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**SENATE BILL 5856**

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**State of Washington**

**62nd Legislature**

**2011 Regular Session**

**By** Senators Hatfield, Delvin, Hobbs, Zarelli, Harper, Chase, Prentice, and Shin

Read first time 02/24/11. Referred to Committee on Agriculture & Rural Economic Development.

1 AN ACT Relating to authorizing the creation of a public speedway  
2 authority; amending RCW 36.38.010, 35.21.280, 36.70A.110, 70.107.080,  
3 39.04.010, 76.09.460, 36.94.020, 36.94.030, 84.34.037, and 36.96.010;  
4 reenacting and amending RCW 84.33.140, 82.29A.130, and 35.91.020;  
5 adding new sections to chapter 82.14 RCW; adding a new section to  
6 chapter 82.08 RCW; adding a new section to chapter 82.12 RCW; adding a  
7 new chapter to Title 36 RCW; and creating a new section.

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

9 **PART I**

10 **INTENT**

11 NEW SECTION. **Sec. 101.** INTENT. The legislature finds that the  
12 development of a professional motorsports entertainment and family  
13 recreation facility in Washington will serve numerous public purposes  
14 by providing recreational opportunities for Washington citizens and  
15 spurring economic development in the state. Professional motorsports  
16 racing is the fastest growing spectator sport in the nation.  
17 Professional motorsports entertainment facilities in other states have  
18 stimulated economic development by generating spending by out-of-state

1 visitors, investment, employment, and tax revenues. Economic impact  
2 studies confirm, based on assumptions generally regarded as  
3 conservative, that a Washington professional motorsports entertainment  
4 and family recreation facility would be a significant contributor to  
5 the state economy here as well. Public support for and participation  
6 in the development and operation of a professional motorsports  
7 entertainment and family recreation facility in Washington is in the  
8 public interest and consistent with prior public involvement in the  
9 development and operation of similar facilities.

10 **PART II**  
11 **DEFINITIONS**

12 NEW SECTION. **Sec. 201.** DEFINITIONS. The definitions in this  
13 section apply throughout this act unless the context clearly requires  
14 otherwise.

15 (1) "Early retirement" means the redemption or defeasance of bonds  
16 or the setting aside of funds for the payment of principal of and  
17 interest on bonds.

18 (2) "Facility" means a professional motorsports entertainment and  
19 family recreation facility.

20 (3) "Force majeure event" means natural disasters or other  
21 casualty, including fire, flood, earthquake, windstorm, avalanche,  
22 landslide, mudslide, and other similar events; acts of war or civil  
23 unrest when an emergency has been declared by appropriate governmental  
24 officials; acts of civil or military authority; strike, lockout, or  
25 other labor dispute (not involving the public speedway authority or its  
26 lessee or prospective lessee or any parent, corporate affiliate, or  
27 successor directly as a party in such strike, lockout, or other labor  
28 dispute); embargoes; epidemics; terrorist acts; riots; insurrections;  
29 explosions; and nuclear accidents or other occurrence reasonably beyond  
30 the control of the public speedway authority or its lessee or  
31 prospective lessee.

32 (4) "Host jurisdiction" means (a) a first class city that has  
33 adopted a resolution setting forth its intention to annex territory  
34 within which the proposed facility is located and to assume  
35 responsibility for the environmental review and permitting of such  
36 proposed facility, or (b) if no such resolution is adopted or if such

1 proposed annexation is not complete within one year of the effective  
2 date of this section, the general purpose local government within which  
3 the facility is located and that is responsible for the environmental  
4 review and permitting of the facility. A first class city adopting  
5 such a resolution may continue as host jurisdiction for additional six-  
6 month periods by adopting resolutions setting forth its intention to  
7 continue annexation proceedings during such six-month periods.

8 (5) "Lessee" means a corporation that enters into a lease agreement  
9 with a public speedway authority under section 401 of this act and that  
10 is a corporation that, or is a wholly owned subsidiary of a corporation  
11 that, directly or through its subsidiaries or affiliates, owns or  
12 operates at least ten professional motorsports entertainment facilities  
13 in the United States and conducts at least fifty nationally recognized,  
14 top tier professional motorsports events, including at least twenty  
15 NASCAR NEXTEL Cup Events, during the year in which such lease agreement  
16 becomes effective.

17 (6) "Major motorsports event weekend" means a multiday series of  
18 professional motorsports racing and related events spanning a weekend  
19 anchored by one nationally recognized, top tier professional  
20 motorsports event.

21 (7) "NASCAR" means the National Association for Stockcar Auto  
22 Racing, Inc. or its designees or assignees.

23 (8) "Nationally recognized, top tier professional motorsports  
24 event" means a principal event in a sanctioned national or  
25 international touring professional racing series that is broadly  
26 recognized as a leader in its racing discipline and is generally  
27 capable of producing the level of economic activity including, but not  
28 limited to, paid attendance by out-of-state visitors, on which public  
29 support for the development of a facility in Washington is based. As  
30 of the effective date of this section, nationally recognized, top tier  
31 professional motorsports events include, but are not limited to, NASCAR  
32 NEXTEL Cup Series, NASCAR Busch Series, Indy Racing League, NASCAR  
33 Craftsman Truck Series, USAC Silver Crown Series, Grand American Road  
34 Racing Series, Champ Car Series, and Formula One events.

35 (9) "Professional motorsports entertainment and family recreation  
36 facility" means a multifaceted complex designed to be primarily used as  
37 a venue for nationally recognized, top tier professional motorsports  
38 events, including a closed-course speedway, grandstands and other

1 seating with capacity for at least eighty-three thousand attendees,  
2 control towers, open space, administration and maintenance buildings,  
3 together with support services and facilities, such as hospitality  
4 facilities, food and beverage sale locations, parking, recreational  
5 vehicle camping, and retail sale locations, for motorsports fans and  
6 participants, and for those using the complex for community,  
7 charitable, recreation, and other activities (such as family recreation  
8 and social events, local and regional business functions, arts events,  
9 emergency services, and public safety training) on a fee or nonfee  
10 basis as appropriate and to the extent that such activities are  
11 consistent with use of the facility for professional motorsports  
12 events.

13 (10) "Prospective lessee" means an entity that would qualify as a  
14 lessee that has not yet entered into a lease with a public speedway  
15 authority.

16 **PART III**  
17 **PUBLIC SPEEDWAY AUTHORITY**

18 NEW SECTION. **Sec. 301.** CREATION. (1) A public speedway authority  
19 may be created to function in an area with a total population of at  
20 least four hundred thousand that is coterminous with the boundaries of  
21 one county or up to three contiguous counties.

22 (2) A public speedway authority may be created upon the adoption of  
23 a resolution of the legislative body of the host jurisdiction and, if  
24 the authority includes more than one county, the adoption of a  
25 concurring resolution by the legislative body of at least one county  
26 that is within the proposed public speedway authority area and that is  
27 not the host jurisdiction. The approving and, if applicable,  
28 concurring resolutions must identify the one, two, or three-county area  
29 in which the public speedway authority is to function, approve the  
30 creation of a public speedway authority within such area, and appoint  
31 or provide for the appointment of board members as described in section  
32 302(1) of this act.

33 (3) A public speedway authority is a municipal corporation and  
34 possesses all the usual corporate powers as well as all other powers  
35 that may now or hereafter be specifically conferred by statute.

1            NEW SECTION.        **Sec. 302.**        GOVERNANCE.

2            (1) A public speedway  
3 authority must be governed by a board of directors consisting of seven  
4 members. The governor may appoint two members. If the host  
5 jurisdiction is a county, the legislative body of the host jurisdiction  
6 may appoint three members, and if the host jurisdiction is a city, the  
7 legislative body of the host jurisdiction may appoint two members. The  
8 remaining members must be appointed as set forth in the approving and,  
9 if applicable, concurring resolution adopted pursuant to section 301 of  
10 this act; provided that the approving resolution and concurring  
11 resolution, if any, must permit the appointment of at least one board  
12 member by the legislative body of each county included within the  
13 boundaries of the authority. The board of directors must elect the  
14 chair of the board from among the seven members.

15            (2) Members of the board of directors serve four-year terms of  
16 office, except that two of the initial board members serve two-year  
17 terms of office and two of the initial board members serve three-year  
18 terms of office. The governor must designate which of the initial  
19 board members serve two-year terms, which serve three-year terms, and  
20 which serve four-year terms.

21            (3) A vacancy must be filled in the same manner as the original  
22 appointment was made except that, if the governor or any legislative  
23 body responsible for appointing a member to a vacant position fails to  
24 make the appointment for a period of ninety days or more, the remaining  
25 members of the board of directors may select an interim member to fill  
26 the position by majority vote of such members. The person appointed by  
27 the governor, a legislative body, or the board to fill a vacancy serves  
28 for the remainder of the unexpired term of the office to which he or  
29 she was appointed.

30            (4) If a director is appointed by the governor, the governor may  
31 remove the director from office for any or no reason. If a director is  
32 appointed by a legislative body, the legislative body may remove the  
33 director from office for any or no reason. If a director is not  
34 appointed by either the governor or a legislative body, the director  
35 may be removed from office by majority vote of the board.

36            (5) If a city becomes the host jurisdiction after a county has been  
37 the host jurisdiction, the legislative body of the city must appoint  
38 two members of the board of directors to replace two of the members  
appointed by the previous host jurisdiction within thirty days of the

1 effective date of such change. If a county becomes the host  
2 jurisdiction after a city has been the host jurisdiction, the  
3 legislative body of the county must appoint members of the board of  
4 directors to replace the members appointed by the previous host  
5 jurisdiction within thirty days of the effective date of such change.  
6 Each newly appointed member of the board of directors serves for the  
7 remainder of the unexpired term of office to which he or she was  
8 appointed.

9 NEW SECTION. **Sec. 303.** POWERS AND PURPOSES. (1) A public  
10 speedway authority is authorized to undertake or otherwise provide for  
11 the acquisition of a site for and the financing, permitting, design,  
12 development, construction, reconstruction, remodeling, alteration,  
13 maintenance, equipping, reequipping, repair, and operation of a  
14 professional motorsports entertainment and family recreation facility.

15 (2) A public speedway authority may exercise all other powers  
16 necessary and appropriate to carry out its responsibilities, including  
17 without limitation the power to sue and be sued, to acquire, own, and  
18 transfer real and personal property and property rights by lease,  
19 sublease, purchase, or sale, and to enter into contracts. An authority  
20 may also sell, lease, convey, or otherwise dispose of any real or  
21 personal property or property rights no longer necessary or desirable  
22 for the conduct of the affairs of the authority.

23 (3) A public speedway authority may enter into agreements with the  
24 state or any municipal corporation, acting through its legislative  
25 body, for the joint design, financing, acquisition, development,  
26 construction, reconstruction, lease, remodeling, alteration,  
27 maintenance, equipping, reequipping, repair, or operation of a  
28 facility. Such activities are deemed to be a public purpose of the  
29 state or any such municipal corporation. The agreements may provide  
30 that any party to the contract designs, finances, acquires, develops,  
31 constructs, reconstructs, remodels, alters, maintains, equips,  
32 reequips, repairs, or operates the facility for the other party or  
33 parties to the contract. The state and any municipal corporation is  
34 authorized to participate with a public speedway authority in the  
35 financing of all or any part of the facility on any terms as may be  
36 fixed by agreement between the parties, pursuant to a loan, guaranty,  
37 or other financing agreement. The legislative body of any county or

1 city within which a public speedway authority functions may acquire  
2 property on behalf of, or transfer property to, a public speedway  
3 authority created under this act with or without consideration.

4 (4) A public speedway authority may contract with a public or  
5 private entity for the acquisition of a site for a facility.

6 (5) A public speedway authority may accept and expend or use gifts,  
7 grants, and donations and impose or provide for its lessee to impose  
8 charges and fees for the use of the facility.

9 (6) A public speedway authority may spend funds for the public  
10 purposes of promoting and preparing and distributing advertising and  
11 promotional information about the facility.

12 (7) A public speedway authority may secure professional or other  
13 services by means of an agreement with any service provider. The  
14 public speedway authority must establish criteria, receive and evaluate  
15 proposals, and negotiate with respondents under requirements set forth  
16 by authority resolution.

17 NEW SECTION. **Sec. 304.** EXPENSE REIMBURSEMENT PROCEDURES. The  
18 board of directors of a public speedway authority must adopt a  
19 resolution that may be amended from time to time governing methods and  
20 amounts of reimbursement payable to directors, officers, and employees  
21 for travel and other business expenses incurred on behalf of the  
22 authority. The resolution must, among other things, establish  
23 procedures for approving expenses; the form of travel and expense  
24 vouchers; and requirements governing the use of credit cards issued in  
25 the name of the authority. Directors, officers, and employees may be  
26 advanced sufficient sums to cover their anticipated expenses in  
27 accordance with rules adopted by the state auditor.

28 NEW SECTION. **Sec. 305.** PER DIEM COMPENSATION. Each member of the  
29 board of directors of a public speedway authority may receive  
30 compensation of fifty dollars per day for attending meetings or  
31 conferences on behalf of the authority, not to exceed three thousand  
32 dollars per year. A director may waive all or a portion of his or her  
33 compensation under this section during his or her term of office, by a  
34 written waiver filed with the public speedway authority. The  
35 compensation provided in this section is in addition to reimbursement  
36 for expenses paid to directors by the public speedway authority.

