

SENATE BILL REPORT

E2SSB 5078

As Amended by House, April 17, 2013

Title: An act relating to modifying the property tax exemption for nonprofit fairs.

Brief Description: Modifying the property tax exemption for nonprofit fairs.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Ericksen, Smith, Hatfield, Baumgartner, Chase and Shin).

Brief History:

Committee Activity: Agriculture, Water & Rural Economic Development: 1/28/13, 1/29/13 [DPS-WM].

Ways & Means: 2/07/13, 2/20/13 [DP2S].

Passed Senate: 2/26/13, 47-0.

Passed House: 4/17/13, 86-10.

SENATE COMMITTEE ON AGRICULTURE, WATER & RURAL ECONOMIC DEVELOPMENT

Majority Report: That Substitute Senate Bill No. 5078 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Hatfield, Chair; Honeyford, Ranking Member; Eide, Hobbs, Schoesler and Shin.

Staff: Diane Smith (786-7410)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Second Substitute Senate Bill No. 5078 be substituted therefor, and the second substitute bill do pass.

Signed by Senators Hill, Chair; Baumgartner, Vice Chair; Honeyford, Capital Budget Chair; Hargrove, Ranking Member; Nelson, Assistant Ranking Member; Bailey, Becker, Braun, Conway, Dammeier, Fraser, Hatfield, Hewitt, Keiser, Kohl-Welles, Murray, Padden, Parlette, Ranker, Rivers, Schoesler and Tom.

Staff: Dean Carlson (786-7305)

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Background: Agricultural fairs are divided into four categories. Area fairs are organized to serve an area larger than one county. County and district fairs are organized to serve single counties and are under the direct control of county commissioners. Community fairs are organized primarily to serve a smaller area than an area or county fair. Youth shows and fairs serve three or more counties, educate and train rural youth, and are approved by Washington State University or the Office of Superintendent of Public Instruction. According to the Washington State Department of Agriculture, there are 33 county fairs, four area fairs, 17 community fairs, and 12 youth fairs.

In holding with agricultural fairs being declared in the public interest, these fairs may receive allocations from the fair fund. The fair fund, in the custody of the state treasury, receives money from the state general fund and from the horseracing commission, if any surplus remains at the close of the fiscal biennium after all commission expenses are paid.

Counties have the authority to designate a nonprofit corporation as the exclusive agency to operate and manage fairs and to provide a revolving fund to be used by fair officials for the conduct of the fair.

All real and personal property is subject to property tax each year based on its value, unless a specific exemption is provided by law. Real and personal property of a nonprofit fair association that sponsors or conducts a county fair is exempt from property tax. The property must be used exclusively for fair purposes. Loan or rental of the property to other property tax exempt organizations or to fair concessionaires does not nullify the exemption if the rental income is reasonable and is solely devoted to maintenance of the property.

Summary of Engrossed Second Substitute Bill: The authority of nonprofit fair associations to receive funds from the horse racing commission is deleted.

Except for nonprofit fair associations having property valued at more than \$15 million, the real and personal property of a nonprofit fair association that is eligible to receive support from the fair fund is exempt from taxation.

The amendment clarifies that the exemption for property owned by a nonprofit fair association with property valued at \$15 million or less, requires that the property must have been used previously by the county for fair purposes and that the property must be used for fair purposes by the nonprofit corporation.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

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

Staff Summary of Public Testimony on Original Bill (Agriculture, Water & Rural Economic Development): PRO: This bill will help keep fairs operating so that they can continue to perform their vital function of preparing kids for the future. Fairs are an

important and traditional part of the 4-H experience for kids. It eliminates the disparity in property tax treatment between county fairs and nonprofit fair associations. These properties, having never been on the property tax roles, will not ensue any adverse tax consequence. There is a trend of cash-strapped counties defunding fairs and transitioning to nonprofit fair associations to keep the fairs running, along with the rental availability of their often unique buildings for community functions.

Persons Testifying (Agriculture, Water & Rural Economic Development): PRO: Senator Ericksen, prime sponsor; Jim Baron, NW WA Fair Assn.; Heather Hansen, WA State Fairs Assn.

Staff Summary of Public Testimony (Ways & Means) as Heard in Committee: PRO: This is one of those difficult bills in that some fairs may be subject to property tax with the new way that the Department of Revenue (DOR) is interpreting the law. Whatcom County made the decision to get out of the fair businesses and created a nonprofit to take over the fair. In order to continue as a fair, they need to be traded like a county-owned fair. This is crucial to our agricultural way of life in Whatcom County. I want to point out that the existing section is so out of date that if DOR imposed the letter of the law, no one would get the exemption. Because this property was formally county property, no taxes have been ever paid on this property. It is important to keep all fairs equal.

Persons Testifying (Ways & Means): PRO: Senator Ericksen, prime sponsor; Heather Hansen, WA State Fairs Assn.

House Amendment(s): The House amendment changes the exemption from taxation for real and personal property previously owned by a county to property previously owned by a city. When this property is acquired by a nonprofit fair association and used for fair purposes by the association, and the majority of the property was acquired from a county or city between 1995 and 1998, the exemption applies. The requirement that the property must have been used for fair purposes by the city is removed. This exemption will end for taxes levied for collection in 2019 and thereafter. An intent section is added.