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**SENATE BILL 5052**

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**State of Washington**

**68th Legislature**

**2023 Regular Session**

**By** Senators Lias, King, Mullet, and Van De Wege

Prefiled 12/15/22. Read first time 01/09/23. Referred to Committee on Business, Financial Services, Gaming & Trade.

1 AN ACT Relating to establishing leasehold excise tax parity and  
2 accountability for certain arenas and stadiums; amending RCW  
3 82.29A.130; creating a new section; providing an effective date; and  
4 providing an expiration date.

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

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

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

18 (b) For the tax preference evaluation under subsection (2) of  
19 this section, the legislature's specific public policy objective is  
20 to provide tax parity resulting in leasehold excise tax relief for  
21 large arena facilities used for professional sports with the

1 expectation that the operational entities overseeing operations at  
2 these facilities will provide substantial economic benefits to their  
3 specific region with a focus on: Providing employment opportunities  
4 for women and minority-owned businesses; fostering equity and social  
5 justice with an emphasis on arena-impacted communities; providing  
6 general community resource support; and ensuring quality access to  
7 the facilities for people across a range of income levels.

8 (c) For the tax preference evaluation under subsection (3) of  
9 this section, the legislature's specific public policy objectives are  
10 to provide tax parity resulting in leasehold excise tax relief with  
11 the expectation that employees employed at the facilities receive  
12 competitive wages and benefits and the facilities advance and promote  
13 diverse and inclusive voices, experiences, perspectives, and  
14 employment opportunities.

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

19 (a) State and local fiscal impacts;

20 (b) The number of employment positions and wages at the facility  
21 for all employers, and to the extent data is available, the degree to  
22 which employment positions at the facility have been filled by people  
23 residing in economically distressed regions of the county in which  
24 the facility is located. The evaluation must include a comparison of  
25 annual average wages at the facility and annual county average wages  
26 as published by the employment security department as part of its  
27 covered employment data;

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

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

36 (3) To measure the effectiveness of the tax preference in section  
37 2(23), chapter . . ., Laws of 2023 (section 2(23) of this act) for  
38 arenas with a seating capacity of 17,000 or less, the joint  
39 legislative audit and review committee must evaluate the following:

40 (a) State and local fiscal impacts;

1 (b) The number of employment positions and wages at the facility  
2 for all employers operating at the facility. The evaluation must  
3 include a comparison of annual average wages at the facility and  
4 annual county average wages as published by the employment security  
5 department as part of its covered employment data;

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

8 (d) The types of programming and events scheduled at the  
9 facility; and

10 (e) The economic impact of the facility in the county in which  
11 the facility is located.

12 (4) The joint legislative audit and review committee shall review  
13 the effectiveness of the tax preferences in RCW 82.29A.130 (14),  
14 (15), and (21) using the criteria specified in subsections (1)(b) and  
15 (2) of this section.

16 (5) In order to obtain the data necessary to perform the reviews  
17 in subsections (2), (3), and (4) of this section, the department of  
18 revenue must provide tax-related data needed for the joint  
19 legislative audit and review committee analysis, including the annual  
20 tax performance reports provided pursuant to RCW 82.32.534. In  
21 addition to the data source described under this subsection, the  
22 joint legislative audit and review committee may use any other data  
23 it deems necessary and the legislative auditor, or his or her  
24 designee, may contact operational entities after the effective date  
25 of this section to establish appropriate documentation to be provided  
26 by the operational entities to the joint legislative audit and review  
27 committee to facilitate its review of the tax preferences identified  
28 in this act.

29 (6) For the purpose of this section, "operational entity" means a  
30 limited liability company or any other public or private legal entity  
31 that is primarily responsible for the management and operation of a  
32 stadium or arena facility.

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

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

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

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

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

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

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

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

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

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

1 (9) All leasehold interests which give use or possession of the  
2 leased property for a continuous period of less than (~~thirty~~) 30  
3 days: PROVIDED, That for purposes of this subsection, successive  
4 leases or lease renewals giving substantially continuous use of  
5 possession of the same property to the same lessee are deemed a  
6 single leasehold interest: PROVIDED FURTHER, That no leasehold  
7 interest is deemed to give use or possession for a period of less  
8 than (~~thirty~~) 30 days solely by virtue of the reservation by the  
9 public lessor of the right to use the property or to allow third  
10 parties to use the property on an occasional, temporary basis.

