
SUBSTITUTE HOUSE BILL 1695

State of Washington 63rd Legislature 2013 Regular Session

By House Finance (originally sponsored by Representatives Fitzgibbon, Sullivan, Springer, Kochmar, Ryu, Moscoso, and Roberts)

READ FIRST TIME 03/01/13.

1 AN ACT Relating to allowing the use of lodging taxes for financing
2 workforce housing and tourism promotion activities or facilities; and
3 amending RCW 67.28.150, 67.28.160, and 67.28.180.

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

5 **Sec. 1.** RCW 67.28.150 and 1997 c 452 s 9 are each amended to read
6 as follows:

7 To carry out the purposes of this chapter, including but not
8 limited to, financing loans or grants to nonprofit organizations or
9 public housing authorities for: Affordable workforce housing within
10 one-half mile of a transit station; or tourism promotion, any
11 municipality ((shall have)) has the power to issue general obligation
12 bonds within the limitations now or hereafter prescribed by the laws of
13 this state. Such general obligation bonds ((shall)) must be
14 authorized, executed, issued, and made payable as other general
15 obligation bonds of such municipality((:—PROVIDED, That)). However,
16 the governing body of such municipality may provide that such bonds
17 mature in not to exceed forty years from the date of their issue, may
18 provide that such bonds also be made payable from any special taxes

1 provided for in this chapter, and may provide that such bonds also be
2 made payable from any otherwise unpledged revenue, which may be derived
3 from the ownership or operation of any properties.

4 **Sec. 2.** RCW 67.28.160 and 1997 c 452 s 10 are each amended to read
5 as follows:

6 (1) To carry out the purposes of this chapter, including but not
7 limited to, financing a fund to make loans or grants to nonprofit
8 organizations or public housing authorities for: Affordable workforce
9 housing within one-half mile of a transit station; or tourism
10 promotion, the legislative body of any municipality (~~shall have~~) has
11 the power to issue revenue bonds without submitting the matter to the
12 voters of the municipality(~~PROVIDED, That~~). However, the
13 legislative body (~~shall~~) must create a special fund or funds for the
14 sole purpose of paying the principal of and interest on the bonds of
15 each such issue, into which fund or funds the legislative body may
16 obligate the municipality to pay all or part of amounts collected from
17 the special taxes provided for in this chapter, and/or to pay such
18 amounts of the gross revenue of all or any part of the facilities
19 constructed, acquired, improved, added to, repaired, or replaced
20 pursuant to this chapter, as the legislative body (~~shall~~)
21 determines(~~PROVIDED, FURTHER, That~~). The principal of and
22 interest on such bonds (~~shall be~~) is payable only out of such special
23 fund or funds, and the owners of such bonds (~~shall~~) must have a lien
24 and charge against the gross revenue pledged to such fund.

25 (~~Such~~) (a) The revenue bonds and the interest thereon issued
26 against (~~such~~) the fund or funds (~~shall~~) constitutes a claim of the
27 owners thereof only as against such fund or funds and the revenue
28 pledged therefor, and (~~shall~~) does not constitute a general
29 indebtedness of the municipality.

30 (b) Each (~~such~~) revenue bond (~~shall~~) must state upon its face
31 that it is payable from such special fund or funds, and all revenue
32 bonds issued under this chapter (~~shall be~~) are negotiable securities
33 within the provisions of the law of this state. (~~Such~~) The revenue
34 bonds may be registered either as to principal only or as to principal
35 and interest as provided in RCW 39.46.030, or may be bearer bonds(~~+~~
36 ~~shall~~). The revenue bonds must be:

