CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 2804

Chapter 226, Laws of 2006

59th Legislature
2006 Regular Session

PROPERTY TAX EXEMPTION--NONPROFIT SCHOOLS, COLLEGES

EFFECTIVE DATE: 6/7/06

Passed by the House February 13, 2006
Yeas 98  Nays 0

FRANK CHOPP
Speaker of the House of Representatives

Passed by the Senate March 2, 2006
Yeas 47  Nays 0

BRAD OWEN
President of the Senate

Approved March 27, 2006.

I, Richard Nafziger, Chief Clerk
of the House of Representatives of
the State of Washington, do hereby
certify that the attached is
SUBSTITUTE HOUSE BILL 2804
as passed by the House of
Representatives and the Senate on
the dates hereon set forth.

RICHARD NAFZIGER
Chief Clerk

FILED
March 27, 2006 - 10:05 a.m.

CHRISTINE GREGOIRE
Governor of the State of Washington

SECRETARY OF STATE
State of Washington
AN ACT Relating to the property tax exemption for nonprofit schools and colleges; amending RCW 84.36.050 and 84.36.805; and creating a new section.

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

NEW SECTION. Sec. 1. The legislature finds that independent nonprofit schools, colleges, and universities are vital educational resources to the state of Washington. For the state to be competitive in a global economy, all educational resources must be competitive and provide high-quality programs and services for students.

The legislature recognizes that independent nonprofit schools, colleges, and universities are important economic drivers in their communities, and encourages institutions to support local communities, to provide public benefit, and to respond to community expectations that they share facilities, offer programs, and attract students on par with Washington's publicly owned institutions and out-of-state schools and colleges. Further, the legislature encourages innovative programs and educational opportunities, sustainable practices, and increased use of facilities so that operations of institutions can be more cost-effective.
The legislature wishes to remove barriers that discourage institutions from being more collaborative, that make it more difficult to provide high-quality services and necessities to their students, and that discourage appropriate and beneficial use of institutional facilities by the broader community. To this end, the legislature seeks to provide consistent, predictable, and easily administrable rules for reference by the state department of revenue and schools and colleges.

Sec. 2. RCW 84.36.050 and 2001 c 126 s 2 are each amended to read as follows:

The following property is exempt from taxation:

(1) Property owned or used by or for any nonprofit school or college in this state for educational purposes or cultural or art educational programs as defined in RCW 82.04.4328. Real property so exempt shall not exceed four hundred acres ((in extent and, except as provided in RCW 84.36.805, shall be used exclusively for college or campus purposes)) including, but not limited to, buildings and grounds designed for the educational, athletic, or social programs of the institution, the housing of students, ((the housing of)) religious faculty, ((the housing of)) and the chief administrator, athletic buildings, and all other school or college facilities, the need for which would be nonexistent but for the presence of the school or college ((and which are)). The property must be principally designed to further the educational, athletic, or social functions of the college or school. If the property is leased, the benefit of the exemption must inure to ((the user;)) such school or college.

(2) Real or personal property owned by a not-for-profit foundation that is established for the exclusive support of an institution of higher education, as defined in RCW 28B.10.016. If the property is exempt if it is) leased to and used by the institution (exclusively) for college or campus purposes (and is), it must be principally designed to further the educational, athletic, or social functions of the institution. The exemption is only available for property actively utilized by currently enrolled students. The benefit of the exemption must inure to the ((user)) college.