1        NEW SECTION.    **Sec. 306.**    LIABILITY INSURANCE.    The board of  
2 directors of a public speedway authority may purchase liability  
3 insurance with limits the directors deem reasonable for the purpose of  
4 protecting and holding personally harmless directors, officers, and  
5 employees of the authority against liability arising from their acts or  
6 omissions while performing or in good faith purporting to perform their  
7 official duties.

8        NEW SECTION.    **Sec. 307.**    DEFENSE AND INDEMNITY.    Whenever an  
9 action, claim, or proceeding is instituted against a person who is or  
10 was a director, officer, or employee of a public speedway authority  
11 arising out of the performance of duties for or employment with the  
12 authority, the public speedway authority may grant a request by the  
13 person that the attorney of the authority's choosing be authorized to  
14 defend the claim, suit, or proceeding, and the costs of defense,  
15 attorneys' fees, and obligation for payments arising from the action  
16 may be paid from the authority's funds. Costs of defense, judgment, or  
17 settlement against the person may not be paid in a case where the court  
18 has found that the person was not acting in good faith within the scope  
19 of employment with or duties for the public speedway authority. A  
20 director or officer of a public speedway authority is not personally  
21 liable for acts done or omitted in good faith while performing duties  
22 as director or officer on behalf of the authority.

23        NEW SECTION.    **Sec. 308.**    EMPLOYEES, SALARIES, AND BENEFITS.    A  
24 public speedway authority has the authority to create and fill  
25 positions, fix reasonable wages and salaries, pay costs involved in  
26 hiring employees, and establish reasonable benefits for employees,  
27 including holiday pay, vacations or vacation pay, retirement benefits,  
28 and medical, life, accident, or health disability insurance, as  
29 approved by the board. Public speedway authority board members, at  
30 their own expense, may be included under any authority policy for  
31 medical, life, accident, or health disability insurance. Insurance for  
32 employees and board members is not considered compensation. Coverage  
33 for the board under any authority policy is not to exceed that provided  
34 public speedway authority employees.



1           NEW SECTION.   **Sec. 309.**   TREASURER.   The treasurer of the host  
2 jurisdiction is the ex officio treasurer of the authority.

3   **PART IV**

4                           **PUBLIC FUNDING AND FACILITY FINANCING**

5           NEW SECTION.   **Sec. 401.**   A new section is added to chapter 82.14  
6 RCW to read as follows:

7           **SALES TAX--CREDIT AGAINST STATE SALES TAX.**   (1) Beginning January  
8 1, 2015, the board of directors of a public speedway authority that has  
9 entered into a lease agreement with a lessee under section 601 of this  
10 act may impose a sales and use tax in accordance with this chapter.  
11 The tax is in addition to other taxes authorized by law and must be  
12 collected from those persons who are taxable by the state under  
13 chapters 82.08 and 82.12 RCW upon the occurrence of any taxable event  
14 within the authority's area.   The rate of tax may not exceed 0.016  
15 percent of the selling price in the case of a sales tax or value of the  
16 article or service used in the case of a use tax.

17           (2) The department of revenue must deduct the proceeds of the tax  
18 imposed under subsection (1) of this section from the amount of tax  
19 otherwise required to be collected or paid over to the department of  
20 revenue under chapter 82.08 or 82.12 RCW and must remit the proceeds of  
21 the tax imposed under subsection (1) of this section to the public  
22 speedway authority.   The department of revenue must collect and remit  
23 the proceeds of such taxes on behalf of the authority at no cost to the  
24 authority.

25           (3) The tax imposed pursuant to this section expires when all bonds  
26 issued to finance or refinance costs of the acquisition, permitting,  
27 design, development, construction, or equipping of the facility have  
28 been retired, whether upon maturity or by early retirement, and all  
29 amounts due to any financial institutions, insurance companies, or  
30 other public or private entities providing credit enhancement to the  
31 bonds have been paid, or twenty-five years after the tax under this  
32 section is first imposed, whichever occurs first.

33           (4) The tax collected under this section must be used exclusively  
34 to pay costs of the acquisition, permitting, design, development,  
35 construction, or equipping of the facility, including paying debt  
36 service on bonds issued to finance or refinance such costs, paying

1 amounts due to any financial institutions, insurance companies, or  
2 other public or private entities providing credit enhancement and  
3 paying other costs of issuance, and to fund reasonable debt service  
4 reserves. Any excess taxes must be applied to provide for the early  
5 retirement of any bonds issued by the public speedway authority.

6 (5) This section constitutes the entire state contribution for a  
7 professional motorsports entertainment and family recreation facility,  
8 as defined in section 101 of this act. The state will not make any  
9 additional contributions based on revised cost or revenue estimates,  
10 cost overruns, unforeseen circumstances, or any other reason.

11 NEW SECTION. **Sec. 402.** PUBLIC SPEEDWAY AUTHORITY ADMISSIONS TAX.

12 (1) A public speedway authority that has entered into a lease agreement  
13 with a lessee under section 601 of this act may impose a tax of not  
14 more than one cent on twenty cents or fraction thereof on the amount of  
15 the admissions charge paid by any person who pays for admission to be  
16 a motorsports event spectator at a professional motorsports  
17 entertainment and family recreation facility, including charges for  
18 season or subscription tickets, but not including ticket handling fees,  
19 seat license charges, and charges for admissions to ancillary  
20 facilities such as hospitality venues. "Seat license" means a  
21 transferable license sold to a third party that, subject to certain  
22 conditions, restrictions, and limitations, entitles the third party to  
23 purchase a season or subscription ticket to professional motorsports  
24 events at a facility. Persons who are admitted to the facility by the  
25 lessee free of charge are exempt from payment of the admissions tax.

26 (2) An authority may apply the proceeds of the tax as provided in  
27 the host jurisdiction agreement to pay costs of the acquisition,  
28 permitting, design, development, construction, or equipping of the  
29 facility, including paying debt service on or providing for the early  
30 retirement of bonds issued to finance or refinance these costs, paying  
31 for credit enhancement and other costs of issuance, and funding  
32 reasonable debt service or capital reserves, and for payments to the  
33 host jurisdiction for use by the host jurisdiction for any public  
34 purpose. After all costs of the initial acquisition, permitting,  
35 design, development, construction, and equipping of a facility have  
36 been paid and all bonds issued to finance or refinance these costs and  
37 paid from the admissions tax have been retired, whether upon maturity

1 or by early retirement, the proceeds of the tax first may be used to  
2 pay debt service on any other authority bonds issued to finance or  
3 refinance these costs and to pay amounts due in connection with credit  
4 enhancement for such authority bonds, and, second, must be paid to the  
5 host jurisdiction for use by the host jurisdiction for any public  
6 purpose.

7 (3) No county, city, town, or special purpose district, other than  
8 the public speedway authority within which the facility is located, may  
9 impose a tax of the same or similar kind on any admission or comparable  
10 charge at the facility so long as a tax is imposed by the public  
11 speedway authority under this section. After all costs of the initial  
12 acquisition, permitting, design, development, construction, and  
13 equipping of the facility and any public infrastructure funded from the  
14 proceeds of the admissions tax have been paid, all authority bonds and  
15 refunding bonds have been retired, whether upon maturity or by early  
16 retirement, and all amounts due in connection with credit enhancement  
17 of authority bonds have been paid, the rate of the admissions tax  
18 imposed by the authority under this section may not exceed the rate of  
19 any admissions tax then imposed by the host jurisdiction within its  
20 boundaries.

21 NEW SECTION. **Sec. 403.** BONDS. (1) To carry out the purposes of  
22 this act, the board of directors of a public speedway authority may  
23 authorize the issuance of bonds of the authority in one or more series  
24 to which it may pledge: (a) The sales tax authorized in section 401 of  
25 this act; (b) the admissions tax authorized in section 402 of this act;  
26 (c) revenues derived from the lease of the facility; and (d) any other  
27 amounts derived from any other source and available for the payment of  
28 debt service on the bonds.

29 (2) The proceeds of bonds issued under this section may be applied  
30 to finance or refinance the acquisition, permitting, design,  
31 development, construction, or equipping of the facility, including  
32 payments for costs of credit enhancement and other costs of issuance,  
33 establishment of reasonable reserves, and capitalizing interest on  
34 bonds during and up to eighteen months following completion of  
35 construction of the facility. A public speedway authority may issue  
36 additional bonds to pay costs of reconstruction, remodeling,  
37 alteration, maintenance, reequipping, and repair of a facility payable

1 from and secured by a pledge of revenues derived from the lease of the  
2 facility or any other amounts derived from any other source that are  
3 available for the payment of debt service on the bonds.

4 (3) A public speedway authority may create funds and accounts for  
5 the deposit of pledged taxes, revenues and other amounts, and for the  
6 deposit of bond proceeds as it deems necessary or prudent to issue,  
7 secure, and administer the bonds, and may appoint one or more trustees  
8 to hold and apply these funds and accounts.

9 (4) The bonds of a public speedway authority must bear such date or  
10 dates, mature at such time or times, be in such denominations, be in  
11 such form, be registered or registrable in such manner, be made  
12 transferable, exchangeable, and interchangeable, be payable in such  
13 medium of payment, at such place or places, be subject to such terms of  
14 redemption, bear such fixed or variable rate or rates of interest, be  
15 payable at such time or times, and be sold in such manner and at such  
16 price or prices, as the public speedway authority determines. The  
17 bonds must be executed by the chair of the public speedway authority,  
18 by either its duly elected secretary or its treasurer, and by the  
19 trustee or paying agent if the public speedway authority determines to  
20 use a trustee or paying agent for the bonds. Execution of the bonds  
21 may be by manual or facsimile signature. The term of authority bonds  
22 may not exceed thirty years.

23 (5) The bonds of a public speedway authority are subject to any  
24 terms, conditions, covenants, and protective provisions found necessary  
25 or desirable by the authority, including without limitation the setting  
26 aside of reserves, limitations on additional forms of indebtedness, and  
27 other provisions the public speedway authority finds necessary or  
28 desirable for the security of bondholders. Damages received by the  
29 public speedway authority resulting from its lessee's default on its  
30 obligation under section 601(6) of this act must be applied to pay or  
31 provide for the early retirement of bonds issued pursuant to this  
32 section. If any lease required under section 601 of this act is  
33 terminated while the sales and use tax credit authorized under section  
34 401 of this act is in effect, the public speedway authority must apply  
35 the proceeds of (a) any subsequent lease, net of reasonable  
36 administrative or operating expenses of the authority and costs of  
37 capital improvements required of the authority under such substitute  
38 lease, including debt service on bonds issued for such capital

1 improvements, or (b) the sale of public speedway authority property for  
2 a use other than for a facility to pay or provide for the early  
3 retirement of bonds issued pursuant to this section, consistent with  
4 any applicable requirements of the federal tax code.

5 (6) Any pledge of taxes, revenue, or other amount by the authority  
6 under subsection (1) or (11) of this section is valid and binding at  
7 the time the pledge is made. The authority constitutes a governmental  
8 unit within the meaning of RCW 62A.9A-102(a)(45).

9 (7) When issuing bonds, a public speedway authority may provide for  
10 the future issuance of additional bonds or debt consistent with  
11 subsection (1) of this section on a parity with or subordinate to  
12 outstanding bonds and the terms and conditions of their issuance.  
13 Consistent with subsection (1) of this section, a public speedway  
14 authority may refund or advance refund any bond of the public speedway  
15 authority in accordance with chapter 39.53 RCW.

16 (8) The board members of a public speedway authority and any person  
17 executing the bonds are not liable personally on the indebtedness or  
18 subject to any personal liability or accountability by reason of their  
19 issuance.

20 (9) The public speedway authority may, out of any available funds,  
21 purchase its bonds for cancellation or retirement.

22 (10) The public speedway authority is authorized to enter into  
23 contracts with financial institutions, insurance companies, and other  
24 public and private entities to provide credit enhancement for its bonds  
25 if the public speedway authority determines that credit enhancement is  
26 cost-effective. Each city or county within the area boundaries of the  
27 public speedway authority is authorized, acting through its legislative  
28 body, to enter into a contract with the public speedway authority, with  
29 or without consideration and as the parties may mutually agree upon, to  
30 provide credit enhancement to facilitate the sale of public speedway  
31 authority bonds.

32 (11) The financing of a facility owned by a public speedway  
33 authority is deemed to be a public purpose for each city or county  
34 within the area boundaries of the public speedway authority, and such  
35 city or county, acting through its legislative body, is authorized to  
36 issue bonds or otherwise contract indebtedness and make the proceeds of  
37 bonds and indebtedness available to the public speedway authority for  
38 its purposes upon the terms and conditions that the county or city and

1 the public speedway authority may mutually agree upon. The public  
2 speedway authority may pledge the taxes, revenues, or other amounts  
3 described in subsection (1) of this section to pay and secure bonds and  
4 indebtedness of any such city or county.

5 (12) Except as specifically provided in this section, the bonds  
6 must be issued and sold in accordance with chapter 39.46 RCW.

7 (13) The provisions of this section and any resolution or trust  
8 indenture of the public speedway authority providing for the  
9 authorization, issuance, and sale of bonds constitute a contract with  
10 the owners of such bonds, and the provisions thereof are enforceable by  
11 any owner of such bonds by mandamus or any appropriate suit, action, or  
12 proceeding at law or in equity in any court of competent jurisdiction.