1 (i) In such denominations as the legislative body (~~shall~~) deems
2 proper; (~~shall be~~)
3 (ii) Payable at such time or times and at such places, as (~~shall~~
4 ~~be~~) determined by the legislative body; (~~shall be~~) and
5 (iii) Executed in such manner and bear interest at such rate or
6 rates, as (~~shall be~~) determined by the legislative body.
7 (~~Such~~) (c) The revenue bonds (~~shall~~) must be sold in such
8 manner as the legislative body (~~shall~~) deems to be for the best
9 interests of the municipality, either at public or private sale.
10 (d) The legislative body may at the time of the issuance of
11 (~~such~~) the revenue bonds make (~~such~~) covenants with the owners of
12 (~~said~~) such bonds as it may deem necessary to secure and guaranty the
13 payment of the principal thereof and the interest thereon, including
14 but not being limited to covenants to set aside adequate reserves to
15 secure or guaranty the payment of such principal and interest, to
16 pledge and apply thereto part or all of any lawfully authorized special
17 taxes provided for in this chapter, to maintain rates, charges, or
18 rentals sufficient with other available moneys to pay such principal
19 and interest and to maintain adequate coverage over debt service, to
20 appoint a trustee or trustees for the bond owners, to safeguard the
21 expenditure of the proceeds of sale of such bonds and to fix the powers
22 and duties of such trustee or trustees and to make such other covenants
23 as the legislative body may deem necessary to accomplish the most
24 advantageous sale of such bonds. The legislative body may also provide
25 that revenue bonds payable out of the same source may later be issued
26 on a parity with revenue bonds being issued and sold.
27 (e) The legislative body may include in the principal amount of any
28 such revenue bond issue an amount for engineering, architectural,
29 planning, financial, legal, and other services and charges incident to
30 the acquisition or construction of public stadium facilities,
31 convention center facilities, performing arts center facilities, and/or
32 visual arts center facilities, an amount to establish necessary
33 reserves, an amount for working capital and an amount necessary for
34 interest during the period of construction of any facilities to be
35 financed from the proceeds of such issue plus six months. The
36 legislative body may, if it deems it in the best interest of the
37 municipality, provide in any contract for the construction or

1 acquisition of any facilities or additions or improvements thereto or
2 replacements or extensions thereof that payment therefor (~~shall~~) may
3 be made only in such revenue bonds.

4 (f) If the municipality (~~shall~~) fails to carry out or perform any
5 of its obligations or covenants made in the authorization, issuance,
6 and sale of such bonds, the owner of any such bond may bring action
7 against the municipality and compel the performance of any or all of
8 such covenants.

9 (2) Notwithstanding subsection (1) of this section, such bonds may
10 be issued and sold in accordance with chapter 39.46 RCW.

11 **Sec. 3.** RCW 67.28.180 and 2011 1st sp.s. c 38 s 1 are each amended
12 to read as follows:

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

18 (2) Any levy authorized by this section is subject to the
19 following:

20 (a) Any county ordinance or resolution adopted pursuant to this
21 section must contain, in addition to all other provisions required to
22 conform to this chapter, a provision allowing a credit against the
23 county tax for the full amount of any city tax imposed pursuant to this
24 section upon the same taxable event.

25 (b)(i) In the event that any county has levied the tax authorized
26 by this section and has, prior to June 26, 1975, either pledged the tax
27 revenues for payment of principal and interest on city revenue or
28 general obligation bonds authorized and issued pursuant to RCW
29 67.28.150 through 67.28.160 or has authorized and issued revenue or
30 general obligation bonds pursuant to the provisions of RCW 67.28.150
31 through 67.28.160, such county is exempt from the provisions of (a) of
32 this subsection, to the extent that the tax revenues are pledged for
33 payment of principal and interest on bonds issued at any time pursuant
34 to the provisions of RCW 67.28.150 through 67.28.160. However, so much
35 of such pledged tax revenues, together with any investment earnings
36 thereon, not immediately necessary for actual payment of principal and
37 interest on such bonds may be used: (A) In any county with a

