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ENGROSSED SUBSTITUTE SENATE BILL 5834

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State of Washington                      62nd Legislature                      2011 1st Special Session

By Senate Ways & Means (originally sponsored by Senators Murray, Litzow, McAuliffe, Nelson, Hill, White, Kohl-Welles, Fain, and Eide)

READ FIRST TIME 02/25/11.

1            AN ACT Relating to permitting counties to direct an existing  
2 portion of local lodging taxes to programs for arts, culture, heritage,  
3 tourism, and housing; and amending RCW 67.28.180, 36.38.010, and  
4 36.100.220.

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

6            **Sec. 1.** RCW 67.28.180 and 2010 1st sp.s. c 26 s 8 are each amended  
7 to read as follows:

8            (1) Subject to the conditions set forth in subsections (2) and (3)  
9 of this section, the legislative body of any county or any city, is  
10 authorized to levy and collect a special excise tax of not to exceed  
11 two percent on the sale of or charge made for the furnishing of lodging  
12 that is subject to tax under chapter 82.08 RCW.

13            (2) Any levy authorized by this section (~~shall be~~) is subject to  
14 the following:

15            (a) Any county ordinance or resolution adopted pursuant to this  
16 section (~~shall~~) must contain, in addition to all other provisions  
17 required to conform to this chapter, a provision allowing a credit  
18 against the county tax for the full amount of any city tax imposed  
19 pursuant to this section upon the same taxable event.

1 (b)(i) In the event that any county has levied the tax authorized  
2 by this section and has, prior to June 26, 1975, either pledged the tax  
3 revenues for payment of principal and interest on city revenue or  
4 general obligation bonds authorized and issued pursuant to RCW  
5 67.28.150 through 67.28.160 or has authorized and issued revenue or  
6 general obligation bonds pursuant to the provisions of RCW 67.28.150  
7 through 67.28.160, such county (~~shall be~~) is exempt from the  
8 provisions of (a) of this subsection, to the extent that the tax  
9 revenues are pledged for payment of principal and interest on bonds  
10 issued at any time pursuant to the provisions of RCW 67.28.150 through  
11 67.28.160(~~PROVIDED, That~~). However, so much of such pledged tax  
12 revenues, together with any investment earnings thereon, not  
13 immediately necessary for actual payment of principal and interest on  
14 such bonds may be used: ((+i)) (A) In any county with a population of  
15 one million five hundred thousand or more, for repayment either of  
16 limited tax levy general obligation bonds or of any county fund or  
17 account from which a loan was made, the proceeds from the bonds or loan  
18 being used to pay for constructing, installing, improving, and  
19 equipping stadium capital improvement projects, and to pay for any  
20 engineering, planning, financial, legal and professional services  
21 incident to the development of such stadium capital improvement  
22 projects, regardless of the date the debt for such capital improvement  
23 projects was or may be incurred; ((+ii)) (B) in any county with a  
24 population of one million five hundred thousand or more, for repayment  
25 or refinancing of bonded indebtedness incurred prior to January 1,  
26 1997, for any purpose authorized by this section or relating to stadium  
27 repairs or rehabilitation, including but not limited to the cost of  
28 settling legal claims, reimbursing operating funds, interest payments  
29 on short-term loans, and any other purpose for which such debt has been  
30 incurred if the county has created a public stadium authority to  
31 develop a stadium and exhibition center under RCW 36.102.030; or  
32 ((+iii)) (C) in other counties, for county-owned facilities for  
33 agricultural promotion until January 1, 2009, and thereafter for any  
34 purpose authorized in this chapter.

35 (ii) A county is exempt under this subsection with respect to city  
36 revenue or general obligation bonds issued after April 1, 1991, only if  
37 such bonds mature before January 1, 2013. If any county located east  
38 of the crest of the Cascade mountains has levied the tax authorized by

1 this section and has, prior to June 26, 1975, pledged the tax revenue  
2 for payment of principal and interest on city revenue or general  
3 obligation bonds, the county is exempt under this subsection with  
4 respect to revenue or general obligation bonds issued after January 1,  
5 2007, only if the bonds mature before January 1, ~~((2021))~~ 2035. Such  
6 a county may only use funds under this subsection (2)(b) for  
7 constructing or improving facilities authorized under this chapter,  
8 including county-owned facilities for agricultural promotion(~~(7—and~~  
9 ~~must—perform—an—annual—financial—audit—of—organizations—receiving~~  
10 ~~funding—on—the—use—of—the—funds)~~)).

