
HOUSE BILL 2180

State of Washington 59th Legislature 2005 Regular Session

By Representatives Dunshee and Simpson

Read first time 02/22/2005. Referred to Committee on Capital Budget.

1 AN ACT Relating to bonds for outdoor recreation purposes such as
2 parks and athletic fields; amending RCW 82.04.460 and 39.42.060; adding
3 a new section to chapter 82.04 RCW; adding a new chapter to Title 43
4 RCW; adding a new chapter to Title 82 RCW; creating a new section;
5 repealing 2003 c 126 s 1002 (uncodified); providing an effective date;
6 and providing for submission of this act to a vote of the people.

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

8 NEW SECTION. **Sec. 1.** The legislature finds that the diversity and
9 splendor of Washington's parks system and local active recreational
10 opportunities are important resources for the people of this state.
11 Such outdoor opportunities contribute to the quality of life, are one
12 of the reasons people choose to live in Washington state, and
13 contribute to economic development. The state faces ever-increasing
14 demands from use of our parks and recreation resources and the
15 responsibility to protect natural and cultural resources while
16 accommodating recreation needs. The legislature further finds that
17 there has been a decline in suitable outdoor fields for community
18 athletic activities that have resulted in overcrowding and
19 deterioration of existing surfaces. Therefore, it is the policy of the

1 state to maintain, develop, fund, and improve the state's parks system
2 and local active recreation opportunities. The legislature recognizes
3 that a dedicated revenue source is needed and intends to authorize,
4 with approval by the people of the state, a bond measure to provide
5 approximately fifty million dollars per year for ten years for these
6 purposes.

7 NEW SECTION. **Sec. 2.** For the purpose of providing funds for
8 acquisition, preservation, and development of recreation areas and
9 facilities by the state, the state finance committee is authorized to
10 issue general obligation bonds of the state of Washington in the sum of
11 five hundred million dollars, or as much thereof as may be required, to
12 finance these projects and all costs incidental thereto. Bonds
13 authorized in this section may be sold at such price as the state
14 finance committee shall determine. No bonds authorized in this section
15 may be offered for sale without prior legislative appropriation of the
16 net proceeds of the sale of the bonds.

17 NEW SECTION. **Sec. 3.** The proceeds from the sale of bonds
18 authorized under section 2 of this act shall be deposited in the parks
19 and outdoor recreation enhancement account hereby created in the state
20 treasury and shall be used exclusively for the purpose specified in
21 this chapter and for payment of the expenses incurred in the issuance
22 and sale of bonds.

23 NEW SECTION. **Sec. 4.** (1) The proceeds from the sale of the bonds
24 deposited in the parks and outdoor recreation enhancement account shall
25 be divided into two shares as follows:

26 (a) Fifty percent of such proceeds shall be allocated, subject to
27 legislative appropriation, to the interagency committee for outdoor
28 recreation for purposes of RCW 79A.25.800; and

29 (b) Fifty percent of such proceeds shall be allocated to the state
30 parks and recreation commission, subject to legislative appropriation,
31 for improvement of existing state parks and the acquisition and
32 preservation of historic sites and buildings. The commission may use
33 or permit the use of any portion of such share as matching funds in any
34 case where federal, local, or other funds are made available on a
35 matching basis for improvements within the purposes of this chapter.

1 (2) In the event that the bonds authorized by this chapter are sold
2 in more than one series, the division into shares in subsection (1) of
3 this section shall apply to the total proceeds of the bonds authorized
4 by this chapter and not to the proceeds of each separate series.

5 NEW SECTION. **Sec. 5.** (1) Bonds issued under section 2 of this act
6 shall state that they are a general obligation of the state of
7 Washington, pledge the full faith and credit of the state to the
8 payment of principal thereof and the interest thereon, and shall
9 contain an unconditional promise to pay the principal and interest as
10 the same shall become due.

11 (2) The owner and holder of each of the bonds or the trustee for
12 the owner and holder of any of the bonds may by mandamus or other
13 appropriate proceeding require the transfer and payment of funds as
14 directed in this section.

15 NEW SECTION. **Sec. 6.** The parks and outdoor recreation enhancement
16 bond repayment account is hereby created in the state treasury.

17 NEW SECTION. **Sec. 7.** (1) The nondebt-limit reimbursable bond
18 retirement account shall be used for the payment of the principal of
19 and interest on the bonds authorized in section 2 of this act.