1 population of one million five hundred thousand or more, for repayment
2 either of limited tax levy general obligation bonds or of any county
3 fund or account from which a loan was made, the proceeds from the bonds
4 or loan being used to pay for constructing, installing, improving, and
5 equipping stadium capital improvement projects, and to pay for any
6 engineering, planning, financial, legal and professional services
7 incident to the development of such stadium capital improvement
8 projects, regardless of the date the debt for such capital improvement
9 projects was or may be incurred; (B) in any county with a population of
10 one million five hundred thousand or more, for repayment or refinancing
11 of bonded indebtedness incurred prior to January 1, 1997, for any
12 purpose authorized by this section or relating to stadium repairs or
13 rehabilitation, including but not limited to the cost of settling legal
14 claims, reimbursing operating funds, interest payments on short-term
15 loans, and any other purpose for which such debt has been incurred if
16 the county has created a public stadium authority to develop a stadium
17 and exhibition center under RCW 36.102.030; or (C) in other counties,
18 for county-owned facilities for agricultural promotion until January 1,
19 2009, and thereafter for any purpose authorized in this chapter.

20 (ii) A county is exempt under this subsection with respect to city
21 revenue or general obligation bonds issued after April 1, 1991, only if
22 such bonds mature before January 1, 2013. If any county located east
23 of the crest of the Cascade mountains has levied the tax authorized by
24 this section and has, prior to June 26, 1975, pledged the tax revenue
25 for payment of principal and interest on city revenue or general
26 obligation bonds, the county is exempt under this subsection with
27 respect to revenue or general obligation bonds issued after January 1,
28 2007, only if the bonds mature before January 1, 2035. Such a county
29 may only use funds under this subsection (2)(b) for constructing or
30 improving facilities authorized under this chapter, including county-
31 owned facilities for agricultural promotion.

32 (iii) As used in this subsection (2)(b), "capital improvement
33 projects" may include, but not be limited to a stadium restaurant
34 facility, restroom facilities, artificial turf system, seating
35 facilities, parking facilities and scoreboard and information system
36 adjacent to or within a county owned stadium, together with equipment,
37 utilities, accessories and appurtenances necessary thereto. The

1 stadium restaurant authorized by this subsection (2)(b) must be
2 operated by a private concessionaire under a contract with the county.

3 (c)(i) No city within a county exempt under (b) of this subsection
4 may levy the tax authorized by this section so long as said county is
5 so exempt.

6 (ii) No city within a county with a population of one million five
7 hundred thousand or more may levy the tax authorized by this section.

8 (iii) However, in the event that any city in a county described in
9 (c)(i) or (ii) of this subsection (2) has levied the tax authorized by
10 this section and has, prior to June 26, 1975, authorized and issued
11 revenue or general obligation bonds pursuant to the provisions of RCW
12 67.28.150 through 67.28.160, such city may levy the tax so long as the
13 tax revenues are pledged for payment of principal and interest on bonds
14 issued at any time pursuant to the provisions of RCW 67.28.150 through
15 67.28.160.

16 (3) Any levy authorized by this section by a county that has a
17 population of one million five hundred thousand or more is subject to
18 the following:

19 (a) Taxes collected under this section in any calendar year before
20 2013 in excess of five million three hundred thousand dollars may only
21 be used as follows:

22 (i) Seventy percent from January 1, 2001, through December 31,
23 2012, for art museums, cultural museums, heritage museums, the arts,
24 and the performing arts. Moneys spent under this subsection (3)(a)(i)
25 must be used for the purposes of this subsection (3)(a)(i) in all parts
26 of the county.

27 (ii) Thirty percent from January 1, 2001, through December 31,
28 2012, for the following purposes and in a manner reflecting the
29 following order of priority: Stadium purposes as authorized under
30 subsection (2)(b) of this section; acquisition of open space lands;
31 youth sports activities; and tourism promotion. If all or part of the
32 debt on the stadium is refinanced, all revenues under this subsection
33 (3)(a)(ii) must be used to retire the debt.

34 (b) From January 1, 2013, through December 31, 2015, all revenues
35 under this section (~~shall~~) must be used to retire the debt on the
36 stadium, until the debt on the stadium is retired. On and after the
37 date the debt on the stadium is retired, and through December 31, 2015,

1 all revenues under this section in a county of one million five hundred
2 thousand or more must be deposited in the special account under (e) of
3 this subsection.