13 (14) The net proceeds of bonds issued to finance the acquisition,  
14 financing, permitting, design, development, construction, and equipping  
15 of the facility and payable from the sales tax imposed under section  
16 401 of this act may not exceed one hundred forty-five million dollars,  
17 adjusted for inflation annually beginning in 2012 using the Engineering  
18 News-Record 20-city construction cost index. For the purposes of this  
19 limitation "net proceeds" means gross bond proceeds less costs of  
20 credit enhancement and other costs of issuance and less any deposits to  
21 fund reasonable debt service reserves for the bonds and does not  
22 include earnings on any portion of gross bond proceeds.

23 **Sec. 404.** RCW 36.38.010 and 1999 c 165 s 20 are each amended to  
24 read as follows:

25 (1) Any county may by ordinance enacted by its county legislative  
26 authority, levy and fix a tax of not more than one cent on twenty cents  
27 or fraction thereof to be paid for county purposes by persons who pay  
28 an admission charge to any place, including a tax on persons who are  
29 admitted free of charge or at reduced rates to any place for which  
30 other persons pay a charge or a regular higher charge for the same or  
31 similar privileges or accommodations; and require that one who receives  
32 any admission charge to any place (~~shall~~) must collect and remit the  
33 tax to the county treasurer of the county(~~(:—PROVIDED,)~~). No county  
34 (~~shall~~) may impose (~~such~~) the tax on persons paying an admission to  
35 any activity of any elementary or secondary school (~~or~~), any public  
36 facility of a public facility district under chapter 35.57 or 36.100

1 RCW for which a tax is imposed under RCW 35.57.100 or 36.100.210, or  
2 any professional motorsports entertainment and family recreation  
3 facility for which a tax is imposed under section 402 of this act.

4 (2) As used in this chapter, the term "admission charge" includes  
5 a charge made for season tickets or subscriptions, a cover charge, or  
6 a charge made for use of seats and tables, reserved or otherwise, and  
7 other similar accommodations; a charge made for food and refreshments  
8 in any place where any free entertainment, recreation, or amusement is  
9 provided; a charge made for rental or use of equipment or facilities  
10 for purpose of recreation or amusement, and where the rental of the  
11 equipment or facilities is necessary to the enjoyment of a privilege  
12 for which a general admission is charged, the combined charges  
13 (~~shall~~) must be considered as the admission charge. It (~~shall~~)  
14 also includes any automobile parking charge where the amount of such  
15 charge is determined according to the number of passengers in any  
16 automobile.

17 (3) Subject to subsections (4) and (5) of this section, the tax  
18 herein authorized (~~shall~~) is not (~~be~~) exclusive and (~~shall~~) does  
19 not prevent any city or town within the taxing county, when authorized  
20 by law, from imposing within its corporate limits a tax of the same or  
21 similar kind(~~:- PROVIDED, That whenever~~). If the same or similar  
22 kind of tax is imposed by any such city or town, no such tax (~~shall~~)  
23 may be levied within the corporate limits of such city or town by the  
24 county.

25 (4) Notwithstanding subsection (3) of this section, the legislative  
26 authority of a county with a population of one million or more may  
27 exclusively levy taxes on events in baseball stadiums constructed on or  
28 after January 1, 1995, that are owned by a public facilities district  
29 under chapter 36.100 RCW and that have seating capacities over forty  
30 thousand at the rates of:

31 (a) Not more than one cent on twenty cents or fraction thereof, to  
32 be used for the purpose of paying the principal and interest payments  
33 on bonds issued by a county to construct a baseball stadium as defined  
34 in RCW 82.14.0485. If the revenue from the tax exceeds the amount  
35 needed for that purpose, the excess (~~shall~~) must be placed in a  
36 contingency fund which may only be used to pay unanticipated capital  
37 costs on the baseball stadium, excluding any cost overruns on initial  
38 construction; and

1 (b) Not more than one cent on twenty cents or fraction thereof, to  
2 be used for the purpose of paying the principal and interest payments  
3 on bonds issued by a county to construct a baseball stadium as defined  
4 in RCW 82.14.0485. The tax imposed under this subsection (4)(b)  
5 (~~shall~~) expires when the bonds issued for the construction of the  
6 baseball stadium are retired, but not later than twenty years after the  
7 tax is first collected.

8 (5) Notwithstanding subsection (3) of this section, the legislative  
9 authority of a county that has created a public stadium authority to  
10 develop a stadium and exhibition center under RCW 36.102.050 may levy  
11 and fix a tax on charges for admission to events in a stadium and  
12 exhibition center, as defined in RCW 36.102.010, constructed in the  
13 county on or after January 1, 1998, that is owned by a public stadium  
14 authority under chapter 36.102 RCW. The tax (~~shall be~~) is exclusive  
15 and (~~shall~~) precludes the city or town within which the stadium and  
16 exhibition center is located from imposing a tax of the same or similar  
17 kind on charges for admission to events in the stadium and exhibition  
18 center, and (~~shall~~) precludes the imposition of a general county  
19 admissions tax on charges for admission to events in the stadium and  
20 exhibition center. For the purposes of this subsection, "charges for  
21 admission to events" means only the actual admission charge, exclusive  
22 of taxes and service charges and the value of any other benefit  
23 conferred by the admission. The tax authorized under this subsection  
24 (~~shall~~) must be at the rate of not more than one cent on ten cents or  
25 fraction thereof. Revenues collected under this subsection (~~shall~~)  
26 must be deposited in the stadium and exhibition center account under  
27 RCW 43.99N.060 until the bonds issued under RCW 43.99N.020 for the  
28 construction of the stadium and exhibition center are retired. After  
29 the bonds issued for the construction of the stadium and exhibition  
30 center are retired, the tax authorized under this section (~~shall~~)  
31 must be used exclusively to fund repair, reequipping, and capital  
32 improvement of the stadium and exhibition center. The tax under this  
33 subsection may be levied upon the first use of any part of the stadium  
34 and exhibition center but (~~shall~~) may not be collected at any  
35 facility already in operation as of July 17, 1997.

36 **Sec. 405.** RCW 35.21.280 and 2002 c 363 s 5 are each amended to  
37 read as follows:



1 (1) Every city and town may levy and fix a tax of not more than one  
2 cent on twenty cents or fraction thereof to be paid by the person who  
3 pays an admission charge to any place with the following limitations:  
4 ((PROVIDED,))

5 (a) No city or town ((shall)) may impose such tax on persons paying  
6 an admission to any activity of any elementary or secondary school or  
7 any public facility of a public facility district under chapter 35.57  
8 or 36.100 RCW for which a tax is imposed under RCW 35.57.100 or  
9 36.100.210, except the city or town may impose a tax on persons paying  
10 an admission to any activity of such public facility if the city or  
11 town uses the admission tax revenue it collects on the admission  
12 charges to that public facility for the construction, operation,  
13 maintenance, repair, replacement, or enhancement of that public  
14 facility or to develop, support, operate, or enhance programs in that  
15 public facility; and

16 (b) No city or town may impose such a tax upon any admission to a  
17 professional motorsports entertainment and family recreation facility.

18 (2) Tax authorization under this section includes a tax on persons  
19 who are admitted free of charge or at reduced rates to any place for  
20 which other persons pay a charge or a regular higher charge for the  
21 same privileges or accommodations. A city that is located in a county  
22 with a population of one million or more may not levy a tax on events  
23 in stadia constructed on or after January 1, 1995, that are owned by a  
24 public facilities district under chapter 36.100 RCW and that have  
25 seating capacities over forty thousand. The city or town may require  
26 anyone who receives payment for an admission charge to collect and  
27 remit the tax to the city or town.

28 (3) The term "admission charge" includes:

29 (a) A charge made for season tickets or subscriptions;

30 (b) A cover charge, or a charge made for use of seats and tables  
31 reserved or otherwise, and other similar accommodations;

32 (c) A charge made for food and refreshment in any place where free  
33 entertainment, recreation or amusement is provided;

34 (d) A charge made for rental or use of equipment or facilities for  
35 purposes of recreation or amusement; if the rental of the equipment or  
36 facilities is necessary to the enjoyment of a privilege for which a  
37 general admission is charged, the combined charges ((shall)) must be  
38 considered as the admission charge;

1 (e) Automobile parking charges if the amount of the charge is  
2 determined according to the number of passengers in the automobile.

3 **PART V**

4 **DEVELOPMENT OF FACILITY**

5 NEW SECTION. **Sec. 501.** HOST JURISDICTION AGREEMENT. Prior to the  
6 construction of any professional motorsports entertainment and family  
7 recreation facility by or on behalf of a public speedway authority, the  
8 public speedway authority, its lessee or prospective lessee, and the  
9 host jurisdiction, acting through its legislative body, must have first  
10 entered into a legally binding and enforceable host jurisdiction  
11 agreement addressing matters appropriately of mutual interest  
12 concerning the development and operation of the facility. The  
13 agreement must include without limitation the following terms:

14 (1) The authority or the lessee, or prospective lessee, assumes  
15 financial responsibility or otherwise provides for the construction of  
16 such public infrastructure improvements off-site and on-site that are  
17 necessary for the efficient operation of the facility as identified  
18 through environmental review of the proposed facility, required as  
19 conditions to its permitting, and only to the extent such improvements  
20 are incremental to the public infrastructure required to serve other  
21 nearby development as described in a host jurisdiction comprehensive  
22 plan, if applicable. This obligation may be satisfied through payments  
23 made to or on behalf of the host jurisdiction or from tax revenues  
24 generated by the facility directed to such host jurisdiction;

25 (2) Confirmation that the lease between the authority and the  
26 lessee, or prospective lessee, must require and provide for reasonable  
27 public access to and use of the facility for community, charitable,  
28 recreation, and other activities, such as family recreation and social  
29 events, local and regional business functions, arts events, emergency  
30 services, and public safety training, on a fee or nonfee basis as  
31 appropriate and to the extent that such activities are consistent with  
32 use of the facility for professional motorsports events; and

33 (3) Confirmation that the authority or the lessee, or prospective  
34 lessee, must assume financial responsibility for the additional  
35 incremental cost of public services required to operate the facility

1 during major motorsports event weekends as identified through  
2 environmental review of the proposed facility and required as  
3 conditions to its permitting.

4 NEW SECTION. **Sec. 502.** FACILITY DEVELOPMENT. (1) A public  
5 speedway authority may, in consultation with its lessee or prospective  
6 lessee, determine the overall scope and components of any professional  
7 motorsports entertainment and family recreation facility owned or to be  
8 owned by the authority, approve the final design and specifications of  
9 the facility acceptable to the lessee for operation as a professional  
10 motorsports venue for hosting nationally recognized, top tier  
11 professional motorsports events, and approve the final budget for  
12 financing, permitting, design, development, construction, and equipping  
13 of the facility.

14 (2) A public speedway authority must enter into a development  
15 agreement with a lessee or prospective lessee under which the lessee or  
16 prospective lessee undertakes and controls the development of the  
17 facility to be owned by the authority, consistent with subsection (1)  
18 of this section. Under the development agreement, the lessee must,  
19 subject to the approval of the public speedway authority, determine  
20 project design, specifications, and the budget. In addition, the  
21 lessee must determine procurement procedures, select and contract with  
22 an architect or architects, other professional service providers, or a  
23 contractor or contractors for the design, construction, operation, or  
24 maintenance of the facility and determine whether to enter into a  
25 project labor agreement related to construction of the facility.  
26 However, any contracts for the construction, operation, and maintenance  
27 of a facility is subject to the prevailing wage requirements of chapter  
28 39.12 RCW and the goals established by the state for women's and  
29 minority business participation consistent with the provisions of RCW  
30 39.04.160 and 49.60.400. Contractors are required, to the extent  
31 feasible, to both hire local residents in connection with the  
32 development of the facility and utilize apprentices enrolled in a  
33 state-approved apprenticeship training program, consistent with the  
34 goals established for state public works projects in RCW 39.04.320.

35 (3) Under the development agreement, the lessee or prospective  
36 lessee must agree to provide at least one hundred eighty million  
37 dollars toward the cost of the acquisition, financing, permitting,

1 design, development, construction, or equipping of the facility. The  
2 lessee must assume responsibility for any construction cost overruns in  
3 completing the project consistent with the final design and budget  
4 approved by the public speedway authority.

5 (4) The development agreement must provide for parity in the  
6 expenditure of public speedway authority bond proceeds and lessee or  
7 prospective lessee funding after the public speedway authority is  
8 authorized to issue its bonds and expend funds upon and following  
9 satisfaction of the requirements of sections 501 and 504 of this act.  
10 The lessee or prospective lessee is responsible for advancing funds  
11 needed to satisfy the requirements of sections 501 and 504 of this act  
12 until public speedway authority bonds can be issued and bond proceeds  
13 become available.

14 (5) The development agreement must require the lessee or  
15 prospective lessee to obtain performance and payment bonds from any  
16 contractors it contracts with to perform construction of the facility.  
17 The performance and payment bonds must be consistent, in form and  
18 amount, with the requirements of chapter 39.08 RCW.