20 (2) The state finance committee shall, on or before June 30th of
21 each year, certify to the state treasurer the amount needed in the
22 ensuing twelve months to meet the bond retirement and interest
23 requirements on the bonds authorized in section 2 of this act.

24 (3) On each date on which any interest or principal and interest
25 payment is due on bonds issued for the purposes of section 2 of this
26 act, the state treasurer shall transfer from the parks and outdoor
27 recreation enhancement bond repayment account created in section 6 of
28 this act for deposit into the nondebt-limit reimbursable bond
29 retirement account the amount computed in subsection (2) of this
30 section for bonds issued for the purposes of section 2 of this act.

31 NEW SECTION. **Sec. 8.** For the purposes of this chapter, "admission
32 charge" includes a charge made for season tickets or subscriptions, a
33 cover charge, or a charge made for use of seats and tables, reserved or
34 otherwise, and other similar accommodations; a charge made for food and

1 refreshments in any place where any free entertainment, recreation, or
2 amusement is provided; a charge made for rental or use of equipment or
3 facilities for purpose of recreation or amusement, and where the rental
4 of the equipment or facilities is necessary to the enjoyment of a
5 privilege for which a general admission is charged, the combined
6 charges shall be considered as the admission charge. "Admission
7 charge" also includes any automobile parking charge where the amount of
8 such charge is determined according to the number of passengers in any
9 automobile.

10 NEW SECTION. **Sec. 9.** (1) A state tax is hereby imposed on the
11 admission to any place, measured by the amount of admission charge.

12 (2) The rate of tax is as follows:

13 (a) For the state fiscal biennium beginning July 1, 2005, one
14 percent;

15 (b) For the state fiscal biennium beginning July 1, 2007, three
16 percent; and

17 (c) Five percent, beginning July 1, 2009.

18 (3) The person paying the admission charge shall pay the tax to the
19 person receiving the admission charge.

20 (4) Chapter 82.32 RCW applies to the taxes imposed in this chapter.
21 The tax due dates, reporting periods, and return requirements
22 applicable to chapter 82.04 RCW apply equally to the taxes imposed in
23 this chapter.

24 (5) The tax imposed under this section periodically shall be
25 deposited into the parks and outdoor recreation enhancement bond
26 repayment account created in section 6 of this act.

27 NEW SECTION. **Sec. 10.** The tax imposed under this chapter is in
28 addition to any other state or local tax imposed upon admission
29 charges.

30 NEW SECTION. **Sec. 11.** The legislature finds that professional
31 sports teams doing business in Washington need an equitable way to
32 apportion their gross receipts from service-related activities to
33 Washington and that current methods do not provide a fair apportionment
34 or reflection of the Washington activity. The legislature intends,

1 through this act, to provide a method by which professional sports
2 teams can properly apportion their gross receipts between the states in
3 which they do business.

4 **Sec. 12.** RCW 82.04.460 and 2004 c 174 s 6 are each amended to read
5 as follows:

6 (1) Except as otherwise provided in this section, any person
7 rendering services taxable under RCW 82.04.290 or 82.04.2908 and
8 maintaining places of business both within and without this state which
9 contribute to the rendition of such services shall, for the purpose of
10 computing tax liability under RCW 82.04.290 or 82.04.2908, apportion to
11 this state that portion of the person's gross income which is derived
12 from services rendered within this state. Where such apportionment
13 cannot be accurately made by separate accounting methods, the taxpayer
14 shall apportion to this state that proportion of the taxpayer's total
15 income which the cost of doing business within the state bears to the
16 total cost of doing business both within and without the state.

17 (2) (~~Notwithstanding the provision of subsection (1) of this~~
18 ~~section,~~) Persons doing business both within and without the state who
19 receive gross income from service charges, as defined in RCW 63.14.010
20 (relating to amounts charged for granting the right or privilege to
21 make deferred or installment payments) or who receive gross income from
22 engaging in business as financial institutions within the scope of
23 chapter 82.14A RCW (relating to city taxes on financial institutions)
24 shall apportion or allocate gross income taxable under RCW 82.04.290 to
25 this state pursuant to rules (~~promulgated~~) adopted by the department
26 consistent with uniform rules for apportionment or allocation developed
27 by the states.

