CERTIFICATION OF ENROLLMENT

ENGROSSED SECOND SUBSTITUTE SENATE BILL 5078

Chapter 212, Laws of 2013

63rd Legislature
2013 Regular Session

PROPERTY TAX--EXEMPTIONS--NONPROFIT FAIRS

EFFECTIVE DATE: 07/28/13

Passed by the Senate April 19, 2013
YEAS 47   NAYS 0

BRAD OWEN
President of the Senate

Passed by the House April 17, 2013
YEAS 86   NAYS 10

FRANK CHOPP
Speaker of the House of Representatives

I, Hunter G. Goodman, Secretary of the Senate of the State of Washington, do hereby certify that the attached is ENGROSSED SECOND SUBSTITUTE SENATE BILL 5078 as passed by the Senate and the House of Representatives on the dates hereon set forth.

HUNTER G. GOODMAN
Secretary

Approved May 10, 2013, 11:24 a.m.

FILED
May 10, 2013

JAY INSLEE
Secretary of State
State of Washington

Governor of the State of Washington
AN ACT Relating to modifying the property tax exemption for nonprofit fairs; amending RCW 84.36.480; reenacting and amending RCW 84.36.805; and creating a new section.

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

NEW SECTION. Sec. 1. (1) The legislature finds that nonprofit fairs provide educational opportunities for youth and promote agriculture and the welfare of rural Washington. The legislature further finds that publicly owned fairgrounds can be rented or loaned out on a temporary basis without jeopardizing the property's exempt status for property tax purposes. The legislature further finds that many cities and counties have transferred ownership in fairground properties to nonprofit fair associations to achieve operational efficiencies. The legislature further finds that properties previously owned by cities or counties, and now owned and operated by nonprofit fair associations, may be subject to property tax even though the use of the property has not changed.

(2) It is the intent of the legislature to mitigate an unintended consequence of the property tax code that would otherwise interfere with a city's or county's ability to achieve operational efficiencies
and follows best practices by transferring fairgrounds to nonprofit fair associations for an identical use of the property. It is the further intent of the legislature to expire the property tax exemption in five years to evaluate if the exemption has created any unintended consequences, including any unfair competitive advantage that may be conferred by the property tax exemption over private businesses, and identify other similar tax situations where ownership of property may be transferred from a public entity to a nonprofit association.

Sec. 2. RCW 84.36.480 and 1984 c 220 s 6 are each amended to read as follows:

((The following property shall be exempt from taxation:)) (1) Except as provided otherwise in subsections (2) and (3) of this section, the real and personal property of a nonprofit fair association that sponsors or conducts a fair or fairs (which) that is eligible to receive support from ((revenues collected pursuant to RCW 67.16.100)) the fair fund, as created in RCW 15.76.115 and allocated by the director of the department of agriculture, is exempt from taxation. To be exempt under this ((section)) subsection (1), the property must be used exclusively for fair purposes, except as provided in RCW 84.36.805. However, the loan or rental of property otherwise exempt under this section to a private concessionaire or to any person for use as a concession in conjunction with activities permitted under this section shall not nullify the exemption if the concession charges are subject to agreement and the rental income, if any, is reasonable and is devoted solely to the operation and maintenance of the property.

(2)(a) Except as provided otherwise in subsection (3) of this section, the real and personal property owned by a nonprofit fair association organized under chapter 24.06 RCW and used for fair purposes is exempt from taxation if the majority of such property, as determined by assessed value, was purchased or acquired by the same nonprofit fair association from a county or a city between 1995 and 1998.

(b) The exemption under this subsection (2) may not be claimed for taxes levied for collection in 2019 and thereafter.

(3) A nonprofit fair association with real and personal property having an assessed value of more than fifteen million dollars is not eligible for the exemptions under this section.
Sec. 3. RCW 84.36.805 and 2006 c 319 s 1 and 2006 c 226 s 3 are each reenacted and 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(1) (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 facilities and services must be available to all regardless of race, color, national origin or ancestry.

(4) The organization, association, or corporation must be duly licensed or certified where such licensing or certification is required by law or regulation.

(5) Property sold to organizations, associations, or corporations with an option to be repurchased by the seller does 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 26 U.S.C. Sec. 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.

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

(7) This section does not apply to exemptions granted under RCW 84.36.020, 84.36.032, 84.36.250, (and) 84.36.260, and 84.36.480(2).

Passed by the Senate April 19, 2013.
Passed by the House April 17, 2013.
Approved by the Governor May 10, 2013.
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