19 (6) The development agreement must require the lessee or  
20 prospective lessee to commit to support one or more land conservation  
21 projects located within the area of the public speedway authority,  
22 subject to development and construction of the facility as provided in  
23 this act. Such project or projects must be undertaken in addition to  
24 any offsite mitigation projects or activities that may be required of  
25 the lessee or prospective lessee as a condition of permitting the  
26 facility. The total value of the lessee's or prospective lessee's  
27 support of such a conservation project or projects may be not less than  
28 one million dollars total, which may be provided over three years  
29 following approval by the host jurisdiction of all land use permitting  
30 decisions necessary for development of the facility as provided in this  
31 act. The lessee or prospective lessee may work with a nonprofit land  
32 trust or other conservation organization to identify and implement  
33 projects to which support can be directed in satisfaction of the  
34 requirements of this section.

35 NEW SECTION. **Sec. 503.** SALES TAX DEFERRAL. (1) The public  
36 speedway authority may apply for deferral of taxes on the design and  
37 construction of buildings, site preparation, and the acquisition of

1 related tangible personal property and retail services for a facility  
2 including, but not limited to, parking lots, parking garages,  
3 landscaping, environmental or other mitigation work required as part of  
4 any federal, state, county, city, or other governmental regulatory  
5 approval process, utility relocation, sidewalks, storm water systems,  
6 transit improvements, roads, or other investments made: Either at the  
7 facility or off-site and regardless if owned by the authority or  
8 dedicated to a public body. Application must be made to the department  
9 of revenue in a form and manner prescribed by the department of  
10 revenue. The application must contain information regarding the  
11 location of the facility, estimated or actual costs, time schedules for  
12 completion and operation, and other information required by the  
13 department of revenue. The department of revenue must approve the  
14 application within sixty days if it meets the requirements of this  
15 section.

16 (2) The department of revenue must issue a sales and use tax  
17 deferral certificate for state and local sales and use taxes due under  
18 chapters 82.08, 82.12, and 82.14 RCW for the activities described in  
19 subsection (1) of this section.

20 (3) The public speedway authority must begin paying the deferred  
21 taxes in the fifth year after the date certified by the department of  
22 revenue as the date on which the facility is operationally complete.  
23 The first payment is due on December 31st of the fifth calendar year  
24 after such certified date, with subsequent annual payments due on  
25 December 31st of the following nine years. Each payment must equal ten  
26 percent of the deferred tax.

27 (4) The department of revenue may authorize an accelerated  
28 repayment schedule upon request of the public speedway authority.

29 (5) Interest and penalties may not be charged on any taxes deferred  
30 under this section for the period of deferral, although all other  
31 penalties and interest applicable to delinquent excise taxes may be  
32 assessed and imposed for delinquent payments under this section. The  
33 debt for deferred taxes is not extinguished by insolvency or other  
34 failure of the public speedway authority.

35 (6) Applications and any other information received by the  
36 department of revenue under this section are not confidential and are  
37 subject to disclosure. Chapter 82.32 RCW applies to the administration  
38 of this section.

1           NEW SECTION.    **Sec. 504.**    PERMITTING.    (1) The lessee and the

2 legislative bodies of the public speedway authority and the host  
3 jurisdiction must negotiate terms acceptable to each party to address:

4           (a) A schedule for efficient, timely, and reliable permit  
5 processing for the facility, to reflect statutory and regulatory  
6 permitting time frames and local government best practices;

7           (b) A schedule for efficient, timely, and reliable environmental  
8 review processing for the facility, to reflect statutory and regulatory  
9 permitting time frames and local government best practices;

10          (c) A schedule for efficient, timely, and reliable processing of  
11 requests for street, right-of-way, or easement vacations necessary for  
12 the construction of the facility, to reflect statutory and regulatory  
13 permitting time frames and local government best practices; and

14          (d) Other items deemed appropriate by the lessee and the  
15 legislative bodies of the authority and the host jurisdiction for an  
16 efficient permitting, environmental review, and regulatory approval  
17 process and timely construction of the facility, including use of  
18 parallel review processes, early coordination and timely comment on  
19 preapplication matters, consolidated hearings, and identification of a  
20 lead representative for permit preparation and environmental review for  
21 each party.

22          (2) The agreements required by subsection (1) of this section must  
23 address host jurisdiction permitting and review processes and not  
24 federal permitting or review processes. State agencies with expertise  
25 and jurisdiction may also enter into such agreements to the extent  
26 necessary to assure timely, efficient, and reliable permitting.

27          (3) The proceeds of any public speedway authority bonds issued to  
28 finance costs of acquisition, permitting, design, development,  
29 construction, or equipping of the facility may not be expended until  
30 any host jurisdiction that requires master plan approval for the  
31 proposed facility approves a master plan for the facility or,  
32 alternatively, when the proposed facility site is annexed into any city  
33 that is a host jurisdiction in which a professional motorsports  
34 entertainment and family recreation facility is a permitted use.

35          (4) All land use permitting decisions for a professional  
36 motorsports entertainment and family recreation facility must be made  
37 by the host jurisdiction.

1 (5) Nothing in this section may be construed to reduce the  
2 responsibility or ability of the host jurisdiction or state agencies  
3 with jurisdiction to carry out such permitting, review, and regulatory  
4 approval processes in compliance with applicable law and regulations;  
5 the purpose of any agreements entered into pursuant to this section  
6 specifying schedules for permitting, environmental review, and  
7 regulatory approval is to facilitate construction of a large capital  
8 facility project in a timely manner and avoid the inflationary costs  
9 associated with undue delay.

10 **Sec. 505.** RCW 36.70A.110 and 2010 c 211 s 1 are each amended to  
11 read as follows:

12 URBAN SERVICES TO THE FACILITY. (1) Each county that is required  
13 or chooses to plan under RCW 36.70A.040 (~~shall~~) must designate an  
14 urban growth area or areas within which urban growth (~~shall~~) must be  
15 encouraged and outside of which growth can occur only if it is not  
16 urban in nature. Each city that is located in such a county (~~shall~~)  
17 must be included within an urban growth area. An urban growth area may  
18 include more than a single city. An urban growth area may include  
19 territory that is located outside of a city only if such territory  
20 already is characterized by urban growth whether or not the urban  
21 growth area includes a city, or is adjacent to territory already  
22 characterized by urban growth, or is a designated new fully contained  
23 community as defined by RCW 36.70A.350.

24 (2)(a) Based upon the growth management population projection made  
25 for the county by the office of financial management, the county and  
26 each city within the county (~~shall~~) must include areas and densities  
27 sufficient to permit the urban growth that is projected to occur in the  
28 county or city for the succeeding twenty-year period, except for those  
29 urban growth areas contained totally within a national historical  
30 reserve. As part of this planning process, each city within the county  
31 must include areas sufficient to accommodate the broad range of needs  
32 and uses that will accompany the projected urban growth including, as  
33 appropriate, medical, governmental, institutional, commercial, service,  
34 retail, and other nonresidential uses.

35 (b) Each urban growth area (~~shall~~) must permit urban densities  
36 and (~~shall~~) include greenbelt and open space areas. In the case of  
37 urban growth areas contained totally within a national historical

1 reserve, the city may restrict densities, intensities, and forms of  
2 urban growth as determined to be necessary and appropriate to protect  
3 the physical, cultural, or historic integrity of the reserve. An urban  
4 growth area determination may include a reasonable land market supply  
5 factor and (~~shall~~) must permit a range of urban densities and uses.  
6 In determining this market factor, cities and counties may consider  
7 local circumstances. Cities and counties have discretion in their  
8 comprehensive plans to make many choices about accommodating growth.

9 (c) Within one year of July 1, 1990, each county that as of June 1,  
10 1991, was required or chose to plan under RCW 36.70A.040, (~~shall~~)  
11 must begin consulting with each city located within its boundaries and  
12 each city (~~shall~~) must propose the location of an urban growth area.  
13 Within sixty days of the date the county legislative authority of a  
14 county adopts its resolution of intention or of certification by the  
15 office of financial management, all other counties that are required or  
16 choose to plan under RCW 36.70A.040 (~~shall~~) must begin this  
17 consultation with each city located within its boundaries. The county  
18 (~~shall~~) must attempt to reach agreement with each city on the  
19 location of an urban growth area within which the city is located. If  
20 such an agreement is not reached with each city located within the  
21 urban growth area, the county (~~shall~~) must justify in writing why it  
22 so designated the area an urban growth area. A city may object  
23 formally with the department over the designation of the urban growth  
24 area within which it is located. Where appropriate, the department  
25 (~~shall~~) must attempt to resolve the conflicts, including the use of  
26 mediation services.

27 (3) Urban growth should be located first in areas already  
28 characterized by urban growth that have adequate existing public  
29 facility and service capacities to serve such development, second in  
30 areas already characterized by urban growth that will be served  
31 adequately by a combination of both existing public facilities and  
32 services and any additional needed public facilities and services that  
33 are provided by either public or private sources, and third in the  
34 remaining portions of the urban growth areas. Urban growth may also be  
35 located in designated new fully contained communities as defined by RCW  
36 36.70A.350.

37 (4) In general, cities are the units of local government most  
38 appropriate to provide urban governmental services. In general, it is



1 not appropriate that urban governmental services be extended to or  
2 expanded in rural areas except in those limited circumstances shown to  
3 be necessary to protect basic public health and safety and the  
4 environment and when such services are financially supportable at rural  
5 densities and do not permit urban development. The extension of urban  
6 governmental services including, without limitation, storm and sanitary  
7 sewer services, to a facility owned or operated by a public speedway  
8 authority and with capacity for not fewer than eighty-three thousand  
9 people is necessary to protect basic public health and safety and the  
10 environment, provided it is located at least partially within an urban  
11 growth area.

12 (5) On or before October 1, 1993, each county that was initially  
13 required to plan under RCW 36.70A.040(1) (~~shall~~) must adopt  
14 development regulations designating interim urban growth areas under  
15 this chapter. Within three years and three months of the date the  
16 county legislative authority of a county adopts its resolution of  
17 intention or of certification by the office of financial management,  
18 all other counties that are required or choose to plan under RCW  
19 36.70A.040 (~~shall~~) must adopt development regulations designating  
20 interim urban growth areas under this chapter. Adoption of the interim  
21 urban growth areas may only occur after public notice; public hearing;  
22 and compliance with the state environmental policy act, chapter 43.21C  
23 RCW, and under this section. Such action may be appealed to the growth  
24 management hearings board under RCW 36.70A.280. Final urban growth  
25 areas (~~shall~~) must be adopted at the time of comprehensive plan  
26 adoption under this chapter.

27 (6) Each county (~~shall~~) must include designations of urban growth  
28 areas in its comprehensive plan.

29 (7) An urban growth area designated in accordance with this section  
30 may include within its boundaries urban service areas or potential  
31 annexation areas designated for specific cities or towns within the  
32 county.

33 (8)(a) Except as provided in (b) of this subsection, the expansion  
34 of an urban growth area is prohibited into the one hundred year  
35 floodplain of any river or river segment that: (i) Is located west of  
36 the crest of the Cascade mountains; and (ii) has a mean annual flow of  
37 one thousand or more cubic feet per second as determined by the  
38 department of ecology.

1 (b) Subsection (8)(a) of this section does not apply to:

2 (i) Urban growth areas that are fully contained within a floodplain  
3 and lack adjacent buildable areas outside the floodplain;

4 (ii) Urban growth areas where expansions are precluded outside  
5 floodplains because:

6 (A) Urban governmental services cannot be physically provided to  
7 serve areas outside the floodplain; or

8 (B) Expansions outside the floodplain would require a river or  
9 estuary crossing to access the expansion; or

10 (iii) Urban growth area expansions where:

11 (A) Public facilities already exist within the floodplain and the  
12 expansion of an existing public facility is only possible on the land  
13 to be included in the urban growth area and located within the  
14 floodplain; or

15 (B) Urban development already exists within a floodplain as of July  
16 26, 2009, and is adjacent to, but outside of, the urban growth area,  
17 and the expansion of the urban growth area is necessary to include such  
18 urban development within the urban growth area; or

19 (C) The land is owned by a jurisdiction planning under this chapter  
20 or the rights to the development of the land have been permanently  
21 extinguished, and the following criteria are met:

22 (I) The permissible use of the land is limited to one of the  
23 following: Outdoor recreation; environmentally beneficial projects,  
24 including but not limited to habitat enhancement or environmental  
25 restoration; storm water facilities; flood control facilities; or  
26 underground conveyances; and

27 (II) The development and use of such facilities or projects will  
28 not decrease flood storage, increase storm water runoff, discharge  
29 pollutants to fresh or salt waters during normal operations or floods,  
30 or increase hazards to people and property.

31 (c) For the purposes of this subsection (8), "one hundred year  
32 floodplain" means the same as "special flood hazard area" as set forth  
33 in WAC 173-158-040 as it exists on July 26, 2009.

34 **Sec. 506.** RCW 70.107.080 and 1974 ex.s. c 183 s 8 are each amended  
35 to read as follows:

36 NOISE. (1) The department (~~shall~~) must, in the exercise of rule-  
37 making power under this chapter, provide exemptions or specially

1 limited regulations relating to recreational shooting and emergency or  
2 law enforcement equipment where appropriate in the interests of public  
3 safety.