28 (3) The department shall by rule provide a method or methods of
29 apportioning or allocating gross income derived from sales of telephone
30 services taxed under this chapter, if the gross proceeds of sales
31 subject to tax under this chapter do not fairly represent the extent of
32 the taxpayer's income attributable to this state. The rules shall be,
33 so far as feasible, consistent with the methods of apportionment
34 contained in this section and shall require the consideration of those
35 facts, circumstances, and apportionment factors as will result in an
36 equitable and constitutionally permissible division of the services.

1 (4) Persons doing business both within and without the state who
2 engage in business as professional sports teams shall apportion their
3 income to this state as provided in section 13 of this act. The tax
4 collected based on the apportionment in section 13 of this act shall be
5 deposited into the parks and outdoor recreation enhancement bond
6 repayment account created in section 6 of this act.

7 **NEW SECTION.** **Sec. 13.** A new section is added to chapter 82.04 RCW
8 to read as follows:

9 (1) The apportionable income of a professional sports team engaged
10 in business both within and without Washington shall be apportioned to
11 Washington using an apportionment fraction composed of a property
12 factor representing twenty-five percent of the fraction, a payroll
13 factor representing twenty-five percent of the fraction, and a sales
14 factor representing fifty percent of the fraction determined as
15 provided in this section.

16 (2)(a) The property factor is a fraction, the numerator of which is
17 the average value of the taxpayer's real and tangible personal property
18 owned or rented and used in this state during the tax year and the
19 denominator of which is the average value of all the taxpayer's real
20 and tangible personal property owned or rented and used during the tax
21 year. Cash on hand or in the bank, shares of stock, notes, bonds,
22 accounts receivable, or other evidence of indebtedness, special
23 privileges, franchises, goodwill, or property the income of which is
24 not taxable or is separately allocated shall not be considered tangible
25 property nor included in the apportionment.

26 (b) Property used in the production of nonapportionable income or
27 losses shall be excluded from the numerator and denominator of the
28 property factor. Property used in the production of both apportionable
29 and nonapportionable income or losses shall be partially excluded from
30 the numerator and denominator of the property factor so as to exclude,
31 as near as possible, the portion of such property producing the
32 nonapportionable income or loss. Minor equipment, such as uniforms,
33 and playing and practice equipment, need not be included in the factor.

34 (c) Property owned by the taxpayer is valued at its original cost.
35 Property rented by the taxpayer is valued at eight times the net annual
36 rental. Net annual rental is the annual rental paid by the taxpayer
37 less any annual rental received by the taxpayer from subrentals.

1 (d) The average value of property shall be determined by averaging
2 the values at the beginning and ending of the tax year but the
3 department may require the averaging of monthly values during the tax
4 year if reasonably required to reflect properly the average value of
5 the taxpayer's property.

6 (3)(a) The payroll factor is a fraction, the numerator of which is
7 the total amount paid in this state during the tax year by the taxpayer
8 for compensation, and the denominator of which is the total
9 compensation paid everywhere during the tax year. Compensation related
10 to the operation, maintenance, protection, or supervision of property
11 used in the production of both apportionable and nonapportionable
12 income shall be partially excluded from the numerator and denominator
13 of the payroll factor so as to exclude, as near as possible, the
14 portion of pay related to the operation, maintenance, protection, and
15 supervision of property used in the production of nonapportionable
16 income.

17 (b) Compensation, other than compensation for members of a
18 professional sports team, is paid in this state if:

19 (i) The individual's service is performed entirely within this
20 state;

21 (ii) The individual's service is performed within and without this
22 state, but the service performed without this state is incidental to
23 the individual's service within this state;

24 (iii) A portion of the service is performed within this state and
25 the base of operations of the individual is in this state;

26 (iv) A portion of the service is performed within this state and,
27 if there is no base of operations, the place from which the
28 individual's service is directed or controlled is in this state;

29 (v) A portion of the service is performed within this state and
30 neither the base of operations of the individual nor the place from
31 which the service is directed or controlled is in any state in which
32 some part of the service is performed, but the individual's residence
33 is in this state; or

34 (vi) The individual is neither a resident of nor performs services
35 in this state but is directed or controlled from an office in this
36 state and returns to this state periodically for business purposes and
37 the state in which the individual resides does not have jurisdiction to
38 impose income or franchise taxes on the employer.

1 (c) Compensation for members of a professional sports team shall be
2 allocated to this state as follows: The Washington compensation of a
3 member of a professional sports team includes that portion of such
4 individual's total compensation for services rendered as a member of
5 the team during the tax year which the number of duty days spent within
6 Washington rendering services for the team in any manner during the tax
7 year bears to the total number of duty days spent both within and
8 without Washington during the tax year.