11 (iii) As used in this subsection (2)(b), "capital improvement  
12 projects" may include, but not be limited to a stadium restaurant  
13 facility, restroom facilities, artificial turf system, seating  
14 facilities, parking facilities and scoreboard and information system  
15 adjacent to or within a county owned stadium, together with equipment,  
16 utilities, accessories and appurtenances necessary thereto. The  
17 stadium restaurant authorized by this subsection (2)(b) (~~(shall)~~) must  
18 be operated by a private concessionaire under a contract with the  
19 county.

20 (c)(i) No city within a county exempt under (~~(subsection—(2))~~)(b)  
21 of this subsection may levy the tax authorized by this section so long  
22 as said county is so exempt.

23 (ii) (~~(If—bonds—have—been—issued—under—RCW—43.99N.020—and—any~~  
24 ~~necessary—property—transfers—have—been—made—under—RCW—36.102.100,)~~) No  
25 city within a county with a population of one million five hundred  
26 thousand or more may levy the tax authorized by this section (~~(before~~  
27 ~~January 1, 2021)~~)).

28 (iii) However, in the event that any city in a county described in  
29 (c)(i) or (ii) of this subsection (2)(~~(e)~~) has levied the tax  
30 authorized by this section and has, prior to June 26, 1975, authorized  
31 and issued revenue or general obligation bonds pursuant to the  
32 provisions of RCW 67.28.150 through 67.28.160, such city may levy the  
33 tax so long as the tax revenues are pledged for payment of principal  
34 and interest on bonds issued at any time pursuant to the provisions of  
35 RCW 67.28.150 through 67.28.160.

36 (3) Any levy authorized by this section by a county that has  
37 (~~(levied the tax authorized by this section and has, prior to June 26,~~  
38 ~~1975, either pledged the tax revenues for payment of principal and~~

1 ~~interest on city revenue or general obligation bonds authorized and~~  
2 ~~issued pursuant to RCW 67.28.150 through 67.28.160 or has authorized~~  
3 ~~and issued revenue or general obligation bonds pursuant to the~~  
4 ~~provisions of RCW 67.28.150 through 67.28.160 shall be))~~ a population  
5 of one million five hundred thousand or more is subject to the  
6 following:

7 (a) Taxes collected under this section in any calendar year before  
8 2013 in excess of five million three hundred thousand dollars (~~shall~~)  
9 may only be used as follows:

10 (i) (~~Seventy five percent from January 1, 1992, through December~~  
11 ~~31, 2000, and))~~ Seventy percent from January 1, 2001, through December  
12 31, 2012, for art museums, cultural museums, heritage museums, the  
13 arts, and the performing arts. Moneys spent under this subsection  
14 (3)(a)(i) (~~shall~~) must be used for the purposes of this subsection  
15 (3)(a)(i) in all parts of the county.

16 (ii) (~~Twenty five percent from January 1, 1992, through December~~  
17 ~~31, 2000, and))~~ Thirty percent from January 1, 2001, through December  
18 31, 2012, for the following purposes and in a manner reflecting the  
19 following order of priority: Stadium purposes as authorized under  
20 subsection (2)(b) of this section; acquisition of open space lands;  
21 youth sports activities; and tourism promotion. If all or part of the  
22 debt on the stadium is refinanced, all revenues under this subsection  
23 (3)(a)(ii) (~~shall~~) must be used to retire the debt.

24 (b) From January 1, 2013, through December 31, 2015, (~~in a county~~  
25 ~~with a population of one million or more,))~~ all revenues under this  
26 section shall be used to retire the debt on the stadium, (~~or deposited~~  
27 ~~in the stadium and exhibition center account under RCW 43.99N.060~~  
28 ~~after))~~ until the debt on the stadium is retired. On and after the  
29 date the debt on the stadium is retired, and through December 31, 2015,  
30 all revenues under this section in a county of one million five hundred  
31 thousand or more must be deposited in the special account under (e) of  
32 this subsection.

