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**SENATE BILL 5043**

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**State of Washington 67th Legislature 2021 Regular Session**

**By** Senators Salomon, Rolfes, Conway, Das, Hasegawa, Hunt, Kuderer, Lovelett, Saldaña, Wellman, and Wilson, C.

AN ACT Relating to the provision of housing for school district employees; amending RCW 28A.335.240, 28A.335.250, 28A.335.130, and 82.29A.130; creating a new section; repealing RCW 28A.335.270; and providing an expiration date.

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

NEW SECTION. **Sec.**  Many Washington communities see a need for teacher and staff housing closer to schools and other workplaces and are exploring teacher housing as a way to attract and retain teachers in communities with housing affordability and traffic and transportation pressures. The intent of the legislature is to enable communities to provide teacher housing and expand century-old authority available to rural second-class districts to all school districts.

**Sec.**  RCW 28A.335.240 and 2004 c 6 s 1 are each amended to read as follows:

(1) The board of directors of a ((~~second-class~~)) school district ((~~shall~~)) may build schoolhouses and teachers' cottages, or other single or multifamily housing for school district employees, when directed by a vote of the qualified electors of the school district to do so pursuant to RCW 28A.530.010, and may purchase real property for any school district purpose.

(2) The board of directors of a second-class nonhigh school district that is totally surrounded by water and serves fewer than forty students also may authorize the construction of teachers' cottages without a vote of the district using funds from the district's capital projects fund or general fund.

(3) Rental and other income from the cottages or other housing, including sale of the cottages or other housing, may be deposited, in whole or in part, into the school district's general fund to be used for general maintenance, utility, insurance costs, and any other costs associated with the lease or rental of such property and for other district purposes including costs related to operating and maintaining school facilities, debt service fund, or capital projects fund as determined by the board of directors.

(4) The board of directors of any district may find the provision of housing for school district employees to be necessary or proper to recruit or retain qualified school district employees or otherwise necessary or proper to carry out the functions of the district, and upon such finding the provision of such housing is in furtherance of the district's fundamental governmental purpose.

(5) Any school district may enter into an agreement with any municipality, taxing district, or municipal corporation regarding the conveying or leasing of any lands, properties, or facilities for the development of single or multifamily housing for school district employees or to provide for the joint use of such lands, properties, or facilities, or to participate in the financing of all or any part of the lands, properties, or facilities for these purposes on terms as may be fixed by agreement between the respective legislative bodies.

**Sec.**  RCW 28A.335.250 and 1975 c 43 s 16 are each amended to read as follows:

((~~School boards in each district of the second class~~)) The board of directors of any school district may provide for the free, comfortable and convenient use of the school property to promote and facilitate frequent meetings and association of the people in discussion, study, improvement, recreation and other community purposes, and may acquire, assemble and house material for the dissemination of information of use and interest to the farm, the home and the community, and facilities for experiment and study, especially in matters pertaining to the growing of crops, the improvement and handling of livestock, the marketing of farm products, the planning and construction of farm buildings, the subjects of household economies, home industries, good roads, and community vocations and industries; and may call meetings for the consideration and discussion of any such matters((~~,~~)) and employ a special supervisor, or leader, if need be((~~, and~~)). School districts may provide suitable dwellings and accommodations for ((~~teachers, supervisors and necessary assistants~~)) school district employees for these purposes and for any other district purposes determined by the board of directors of any district under RCW 28A.335.240.

**Sec.**  RCW 28A.335.130 and 2004 c 6 s 2 are each amended to read as follows:

Except as provided in RCW 28A.335.240((~~(1)~~)) (3), the proceeds from any sale of school district real property by a board of directors shall be deposited to the debt service fund and/or the capital projects fund, except for amounts required to be expended for the costs associated with the sale of such property, which moneys may be deposited into the fund from which the expenditure was incurred.

**Sec.**  RCW 82.29A.130 and 2019 c 335 s 1 are each amended to read as follows:

The following leasehold interests are exempt from taxes imposed pursuant to RCW 82.29A.030 and 82.29A.040:

(1) All leasehold interests constituting a part of the operating properties of any public utility that is assessed and taxed as a public utility pursuant to chapter 84.12 RCW.

(2) All leasehold interests in facilities owned or used by a school, school district, college or university which leasehold provides housing for students or school district employees and which is otherwise exempt from taxation under provisions of RCW 84.36.010 and 84.36.050.

(3) All leasehold interests of subsidized housing where the fee ownership of such property is vested in the government of the United States, or the state of Washington or any political subdivision thereof but only if income qualification exists for such housing.

(4) All leasehold interests used for fair purposes of a nonprofit fair association that sponsors or conducts a fair or fairs which receive support from revenues collected pursuant to RCW 67.16.100 and allocated by the director of the department of agriculture where the fee ownership of such property is vested in the government of the United States, the state of Washington or any of its political subdivisions. However, this exemption does not apply to the leasehold interest of any sublessee of such nonprofit fair association if such leasehold interest would be taxable if it were the primary lease.

(5) All leasehold interests in any property of any public entity used as a residence by an employee of that public entity who is required as a condition of employment to live in the publicly owned property.

(6) All leasehold interests held by enrolled Indians of lands owned or held by any Indian or Indian tribe where the fee ownership of such property is vested in or held in trust by the United States and which are not subleased to other than to a lessee which would qualify pursuant to this chapter, RCW 84.36.451 and 84.40.175.

