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SUBSTITUTE HOUSE BILL 2650

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State of Washington

63rd Legislature

2014 Regular Session

**By** House Community Development, Housing & Tribal Affairs (originally sponsored by Representatives Fitzgibbon, Pettigrew, Sullivan, Orwall, Pollet, and Freeman)

READ FIRST TIME 02/05/14.

1           AN ACT Relating to allowing the use of lodging taxes for financing  
2 workforce housing; and amending RCW 67.28.150, 67.28.160, and  
3 67.28.180.

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

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

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

1 that such bonds also be made payable from any otherwise unpledged  
2 revenue, which may be derived from the ownership or operation of any  
3 properties.

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

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

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

29 (b) Each (~~such~~) revenue bond (~~shall~~) must state upon its face  
30 that it is payable from such special fund or funds, and all revenue  
31 bonds issued under this chapter (~~shall be~~) are negotiable securities  
32 within the provisions of the law of this state. (~~Such~~) The revenue  
33 bonds may be registered either as to principal only or as to principal  
34 and interest as provided in RCW 39.46.030, or may be bearer bonds(~~+~~  
35 ~~shall~~). The revenue bonds must be:

36 (i) In such denominations as the legislative body (~~shall~~) deems  
37 proper; (~~shall be~~)

1       (ii) Payable at such time or times and at such places, as (~~shall~~  
2 be)) determined by the legislative body; (~~shall be~~))

3       (iii) Executed in such manner and bear interest at such rate or  
4 rates, as (~~shall be~~)) determined by the legislative body(~~(-~~  
5 ~~Such revenue bonds shall be~~)); and

6       (iv) Sold in such manner as the legislative body (~~shall~~)) deems to  
7 be for the best interests of the municipality, either at public or  
8 private sale.

9       (c) The legislative body may at the time of the issuance of  
10 (~~such~~) the revenue bonds make (~~such~~) covenants with the owners of  
11 (~~said~~) such bonds as it may deem necessary to secure and guaranty the  
12 payment of the principal thereof and the interest thereon, including  
13 but not being limited to covenants to set aside adequate reserves to  
14 secure or guaranty the payment of such principal and interest, to  
15 pledge and apply thereto part or all of any lawfully authorized special  
16 taxes provided for in this chapter, to maintain rates, charges, or  
17 rentals sufficient with other available moneys to pay such principal  
18 and interest and to maintain adequate coverage over debt service, to  
19 appoint a trustee or trustees for the bond owners, to safeguard the  
20 expenditure of the proceeds of sale of such bonds and to fix the powers  
21 and duties of such trustee or trustees and to make such other covenants  
22 as the legislative body may deem necessary to accomplish the most  
23 advantageous sale of such bonds. For revenue bonds issued for the  
24 purpose of funding affordable workforce housing within one-half mile of  
25 a transit station, the legislative body must require that the debt  
26 service is limited to no more than fifty percent of the revenue  
27 collected under RCW 67.28.180 that may be used for funding affordable  
28 workforce housing, with ten percent of that amount used to finance  
29 projects by an authority under chapter 43.167 RCW. The legislative  
30 body may also provide that revenue bonds payable out of the same source  
31 may later be issued on a parity with revenue bonds being issued and  
32 sold.

33       (d) The legislative body may include in the principal amount of any  
34 such revenue bond issue an amount for engineering, architectural,  
35 planning, financial, legal, and other services and charges incident to  
36 the acquisition or construction of public stadium facilities,  
37 convention center facilities, performing arts center facilities, and/or  
38 visual arts center facilities, an amount to establish necessary

1 reserves, an amount for working capital and an amount necessary for  
2 interest during the period of construction of any facilities to be  
3 financed from the proceeds of such issue plus six months. The  
4 legislative body may, if it deems it in the best interest of the  
5 municipality, provide in any contract for the construction or  
6 acquisition of any facilities or additions or improvements thereto or  
7 replacements or extensions thereof that payment therefor (~~shall~~) may  
8 be made only in such revenue bonds.

9 (e) If the municipality (~~shall~~) fails to carry out or perform any  
10 of its obligations or covenants made in the authorization, issuance,  
11 and sale of such bonds, the owner of any such bond may bring action  
12 against the municipality and compel the performance of any or all of  
13 such covenants.

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

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

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

23 (2) Any levy authorized by this section is subject to the  
24 following:

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

30 (b)(i) In the event that any county has levied the tax authorized  
31 by this section and has, prior to June 26, 1975, either pledged the tax  
32 revenues for payment of principal and interest on city revenue or  
33 general obligation bonds authorized and issued pursuant to RCW  
34 67.28.150 through 67.28.160 or has authorized and issued revenue or  
35 general obligation bonds pursuant to the provisions of RCW 67.28.150  
36 through 67.28.160, such county is exempt from the provisions of (a) of  
37 this subsection, to the extent that the tax revenues are pledged for

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

25 (ii) A county is exempt under this subsection with respect to city  
26 revenue or general obligation bonds issued after April 1, 1991, only if  
27 such bonds mature before January 1, 2013. If any county located east  
28 of the crest of the Cascade mountains has levied the tax authorized by  
29 this section and has, prior to June 26, 1975, pledged the tax revenue  
30 for payment of principal and interest on city revenue or general  
31 obligation bonds, the county is exempt under this subsection with  
32 respect to revenue or general obligation bonds issued after January 1,  
33 2007, only if the bonds mature before January 1, 2035. Such a county  
34 may only use funds under this subsection (2)(b) for constructing or  
35 improving facilities authorized under this chapter, including county-  
36 owned facilities for agricultural promotion.