33 (c) From January 1, 2016, through December 31, 2020, (~~in a county~~  
34 ~~with a population of one million or more,))~~ all revenues under this  
35 section (~~shall~~) must be deposited in the stadium and exhibition  
36 center account under RCW 43.99N.060.

37 (d) (~~At least seventy percent of moneys spent under (a)(i) of this~~  
38 ~~subsection for the period January 1, 1992, through December 31, 2000,~~

1 shall be used only for the purchase, design, construction, and  
2 remodeling of performing arts, visual arts, heritage, and cultural  
3 facilities, and for the purchase of fixed assets that will benefit art,  
4 heritage, and cultural organizations. For purposes of this subsection,  
5 fixed assets are tangible objects such as machinery and other equipment  
6 intended to be held or used for ten years or more. Moneys received  
7 under this subsection (3)(d) may be used for payment of principal and  
8 interest on bonds issued for capital projects. Qualifying  
9 organizations receiving moneys under this subsection (3)(d) must be  
10 financially stable and have at least the following:

- 11 (i) A legally constituted and working board of directors;
- 12 (ii) A record of artistic, heritage, or cultural accomplishments;
- 13 (iii) Been in existence and operating for at least two years;
- 14 (iv) Demonstrated ability to maintain net current liabilities at  
15 less than thirty percent of general operating expenses;
- 16 (v) Demonstrated ability to sustain operational capacity subsequent  
17 to completion of projects or purchase of machinery and equipment; and
- 18 (vi) Evidence that there has been independent financial review of  
19 the organization.)

20 On and after January 1, 2021, the revenues under  
this section must be used as follows:

21 (i) At least thirty-seven and one-half percent of the revenues  
22 under this section must be deposited in the special account under (e)  
23 of this subsection.

24 (ii) At least thirty-seven and one-half percent of the revenues  
25 under this section must be used for nonprofit organizations or public  
26 housing authorities for affordable workforce housing within one-half of  
27 a mile of a transit station, as described under RCW 9.91.025 or for  
28 services for homeless youth.

29 (iii) The remainder must be used for capital or operating programs  
30 that promote tourism and attract tourists to the county.

31 (e) At least forty percent of the revenues distributed pursuant to  
32 (a)(i) of this subsection (~~for the period January 1, 2001, through~~  
33 ~~December 31, 2012, shall~~) must be deposited in ~~((an))~~ a special  
34 account ~~((and shall be used to establish an endowment. Principal in~~  
35 ~~the account shall remain permanent and irreducible))~~. The ~~((earnings~~  
36 ~~from investments of balances in the))~~ account may only be used for the  
37 purposes of (a)(i) of this subsection.

1 (f) School districts and schools (~~shall~~) may not receive revenues  
2 distributed pursuant to (a)(i) of this subsection.

3 (g) Moneys distributed to art museums, cultural museums, heritage  
4 museums, the arts, and the performing arts, and moneys distributed for  
5 tourism promotion (~~shall~~) must be in addition to and may not be used  
6 to replace or supplant any other funding by the legislative body of the  
7 county.

8 (~~As used in~~) For the purposes of this section(~~(7)~~):

9 (i) "Affordable workforce housing" means housing for a single  
10 person, family, or unrelated persons living together whose income is  
11 between thirty percent and eighty percent of the median income,  
12 adjusted for household size, for the county where the housing is  
13 located; and

14 (ii) "Tourism promotion" includes activities intended to attract  
15 visitors for overnight stays, arts, heritage, and cultural events, and  
16 recreational, professional, and amateur sports events. Moneys  
17 allocated to tourism promotion in a county with a population of one  
18 million or more (~~shall~~) must be allocated to local public  
19 organizations and nonprofit organizations formed for the express  
20 purpose of tourism promotion in the county. Such organizations  
21 (~~shall~~) must use moneys from the taxes to promote events in all parts  
22 of the county.