(7) All leasehold interests in any real property of any Indian or Indian tribe, band, or community that is held in trust by the United States or is subject to a restriction against alienation imposed by the United States. However, this exemption applies only where it is determined that contract rent paid is greater than or equal to ninety percent of fair market rental, to be determined by the department of revenue using the same criteria used to establish taxable rent in RCW 82.29A.020(2)(g).

(8) All leasehold interests for which annual taxable rent is less than two hundred fifty dollars per year. For purposes of this subsection leasehold interests held by the same lessee in contiguous properties owned by the same lessor are deemed a single leasehold interest.

(9) All leasehold interests which give use or possession of the leased property for a continuous period of less than thirty days: PROVIDED, That for purposes of this subsection, successive leases or lease renewals giving substantially continuous use of possession of the same property to the same lessee are deemed a single leasehold interest: PROVIDED FURTHER, That no leasehold interest is deemed to give use or possession for a period of less than thirty days solely by virtue of the reservation by the public lessor of the right to use the property or to allow third parties to use the property on an occasional, temporary basis.

(10) All leasehold interests under month-to-month leases in residential units rented for residential purposes of the lessee pending destruction or removal for the purpose of constructing a public highway or building.

(11) All leasehold interests in any publicly owned real or personal property to the extent such leasehold interests arises solely by virtue of a contract for public improvements or work executed under the public works statutes of this state or of the United States between the public owner of the property and a contractor.

(12) All leasehold interests that give use or possession of state adult correctional facilities for the purposes of operating correctional industries under RCW 72.09.100.

(13) All leasehold interests used to provide organized and supervised recreational activities for persons with disabilities of all ages in a camp facility and for public recreational purposes by a nonprofit organization, association, or corporation that would be exempt from property tax under RCW 84.36.030(1) if it owned the property. If the publicly owned property is used for any taxable purpose, the leasehold excise taxes set forth in RCW 82.29A.030 and 82.29A.040 must be imposed and must be apportioned accordingly.

(14) All leasehold interests in the public or entertainment areas of a baseball stadium with natural turf and a retractable roof or canopy that is in a county with a population of over one million, that has a seating capacity of over forty thousand, and that is constructed on or after January 1, 1995. "Public or entertainment areas" include ticket sales areas, ramps and stairs, lobbies and concourses, parking areas, concession areas, restaurants, hospitality and stadium club areas, kitchens or other work areas primarily servicing other public or entertainment areas, public rest room areas, press and media areas, control booths, broadcast and production areas, retail sales areas, museum and exhibit areas, scoreboards or other public displays, storage areas, loading, staging, and servicing areas, seating areas and suites, the playing field, and any other areas to which the public has access or which are used for the production of the entertainment event or other public usage, and any other personal property used for these purposes. "Public or entertainment areas" does not include locker rooms or private offices exclusively used by the lessee.

(15) All leasehold interests in the public or entertainment areas of a stadium and exhibition center, as defined in RCW 36.102.010, that is constructed on or after January 1, 1998. For the purposes of this subsection, "public or entertainment areas" has the same meaning as in subsection (14) of this section, and includes exhibition areas.

(16) All leasehold interests in public facilities districts, as provided in chapter 36.100 or 35.57 RCW.

(17) All leasehold interests in property that is: (a) Owned by the United States government or a municipal corporation; (b) listed on any federal or state register of historical sites; and (c) wholly contained within a designated national historic reserve under 16 U.S.C. Sec. 461.

(18) All leasehold interests in the public or entertainment areas of an amphitheater if a private entity is responsible for one hundred percent of the cost of constructing the amphitheater which is not reimbursed by the public owner, both the public owner and the private lessee sponsor events at the facility on a regular basis, the lessee is responsible under the lease or agreement to operate and maintain the facility, and the amphitheater has a seating capacity of over seventeen thousand reserved and general admission seats and is in a county that had a population of over three hundred fifty thousand, but less than four hundred twenty-five thousand when the amphitheater first opened to the public.

For the purposes of this subsection, "public or entertainment areas" include box offices or other ticket sales areas, entrance gates, ramps and stairs, lobbies and concourses, parking areas, concession areas, restaurants, hospitality areas, kitchens or other work areas primarily servicing other public or entertainment areas, public rest room areas, press and media areas, control booths, broadcast and production areas, retail sales areas, museum and exhibit areas, scoreboards or other public displays, storage areas, loading, staging, and servicing areas, seating areas including lawn seating areas and suites, stages, and any other areas to which the public has access or which are used for the production of the entertainment event or other public usage, and any other personal property used for these purposes. "Public or entertainment areas" does not include office areas used predominately by the lessee.

(19) All leasehold interests in real property used for the placement of military housing meeting the requirements of RCW 84.36.665.

(20) All leasehold interests in facilities owned or used by a community college or technical college, which leasehold interest provides:

(a) Food services for students, faculty, and staff;

(b) The operation of a bookstore on campus; or

(c) Maintenance, operational, or administrative services to the community college or technical college.

(21)(a) All leasehold interests in the public or entertainment areas of an arena if it:

(i) Has a seating capacity of more than two thousand;

(ii) Is located on city-owned land; and

(iii) Is owned by a city with a population over two hundred thousand within a county with a population of less than one million five hundred thousand.

(b) For the purposes of this subsection (21), "public or entertainment areas" has the same meaning as provided in subsection (18) of this section.

NEW SECTION. **Sec.**  RCW 28A.335.270 (School property used for public purposes—Special state commission to pass on plans) and 1990 c 33 s 364 & 1975-'76 2nd ex.s. c 15 s 12 are each repealed.

NEW SECTION. **Sec.**  Section 5 of this act expires January 1, 2032.

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