9 (4)(a) The sales factor is a fraction, the numerator of which is
10 the total gross income of the taxpayer in Washington during the tax
11 year, and the denominator of which is the gross income everywhere
12 during the tax year.

13 (b) Gate receipts include all receipts from games played at the
14 taxpayer's home facility plus any gate receipts received from games
15 played away from the taxpayer's home facility. The numerator of the
16 sales fraction for taxpayers whose home facility is in Washington
17 includes all gate receipts from games played in its home facility. The
18 numerator of the sales fraction for taxpayers whose home facility is
19 outside Washington includes the percentage of gate receipts received
20 from games played in Washington.

21 (c) Radio and television receipts received by the taxpayer as its
22 proportionate share from a league or association contract with the
23 major communications networks are in Washington in proportion to the
24 number of games played in Washington to total games played by the
25 taxpayer covered by the contract during the season. Local television
26 and radio receipts are sited to the state in which the games are
27 played.

28 (d) Concession income is assigned to this state if the concession
29 is operated within the state. Other miscellaneous income taxable under
30 RCW 82.04.290 is assigned to this state if the activity is conducted
31 within this state.

32 (e) Income from player contract transactions and other similar
33 sources shall be excluded from the numerator and the denominator of the
34 sales fraction.

35 (5) The definitions in this subsection apply throughout this
36 section.

37 (a) "Apportionable income" means only those gross receipts taxable
38 under RCW 82.04.290.

1 (b) "Compensation for members of a professional sports team" means
2 the total compensation received during the taxable year for services
3 rendered:

4 (i) From the beginning of the official preseason training period
5 through the last game in which the team competes or is scheduled to
6 compete during that taxable year; and

7 (ii) During the taxable year on a date which does not fall within
8 the period described in this subsection (5)(b). Such compensation
9 shall include, but is not limited to, salaries, wages, bonuses, and any
10 other type of compensation paid during the taxable year to a member of
11 a professional sports team for services performed in that year. Such
12 compensation shall not include strike benefits, severance pay,
13 termination pay, contract or option year buy-out payments, expansion or
14 relocation payments, or any other payments not related to services
15 rendered to the team.

16 (c) "Duty days" means all days during the taxable year from the
17 beginning of the professional sports team's official preseason training
18 period through the last game in which the team competes or is scheduled
19 to compete. Duty days include game days, practice days, days spent at
20 team meetings, promotional caravans, and preseason training camps, and
21 days served with the team through all postseason games in which the
22 team competes or is scheduled to compete. Duty days also include days
23 on which a member of a professional sports team renders a service for
24 a team on a date that does not fall within the period described in this
25 subsection (5)(c), including but not limited to participation in
26 instructional leagues on behalf of the team and promotional events.
27 Rendering a service includes conducting training and rehabilitation
28 activities, but only if conducted at the facilities of the team. Days
29 for which a member of a professional sports team is not compensated and
30 is not rendering services for the team in any manner, including days
31 when such member of a professional sports team has been suspended
32 without pay and prohibited from performing any services for the team
33 shall not be treated as duty days. Travel days that do not involve
34 either a game, practice, team meeting, promotional caravan, or other
35 similar team event are not considered duty days spent in Washington.

36 (d) "Member of a professional sports team" includes those employees
37 who are active players, players on the disabled list, and any other

1 persons required to travel and who do travel with and perform services
2 on behalf of a professional sports team on a regular basis. This
3 includes but is not limited to coaches, managers, and trainers.

4 (e) "Professional sports team" includes, but is not limited to, any
5 professional baseball, basketball, football, soccer, or hockey team.

6 NEW SECTION. **Sec. 14.** The legislature may provide additional
7 means for raising moneys for the payment of the principal and interest
8 on the bonds authorized in section 2 of this act, and sections of this
9 act shall not be deemed as the exclusive method for payment.

