

**SHB 1163** - S COMM AMD

By Committee on Business, Financial Services, Gaming & Trade

**ADOPTED 04/19/2023**

1 Strike everything after the enacting clause and insert the  
2 following:

3 "NEW SECTION. **Sec. 1.** (1) This section is the tax preference  
4 performance statement for the tax preference contained in section  
5 2(23), chapter . . ., Laws of 2023 (section 2(23) of this act). The  
6 performance statement is only intended to be used for subsequent  
7 evaluation of the tax preference. It is not intended to create a  
8 private right of action by any party or be used to determine  
9 eligibility for preferential tax treatment.

10 (a) The legislature categorizes the tax preference contained in  
11 section 2(23), chapter . . ., Laws of 2023 (section 2(23) of this  
12 act) as one intended to induce certain designated behavior by  
13 taxpayers and provide tax parity, as indicated in RCW 82.32.808(2)  
14 (a) and (f).

15 (b) For the tax preference evaluation under subsection (2) of  
16 this section, the legislature's specific public policy objective is  
17 to provide tax parity resulting in leasehold excise tax relief for  
18 large arena facilities used for professional sports with the  
19 expectation that the operational entities overseeing operations at  
20 these facilities will provide substantial economic benefits to their  
21 specific region with a focus on: Providing employment opportunities  
22 for women and minority-owned businesses; fostering equity and social  
23 justice with an emphasis on arena-impacted communities; providing  
24 general community resource support; and ensuring quality access to  
25 the facilities for people across a range of income levels.

26 (c) For the tax preference evaluation under subsection (3) of  
27 this section, the legislature's specific public policy objectives are  
28 to provide tax parity resulting in leasehold excise tax relief with  
29 the expectation that employees employed at the facilities receive  
30 competitive wages and benefits and the facilities advance and promote

1 diverse and inclusive voices, experiences, perspectives, and  
2 employment opportunities.

3 (2) To measure the effectiveness of the tax preference identified  
4 in section 2(23), chapter . . ., Laws of 2023 (section 2(23) of this  
5 act), except as provided in subsection (3) of this section, the joint  
6 legislative audit and review committee must evaluate the following:

7 (a) State and local fiscal impacts;

8 (b) To the extent data is available from the operating entity,  
9 the number of employment positions and wages at the facility for all  
10 employers, the degree to which employment positions at the facility  
11 have been filled by people residing in economically distressed  
12 regions of the county in which the facility is located, and the race  
13 and ethnicity of the employees. The evaluation must include a  
14 comparison of annual average wages at the facility and annual county  
15 average wages as published by the employment security department as  
16 part of its covered employment data;

17 (c) The extent to which the operational entity provides  
18 opportunities for patrons of all income levels to enjoy programming  
19 by offering seating at a range of price points that are equitably  
20 distributed throughout the facility; and

21 (d) The extent to which the operational entity generally  
22 contributes resources to: Organizations that serve the region; the  
23 communities surrounding the facility; and programs and services for  
24 youth, arts, music, and culture.

25 (3) To measure the effectiveness of the tax preference in section  
26 2(23), chapter . . ., Laws of 2023 (section 2(23) of this act) for  
27 arenas with a seating capacity of 17,000 or less, the joint  
28 legislative audit and review committee must evaluate the following to  
29 the extent that data is available from the operating entity or public  
30 owner of the arena:

31 (a) State and local fiscal impacts;

32 (b) The number of employment positions and wages at the facility  
33 for all employers operating at the facility. The evaluation must  
34 include a comparison of annual average wages at the facility and  
35 annual county average wages as published by the employment security  
36 department as part of its covered employment data;

37 (c) The financial stability of the facility through an  
38 examination of revenues and expenditures specific to the facility;

39 (d) The types of programming and events scheduled at the  
40 facility; and

1 (e) The economic impact of the facility in the county in which  
2 the facility is located.

3 (4) In order to obtain the data necessary to perform the reviews  
4 in subsections (2) and (3) of this section, the department of revenue  
5 must provide tax-related data needed for the joint legislative audit  
6 and review committee analysis, including the annual tax performance  
7 reports provided pursuant to RCW 82.32.534. In addition to the data  
8 source described under this subsection, the joint legislative audit  
9 and review committee may use any other data it deems necessary and  
10 the legislative auditor, or his or her designee, may contact  
11 operational entities after the effective date of this section to  
12 establish appropriate documentation to be provided by the operational  
13 entities to the joint legislative audit and review committee to  
14 facilitate its review of the tax preferences identified in this act.

15 (5) For the purpose of this section, "operational entity" means a  
16 limited liability company or any other public or private legal entity  
17 that is primarily responsible for the management and operation of a  
18 stadium or arena facility.

19 **Sec. 2.** RCW 82.29A.130 and 2022 c 147 s 1 are each amended to  
20 read as follows:

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

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

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

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

34 (4) All leasehold interests used for fair purposes of a nonprofit  
35 fair association that sponsors or conducts a fair or fairs which  
36 receive support from revenues collected pursuant to RCW 67.16.100 and  
37 allocated by the director of the department of agriculture where the  
38 fee ownership of such property is vested in the government of the  
39 United States, the state of Washington or any of its political

1 subdivisions. However, this exemption does not apply to the leasehold  
2 interest of any sublessee of such nonprofit fair association if such  
3 leasehold interest would be taxable if it were the primary lease.

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

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

13 (7) All leasehold interests in any real property of any Indian or  
14 Indian tribe, band, or community that is held in trust by the United  
15 States or is subject to a restriction against alienation imposed by  
16 the United States. However, this exemption applies only where it is  
17 determined that contract rent paid is greater than or equal to  
18 (~~ninety~~) 90 percent of fair market rental, to be determined by the  
19 department of revenue using the same criteria used to establish  
20 taxable rent in RCW 82.29A.020(2)(g).