37 (iii) As used in this subsection (2)(b), "capital improvement  
38 projects" may include, but not be limited to a stadium restaurant

1 facility, restroom facilities, artificial turf system, seating  
2 facilities, parking facilities and scoreboard and information system  
3 adjacent to or within a county owned stadium, together with equipment,  
4 utilities, accessories and appurtenances necessary thereto. The  
5 stadium restaurant authorized by this subsection (2)(b) must be  
6 operated by a private concessionaire under a contract with the county.

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

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

12 (iii) However, in the event that any city in a county described in  
13 (c)(i) or (ii) of this subsection (2) has levied the tax authorized by  
14 this section and has, prior to June 26, 1975, authorized and issued  
15 revenue or general obligation bonds pursuant to the provisions of RCW  
16 67.28.150 through 67.28.160, such city may levy the tax so long as the  
17 tax revenues are pledged for payment of principal and interest on bonds  
18 issued at any time pursuant to the provisions of RCW 67.28.150 through  
19 67.28.160.

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

23 (a) Taxes collected under this section in any calendar year before  
24 2013 in excess of five million three hundred thousand dollars may only  
25 be used as follows:

26 (i) Seventy percent from January 1, 2001, through December 31,  
27 2012, for art museums, cultural museums, heritage museums, the arts,  
28 and the performing arts. Moneys spent under this subsection (3)(a)(i)  
29 must be used for the purposes of this subsection (3)(a)(i) in all parts  
30 of the county.

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

1 (b) From January 1, 2013, through December 31, 2015, all revenues  
2 under this section (~~shall~~) must be used to retire the debt on the  
3 stadium, until the debt on the stadium is retired. On and after the  
4 date the debt on the stadium is retired, and through December 31, 2015,  
5 all revenues under this section in a county of one million five hundred  
6 thousand or more must be deposited in the special account under (e) of  
7 this subsection.

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

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

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

16 (ii) At least thirty-seven and one-half percent of the revenues  
17 under this section must be used:

18 (A) For contracts, loans, or grants to nonprofit organizations or  
19 public housing authorities for affordable workforce housing within one-  
20 half of a mile of a transit station, as described under RCW 9.91.025 or  
21 for services for homeless youth; or

22 (B) To repay:

23 (I) General obligation bonds issued pursuant to RCW 67.28.150 to  
24 finance such contracts, loans, or grants; or

25 (II) Revenue bonds issued pursuant to RCW 67.28.160 to finance a  
26 fund to make such contracts, loans, or grants, or to finance projects  
27 authorized by a community preservation and development authority, under  
28 chapter 43.167 RCW, that promote sustainable workplace opportunities  
29 within or near a community impacted by the construction or operation of  
30 major public or other tourism-related facilities.

31 (iii) The remainder must be used for capital or operating programs  
32 that promote tourism and attract tourists to the county.

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

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

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

5 (h) (~~For the purposes of this section:~~) The definitions in this  
6 subsection apply throughout this section unless the context clearly  
7 requires otherwise.

8 (i) "Affordable workforce housing" means housing:

9 (A) For a single person, family, or unrelated persons living  
10 together whose income is between thirty percent and eighty percent of  
11 the median income, adjusted for household size, for the county where  
12 the housing is located; and

13 (B) That promotes reasonable workplace access within or in near  
14 proximity to a community, including a community that has been  
15 negatively impacted by the construction or operation of major public or  
16 other tourism-related facilities.

17 (ii) "Tourism promotion" includes activities intended to attract  
18 visitors for overnight stays, arts, heritage, and cultural events, and  
19 recreational, professional, and amateur sports events. Moneys  
20 allocated to tourism promotion in a county with a population of one  
21 million or more must be allocated to local public organizations and  
22 nonprofit organizations formed for the express purpose of tourism  
23 promotion in the county. Such organizations must use moneys from the  
24 taxes to promote events in all parts of the county.

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

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

37 (k) If a substantial part of the operation and management of a  
38 public stadium that is financed directly or indirectly by bonds to



1 which the tax is pledged is performed by a nonpublic entity or if a  
2 public stadium is sold that is financed directly or indirectly by bonds  
3 to which the tax is pledged, any bonds to which the tax is pledged  
4 (~~shall~~) must be retired. This subsection (3)(k) does not apply in  
5 respect to a public stadium under chapter 36.102 RCW transferred to,  
6 owned by, or constructed by a public facilities district under chapter  
7 36.100 RCW or a stadium and exhibition center.

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

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

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