(3) Subject to subsection (4) of this section, if the property exempt under subsection (1) or (2) of this section is used by an
individual or organization not entitled to a property tax exemption, except as provided in this subsection, the exemption is nullified for the assessment year in which such use occurs. The exemption is not nullified as a result of any of the uses listed in (a) or (b) of this subsection:

(a) The property is used by students, alumni, faculty, staff, or other persons or entities in a manner consistent with the educational, social, or athletic programs, including property used for related administrative and support functions, of the school or college and not for pecuniary gain or to promote business activities. Notwithstanding the foregoing, the school or college may contract with and permit the use of school or college property by persons or entities to provide school or college-related programs or services including, but not limited to, the provision of food services to students, faculty, and staff, the operation of a bookstore on campus, and the provision to the school or college of maintenance, operational, or administrative services without nullifying the exemption; or

(b) The property is used for pecuniary gain or to promote business activities for not more than seven days in the calendar year, such uses to be measured separately with respect to each specific portion of such property. If exempt property is used as a sports or educational camp or program taught, operated, or conducted by a faculty member who is required or permitted to do so as part of his or her compensation package, the days when the property is so used will not be included in calculating the seven day limitation of this subsection (3)(b).

(4) The amount of rent or donations, if any, received by the college or school for such uses described in subsection (3)(a) or (b) of this section, or by an organization entitled to a property tax exemption, must be reasonable and not exceed maintenance and operation expenses associated with the use by such user.

(5) The exemption under this section will not be nullified by an inadvertent use of the property in a manner inconsistent with the purpose for which exemption is granted, if the inadvertent use is not part of a pattern of use. A pattern of use is presumed when an inadvertent use is repeated in the same assessment year or in two or more successive assessment years.
Sec. 3. RCW 84.36.805 and 2003 c 121 s 2 are each amended to read as follows:

(1) In order to qualify for an exemption under this chapter, the nonprofit organizations, associations, or corporations must satisfy the conditions in this section.

(2) The property must be used exclusively for the actual operation of the activity for which exemption is granted, unless otherwise provided, and does not exceed an amount reasonably necessary for that purpose, except:

(a) The loan or rental of the property does not subject the property to tax if:

(i) The rents and donations received for the use of the portion of the property are reasonable and do not exceed the maintenance and operation expenses attributable to the portion of the property loaned or rented; and

(ii) Except for the exemptions under RCW 84.36.030(4), 84.36.037, 84.36.050, and 84.36.060(l) (a) and (b), the property would be exempt from tax if owned by the organization to which it is loaned or rented;

(b) The use of the property for fund-raising activities does not subject the property to tax if the fund-raising activities are consistent with the purposes for which the exemption is granted.

(3) The property must be irrevocably dedicated to the purpose for which exemption has been granted, and on the liquidation, dissolution, or abandonment by said organization, association, or corporation, said property will not inure directly or indirectly to the benefit of any shareholder or individual, except a nonprofit organization, association, or corporation which too would be entitled to property tax exemption. This property need not be irrevocably dedicated if it is leased or rented to those qualified for exemption under this chapter or RCW 84.36.560 for leased property, but only if under the terms of the lease or rental agreement the nonprofit organization, association, or corporation receives the benefit of the exemption.

(4) The facilities and services must be available to all regardless of race, color, national origin or ancestry.

(5) The organization, association, or corporation must be duly licensed or certified where such licensing or certification is required by law or regulation.
(6) Property sold to organizations, associations, or corporations with an option to be repurchased by the seller shall not qualify for exempt status. This subsection does not apply to property sold to a nonprofit entity, as defined in RCW 84.36.560(7), by:

(a) A nonprofit as defined in RCW 84.36.800 that is exempt from income tax under section 501(c) of the federal internal revenue code;

(b) A governmental entity established under RCW 35.21.660, 35.21.670, or 35.21.730;

(c) A housing authority created under RCW 35.82.030;

(d) A housing authority meeting the definition in RCW 35.82.210(2)(a); or

(e) A housing authority established under RCW 35.82.300.

(7) The department shall have access to its books in order to determine whether the nonprofit organization, association, or corporation is exempt from taxes under this chapter.

(8) This section does not apply to exemptions granted under RCW 84.36.020, 84.36.032, 84.36.250, and 84.36.260.

Passed by the House February 13, 2006.
Passed by the Senate March 2, 2006.
Approved by the Governor March 27, 2006.
Filed in Office of Secretary of State March 27, 2006.