21 (8) All leasehold interests for which annual taxable rent is less  
22 than (~~two hundred fifty dollars~~) \$250 per year. For purposes of  
23 this subsection leasehold interests held by the same lessee in  
24 contiguous properties owned by the same lessor are deemed a single  
25 leasehold interest.

26 (9) All leasehold interests which give use or possession of the  
27 leased property for a continuous period of less than (~~thirty~~) 30  
28 days: PROVIDED, That for purposes of this subsection, successive  
29 leases or lease renewals giving substantially continuous use of  
30 possession of the same property to the same lessee are deemed a  
31 single leasehold interest: PROVIDED FURTHER, That no leasehold  
32 interest is deemed to give use or possession for a period of less  
33 than (~~thirty~~) 30 days solely by virtue of the reservation by the  
34 public lessor of the right to use the property or to allow third  
35 parties to use the property on an occasional, temporary basis.

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

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

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

10 (13) All leasehold interests used to provide organized and  
11 supervised recreational activities for persons with disabilities of  
12 all ages in a camp facility and for public recreational purposes by a  
13 nonprofit organization, association, or corporation that would be  
14 exempt from property tax under RCW 84.36.030(1) if it owned the  
15 property. If the publicly owned property is used for any taxable  
16 purpose, the leasehold excise taxes set forth in RCW 82.29A.030 and  
17 82.29A.040 must be imposed and must be apportioned accordingly.

18 (14) All leasehold interests in the public or entertainment areas  
19 of a baseball stadium with natural turf and a retractable roof or  
20 canopy that is in a county with a population of over (~~one million~~)  
21 1,000,000, that has a seating capacity of over (~~forty thousand~~)  
22 40,000, and that is constructed on or after January 1, 1995. "Public  
23 or entertainment areas" include ticket sales areas, ramps and stairs,  
24 lobbies and concourses, parking areas, concession areas, restaurants,  
25 hospitality and stadium club areas, kitchens or other work areas  
26 primarily servicing other public or entertainment areas, public rest  
27 room areas, press and media areas, control booths, broadcast and  
28 production areas, retail sales areas, museum and exhibit areas,  
29 scoreboards or other public displays, storage areas, loading,  
30 staging, and servicing areas, seating areas and suites, the playing  
31 field, and any other areas to which the public has access or which  
32 are used for the production of the entertainment event or other  
33 public usage, and any other personal property used for these  
34 purposes. "Public or entertainment areas" does not include locker  
35 rooms or private offices exclusively used by the lessee.

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

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

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

8 (18) All leasehold interests in the public or entertainment areas  
9 of an amphitheater if a private entity is responsible for (~~one~~  
10 ~~hundred~~) 100 percent of the cost of constructing the amphitheater  
11 which is not reimbursed by the public owner, both the public owner  
12 and the private lessee sponsor events at the facility on a regular  
13 basis, the lessee is responsible under the lease or agreement to  
14 operate and maintain the facility, and the amphitheater has a seating  
15 capacity of over (~~seventeen thousand~~) 17,000 reserved and general  
16 admission seats and is in a county that had a population of over  
17 (~~three hundred fifty thousand~~) 350,000, but less than (~~four~~  
18 ~~hundred twenty-five thousand~~) 425,000 when the amphitheater first  
19 opened to the public.

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

34 (19) All leasehold interests in real property used for the  
35 placement of military housing meeting the requirements of RCW  
36 84.36.665.

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

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

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

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

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

6 (i) Has a seating capacity of more than (~~two thousand~~) 2,000;

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

8 (iii) Is owned by a city with a population over (~~two hundred  
9 thousand~~) 200,000 within a county with a population of less than  
10 (~~one million five hundred thousand~~) 1,500,000.

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

14 (22) All leasehold interests in facilities owned by the state  
15 parks and recreation commission that are listed on the national  
16 register of historic places or the Washington heritage register.

17 (23)(a) All leasehold interests in the public or entertainment  
18 areas of an arena if:

19 (i) The arena has a seating capacity of more than 4,000;

20 (ii) The arena is located on city-owned land;

21 (iii) The arena is located within a city with a population over  
22 100,000; and

23 (iv) Private entities were responsible for 100 percent of the  
24 cost of constructing improvements to the arena, which were not  
25 reimbursed by the public owner.

26 (b) For the purposes of this subsection (23), "public or  
27 entertainment areas" has the same meaning as provided in subsection  
28 (18) of this section, except that it also includes office areas used  
29 predominately by the lessee.

30 (c) A taxpayer claiming an exemption under this subsection (23)  
31 must file a complete annual tax performance report as provided in RCW  
32 82.32.534.

33 (d) This subsection (23) does not apply to leasehold interests on  
34 or after October 1, 2033.

35 NEW SECTION. Sec. 3. Sections 1 and 2 of this act take effect  
36 October 1, 2023.

37 NEW SECTION. Sec. 4. Section 2 of this act expires January 1,  
38 2034."

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**ADOPTED 04/19/2023**

1        On page 1, line 3 of the title, after "tax;" strike the remainder  
2 of the title and insert "amending RCW 82.29A.130; creating a new  
3 section; providing an effective date; and providing an expiration  
4 date."

EFFECT: Adds a 10-year expiration date. Requires a JLARC review. Modifies the criteria of eligibility for the new leasehold excise tax exemption. Requires any taxpayer claiming the new exemption to file an annual tax performance report.

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