

CERTIFICATION OF ENROLLMENT

ENGROSSED SUBSTITUTE SENATE BILL 5834

Chapter 38, Laws of 2011

62nd Legislature
2011 1st Special Session

LODGING TAXES--ARTS, CULTURE, HERITAGE, TOURISM, HOUSING PROGRAMS

EFFECTIVE DATE: 08/24/11

Passed by the Senate May 24, 2011
YEAS 33 NAYS 8

BRAD OWEN

President of the Senate

Passed by the House May 25, 2011
YEAS 62 NAYS 34

FRANK CHOPP

Speaker of the House of Representatives

Approved June 15, 2011, 3:08 p.m.

CHRISTINE GREGOIRE

Governor of the State of Washington

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE SENATE BILL 5834** as passed by the Senate and the House of Representatives on the dates hereon set forth.

THOMAS HOEMANN

Secretary

FILED

June 15, 2011

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE SENATE BILL 5834

Passed Legislature - 2011 1st Special Session

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).

Passed by the Senate May 24, 2011.

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