4 (2) Sounds originating from any professional motorsports  
5 entertainment and family recreation facility is exempt from rules  
6 adopted pursuant to this chapter to the same extent as at existing  
7 motor vehicle racing event facilities, and the department must prepare,  
8 publish, and approve rules to this effect within one hundred eighty  
9 days of the effective date of this section. Nothing in this subsection  
10 may be deemed to exempt sounds originating from any professional  
11 motorsports entertainment and family recreation facility from review  
12 under chapter 43.21C RCW or from any requirements imposed for the  
13 purpose of mitigating impacts under RCW 43.21C.060.

14 (3) The department, in the development of rules under this chapter,  
15 (~~shall~~) must consult and take into consideration the land use  
16 policies and programs of local government.

17 **Sec. 507.** RCW 39.04.010 and 2008 c 130 s 16 are each amended to  
18 read as follows:

19 PUBLIC WORKS PROVISIONS. The definitions in this section apply  
20 throughout this chapter unless the context clearly requires otherwise.

21 (1) "Award" means the formal decision by the state or municipality  
22 notifying a responsible bidder with the lowest responsive bid of the  
23 state's or municipality's acceptance of the bid and intent to enter  
24 into a contract with the bidder.

25 (2) "Contract" means a contract in writing for the execution of  
26 public work for a fixed or determinable amount duly awarded after  
27 advertisement and competitive bid, or a contract awarded under the  
28 small works roster process in RCW 39.04.155.

29 (3) "Municipality" means every city, county, town, port district,  
30 district, or other public agency authorized by law to require the  
31 execution of public work, except drainage districts, diking districts,  
32 diking and drainage improvement districts, drainage improvement  
33 districts, diking improvement districts, consolidated diking and  
34 drainage improvement districts, consolidated drainage improvement  
35 districts, consolidated diking improvement districts, irrigation  
36 districts, or other districts authorized by law for the reclamation or  
37 development of waste or undeveloped lands.

1 (4) "Public work" means all work, construction, alteration, repair,  
2 or improvement other than ordinary maintenance, executed at the cost of  
3 the state or of any municipality, or which is by law a lien or charge  
4 on any property therein. All public works, including maintenance when  
5 performed by contract (~~shall~~) must comply with chapter 39.12 RCW.  
6 "Public work" does not include work, construction, alteration, repair,  
7 or improvement performed under contracts entered into under RCW  
8 36.102.060(4) or under development agreements entered into under RCW  
9 36.102.060(7) or leases entered into under RCW 36.102.060(8). The term  
10 does not include work, construction, alteration, repair, or improvement  
11 of a professional motorsports entertainment and family recreation  
12 facility performed under a development agreement authorized pursuant to  
13 section 502(2) of this act or lease authorized pursuant to section 601  
14 of this act or services procured by the lessee or prospective lessee in  
15 connection with any such work, construction, alteration, repair, or  
16 improvement.

17 (5) "Responsible bidder" means a contractor who meets the criteria  
18 in RCW 39.04.350.

19 (6) "State" means the state of Washington and all departments,  
20 supervisors, commissioners, and agencies of the state.

21 **Sec. 508.** RCW 84.33.140 and 2009 c 354 s 2, 2009 c 255 s 3, and  
22 2009 c 246 s 2 are each reenacted and amended to read as follows:

23 EXEMPTION FROM FOREST LAND COMPENSATION TAX. (1) When land has  
24 been designated as forest land under RCW 84.33.130, a notation of the  
25 designation (~~shall~~) must be made each year upon the assessment and  
26 tax rolls. A copy of the notice of approval together with the legal  
27 description or assessor's parcel numbers for the land (~~shall~~) must,  
28 at the expense of the applicant, be filed by the assessor in the same  
29 manner as deeds are recorded.

30 (2) In preparing the assessment roll as of January 1, 2002, for  
31 taxes payable in 2003 and each January 1st thereafter, the assessor  
32 (~~shall~~) must list each parcel of designated forest land at a value  
33 with respect to the grade and class provided in this subsection and  
34 adjusted as provided in subsection (3) of this section. The assessor  
35 (~~shall~~) must compute the assessed value of the land using the same  
36 assessment ratio applied generally in computing the assessed value of

1 other property in the county. Values for the several grades of bare  
2 forest land (~~shall be~~) are as follows:

3	LAND	OPERABILITY	VALUES
4	GRADE	CLASS	PER ACRE
5		1	\$234
6	1	2	229
7		3	217
8		4	157
9		1	198
10	2	2	190
11		3	183
12		4	132
13		1	154
14	3	2	149
15		3	148
16		4	113
17		1	117
18	4	2	114
19		3	113
20		4	86
21		1	85
22	5	2	78
23		3	77
24		4	52
25		1	43
26	6	2	39
27		3	39
28		4	37
29		1	21
30	7	2	21
31		3	20
32		4	20
33	8		1

34 (3) On or before December 31, 2001, the department (~~shall~~) must  
35 adjust by rule under chapter 34.05 RCW, the forest land values

1 contained in subsection (2) of this section in accordance with this  
2 subsection, and (~~shall~~) must certify the adjusted values to the  
3 assessor who will use these values in preparing the assessment roll as  
4 of January 1, 2002. For the adjustment to be made on or before  
5 December 31, 2001, for use in the 2002 assessment year, the department  
6 (~~shall~~) must:

7 (a) Divide the aggregate value of all timber harvested within the  
8 state between July 1, 1996, and June 30, 2001, by the aggregate harvest  
9 volume for the same period, as determined from the harvester excise tax  
10 returns filed with the department under RCW 84.33.074; and

11 (b) Divide the aggregate value of all timber harvested within the  
12 state between July 1, 1995, and June 30, 2000, by the aggregate harvest  
13 volume for the same period, as determined from the harvester excise tax  
14 returns filed with the department under RCW 84.33.074; and

15 (c) Adjust the forest land values contained in subsection (2) of  
16 this section by a percentage equal to one-half of the percentage change  
17 in the average values of harvested timber reflected by comparing the  
18 resultant values calculated under (a) and (b) of this subsection.

19 (4) For the adjustments to be made on or before December 31, 2002,  
20 and each succeeding year thereafter, the same procedure described in  
21 subsection (3) of this section (~~shall~~) must be followed using  
22 harvester excise tax returns filed under RCW 84.33.074. However, this  
23 adjustment (~~shall~~) must be made to the prior year's adjusted value,  
24 and the five-year periods for calculating average harvested timber  
25 values (~~shall~~) must be successively one year more recent.

26 (5) Land graded, assessed, and valued as forest land (~~shall~~) must  
27 continue to be so graded, assessed, and valued until removal of  
28 designation by the assessor upon the occurrence of any of the  
29 following:

30 (a) Receipt of notice from the owner to remove the designation;

31 (b) Sale or transfer to an ownership making the land exempt from ad  
32 valorem taxation;

33 (c) Sale or transfer of all or a portion of the land to a new  
34 owner, unless the new owner has signed a notice of forest land  
35 designation continuance, except transfer to an owner who is an heir or  
36 devisee of a deceased owner, (~~shall~~) does not, by itself, result in  
37 removal of designation. The signed notice of continuance (~~shall~~)  
38 must be attached to the real estate excise tax affidavit provided for

1 in RCW 82.45.150. The notice of continuance (~~shall~~) must be on a  
2 form prepared by the department. If the notice of continuance is not  
3 signed by the new owner and attached to the real estate excise tax  
4 affidavit, all compensating taxes calculated under subsection (11) of  
5 this section (~~shall~~) become due and payable by the seller or  
6 transferor at time of sale. The auditor (~~shall~~) may not accept an  
7 instrument of conveyance regarding designated forest land for filing or  
8 recording unless the new owner has signed the notice of continuance or  
9 the compensating tax has been paid, as evidenced by the real estate  
10 excise tax stamp affixed thereto by the treasurer. The seller,  
11 transferor, or new owner may appeal the new assessed valuation  
12 calculated under subsection (11) of this section to the county board of  
13 equalization in accordance with the provisions of RCW 84.40.038.  
14 Jurisdiction is hereby conferred on the county board of equalization to  
15 hear these appeals;

16 (d) Determination by the assessor, after giving the owner written  
17 notice and an opportunity to be heard, that:

18 (i) The land is no longer primarily devoted to and used for growing  
19 and harvesting timber. However, land (~~shall~~) may not be removed from  
20 designation if a governmental agency, organization, or other recipient  
21 identified in subsection (13) or (14) of this section as exempt from  
22 the payment of compensating tax has manifested its intent in writing or  
23 by other official action to acquire a property interest in the  
24 designated forest land by means of a transaction that qualifies for an  
25 exemption under subsection (13) or (14) of this section. The  
26 governmental agency, organization, or recipient (~~shall~~) must annually  
27 provide the assessor of the county in which the land is located  
28 reasonable evidence in writing of the intent to acquire the designated  
29 land as long as the intent continues or within sixty days of a request  
30 by the assessor. The assessor may not request this evidence more than  
31 once in a calendar year;

32 (ii) The owner has failed to comply with a final administrative or  
33 judicial order with respect to a violation of the restocking, forest  
34 management, fire protection, insect and disease control, and forest  
35 debris provisions of Title 76 RCW or any applicable rules under Title  
36 76 RCW; or

37 (iii) Restocking has not occurred to the extent or within the time  
38 specified in the application for designation of such land.

1 (6) Land (~~shall~~) may not be removed from designation if there is  
2 a governmental restriction that prohibits, in whole or in part, the  
3 owner from harvesting timber from the owner's designated forest land.  
4 If only a portion of the parcel is impacted by governmental  
5 restrictions of this nature, the restrictions cannot be used as a basis  
6 to remove the remainder of the forest land from designation under this  
7 chapter. For the purposes of this section, "governmental restrictions"  
8 includes: (a) Any law, regulation, rule, ordinance, program, or other  
9 action adopted or taken by a federal, state, county, city, or other  
10 governmental entity; or (b) the land's zoning or its presence within an  
11 urban growth area designated under RCW 36.70A.110.

12 (7) The assessor (~~shall have~~) has the option of requiring an  
13 owner of forest land to file a timber management plan with the assessor  
14 upon the occurrence of one of the following:

- 15 (a) An application for designation as forest land is submitted; or  
16 (b) Designated forest land is sold or transferred and a notice of  
17 continuance, described in subsection (5)(c) of this section, is signed.

18 (8) If land is removed from designation because of any of the  
19 circumstances listed in subsection (5)(a) through (c) of this section,  
20 the removal (~~shall apply~~) applies only to the land affected. If land  
21 is removed from designation because of subsection (5)(d) of this  
22 section, the removal (~~shall apply~~) applies only to the actual area of  
23 land that is no longer primarily devoted to the growing and harvesting  
24 of timber, without regard to any other land that may have been included  
25 in the application and approved for designation, as long as the  
26 remaining designated forest land meets the definition of forest land  
27 contained in RCW 84.33.035.

28 (9) Within thirty days after the removal of designation as forest  
29 land, the assessor (~~shall~~) must notify the owner in writing, setting  
30 forth the reasons for the removal. The seller, transferor, or owner  
31 may appeal the removal to the county board of equalization in  
32 accordance with the provisions of RCW 84.40.038.

33 (10) Unless the removal is reversed on appeal a copy of the notice  
34 of removal with a notation of the action, if any, upon appeal, together  
35 with the legal description or assessor's parcel numbers for the land  
36 removed from designation (~~shall~~) must, at the expense of the  
37 applicant, be filed by the assessor in the same manner as deeds are  
38 recorded and a notation of removal from designation (~~shall~~) must



1 immediately be made upon the assessment and tax rolls. The assessor  
2 (~~shall~~) must revalue the land to be removed with reference to its  
3 true and fair value as of January 1st of the year of removal from  
4 designation. Both the assessed value before and after the removal of  
5 designation (~~shall~~) must be listed. Taxes based on the value of the  
6 land as forest land (~~shall~~) must be assessed and payable up until the  
7 date of removal and taxes based on the true and fair value of the land  
8 (~~shall~~) must be assessed and payable from the date of removal from  
9 designation.

10 (11) Except as provided in subsection (5)(c), (13), or (14) of this  
11 section, a compensating tax (~~shall be~~) is imposed on land removed  
12 from designation as forest land. The compensating tax (~~shall be~~) is  
13 due and payable to the treasurer thirty days after the owner is  
14 notified of the amount of this tax. As soon as possible after the land  
15 is removed from designation, the assessor (~~shall~~) must compute the  
16 amount of compensating tax and mail a notice to the owner of the amount  
17 of compensating tax owed and the date on which payment of this tax is  
18 due. The amount of compensating tax (~~shall be~~) is equal to the  
19 difference between the amount of tax last levied on the land as  
20 designated forest land and an amount equal to the new assessed value of  
21 the land multiplied by the dollar rate of the last levy extended  
22 against the land, multiplied by a number, in no event greater than  
23 nine, equal to the number of years for which the land was designated as  
24 forest land, plus compensating taxes on the land at forest land values  
25 up until the date of removal and the prorated taxes on the land at true  
26 and fair value from the date of removal to the end of the current tax  
27 year.

28 (12) Compensating tax, together with applicable interest thereon,  
29 (~~shall~~) becomes a lien on the land which (~~shall attach~~) attaches at  
30 the time the land is removed from designation as forest land and  
31 (~~shall have~~) has priority to and (~~shall~~) must be fully paid and  
32 satisfied before any recognizance, mortgage, judgment, debt,  
33 obligation, or responsibility to or with which the land may become  
34 charged or liable. The lien may be foreclosed upon expiration of the  
35 same period after delinquency and in the same manner provided by law  
36 for foreclosure of liens for delinquent real property taxes as provided  
37 in RCW 84.64.050. Any compensating tax unpaid on its due date

1 (~~shall~~) must thereupon become delinquent. From the date of  
2 delinquency until paid, interest (~~shall~~) must be charged at the same  
3 rate applied by law to delinquent ad valorem property taxes.

