

HOUSE BILL REPORT

ESHB 2750

As Passed House:

February 18, 2002

Title: An act relating to the property taxation of organizations operated exclusively for art, scientific, or historical purposes.

Brief Description: Providing a limited property and leasehold tax exemption for the incidental use of artistic or scientific facilities.

Sponsors: By House Committee on Finance (originally sponsored by Representatives Gombosky, Nixon, Wood, Ballasiotes, Conway, Veloria, Ogden, Chase, Berkey, Skinner and Edwards).

Brief History:

Committee Activity:

Finance: 2/7/02, 2/11/02 [DPS].

Floor Activity:

Passed House: 2/18/02, 98-0.

Brief Summary of Engrossed Substitute Bill

- Allows non-profit museums and performing arts associations to retain all or a portion of their property tax exemption when they allow another organization that does not qualify for the property tax exemption to use or rent their exempt property.

HOUSE COMMITTEE ON FINANCE

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives Gombosky, Chair; Berkey, Vice Chair; Cairnes, Ranking Minority Member; Conway, Morris, Nixon, Orcutt, Roach, Santos, Van Luven and Veloria.

Staff: Rick Peterson (786-7150).

Background:

All property in this state is subject to the property tax each year based on the property's

value, unless a specific exemption is provided by law.

Several property tax exemptions exist for nonprofit organizations. Examples of nonprofit property tax exemptions are: Character building, benevolent, protective or rehabilitative social service organizations; churches and church camps; youth character building organizations; war veterans organizations; national and international relief organizations; federal guaranteed student loan organizations; blood, bone and tissue banks; public assembly halls; medical research or training facilities; art, scientific, and historical collections; sheltered workshops; fair associations; humane societies; water distribution property; schools and colleges; radio/television rebroadcast facilities; fire company property; day-care centers; free public libraries; orphanages; nursing homes; hospitals; outpatient dialysis facilities; homes for the aging; day care centers; performing arts properties; homeless shelters; outpatient dialysis facilities; and blood banks.

Property tax exempt property must be used exclusively for the actual operation of the activity for which exemption was granted. The property may be loaned or rented if (a) The rent received for the use of the property is reasonable and does not exceed maintenance and operation expenses, and (b) except for public assembly halls and war veterans organizations, the organization renting the property would be exempt from tax if they owned the property.

Public assembly halls and war veterans organizations may rent their exempt facilities to businesses for a limited period. In the case of war veterans organizations, their facilities may be rented to a profit making business for three days a year. Public assembly halls may be rented to a profit making business for up to seven days a year and, if located in a county with less than 10,000 population, may rent the property for the following business activities: dance lessons; art classes; and music lessons.

Property owned by federal, state, or local governments is exempt from the property tax. However, private lessees of government property are subject to the leasehold excise tax. The purpose of the leasehold excise tax is to impose a tax burden on persons using publicly-owned, tax-exempt property similar to the property tax that they would pay if they owned the property. The tax is collected by public entities that lease property to private parties. The tax rate is 12.84 percent of the amount paid in rent for the public property. Nonprofit organization that are exempt from property tax are also exempt from leasehold excise tax.

Summary of Engrossed Substitute Bill:

Non-profit associations that maintain and exhibit historical, scientific, or artistic collections and performing arts associations that rent their facilities to nonexempt persons may determine their property tax exemption under one of the following three methods. If the income from rentals to nonexempt persons is less than 10 percent of gross income,

the property is fully exempt. If the income from rentals to nonexempt persons is greater than 10 percent of gross income, then the property is taxable in proportion to the share of gross income from these rentals. Alternatively, the property rented to the nonexempt person may be segregated from the exempt property and fully taxed. An equivalent leasehold excise tax exemption is provided.

Appropriation: None.

Fiscal Note: Available.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: Local nonprofit cultural venues are a vital, active participant in serving the needs of their communities. They are the location of many community events. Many times there are no other facilities large enough to accommodate the event. Some events need a theater setting not available elsewhere, for example, dance recitals. Under current rules, any rental to a private business jeopardizes the exemption. Because the current rules are so strict, if this bill is not adopted these facilities will have to alter their practices. The facilities will find it financially impossible to rent to any organization that is not nonprofit. Rentals to non qualified organizations make up a small amount of the gross income of the nonprofit facilities. The bill protects the property tax exemption if these rentals do not exceed 10 percent of gross income.

(Concerns) Currently there is a very limited allowance for nonprofit organizations to rent their properties for commercial activity. This bill allows certain organizations to have more commercial activity. The problem for the tax administrators is how to explain why some nonprofits may do this activity while other nonprofit organizations, such as schools and churches, will have their property tax exemption removed if they do the same.

Testimony Against: None.

Testified: Sandy Guilfoil, Department of Revenue; Tom Iovanne, Washington Center for the Performing Arts; Mark Hugh, Clark Nober, P.S.; and Brad Burdick, Mount Baker Theatre.