23 (i) No taxes collected under this section may be used for the  
24 operation or maintenance of a public stadium that is financed directly  
25 or indirectly by bonds to which the tax is pledged. Expenditures for  
26 operation or maintenance include all expenditures other than  
27 expenditures that directly result in new fixed assets or that directly  
28 increase the capacity, life span, or operating economy of existing  
29 fixed assets.

30 (j) No ad valorem property taxes may be used for debt service on  
31 bonds issued for a public stadium that is financed by bonds to which  
32 the tax is pledged, unless the taxes collected under this section are  
33 or are projected to be insufficient to meet debt service requirements  
34 on such bonds.

35 (k) If a substantial part of the operation and management of a  
36 public stadium that is financed directly or indirectly by bonds to  
37 which the tax is pledged is performed by a nonpublic entity or if a  
38 public stadium is sold that is financed directly or indirectly by bonds

1 to which the tax is pledged, any bonds to which the tax is pledged  
2 shall be retired. This subsection (3)(k) does not apply in respect to  
3 a public stadium under chapter 36.102 RCW transferred to, owned by, or  
4 constructed by a public facilities district under chapter 36.100 RCW or  
5 a stadium and exhibition center.

6 (1) The county (~~shall~~) may not lease a public stadium that is  
7 financed directly or indirectly by bonds to which the tax is pledged  
8 to, or authorize the use of the public stadium by, a professional major  
9 league sports franchise unless the sports franchise gives the right of  
10 first refusal to purchase the sports franchise, upon its sale, to local  
11 government. This subsection (3)(1) does not apply to contracts in  
12 existence on April 1, 1986.

13 (4) If a court of competent jurisdiction declares any provision of  
14 (~~this~~) subsection (3) of this section invalid, then that invalid  
15 provision (~~shall be~~) is null and void and the remainder of this  
16 section is not affected.

17 **Sec. 2.** RCW 36.38.010 and 1999 c 165 s 20 are each amended to read  
18 as follows:

19 (1) Any county may by ordinance enacted by its county legislative  
20 authority, levy and fix a tax of not more than one cent on twenty cents  
21 or fraction thereof to be paid for county purposes by persons who pay  
22 an admission charge to any place, including a tax on persons who are  
23 admitted free of charge or at reduced rates to any place for which  
24 other persons pay a charge or a regular higher charge for the same or  
25 similar privileges or accommodations; and require that one who receives  
26 any admission charge to any place (~~shall~~) must collect and remit the  
27 tax to the county treasurer of the county(~~(-PROVIDED-)~~). However, no  
28 county (~~shall~~) may impose such tax on persons paying an admission to  
29 any activity of any elementary or secondary school or any public  
30 facility of a public facility district under chapter 35.57 or 36.100  
31 RCW for which a tax is imposed under RCW 35.57.100 or 36.100.210.

32 (2) As used in this chapter, the term "admission charge" includes  
33 a charge made for season tickets or subscriptions, a cover charge, or  
34 a charge made for use of seats and tables, reserved or otherwise, and  
35 other similar accommodations; a charge made for food and refreshments  
36 in any place where any free entertainment, recreation, or amusement is  
37 provided; a charge made for rental or use of equipment or facilities

1 for purpose of recreation or amusement, and where the rental of the  
2 equipment or facilities is necessary to the enjoyment of a privilege  
3 for which a general admission is charged, the combined charges  
4 (~~shall~~) must be considered as the admission charge. (~~It shall~~)  
5 Admission charge also includes any automobile parking charge where the  
6 amount of such charge is determined according to the number of  
7 passengers in any automobile.

8 (3) Subject to subsections (4) and (5) of this section, the tax  
9 (~~herein~~) authorized (~~shall~~) in this section is not (~~be~~) exclusive  
10 and (~~shall~~) does not prevent any city or town within the taxing  
11 county, when authorized by law, from imposing within its corporate  
12 limits a tax of the same or similar kind(~~:- PROVIDED, That~~).  
13 However, whenever the same or similar kind of tax is imposed by any  
14 such city or town, no such tax (~~shall~~) may be levied within the  
15 corporate limits of such city or town by the county.