4 (c) From January 1, 2016, through December 31, 2020, all revenues
5 under this section must be deposited in the stadium and exhibition
6 center account under RCW 43.99N.060.

7 (d) On and after January 1, 2021, the revenues under this section
8 must be used as follows:

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

12 (ii) At least thirty-seven and one-half percent of the revenues
13 under this section must be used for contracts, loans, or grants to
14 nonprofit organizations or public housing authorities for affordable
15 workforce housing within one-half of a mile of a transit station, as
16 described under RCW 9.91.025 or for services for homeless youth, or to
17 repay general obligation bonds issued pursuant to RCW 67.28.150 to
18 finance such contracts, loans, or grants or revenue bonds issued
19 pursuant to RCW 67.28.160 to finance a fund to make such contracts,
20 loans, or grants.

21 (iii) The remainder must be used for ~~((capital or operating~~
22 ~~programs that promote tourism and attract tourists to the county))~~
23 loans or grants to fund capital or operating programs for tourism
24 promotion, or to repay general obligation or revenue bonds issued
25 pursuant to RCW 67.28.150 and 67.28.160 to finance such contracts,
26 loans, or grants. The county must conduct an open and transparent
27 public process with input from tourism industry stakeholders in the
28 allocation method or selection process for these revenues.

29 (e) At least forty percent of the revenues distributed pursuant to
30 (a)(i) of this subsection must be deposited in a special account. The
31 account may only be used for the purposes of (a)(i) of this subsection.

32 (f) School districts and schools may not receive revenues
33 distributed pursuant to (a)(i) of this subsection.

34 (g) Moneys distributed to art museums, cultural museums, heritage
35 museums, the arts, and the performing arts, and moneys distributed for
36 tourism promotion must be in addition to and may not be used to replace
37 or supplant any other funding by the legislative body of the county.

38 (h) For the purposes of this section:

1 (i) "Affordable workforce housing" means housing for a single
2 person, family, or unrelated persons living together whose income is
3 between thirty percent and eighty percent of the median income,
4 adjusted for household size, for the county where the housing is
5 located; and

6 (ii) "Tourism promotion" includes activities or facilities intended
7 to attract visitors for overnight stays, arts, heritage, and cultural
8 events, and recreational, professional, and amateur sports events.
9 Moneys allocated to tourism promotion in a county with a population of
10 one million or more must be allocated to local public organizations and
11 nonprofit organizations formed for the express purpose of tourism
12 promotion in the county. Such organizations must use moneys from the
13 taxes to promote events in all parts of the county.

14 (i) No taxes collected under this section may be used for the
15 operation or maintenance of a public stadium that is financed directly
16 or indirectly by bonds to which the tax is pledged. Expenditures for
17 operation or maintenance include all expenditures other than
18 expenditures that directly result in new fixed assets or that directly
19 increase the capacity, life span, or operating economy of existing
20 fixed assets.

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

26 (k) If a substantial part of the operation and management of a
27 public stadium that is financed directly or indirectly by bonds to
28 which the tax is pledged is performed by a nonpublic entity or if a
29 public stadium is sold that is financed directly or indirectly by bonds
30 to which the tax is pledged, any bonds to which the tax is pledged
31 (~~shall~~) must be retired. This subsection (3)(k) does not apply in
32 respect to a public stadium under chapter 36.102 RCW transferred to,
33 owned by, or constructed by a public facilities district under chapter
34 36.100 RCW or a stadium and exhibition center.

35 (l) The county may not lease a public stadium that is financed
36 directly or indirectly by bonds to which the tax is pledged to, or
37 authorize the use of the public stadium by, a professional major league
38 sports franchise unless the sports franchise gives the right of first

1 refusal to purchase the sports franchise, upon its sale, to local
2 government. This subsection (3)(1) does not apply to contracts in
3 existence on April 1, 1986.

4 (4) If a court of competent jurisdiction declares any provision of
5 subsection (3) of this section invalid, then that invalid provision is
6 null and void and the remainder of this section is not affected.

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