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

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

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

24 (13) All leasehold interests used to provide organized and  
25 supervised recreational activities for persons with disabilities of  
26 all ages in a camp facility and for public recreational purposes by a  
27 nonprofit organization, association, or corporation that would be  
28 exempt from property tax under RCW 84.36.030(1) if it owned the  
29 property. If the publicly owned property is used for any taxable  
30 purpose, the leasehold excise taxes set forth in RCW 82.29A.030 and  
31 82.29A.040 must be imposed and must be apportioned accordingly.

32 (14) All leasehold interests in the public or entertainment areas  
33 of a baseball stadium with natural turf and a retractable roof or  
34 canopy that is in a county with a population of over one million,  
35 that has a seating capacity of over (~~forty thousand~~) 40,000, and  
36 that is constructed on or after January 1, 1995. "Public or  
37 entertainment areas" include ticket sales areas, ramps and stairs,  
38 lobbies and concourses, parking areas, concession areas, restaurants,  
39 hospitality and stadium club areas, kitchens or other work areas  
40 primarily servicing other public or entertainment areas, public rest

1 room areas, press and media areas, control booths, broadcast and  
2 production areas, retail sales areas, museum and exhibit areas,  
3 scoreboards or other public displays, storage areas, loading,  
4 staging, and servicing areas, seating areas and suites, the playing  
5 field, and any other areas to which the public has access or which  
6 are used for the production of the entertainment event or other  
7 public usage, and any other personal property used for these  
8 purposes. "Public or entertainment areas" does not include locker  
9 rooms or private offices exclusively used by the lessee. Beginning in  
10 calendar year 2024, a taxpayer claiming an exemption under this  
11 subsection (14) must file a complete annual tax performance report as  
12 provided in RCW 82.32.534.

13 (15) All leasehold interests in the public or entertainment areas  
14 of a stadium and exhibition center, as defined in RCW 36.102.010,  
15 that is constructed on or after January 1, 1998. For the purposes of  
16 this subsection, "public or entertainment areas" has the same meaning  
17 as in subsection (14) of this section, and includes exhibition areas.  
18 Beginning in calendar year 2024, a taxpayer claiming an exemption  
19 under this subsection (15) must file a complete annual tax  
20 performance report as provided in RCW 82.32.534.

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

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

28 (18) All leasehold interests in the public or entertainment areas  
29 of an amphitheater if a private entity is responsible for (~~one~~  
30 ~~hundred~~) 100 percent of the cost of constructing the amphitheater  
31 which is not reimbursed by the public owner, both the public owner  
32 and the private lessee sponsor events at the facility on a regular  
33 basis, the lessee is responsible under the lease or agreement to  
34 operate and maintain the facility, and the amphitheater has a seating  
35 capacity of over (~~seventeen thousand~~) 17,000 reserved and general  
36 admission seats and is in a county that had a population of over  
37 (~~three hundred fifty thousand~~) 350,000, but less than (~~four~~  
38 ~~hundred twenty-five thousand~~) 425,000 when the amphitheater first  
39 opened to the public.

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

15 (19) All leasehold interests in real property used for the  
16 placement of military housing meeting the requirements of RCW  
17 84.36.665.

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

- 21 (a) Food services for students, faculty, and staff;  
22 (b) The operation of a bookstore on campus; or  
23 (c) Maintenance, operational, or administrative services to the  
24 community college or technical college.

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

- 27 (i) Has a seating capacity of more than (~~two thousand~~) 2,000;  
28 (ii) Is located on city-owned land; and  
29 (iii) Is owned by a city with a population over (~~two hundred~~  
30 ~~thousand~~) 200,000 within a county with a population of less than  
31 (~~one million five hundred thousand~~) 1,500,000.

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

35 (c) Beginning in calendar year 2024, a taxpayer claiming an  
36 exemption under this subsection (21) must file a complete annual tax  
37 performance report as provided in RCW 82.32.534.

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

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

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

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

5 (iii) The arena is located within a city with a population over  
6 100,000; and

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

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

14 (c) A taxpayer claiming an exemption under this subsection (23)  
15 must file a complete annual tax performance report as provided in RCW  
16 82.32.534.

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

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

21 NEW SECTION. Sec. 4. Section 2 of this act expires January 1,  
22 2034.

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