10 **Sec. 15.** RCW 39.42.060 and 2003 c 147 s 13 are each amended to
11 read as follows:

12 No bonds, notes, or other evidences of indebtedness for borrowed
13 money shall be issued by the state which will cause the aggregate debt
14 contracted by the state to exceed that amount for which payments of
15 principal and interest in any fiscal year would require the state to
16 expend more than seven percent of the arithmetic mean of its general
17 state revenues, as defined in RCW 39.42.070, for the three immediately
18 preceding fiscal years as certified by the treasurer in accordance with
19 RCW 39.42.070. It shall be the duty of the state finance committee to
20 compute annually the amount required to pay principal of and interest
21 on outstanding debt. In making such computation, the state finance
22 committee shall include all borrowed money represented by bonds, notes,
23 or other evidences of indebtedness which are secured by the full faith
24 and credit of the state or are required to be paid, directly or
25 indirectly, from general state revenues and which are incurred by the
26 state, any department, authority, public corporation or quasi public
27 corporation of the state, any state university or college, or any other
28 public agency created by the state but not by counties, cities, towns,
29 school districts, or other municipal corporations, and shall include
30 debt incurred pursuant to section 3 of Article VIII of the Washington
31 state Constitution, but shall exclude the following:

- 32 (1) Obligations for the payment of current expenses of state
33 government;
- 34 (2) Indebtedness incurred pursuant to RCW 39.42.080 or 39.42.090;
- 35 (3) Principal of and interest on bond anticipation notes;
- 36 (4) Any indebtedness which has been refunded;

- 1 (5) Financing contracts entered into under chapter 39.94 RCW;
- 2 (6) Indebtedness authorized or incurred before July 1, 1993,
3 pursuant to statute which requires that the state treasury be
4 reimbursed, in the amount of the principal of and the interest on such
5 indebtedness, from money other than general state revenues or from the
6 special excise tax imposed pursuant to chapter 67.40 RCW;
- 7 (7) Indebtedness authorized and incurred after July 1, 1993,
8 pursuant to statute that requires that the state treasury be
9 reimbursed, in the amount of the principal of and the interest on such
10 indebtedness, from (a) moneys outside the state treasury, except higher
11 education operating fees, (b) higher education building fees, (c)
12 indirect costs recovered from federal grants and contracts, and (d)
13 fees and charges associated with hospitals operated or managed by
14 institutions of higher education;
- 15 (8) Any agreement, promissory note, or other instrument entered
16 into by the state finance committee under RCW 39.42.030 in connection
17 with its acquisition of bond insurance, letters of credit, or other
18 credit support instruments for the purpose of guaranteeing the payment
19 or enhancing the marketability, or both, of any state bonds, notes, or
20 other evidence of indebtedness;
- 21 (9) Indebtedness incurred for the purposes identified in RCW
22 43.99N.020;
- 23 (10) Indebtedness incurred for the purposes of the school district
24 bond guaranty established by chapter 39.98 RCW;
- 25 (11) Indebtedness incurred for the purposes of replacing the
26 waterproof membrane over the east plaza garage and revising related
27 landscaping construction pursuant to RCW 43.99Q.070;
- 28 (12) Indebtedness incurred for the purposes of the state
29 legislative building rehabilitation, to the extent that principal and
30 interest payments of such indebtedness are paid from the capitol
31 building construction account pursuant to RCW 43.99Q.140(2)(b); and
- 32 (13) Indebtedness incurred for the purposes of financing projects
33 under RCW 47.10.867; and
- 34 (14) Indebtedness incurred for the purposes of outdoor recreation
35 facilities under chapter 43.-- RCW (sections 1 through 7 and 14 of this
36 act).

37 To the extent necessary because of the constitutional or statutory

1 debt limitation, priorities with respect to the issuance or
2 guaranteeing of bonds, notes, or other evidences of indebtedness by the
3 state shall be determined by the state finance committee.

4 NEW SECTION. **Sec. 16.** Sections 1 through 7 and 14 of this act
5 constitute a new chapter in Title 43 RCW.

6 NEW SECTION. **Sec. 17.** Sections 8 through 10 of this act
7 constitute a new chapter in Title 82 RCW.

8 NEW SECTION. **Sec. 18.** 2003 c 126 s 1002 (uncodified) is repealed.

9 NEW SECTION. **Sec. 19.** Sections 8 through 13 of this act take
10 effect January 1, 2006.

11 NEW SECTION. **Sec. 20.** The secretary of state shall submit this
12 act to the people for their adoption and ratification, or rejection, at
13 the next general election to be held in this state, in accordance with
14 Article II, section 1 of the state Constitution and the laws adopted to
15 facilitate its operation.

16 NEW SECTION. **Sec. 21.** If any provision of this act or its
17 application to any person or circumstance is held invalid, the
18 remainder of the act or the application of the provision to other
19 persons or circumstances is not affected.

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