpose, until  
25 those bonds are retired or defeased.

26 (7) No tax may be collected under this section before January 1,  
27 1996. Before collecting the taxes under this section or issuing bonds  
28 for a baseball stadium, the county shall create a public facilities  
29 district under chapter 36.100 RCW to acquire, construct, own, remodel,  
30 maintain, equip, reequip, repair, and operate a baseball stadium.

31 ~~((+6))~~ (8) The county shall assemble such real property as the  
32 district determines to be necessary as a site for the baseball stadium.  
33 Property which is necessary for this purpose that is owned by the  
34 county on October 17, 1995, shall be contributed to the district, and  
35 property which is necessary for this purpose that is acquired by the  
36 county on or after October 17, 1995, shall be conveyed to the district.

37 ~~((+7))~~ (9) The proceeds of any bonds issued for ~~((the))~~ a baseball

1 stadium shall be provided to the public facilities district that owns  
2 the baseball stadium.

3 ((+8)) (10) As used in this section, "baseball stadium" means  
4 "baseball stadium" as defined in RCW 82.14.0485.

5 ((+9)) (11) The taxes imposed under this section ((shall)) expire  
6 ((when)) on the later of the following dates:

7 (a) The earlier of the date on which the bonds issued for the  
8 construction of the baseball stadium are retired or defeased, but not  
9 later than twenty years after the taxes are first collected; or

10 (b) If bonds have been issued for a university stadium renovation  
11 project as defined in section 1 of this act, December 31, 2015.

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

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