4 (13) The compensating tax specified in subsection (11) of this  
5 section (~~shall~~) may not be imposed if the removal of designation  
6 under subsection (5) of this section resulted solely from:

7 (a) Transfer to a government entity in exchange for other forest  
8 land located within the state of Washington;

9 (b) A taking through the exercise of the power of eminent domain,  
10 or sale or transfer to an entity having the power of eminent domain in  
11 anticipation of the exercise of such power;

12 (c) A donation of fee title, development rights, or the right to  
13 harvest timber, to a government agency or organization qualified under  
14 RCW 84.34.210 and 64.04.130 for the purposes enumerated in those  
15 sections, or the sale or transfer of fee title to a governmental entity  
16 or a nonprofit nature conservancy corporation, as defined in RCW  
17 64.04.130, exclusively for the protection and conservation of lands  
18 recommended for state natural area preserve purposes by the natural  
19 heritage council and natural heritage plan as defined in chapter 79.70  
20 RCW or approved for state natural resources conservation area purposes  
21 as defined in chapter 79.71 RCW. At such time as the land is not used  
22 for the purposes enumerated, the compensating tax specified in  
23 subsection (11) of this section (~~shall~~) must be imposed upon the  
24 current owner;

25 (d) The sale or transfer of fee title to the parks and recreation  
26 commission for park and recreation purposes;

27 (e) Official action by an agency of the state of Washington or by  
28 the county or city within which the land is located that disallows the  
29 present use of the land;

30 (f) The creation, sale, or transfer of forestry riparian easements  
31 under RCW 76.13.120;

32 (g) The creation, sale, or transfer of a conservation easement of  
33 private forest lands within unconfined channel migration zones or  
34 containing critical habitat for threatened or endangered species under  
35 RCW 76.09.040;

36 (h) The sale or transfer of land within two years after the death  
37 of the owner of at least a fifty percent interest in the land if the  
38 land has been assessed and valued as classified forest land, designated

1 as forest land under this chapter, or classified under chapter 84.34  
2 RCW continuously since 1993. The date of death shown on a death  
3 certificate is the date used for the purposes of this subsection  
4 (13)(h); ~~((or))~~

5 (i)(i) The discovery that the land was designated under this  
6 chapter in error through no fault of the owner. For purposes of this  
7 subsection (13)(i), "fault" means a knowingly false or misleading  
8 statement, or other act or omission not in good faith, that contributed  
9 to the approval of designation under this chapter or the failure of the  
10 assessor to remove the land from designation under this chapter.

11 (ii) For purposes of this subsection (13), the discovery that land  
12 was designated under this chapter in error through no fault of the  
13 owner is not the sole reason for removal of designation under  
14 subsection (5) of this section if an independent basis for removal  
15 exists. An example of an independent basis for removal includes the  
16 land no longer being devoted to and used for growing and harvesting  
17 timber; or

18 (j) The sale or transfer of land to a public speedway authority for  
19 use as a portion of a professional motorsports entertainment and family  
20 recreation facility for as long as such land is not covered with an  
21 impervious surface. At any time a portion of the land is covered with  
22 an impervious surface or is no longer used as a portion of such a  
23 facility, the compensating tax must be imposed on the current owner.

24 (14) In a county with a population of more than six hundred  
25 thousand inhabitants, the compensating tax specified in subsection (11)  
26 of this section ~~((shall))~~ may not be imposed if the removal of  
27 designation as forest land under subsection (5) of this section  
28 resulted solely from:

- 29 (a) An action described in subsection (13) of this section; or
- 30 (b) A transfer of a property interest to a government entity, or to  
31 a nonprofit historic preservation corporation or nonprofit nature  
32 conservancy corporation, as defined in RCW 64.04.130, to protect or  
33 enhance public resources, or to preserve, maintain, improve, restore,  
34 limit the future use of, or otherwise to conserve for public use or  
35 enjoyment, the property interest being transferred. At such time as  
36 the property interest is not used for the purposes enumerated, the  
37 compensating tax ~~((shall))~~ must be imposed upon the current owner.

1           **Sec. 509.** RCW 76.09.460 and 2007 c 106 s 2 are each amended to  
2 read as follows:

3           EXEMPTION FROM FOREST PRACTICES ACT CONVERSION MORATORIA. (1) If  
4 a county, city, town, or regional governmental entity receives a notice  
5 of conversion to nonforestry use by the department under RCW 76.09.060,  
6 then the county, city, town, or regional governmental entity must deny  
7 all applications for permits or approvals, including building permits  
8 and subdivision approvals, relating to nonforestry uses of the land  
9 that is the subject of the notification. The prohibition created by  
10 this section must be enforced by the county, city, town, or regional  
11 governmental entity:

12           ~~((1))~~ (a) For a period of six years from the approval date of the  
13 applicable forest practices application or notification or the date  
14 that the department was made aware of the harvest activities; or

15           ~~((2))~~ (b) Until the following activities are completed for the  
16 land that is the subject of the notice of conversion to a nonforestry  
17 use:

18           ~~((a))~~ (i) Full compliance with chapter 43.21C RCW, if applicable;

19           ~~((b))~~ (ii) The department has notified the county, city, town, or  
20 regional governmental entity that the landowner has resolved any  
21 outstanding final orders or decisions issued by the department; and

22           ~~((c))~~ (iii) A determination is made by the county, city, town, or  
23 regional governmental entity as to whether or not the condition of the  
24 land in question is in full compliance with local ordinances and  
25 regulations. If full compliance is not found, a mitigation plan to  
26 address violations of local ordinances or regulations must be required  
27 for the parcel in question by the county, city, town, or regional  
28 governmental entity. Required mitigation plans must be prepared by the  
29 landowner and approved by the county, city, town, or regional  
30 governmental entity. Once approved, the mitigation plan must be  
31 implemented by the landowner. Mitigation measures that may be required  
32 include, but are not limited to, revegetation requirements to plant and  
33 maintain trees of sufficient maturity and appropriate species  
34 composition to restore critical area and buffer function or to be in  
35 compliance with applicable local government regulations.

36           (2) Any six-year moratorium preventing conversion to nonforestry  
37 uses under this section must be waived as of the date the land subject

1 to the moratorium is purchased or acquired for use as a professional  
2 motorsports entertainment and family recreation facility.

3 **PART VI**

4 **LEASE AND OPERATION OF FACILITY**

5 NEW SECTION. **Sec. 601.** LEASE OF FACILITY. In consideration for  
6 the public funding provided for the acquisition of a site for and the  
7 financing, permitting, design, development, and construction of a  
8 facility, a lessee must enter into a binding and legally enforceable  
9 sole master tenant lease agreement with the public speedway authority  
10 for the management and operation of the facility, which includes  
11 without limitation the following terms:

12 (1) The term of the lease may not be less than fifty years.

13 (2) The lessee must pay reasonable rent and assume risk, legal  
14 liability, and responsibility for costs associated with maintaining and  
15 operating the facility. As used in this subsection, "reasonable rent"  
16 is solely intended to fund the reasonable annual operating expenses of  
17 the public speedway authority, including a reasonable operating expense  
18 reserve. Rents paid in excess of actual operating expenses of the  
19 public speedway authority must be committed to funding capital  
20 improvements to the facility undertaken pursuant to plans approved by  
21 the public speedway authority and the lessee.

22 (3) The lessee must, at its own expense, maintain, provide major  
23 repairs and renovations of, and operate the facility in a first-class  
24 manner consistent with any standards or requirements of NASCAR or other  
25 nationally recognized motorsports sanctioning bodies to ensure the  
26 continuous and uninterrupted suitability of the facility as a viable  
27 venue for hosting nationally recognized, top tier professional  
28 motorsports events.

29 (4) The lessee must make and participate financially in capital  
30 improvements necessary to ensure the continuous and uninterrupted  
31 suitability of the facility as a viable venue for hosting nationally  
32 recognized, top tier professional motorsports events.

33 (5) The lessee has the authority to sublease and enter into use,  
34 license, naming rights, and concession agreements with various lessees,  
35 users, licensees, or concessionaires of the facility. The lessee has  
36 the right to retain all revenues derived from the operation of the

1 facility, including revenues from any sublease, use, license, naming  
2 rights, and concession agreements, revenues from concessions, ticket  
3 sales, suite rentals, suite and seat licenses, advertising, parking,  
4 signage, and intellectual property rights.

5 (6) The lessee must host at least two major motorsports event  
6 weekends annually if the sales and use tax credit under section 401 of  
7 this act is in effect and the lessee is not prevented from doing so by  
8 a force majeure event. The lessee and its parent company must use  
9 their good faith best efforts to secure as one of the two major  
10 motorsports event weekends hosted annually at the facility a NASCAR  
11 Nextel Cup event or an event in NASCAR's then-comparable successor  
12 premier national series beginning in the initial year of operation of  
13 the facility.

14 (7) If the sales and use tax credit under section 401 of this act  
15 is in effect, the lessee or any parent, corporate affiliate or  
16 successor, successor in interest, or other entity in any way related to  
17 the lessee may not petition, support, or condone a proposal or decision  
18 of the sanctioning body of any nationally recognized, top tier  
19 professional motorsports event anchoring either of the two major  
20 motorsports event weekends at the facility required under subsection  
21 (6) of this section to move, realign, or otherwise deprive the facility  
22 of such event. The lessee may seek to replace an event only if it can  
23 demonstrate to the satisfaction of the office of financial management  
24 that a substitute nationally recognized, top tier professional  
25 motorsports event is capable of producing a higher level of economic  
26 activity, including without limitation paid attendance by out-of-state  
27 visitors, than the event on which public support for the development of  
28 the facility in the state was based. The loss of any nationally  
29 recognized, top tier professional motorsports event anchoring a major  
30 motorsports event weekend at the facility required under subsection (6)  
31 of this section while the sales and use tax credit under section 401 of  
32 this act is in effect must be replaced by the lessee with a comparable  
33 or superior nationally recognized, top tier professional motorsports  
34 event.

35 (8) If the sales and use tax credit under section 401 of this act  
36 is in effect, the lessee or any parent, corporate affiliate or  
37 successor, successor in interest, or other entity in any way related to  
38 the lessee may not develop, own, or operate or participate in the

1 development, ownership, or operation of any other professional  
2 motorsports entertainment and family recreation facility to host  
3 nationally recognized, top tier professional motorsports events within  
4 five hundred miles of the facility.

5 (9) The lessee is required:

6 (a) Subject to its rights under the lease agreement to use the site  
7 for professional motorsports entertainment and family recreation, to  
8 make the facility available for community, charitable, recreation, and  
9 other activities, such as family recreation and social events, local  
10 and regional business functions, arts events, emergency services, and  
11 public safety training, on a fee or nonfee basis as appropriate and to  
12 the extent that such activities are consistent with use of the facility  
13 for professional motorsports events;

14 (b) To use reasonable efforts to allow for meaningful,  
15 noncommercial opportunities for the promotion of Washington state  
16 tourism, trade, and generic products when the facility is not otherwise  
17 in use; and

18 (c) To use reasonable efforts to provide opportunities for local  
19 not-for-profit organizations to participate in facility use and  
20 operation of concessions during professional motorsports events.

21 (10) The lessee must assume responsibility for payment of sales and  
22 use taxes deferred under section 503 of this act when the deferred  
23 taxes become due and payable by the public speedway authority.

24 (11) Violations by the lessee of its material obligations under  
25 the lease are considered defaults under the lease subject to such  
26 remedies and reasonable opportunities to cure as the lease may provide.  
27 Damages received by the public speedway authority resulting from the  
28 lessee's default on its obligation to annually host two major  
29 motorsports event weekends must be applied by the public speedway  
30 authority to pay or provide for the early retirement of bonds issued  
31 pursuant to section 403 of this act.

32 **Sec. 602.** RCW 82.29A.130 and 2008 c 194 s 1 and 2008 c 84 s 2 are  
33 each reenacted and amended to read as follows:

34 LEASEHOLD EXCISE TAX EXEMPTION. The following leasehold interests  
35 (~~shall be~~) are exempt from taxes imposed pursuant to RCW 82.29A.030  
36 and 82.29A.040:

1 (1) All leasehold interests constituting a part of the operating  
2 properties of any public utility which is assessed and taxed as a  
3 public utility pursuant to chapter 84.12 RCW.

4 (2) All leasehold interests in facilities owned or used by a  
5 school, college or university which leasehold provides housing for  
6 students and which is otherwise exempt from taxation under provisions  
7 of RCW 84.36.010 and 84.36.050.

8 (3) All leasehold interests of subsidized housing where the fee  
9 ownership of such property is vested in the government of the United  
10 States, or the state of Washington or any political subdivision thereof  
11 but only if income qualification exists for such housing.

