
SUBSTITUTE HOUSE BILL 2078

State of Washington 62nd Legislature 2011 1st Special Session

By House Ways & Means (originally sponsored by Representatives Jinkins, Reykdal, Lytton, Billig, Frockt, Moscoso, Fitzgibbon, Tharinger, Ryu, Ladenburg, Stanford, Sullivan, Green, Van De Wege, Moeller, Springer, Pettigrew, Maxwell, Dickerson, Kagi, Ormsby, Upthegrove, Hasegawa, Appleton, Rolfes, McCoy, Carlyle, Liias, Kenney, Eddy, Darneille, Pedersen, Orwall, Hunt, Cody, Kirby, Roberts, Takko, Blake, Seaquist, Goodman, Haigh, Hudgins, Dunshee, Sells, Finn, Clibborn, and Morris)

READ FIRST TIME 05/16/11.

1 AN ACT Relating to funding K-3 class size reductions by narrowing
2 and repealing certain tax exemptions; amending RCW 82.04.4292 and
3 83.100.230; adding a new section to chapter 82.32 RCW; creating a new
4 section; providing an effective date; and declaring an emergency.

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

6 NEW SECTION. **Sec. 1.** (1) The legislature finds that Washington's
7 best opportunity for long-term success rests with the further
8 development of our public educational system. The legislature further
9 finds that smaller classes in the early grades can significantly
10 increase the amount of learning that takes place in the classroom. The
11 legislature further finds that a primary focus of Initiative Measure
12 No. 728, which passed with over seventy-one percent approval in
13 November 2000, was to allocate additional moneys to class size
14 reductions.

15 (2) It is the intent of the legislature to fully fund critical K-3
16 class size reductions by significantly narrowing a tax deduction for
17 banks and other financial institutions.

1 **Sec. 2.** RCW 82.04.4292 and 2010 1st sp.s. c 23 s 301 are each
2 amended to read as follows:

3 (1) In computing tax there may be deducted from the measure of tax
4 by those engaged in banking, loan, security or other financial
5 businesses, interest received on investments or loans primarily secured
6 by first mortgages or trust deeds on nontransient residential
7 properties.

8 (2) Interest deductible under this section includes the portion of
9 fees charged to borrowers, including points and loan origination fees,
10 that is recognized over the life of the loan as an adjustment to yield
11 in the taxpayer's books and records according to generally accepted
12 accounting principles.

13 (3) Subsections (1) and (2) of this section notwithstanding, the
14 following is a nonexclusive list of items that are not deductible under
15 this section:

16 (a) Fees for specific services such as: Document preparation fees;
17 finder fees; brokerage fees; title examination fees; fees for credit
18 checks; notary fees; loan application fees; interest lock-in fees if
19 the loan is not made; servicing fees; and similar fees or amounts;

20 (b) Fees received in consideration for an agreement to make funds
21 available for a specific period of time at specified terms, commonly
22 referred to as commitment fees;

23 (c) Any other fees, or portion of a fee, that is not recognized
24 over the life of the loan as an adjustment to yield in the taxpayer's
25 books and records according to generally accepted accounting
26 principles;

27 (d) Gains on the sale of valuable rights such as service release
28 premiums, which are amounts received when servicing rights are sold;
29 and

30 (e) Gains on the sale of loans, except deferred loan origination
31 fees and points deductible under subsection (2) of this section, are
32 not to be considered part of the proceeds of sale of the loan.

33 (4) Notwithstanding subsection (3) of this section, in computing
34 tax there may be deducted from the measure of tax by those engaged in
35 banking, loan, security, or other financial businesses, amounts
36 received for servicing loans primarily secured by first mortgages or
37 trust deeds on nontransient residential properties, including such

1 loans that secure mortgage-backed or mortgage-related securities, but
2 only if:

3 (a)(i) The loans were originated by the person claiming a deduction
4 under this subsection (4) and that person either sold the loans on the
5 secondary market or securitized the loans and sold the securities on
6 the secondary market; or

7 (ii)(A) The person claiming a deduction under this subsection (4)
8 acquired the loans from the person that originated the loans through a
9 merger or acquisition of substantially all of the assets of the person
10 who originated the loans, or the person claiming a deduction under this
11 subsection (4) is affiliated with the person that originated the loans.
12 For purposes of this subsection, "affiliated" means under common
13 control. "Control" means the possession, directly or indirectly, of
14 more than fifty percent of the power to direct or cause the direction
15 of the management and policies of a person, whether through the
16 ownership of voting shares, by contract, or otherwise; and

17 (B) Either the person who originated the loans or the person
18 claiming a deduction under this subsection (4) sold the loans on the
19 secondary market or securitized the loans and sold the securities on
20 the secondary market; and

21 (b) The amounts received for servicing the loans are determined by
22 a percentage of the interest paid by the borrower and are only received
23 if the borrower makes interest payments.

24 (5)(a) The deductions provided in this section are not available to
25 any person that is located in more than ten states.

26 (b) For the purposes of this subsection:

27 (i) A person is located in a state if:

28 (A) The person or an affiliate of the person maintains a branch,
29 office, or one or more employees or representatives in the state; and

30 (B) Such in-state presence allows borrowers or potential borrowers
31 to contact the branch, office, employee, or representative concerning
32 the acquiring, negotiating, renegotiating, or restructuring of, or
33 making payments on, mortgages issued or to be issued by the person or
34 an affiliate of the person.

35 (ii) "Affiliate" means a person is "affiliated," as defined in
36 subsection (4) of this section, with another person.

1 NEW SECTION. **Sec. 3.** A new section is added to chapter 82.32 RCW
2 to read as follows:

3 By June 1, 2012, and by June 1st of every year thereafter, the
4 department must annually estimate the increase in state revenue for the
5 current fiscal year resulting from the changes made to the deduction
6 for banks and other financial institutions under section 2 of this act,
7 and certify the estimated amounts to the state treasurer. By July 1,
8 2012, and by July 1st of every year thereafter, the state treasurer
9 must transfer the certified amount into the education legacy trust
10 account created in RCW 83.100.230.

11 **Sec. 4.** RCW 83.100.230 and 2010 1st sp.s. c 37 s 953 are each
12 amended to read as follows:

13 The education legacy trust account is created in the state
14 treasury. Money in the account may be spent only after appropriation.
15 Except as otherwise provided in this section, expenditures from the
16 account may be used only for ((deposit into the student achievement
17 fund)) the support of the common schools and for expanding access to
18 higher education through funding for new enrollments and financial aid,
19 and other educational improvement efforts. ((During the 2009-2011
20 fiscal biennium, moneys in the account may also be transferred into the
21 state general fund.)) Money deposited into the account as required in
22 section 3 of this act must be used only for K-3 class size reductions.

23 NEW SECTION. **Sec. 5.** This act is necessary for the immediate
24 preservation of the public peace, health, or safety, or support of the
25 state government and its existing public institutions, and takes effect
26 August 1, 2011.

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