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HOUSE BILL 1223

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State of Washington

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By Representatives Springer, Kochmar, Sullivan, Rodne, Pettigrew, Wilcox, Fitzgibbon, McBride, Tarleton, Stokesbary, Sells, Lytton, Bergquist, Ormsby, Pollet, Fey, Santos, and Walkinshaw

Read first time 01/15/15. Referred to Committee on Community Development, Housing & Tribal Affairs.

1 AN ACT Relating to allowing the use of lodging taxes for  
2 financing workforce housing; and amending RCW 67.28.150, 67.28.160,  
3 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  
6 read 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, any municipality ((shall-have))  
11 has the power to issue general obligation bonds within the  
12 limitations now or hereafter prescribed by the laws of this state.  
13 Such general obligation bonds ((shall)) must be authorized, executed,  
14 issued, and made payable as other general obligation bonds of such  
15 municipality((~~:- PROVIDED, That~~)). However, the governing body of such  
16 municipality may provide that such bonds mature in not to exceed  
17 forty years from the date of their issue, may provide that such bonds  
18 also be made payable from any special taxes provided for in this  
19 chapter and may pledge such special taxes to the repayment of the  
20 bonds, and may provide that such bonds also be made payable from any

1 otherwise unpledged revenue, which may be derived from the ownership  
2 or operation of any properties.

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

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

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

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

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

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

3       (iii) Executed in such manner and bear interest at such rate or  
4 rates, as (~~shall be~~)) determined by the legislative body(~~(-~~  
5 ~~Such revenue bonds shall be~~)); and

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

9       (c) The legislative body may at the time of the issuance of  
10 (~~such~~) the revenue bonds make (~~such~~) covenants with the owners of  
11 (~~said~~) such bonds as it may deem necessary to secure and guaranty  
12 the payment of the principal thereof and the interest thereon,  
13 including but not being limited to covenants to set aside adequate  
14 reserves to secure or guaranty the payment of such principal and  
15 interest, to pledge and apply thereto part or all of any lawfully  
16 authorized special taxes provided for in this chapter, to maintain  
17 rates, charges, or rentals sufficient with other available moneys to  
18 pay such principal and interest and to maintain adequate coverage  
19 over debt service, to appoint a trustee or trustees for the bond  
20 owners, to safeguard the expenditure of the proceeds of sale of such  
21 bonds and to fix the powers and duties of such trustee or trustees  
22 and to make such other covenants as the legislative body may deem  
23 necessary to accomplish the most advantageous sale of such bonds. For  
24 revenue bonds issued for the purpose of funding affordable workforce  
25 housing projects within one-half mile of a transit station, where  
26 such revenue bonds are reasonably expected to be awarded to projects  
27 that can expend the funds within three years after bond issuance, the  
28 legislative body must require that the aggregate debt service on all  
29 such outstanding revenue bonds be limited to no more than fifty  
30 percent of the revenue collected under RCW 67.28.180, and that at ten  
31 percent of the aggregate proceeds of all such outstanding revenue  
32 bonds be committed to finance one or more projects by an authority  
33 under chapter 43.167 RCW to promote sustainable workplace  
34 opportunities near a community impacted by the construction or  
35 operation of tourism-related facilities. The legislative body may  
36 also provide that revenue bonds payable out of the same source may  
37 later be issued on a parity with revenue bonds being issued and sold.

38       (d) The legislative body may include in the principal amount of  
39 any such revenue bond issue an amount for engineering, architectural,  
40 planning, financial, legal, and other services and charges incident

1 to the acquisition or construction of public stadium facilities,  
2 convention center facilities, performing arts center facilities,  
3 and/or visual arts center facilities, an amount to establish  
4 necessary reserves, an amount for working capital, and an amount  
5 necessary for interest during the period of construction of any  
6 facilities to be financed from the proceeds of such issue plus six  
7 months. The legislative body may, if it deems it in the best interest  
8 of the municipality, provide in any contract for the construction or  
9 acquisition of any facilities or additions or improvements thereto or  
10 replacements or extensions thereof that payment therefor (~~shall~~)  
11 may be made only in such revenue bonds.

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

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

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

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

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

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

33 (b)(i) In the event that any county has levied the tax authorized  
34 by this section and has, prior to June 26, 1975, either pledged the  
35 tax revenues for payment of principal and interest on city revenue or  
36 general obligation bonds authorized and issued pursuant to RCW  
37 67.28.150 through 67.28.160 or has authorized and issued revenue or  
38 general obligation bonds pursuant to the provisions of RCW 67.28.150  
39 through 67.28.160, such county is exempt from the provisions of (a)

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

28 (ii) A county is exempt under this subsection with respect to  
29 city revenue or general obligation bonds issued after April 1, 1991,  
30 only if such bonds mature before January 1, 2013. If any county  
31 located east of the crest of the Cascade mountains has levied the tax  
32 authorized by this section and has, prior to June 26, 1975, pledged  
33 the tax revenue for payment of principal and interest on city revenue  
34 or general obligation bonds, the county is exempt under this  
35 subsection with respect to revenue or general obligation bonds issued  
36 after January 1, 2007, only if the bonds mature before January 1,  
37 2035. Such a county may only use funds under this subsection (2)(b)  
38 for constructing or improving facilities authorized under this  
39 chapter, including county-owned facilities for agricultural  
40 promotion.

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

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

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

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

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

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

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

35 (ii) Thirty percent from January 1, 2001, through December 31,  
36 2012, for the following purposes and in a manner reflecting the  
37 following order of priority: Stadium purposes as authorized under  
38 subsection (2)(b) of this section; acquisition of open space lands;  
39 youth sports activities; and tourism promotion. If all or part of the

1 debt on the stadium is refinanced, all revenues under this subsection  
2 (3)(a)(ii) must be used to retire the debt.

3 (b) From January 1, 2013, through December 31, 2015, all revenues  
4 under this section (~~shall~~) must be used to retire the debt on the  
5 stadium, until the debt on the stadium is retired. On and after the  
6 date the debt on the stadium is retired, and through December 31,  
7 2015, all revenues under this section in a county of one million five  
8 hundred thousand or more must be deposited in the special account  
9 under (e) of this subsection.

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

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

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

18 (ii) At least thirty-seven and one-half percent of the revenues  
19 under this section must be used (~~for~~) :

20 (A) For contracts, loans, or grants to nonprofit organizations or  
21 public housing authorities for affordable workforce housing within  
22 one-half (~~of a~~) mile of a transit station, as described under RCW  
23 9.91.025 or for services for homeless youth; or

24 (B) To repay:

25 (I) General obligation bonds issued pursuant to RCW 67.28.150 to  
26 finance such contracts, loans, or grants; or

27 (II) Revenue bonds issued pursuant to RCW 67.28.160 to finance a  
28 fund to make such contracts, loans, or grants; or

29 (III) Revenue bonds issued pursuant to RCW 67.28.160 to finance  
30 projects authorized by an authority under chapter 43.167 RCW to  
31 promote sustainable workplace opportunities near a community impacted  
32 by the construction or operation of tourism-related facilities.

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

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

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

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

6 (h) For the purposes of this section:

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

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

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

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

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

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

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

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