12 (4) All leasehold interests used for fair purposes of a nonprofit  
13 fair association that sponsors or conducts a fair or fairs which  
14 receive support from revenues collected pursuant to RCW 67.16.100 and  
15 allocated by the director of the department of agriculture where the  
16 fee ownership of such property is vested in the government of the  
17 United States, the state of Washington or any of its political  
18 subdivisions(~~(:—PROVIDED, That)~~). However, this exemption (~~(shall)~~)  
19 does not apply to the leasehold interest of any sublessee of such  
20 nonprofit fair association if such leasehold interest would be taxable  
21 if it were the primary lease.

22 (5) All leasehold interests in any property of any public entity  
23 used as a residence by an employee of that public entity who is  
24 required as a condition of employment to live in the publicly owned  
25 property.

26 (6) All leasehold interests held by enrolled Indians of lands owned  
27 or held by any Indian or Indian tribe where the fee ownership of such  
28 property is vested in or held in trust by the United States and which  
29 are not subleased to other than to a lessee which would qualify  
30 pursuant to this chapter, RCW 84.36.451 and 84.40.175.

31 (7) All leasehold interests in any real property of any Indian or  
32 Indian tribe, band, or community that is held in trust by the United  
33 States or is subject to a restriction against alienation imposed by the  
34 United States(~~(:—PROVIDED, That)~~). However, this exemption (~~(shall~~  
35 ~~apply)~~) applies only where it is determined that contract rent paid is  
36 greater than or equal to ninety percent of fair market rental, to be  
37 determined by the department of revenue using the same criteria used to  
38 establish taxable rent in RCW 82.29A.020(2)(b).



1 (8) All leasehold interests for which annual taxable rent is less  
2 than two hundred fifty dollars per year. For purposes of this  
3 subsection leasehold interests held by the same lessee in contiguous  
4 properties owned by the same lessor (~~((shall be))~~) is deemed a single  
5 leasehold interest.

6 (9) All leasehold interests which give use or possession of the  
7 leased property for a continuous period of less than thirty days(~~(+  
8 PROVIDED, That))~~). For purposes of this subsection, successive leases  
9 or lease renewals giving substantially continuous use of possession of  
10 the same property to the same lessee (~~((shall be))~~) is deemed a single  
11 leasehold interest(~~((+ PROVIDED FURTHER, That))~~). No leasehold interest  
12 (~~((shall))~~) may be deemed to give use or possession for a period of less  
13 than thirty days solely by virtue of the reservation by the public  
14 lessor of the right to use the property or to allow third parties to  
15 use the property on an occasional, temporary basis.

16 (10) All leasehold interests under month-to-month leases in  
17 residential units rented for residential purposes of the lessee pending  
18 destruction or removal for the purpose of constructing a public highway  
19 or building.

20 (11) All leasehold interests in any publicly owned real or personal  
21 property to the extent such leasehold interests arises solely by virtue  
22 of a contract for public improvements or work executed under the public  
23 works statutes of this state or of the United States between the public  
24 owner of the property and a contractor.

25 (12) All leasehold interests that give use or possession of state  
26 adult correctional facilities for the purposes of operating  
27 correctional industries under RCW 72.09.100.

28 (13) All leasehold interests used to provide organized and  
29 supervised recreational activities for persons with disabilities of all  
30 ages in a camp facility and for public recreational purposes by a  
31 nonprofit organization, association, or corporation that would be  
32 exempt from property tax under RCW 84.36.030(1) if it owned the  
33 property. If the publicly owned property is used for any taxable  
34 purpose, the leasehold excise taxes set forth in RCW 82.29A.030 and  
35 82.29A.040 (~~((shall))~~) must be imposed and (~~((shall))~~) must be apportioned  
36 accordingly.

37 (14) All leasehold interests in the public or entertainment areas  
38 of a baseball stadium with natural turf and a retractable roof or

1 canopy that is in a county with a population of over one million, that  
2 has a seating capacity of over forty thousand, and that is constructed  
3 on or after January 1, 1995. "Public or entertainment areas" include  
4 ticket sales areas, ramps and stairs, lobbies and concourses, parking  
5 areas, concession areas, restaurants, hospitality and stadium club  
6 areas, kitchens or other work areas primarily servicing other public or  
7 entertainment areas, public rest room areas, press and media areas,  
8 control booths, broadcast and production areas, retail sales areas,  
9 museum and exhibit areas, scoreboards or other public displays, storage  
10 areas, loading, staging, and servicing areas, seating areas and suites,  
11 the playing field, and any other areas to which the public has access  
12 or which are used for the production of the entertainment event or  
13 other public usage, and any other personal property used for these  
14 purposes. "Public or entertainment areas" does not include locker  
15 rooms or private offices exclusively used by the lessee.

16 (15) All leasehold interests in the public or entertainment areas  
17 of a stadium and exhibition center, as defined in RCW 36.102.010, that  
18 is constructed on or after January 1, 1998. For the purposes of this  
19 subsection, "public or entertainment areas" has the same meaning as in  
20 subsection (14) of this section, and includes exhibition areas.

21 (16) All leasehold interests in public facilities districts, as  
22 provided in chapter 36.100 or 35.57 RCW.

23 (17) All leasehold interests in property that is: (a) Owned by the  
24 United States government or a municipal corporation; (b) listed on any  
25 federal or state register of historical sites; and (c) wholly contained  
26 within a designated national historic reserve under 16 U.S.C. Sec. 461.

27 (18)(a) All leasehold interests in the public or entertainment  
28 areas of an amphitheater if a private entity is responsible for one  
29 hundred percent of the cost of constructing the amphitheater which is  
30 not reimbursed by the public owner, both the public owner and the  
31 private lessee sponsor events at the facility on a regular basis, the  
32 lessee is responsible under the lease or agreement to operate and  
33 maintain the facility, and the amphitheater has a seating capacity of  
34 over seventeen thousand reserved and general admission seats and is in  
35 a county that had a population of over three hundred fifty thousand,  
36 but less than four hundred twenty-five thousand when the amphitheater  
37 first opened to the public.

1       **(b)** For the purposes of this subsection **(18)**, "public or  
2 entertainment areas" include box offices or other ticket sales areas,  
3 entrance gates, ramps and stairs, lobbies and concourses, parking  
4 areas, concession areas, restaurants, hospitality areas, kitchens or  
5 other work areas primarily servicing other public or entertainment  
6 areas, public rest room areas, press and media areas, control booths,  
7 broadcast and production areas, retail sales areas, museum and exhibit  
8 areas, scoreboards or other public displays, storage areas, loading,  
9 staging, and servicing areas, seating areas including lawn seating  
10 areas and suites, stages, and any other areas to which the public has  
11 access or which are used for the production of the entertainment event  
12 or other public usage, and any other personal property used for these  
13 purposes. "Public or entertainment areas" does not include office  
14 areas used predominately by the lessee.

15       **(19)** All leasehold interests in real property used for the  
16 placement of military housing meeting the requirements of RCW  
17 84.36.665.

18       **(20)** All leasehold interests in the public or entertainment areas  
19 of a professional motorsports entertainment and family recreation  
20 facility that is constructed on or after January 1, 2011. For the  
21 purposes of this subsection, "public or entertainment areas" include  
22 ticket sales areas, ramps and stairs, lobbies and concourses, parking  
23 areas, recreational vehicle camping areas, concession areas  
24 restaurants, hospitality and club areas, kitchens and other work and  
25 maintenance areas servicing other public or entertainment areas, public  
26 restroom areas, press and media areas, control towers and booths,  
27 broadcast and production areas, retail sales areas, museum and exhibit  
28 areas, scoreboards and other public displays, storage areas, loading,  
29 staging, and servicing areas, seating areas and suites, the closed-  
30 course speedway, open space, and any other areas to which the public  
31 has access or which are used for the production of the entertainment  
32 event or other public usage, and any other personal property used for  
33 these purposes. "Public or entertainment areas" does not include  
34 private offices or other areas exclusively used by the lessee.

35       **NEW SECTION. Sec. 603.** PAYMENTS IN LIEU OF TAXES. A public  
36 speedway authority must make annual payments in lieu of property taxes  
37 to any host jurisdiction, fire protection district, regional fire

1 protection service authority, emergency medical service district, urban  
2 emergency medical service district, or other taxing district in an  
3 amount equal to the property taxes that would be payable with respect  
4 to the property were it not owned by a municipal corporation.

5 **Sec. 604.** RCW 36.94.020 and 2008 c 301 s 25 are each amended to  
6 read as follows:

7 (1) The construction, operation, and maintenance of a system of  
8 sewerage and/or water is a county purpose. Subject to the provisions  
9 of this chapter, every county has the power, individually or in  
10 conjunction with another county or counties to adopt, provide for,  
11 accept, establish, condemn, purchase, construct, add to, operate, and  
12 maintain a system or systems of sanitary and storm sewers, including  
13 outfalls, interceptors, plans, and facilities and services necessary  
14 for sewerage treatment and disposal, and/or system or systems of water  
15 supply within all or a portion of the county. However, counties  
16 (~~shall~~) do not have power to condemn sewerage and/or water systems of  
17 any municipal corporation or private utility.

18 (2) A county may provide sewer service within ten miles outside of  
19 its corporate limits to a professional motorsports entertainment and  
20 family recreation facility, provided that another municipal corporation  
21 is not already furnishing sewerage service to the facility.

22 (3) Such county or counties (~~shall~~) have the authority to  
23 control, regulate, operate, and manage such system or systems and to  
24 provide funds therefor by general obligation bonds, revenue bonds,  
25 local improvement district bonds, utility local improvement district or  
26 local improvement district assessments, and in any other lawful fiscal  
27 manner. Rates or charges for on-site inspection and maintenance  
28 services may not be imposed under this chapter on the development,  
29 construction, or reconstruction of property.

30 (4) Under this chapter, after July 1, 1998, any requirements for  
31 pumping the septic tank of an on-site sewage system should be based,  
32 among other things, on actual measurement of accumulation of sludge and  
33 scum by a trained inspector, trained owner's agent, or trained owner.  
34 Training must occur in a program approved by the state board of health  
35 or by a local health officer.

36 (5) Before adopting on-site inspection and maintenance utility  
37 services, or incorporating residences into an on-site inspection and

1 maintenance or sewer utility under this chapter, notification must be  
2 provided, prior to the applicable public hearing, to all residences  
3 within the proposed service area that have on-site systems permitted by  
4 the local health officer. The notice must clearly state that the  
5 residence is within the proposed service area and must provide  
6 information on estimated rates or charges that may be imposed for the  
7 service.

8 (6) A county (~~(shall)~~) may not provide on-site sewage system  
9 inspection, pumping services, or other maintenance or repair services  
10 under this section using county employees unless the on-site system is  
11 connected by a publicly owned collection system to the county's  
12 sewerage system, and the on-site system represents the first step in  
13 the sewage disposal process. Nothing in this section (~~(shall)~~) affects  
14 the authority of a state or local health officer to carry out their  
15 responsibilities under any other applicable law.

16 (7) A county may, as part of a system of sewerage established under  
17 this chapter, provide for, finance, and operate any of the facilities  
18 and services and may exercise the powers expressly authorized for  
19 county storm water, flood control, pollution prevention, and drainage  
20 services and activities under chapters 36.89, 86.12, 86.13, and 86.15  
21 RCW. A county also may provide for, finance, and operate the  
22 facilities and services and may exercise any of the powers authorized  
23 for aquifer protection areas under chapter 36.36 RCW; for lake or beach  
24 management districts under chapter 36.61 RCW; for diking districts, and  
25 diking, drainage, and sewerage improvement districts under chapters  
26 85.05, 85.08, 85.15, 85.16, and 85.18 RCW; and for shellfish protection  
27 districts under chapter 90.72 RCW. However, if a county by reference  
28 to any of those statutes assumes as part of its system of sewerage any  
29 powers granted to such areas or districts and not otherwise available  
30 to a county under this chapter, then (~~(+1)~~) (a) the procedures and  
31 restrictions applicable to those areas or districts apply to the  
32 county's exercise of those powers, and (~~(+2)~~) (b) the county may not  
33 simultaneously impose rates and charges under this chapter and under  
34 the statutes authorizing such areas or districts for substantially the  
35 same facilities and services, but must instead impose uniform rates and  
36 charges consistent with RCW 36.94.140. By agreement with such an area  
37 or district that is not part of a county's system of sewerage, a county  
38 may operate that area's or district's services or facilities, but a

1 county may not dissolve any existing area or district except in  
2 accordance with any applicable provisions of the statute under which  
3 that area or district was created.

4 **Sec. 605.** RCW 36.94.030 and 1981 c 313 s 15 are each amended to  
5 read as follows:

6 Whenever the county legislative authority deems it advisable and  
7 necessary for the public health and welfare of the inhabitants of the  
8 county to establish, purchase, acquire, and construct a system of  
9 sewerage and/or water, or make any additions and betterments thereto,  
10 or extensions thereof, the board (~~(shall)~~) must adopt a sewerage and/or  
11 water general plan for a system of sewerage and/or water for all or a  
12 portion of the county as deemed necessary by the board, and for a  
13 system of sewerage service to a professional motorsports entertainment  
14 and family recreation facility as permitted by RCW 36.94.020. If the  
15 county has adopted a comprehensive plan for a physical development of  
16 the county pursuant to chapter 36.70 RCW and/or chapter 35.63 RCW, then  
17 the sewerage and/or water general plan (~~(shall)~~) must be adopted as an  
18 element of that comprehensive plan pursuant to the applicable statute.

