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**SENATE BILL 5208**

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**State of Washington 64th Legislature 2015 Regular Session**

**By** Senators Miloscia, Fain, Frockt, Litzow, Mullet, Kohl-Welles, Chase, Darneille, Pedersen, Keiser, and Hill

AN ACT Relating to allowing the use of lodging taxes for financing workforce housing; and amending RCW 67.28.150, 67.28.160, and 67.28.180.

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

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

To carry out the purposes of this chapter including, but not limited to, financing loans or grants to nonprofit organizations or public housing authorities for affordable workforce housing within one-half mile of a transit station, any municipality ((~~shall have~~)) has the power to issue general obligation bonds within the limitations now or hereafter prescribed by the laws of this state. Such general obligation bonds ((~~shall~~)) must be authorized, executed, issued, and made payable as other general obligation bonds of such municipality((~~: PROVIDED, That~~)). However, the governing body of such municipality may provide that:

(1) Such bonds mature in not to exceed forty years from the date of their issue((~~, may provide that~~));

(2) Such bonds ((~~also~~)) be made payable from any special taxes provided for in this chapter((~~, and may provide that~~))and may pledge such special taxes to the repayment of the bonds; and

(3) Such bonds ((~~also~~)) be made payable from any otherwise unpledged revenue, which may be derived from the ownership or operation of any properties.

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

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

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

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

(i) In such denominations as the legislative body ((~~shall~~)) deems proper; ((~~shall be~~))

(ii) Payable at such time or times and at such places, as ((~~shall be~~)) determined by the legislative body; ((~~shall be~~))

(iii) Executed in such manner and bear interest at such rate or rates, as ((~~shall be~~)) determined by the legislative body((~~.~~

~~Such revenue bonds shall be~~)); and

(iv) Sold in such manner as the legislative body ((~~shall~~)) deems to be for the best interests of the municipality, either at public or private sale.

(c) The legislative body may at the time of the issuance of ((~~such~~)) the revenue bonds make ((~~such~~)) covenants with the owners of ((~~said~~)) such bonds as it may deem necessary to secure and guaranty the payment of the principal thereof and the interest thereon, including but not being limited to covenants to set aside adequate reserves to secure or guaranty the payment of such principal and interest, to pledge and apply thereto part or all of any lawfully authorized special taxes provided for in this chapter, to maintain rates, charges, or rentals sufficient with other available moneys to pay such principal and interest and to maintain adequate coverage over debt service, to appoint a trustee or trustees for the bond owners, to safeguard the expenditure of the proceeds of sale of such bonds and to fix the powers and duties of such trustee or trustees and to make such other covenants as the legislative body may deem necessary to accomplish the most advantageous sale of such bonds. For revenue bonds issued for the purpose of funding affordable workforce housing within one-half mile of a transit station, the legislative body must require that the debt service is limited to no more than fifty percent of the revenue collected under RCW 67.28.180. The legislative body may also provide that revenue bonds payable out of the same source may later be issued on a parity with revenue bonds being issued and sold.

(d) The legislative body may include in the principal amount of any such revenue bond issue an amount for engineering, architectural, planning, financial, legal, and other services and charges incident to the acquisition or construction of public stadium facilities, convention center facilities, performing arts center facilities, and/or visual arts center facilities, an amount to establish necessary reserves, an amount for working capital and an amount necessary for interest during the period of construction of any facilities to be financed from the proceeds of such issue plus six months. The legislative body may, if it deems it in the best interest of the municipality, provide in any contract for the construction or acquisition of any facilities or additions or improvements thereto or replacements or extensions thereof that payment therefor ((~~shall~~)) may be made only in such revenue bonds.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) From January 1, 2013, through December 31, 2015, all revenues under this section ((~~shall~~)) must be used to retire the debt on the stadium, until the debt on the stadium is retired. On and after the date the debt on the stadium is retired, and through December 31, 2015, all revenues under this section in a county of one million five hundred thousand or more must be deposited in the special account under (e) of this subsection.

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

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

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

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

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

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

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

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

(h) For the purposes of this section:

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

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

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

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

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

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

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

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