16 (4) Notwithstanding subsection (3) of this section, the legislative  
17 authority of a county with a population of one million or more may  
18 exclusively levy taxes on events in baseball stadiums constructed on or  
19 after January 1, 1995, that are owned by a public facilities district  
20 under chapter 36.100 RCW and that have seating capacities over forty  
21 thousand at the rates of:

22 (a) Not more than one cent on twenty cents or fraction thereof, to  
23 be used for the purpose of paying the principal and interest payments  
24 on bonds issued by a county to construct a baseball stadium as defined  
25 in RCW 82.14.0485. If the revenue from the tax exceeds the amount  
26 needed for that purpose, the excess (~~shall~~) must be placed in a  
27 contingency fund which (~~may only~~) must be used (~~to pay unanticipated~~  
28 ~~capital costs on the baseball stadium, excluding any cost overruns on~~  
29 ~~initial construction~~) exclusively by the public facilities district to  
30 fund repair, reequipping, and capital improvement of the baseball  
31 stadium; and

32 (b) Not more than one cent on twenty cents or fraction thereof, to  
33 be used for the purpose of paying the principal and interest payments  
34 on bonds issued by a county to construct a baseball stadium as defined  
35 in RCW 82.14.0485. The tax imposed under this subsection (4)(b)  
36 (~~shall~~) expires when the bonds issued for the construction of the  
37 baseball stadium are retired, but not later than twenty years after the  
38 tax is first collected.



1 (5) Notwithstanding subsection (3) of this section, the legislative  
2 authority of a county that has created a public stadium authority to  
3 develop a stadium and exhibition center under RCW 36.102.050 may levy  
4 and fix a tax on charges for admission to events in a stadium and  
5 exhibition center, as defined in RCW 36.102.010, constructed in the  
6 county on or after January 1, 1998, that is owned by a public stadium  
7 authority under chapter 36.102 RCW. The tax (~~shall be~~) is exclusive  
8 and (~~shall~~) precludes the city or town within which the stadium and  
9 exhibition center is located from imposing a tax of the same or similar  
10 kind on charges for admission to events in the stadium and exhibition  
11 center, and (~~shall~~) precludes the imposition of a general county  
12 admissions tax on charges for admission to events in the stadium and  
13 exhibition center. For the purposes of this subsection, "charges for  
14 admission to events" means only the actual admission charge, exclusive  
15 of taxes and service charges and the value of any other benefit  
16 conferred by the admission. The tax authorized under this subsection  
17 (~~shall be~~) is at the rate of not more than one cent on ten cents or  
18 fraction thereof. Revenues collected under this subsection (~~shall~~)  
19 must be deposited in the stadium and exhibition center account under  
20 RCW 43.99N.060 until the bonds issued under RCW 43.99N.020 for the  
21 construction of the stadium and exhibition center are retired. After  
22 the bonds issued for the construction of the stadium and exhibition  
23 center are retired, the tax authorized under this section (~~shall be~~)  
24 is used exclusively to fund repair, reequipping, and capital  
25 improvement of the stadium and exhibition center. The tax under this  
26 subsection may be levied upon the first use of any part of the stadium  
27 and exhibition center but (~~shall~~) may not be collected at any  
28 facility already in operation as of July 17, 1997.

29 **Sec. 3.** RCW 36.100.220 and 1999 c 165 s 18 are each amended to  
30 read as follows:

31 (1) A public facility district may levy and fix a tax on any  
32 vehicle parking charges imposed at any parking facility that is owned  
33 or leased by the public facility district as part of a regional center,  
34 as defined in RCW 35.57.020, or a baseball stadium, as defined in RCW  
35 82.14.0485. No county (~~or~~), city, or town within which the regional  
36 center or baseball stadium is located may impose a tax of the same or  
37 similar kind on any vehicle parking charges at the facility.

1       (2) For the purposes of this section, "vehicle parking charges"  
2 means only the actual parking charges exclusive of taxes and service  
3 charges and the value of any other benefit conferred.

4       (3) The tax authorized under this section (~~shall~~) must be at the  
5 rate of not more than ten percent. The tax authorized by this section  
6 with respect to a parking facility associated with a baseball stadium  
7 must be used exclusively to fund repair, reequipping, and capital  
8 improvement of the baseball stadium, and is not subject to the  
9 requirements of RCW 36.100.010(4).

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