19 **Sec. 606.** RCW 35.91.020 and 2009 c 344 s 1 and 2009 c 230 s 1 are  
20 each reenacted and amended to read as follows:

21 (1)(a) Except as provided under subsection (2) of this section, the  
22 governing body of any city, town, county, water-sewer district, or  
23 drainage district, hereinafter referred to as a "municipality" may  
24 contract with owners of real estate for the construction of storm,  
25 sanitary, or combination sewers, pumping stations, and disposal plants,  
26 water mains, hydrants, reservoirs, or appurtenances, hereinafter called  
27 "water or sewer facilities," within their boundaries or (except for  
28 counties) within ten miles from their corporate limits connecting with  
29 the public water or sewerage system to serve the area in which the real  
30 estate of such owners is located, and to provide for a period of not to  
31 exceed twenty years for the reimbursement of such owners and their  
32 assigns by any owner of real estate who did not contribute to the  
33 original cost of such water or sewer facilities and who subsequently  
34 tap onto or use the same of a fair pro rata share of the cost of the  
35 construction of said water or sewer facilities, including not only  
36 those directly connected thereto, but also users connected to laterals

1 or branches connecting thereto, subject to such reasonable rules and  
2 regulations as the governing body of such municipality may provide or  
3 contract, and notwithstanding the provisions of any other law.

4 (b) If authorized by ordinance or contract, a municipality may  
5 participate in financing the development of water or sewer facilities  
6 development projects authorized by, and in accordance with, (a) of this  
7 subsection. Unless otherwise provided by ordinance or contract:

8 (i) Municipalities that contribute to the financing of water or  
9 sewer facilities projects under this section have the same rights to  
10 reimbursement as owners of real estate who make contributions as  
11 authorized under this section; and

12 (ii) If the projects are jointly financed by a combination of  
13 municipal funding and private funding by real estate owners, the amount  
14 of reimbursement received by each participant in the financing must be  
15 a pro rata share.

16 (c) A municipality seeking reimbursement from an owner of real  
17 estate under this section is limited to the dollar amount authorized  
18 under this chapter and may not collect any additional reimbursement,  
19 assessment, charge, or fee for the infrastructure or facilities that  
20 were constructed under the applicable ordinance, contract, or  
21 agreement. This does not prevent the collection of amounts for  
22 services or infrastructure that are additional expenditures not subject  
23 to such ordinance, contract, or agreement.

24 (d) Notwithstanding any limitation on counties in (a) of this  
25 subsection, a county may contract with a public speedway authority or  
26 its lessee for the construction of water or sewer facilities within ten  
27 miles of its corporate limits connecting with the county's public  
28 sewerage system to service a professional motorsports entertainment and  
29 family recreation facility, and to provide for a period of not to  
30 exceed fifteen years for the reimbursement of the authority or its  
31 lessee and their assigns by any owner of real estate who did not  
32 contribute to the original cost of such sewer facilities and who  
33 subsequently tap onto or use the same of a fair pro rata share of the  
34 cost of the construction of said sewer facilities, including not only  
35 those directly connected thereto, but also users connected to laterals  
36 or branches connecting thereto, subject to such reasonable rules and  
37 regulations as the governing body of such county may provide or  
38 contract.

1 (2)(a) The contract may provide for an extension of the twenty-year  
2 reimbursement period for a time not to exceed the duration of any  
3 moratorium, phasing ordinance, concurrency designation, or other  
4 governmental action that prevents making applications for, or the  
5 approval of, any new development within the benefit area for a period  
6 of six months or more.

7 (b) Upon the extension of the reimbursement period pursuant to (a)  
8 of this subsection, the contract must specify the duration of the  
9 contract extension and must be filed and recorded with the county  
10 auditor. Property owners who are subject to the reimbursement  
11 obligations under subsection (1) of this section (~~shall~~) must be  
12 notified by the contracting municipality of the extension filed under  
13 this subsection.

14 (3) Each contract (~~shall~~) must include a provision requiring that  
15 every two years from the date the contract is executed a property owner  
16 entitled to reimbursement under this section provide the contracting  
17 municipality with information regarding the current contract name,  
18 address, and telephone number of the person, company, or partnership  
19 that originally entered into the contract. If the property owner fails  
20 to comply with the notification requirements of this subsection within  
21 sixty days of the specified time, then the contracting municipality may  
22 collect any reimbursement funds owed to the property owner under the  
23 contract. Such funds must be deposited in the capital fund of the  
24 municipality.

25 (4) To the extent it may require in the performance of such  
26 contract, such municipality may install said water or sewer facilities  
27 in and along the county streets in the area to be served as hereinabove  
28 provided, subject to such reasonable requirements as to the manner of  
29 occupancy of such streets as the county may by resolution provide. The  
30 provisions of such contract (~~shall~~) are not (~~be~~) effective as to  
31 any owner of real estate not a party thereto unless such contract has  
32 been recorded in the office of the county auditor of the county in  
33 which the real estate of such owner is located prior to the time such  
34 owner taps into or connects to said water or sewer facilities.

35 **Sec. 607.** RCW 84.34.037 and 2009 c 350 s 13 are each amended to  
36 read as follows:

37 (1) Applications for classification or reclassification under RCW



1 84.34.020(1) (~~shall~~) must be made to the county legislative  
2 authority. An application made for classification or reclassification  
3 of land under RCW 84.34.020(1) (b) and (c) which is in an area subject  
4 to a comprehensive plan (~~shall~~) must be acted upon in the same manner  
5 in which an amendment to the comprehensive plan is processed.  
6 Application made for classification of land which is in an area not  
7 subject to a comprehensive plan (~~shall~~) must be acted upon after a  
8 public hearing and after notice of the hearing (~~shall have~~) has been  
9 given by one publication in a newspaper of general circulation in the  
10 area at least ten days before the hearing(~~—PROVIDED, That~~).  
11 However, applications for classification of land in an incorporated  
12 area (~~shall~~) must be acted upon by: (a) A granting authority  
13 composed of three members of the county legislative body and three  
14 members of the city legislative body in which the land is located in a  
15 meeting where members may be physically absent but participating  
16 through telephonic connection; or (b) separate affirmative acts by both  
17 the county and city legislative bodies where both bodies affirm the  
18 entirety of an application without modification or both bodies affirm  
19 an application with identical modifications.

20 (2) In determining whether an application made for classification  
21 or reclassification under RCW 84.34.020(1) (b) and (c) should be  
22 approved or disapproved, the granting authority may take cognizance of  
23 the benefits to the general welfare of preserving the current use of  
24 the property which is the subject of application, and (~~shall~~) must  
25 consider:

26 (a) The resulting revenue loss or tax shift;

27 (b) Whether granting the application for land applying under RCW  
28 84.34.020(1)(b) will (i) conserve or enhance natural, cultural, or  
29 scenic resources, (ii) protect streams, stream corridors, wetlands,  
30 natural shorelines and aquifers, (iii) protect soil resources and  
31 unique or critical wildlife and native plant habitat, (iv) promote  
32 conservation principles by example or by offering educational  
33 opportunities, (v) enhance the value of abutting or neighboring parks,  
34 forests, wildlife preserves, nature reservations, sanctuaries, or other  
35 open spaces, (vi) enhance recreation opportunities, (vii) preserve  
36 historic and archaeological sites, (viii) preserve visual quality along  
37 highway, road, and street corridors or scenic vistas, (ix) affect any

1 other factors relevant in weighing benefits to the general welfare of  
2 preserving the current use of the property; and

3 (c) Whether granting the application for land applying under RCW  
4 84.34.020(1)(c) will (i) either preserve land previously classified  
5 under RCW 84.34.020(2) or preserve land that is traditional farmland  
6 and not classified under chapter 84.33 or 84.34 RCW, (ii) preserve land  
7 with a potential for returning to commercial agriculture, and (iii)  
8 affect any other factors relevant in weighing benefits to the general  
9 welfare of preserving the current use of property.

10 (3) If a public benefit rating system is adopted under RCW  
11 84.34.055, the county legislative authority (~~shall~~) must rate  
12 property for which application for classification has been made under  
13 RCW 84.34.020(1) (b) and (c) according to the public benefit rating  
14 system in determining whether an application should be approved or  
15 disapproved, but when such a system is adopted, open space properties  
16 then classified under this chapter which do not qualify under the  
17 system (~~shall~~) may not be removed from classification but may be  
18 rated according to the public benefit rating system.

19 (4) The granting authority may approve the application with respect  
20 to only part of the land which is the subject of the application. If  
21 any part of the application is denied, the applicant may withdraw the  
22 entire application. The granting authority in approving in part or  
23 whole an application for land classified or reclassified pursuant to  
24 RCW 84.34.020(1) may also require that certain conditions be met,  
25 including but not limited to the granting of easements. As a condition  
26 of granting open space classification, the legislative body may not  
27 require public access on land classified under RCW 84.34.020(1)(b)(iii)  
28 for the purpose of promoting conservation of wetlands.

29 (5) The granting authority must approve an application for open  
30 space classification for any portion of a property used for a  
31 professional motorsports entertainment and family recreation facility  
32 that is (a) not covered with impervious surface and (b) maintained in  
33 a condition consistent with the open space designation, including  
34 without limitation portions used for activities such as recreation,  
35 temporary parking for events, storm water management, wetlands, and  
36 wetland buffers.

37 (6) The granting or denial of the application for current use

1 classification or reclassification is a legislative determination and  
2 (~~shall be~~) is reviewable only for arbitrary and capricious actions.

3 **PART VII**  
4 **MISCELLANEOUS**

5 **Sec. 701.** RCW 36.96.010 and 1999 c 153 s 50 are each amended to  
6 read as follows:

7 As used in this chapter, unless the context requires otherwise:

8 (1) "Special purpose district" means every municipal and quasi-  
9 municipal corporation other than counties, cities, and towns. Such  
10 special purpose districts (~~shall~~) include, but are not limited to,  
11 water-sewer districts, fire protection districts, port districts,  
12 public utility districts, county park and recreation service areas,  
13 flood control zone districts, diking districts, drainage improvement  
14 districts, public speedway authorities, and solid waste collection  
15 districts, but (~~shall~~) does not include industrial development  
16 districts created by port districts, and (~~shall~~) does not include  
17 local improvement districts, utility local improvement districts, and  
18 road improvement districts;

19 (2) "Governing authority" means the commission, council, or other  
20 body which directs the affairs of a special purpose district;

21 (3) "Inactive" means that a special purpose district, other than a  
22 public utility district, is characterized by either of the following  
23 criteria:

24 (a) Has not carried out any of the special purposes or functions  
25 for which it was formed within the preceding consecutive five-year  
26 period; or

27 (b) No election has been held for the purpose of electing a member  
28 of the governing body within the preceding consecutive seven-year  
29 period or, in those instances where members of the governing body are  
30 appointed and not elected, where no member of the governing body has  
31 been appointed within the preceding seven-year period.

32 A public utility district is inactive when it is characterized by  
33 both criteria (a) and (b) of this subsection.

34 NEW SECTION. **Sec. 702.** APPLICABILITY OF PUBLIC LAWS. A public  
35 speedway authority, its officers, and the board of directors, created

1 under this act, are subject to the general laws regulating local  
2 governments and local governmental officials including, but not limited  
3 to, the requirement to be audited by the state auditor and various  
4 accounting requirements under chapter 43.09 RCW, the open public record  
5 requirements under chapter 42.17 RCW, the prohibition on using its  
6 facilities for campaign purposes under RCW 42.17.130, the open public  
7 meetings law under chapter 42.30 RCW, the code of ethics for municipal  
8 officers under chapter 42.23 RCW, and the local government  
9 whistleblower law under chapter 42.41 RCW.

10 NEW SECTION. **Sec. 703.** No direct or collateral attack on any  
11 public speedway authority purported to be authorized or created in  
12 conformance with this chapter may be commenced more than thirty days  
13 after creation.

14 NEW SECTION. **Sec. 704.** A new section is added to chapter 82.08  
15 RCW to read as follows:

16 The tax levied by RCW 82.08.020 does not apply to any retail sales  
17 for which a tax deferral certificate is currently effective and has  
18 been issued by the department to a public speedway authority, pursuant  
19 to section 503 of this act.

20 NEW SECTION. **Sec. 705.** A new section is added to chapter 82.12  
21 RCW to read as follows:

22 The provisions of this chapter do not apply in respect to any uses  
23 for which a tax deferral certificate is currently effective and has  
24 been issued by the department to a public speedway authority, pursuant  
25 to section 503 of this act.

26 NEW SECTION. **Sec. 706.** A new section is added to chapter 82.14  
27 RCW to read as follows:

28 The provisions of this chapter do not apply in respect to any local  
29 retail sales or uses for which a tax deferral certificate is currently  
30 effective and has been issued by the department to a public speedway  
31 authority, pursuant to section 503 of this act.

32 NEW SECTION. **Sec. 707.** Sections 101 through 309, 402, 403, 501

1 through 504, 601, 603, 702, and 703 of this act constitute a new  
2 chapter in Title 36 RCW.

3 NEW SECTION. **Sec. 708.** If any provision of this act or its  
4 application to any person or circumstance is held invalid, the  
5 remainder of the act or the application of the provision to other  
6 persons or circumstances is not affected.

7 NEW SECTION. **Sec. 709.** The provisions of this act must be  
8 liberally construed to effect the policies and purposes of this act.

--- END ---