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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

Read first time 01/15/15. Referred to Committee on Human Services, Mental Health & Housing.

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:

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

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

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

4       **Sec. 2.** RCW 67.28.160 and 1997 c 452 s 10 are each amended to  
5 read 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, the legislative  
10 body of any municipality (~~shall have~~) has the power to issue  
11 revenue bonds without submitting the matter to the voters of the  
12 municipality(~~:- PROVIDED, That~~) and may pledge the special taxes  
13 provided for in this chapter to the repayment of such revenue bonds.  
14 However, the legislative body (~~shall~~) must create a special fund or  
15 funds for the sole purpose of paying the principal of and interest on  
16 the bonds of each such issue, into which fund or funds the  
17 legislative body may obligate the municipality to pay all or part of  
18 amounts collected from the special taxes provided for in this  
19 chapter, and/or to pay such amounts of the gross revenue of all or  
20 any part of the facilities constructed, acquired, improved, added to,  
21 repaired, or replaced pursuant to this chapter, as the legislative  
22 body (~~shall~~) determines(~~:- PROVIDED, FURTHER, That~~). The principal  
23 of and interest on such bonds (~~shall be~~) is payable only out of  
24 such special fund or funds, and the owners of such bonds (~~shall~~)  
25 must have a lien and charge against the gross revenue pledged to such  
26 fund.

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

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

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 revenue bonds shall be~~); and

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

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

33        (d) The legislative body may include in the principal amount of  
34 any such revenue bond issue an amount for engineering, architectural,  
35 planning, financial, legal, and other services and charges incident  
36 to the acquisition or construction of public stadium facilities,  
37 convention center facilities, performing arts center facilities,  
38 and/or visual arts center facilities, an amount to establish  
39 necessary reserves, an amount for working capital and an amount  
40 necessary for interest during the period of construction of any

1 facilities to be financed from the proceeds of such issue plus six  
2 months. The legislative body may, if it deems it in the best interest  
3 of the municipality, provide in any contract for the construction or  
4 acquisition of any facilities or additions or improvements thereto or  
5 replacements or extensions thereof that payment therefor (~~shall~~)  
6 may be made only in such revenue bonds.

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

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

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

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

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

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

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

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

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

36 (iii) As used in this subsection (2)(b), "capital improvement  
37 projects" may include, but not be limited to a stadium restaurant  
38 facility, restroom facilities, artificial turf system, seating  
39 facilities, parking facilities and scoreboard and information system  
40 adjacent to or within a county owned stadium, together with

1 equipment, utilities, accessories and appurtenances necessary  
2 thereto. The stadium restaurant authorized by this subsection (2)(b)  
3 must be operated by a private concessionaire under a contract with  
4 the county.

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

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

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

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

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

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

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

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

1 2015, all revenues under this section in a county of one million five  
2 hundred thousand or more must be deposited in the special account  
3 under (e) of 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  
17 to 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 (e) At least forty percent of the revenues distributed pursuant  
24 to (a)(i) of this subsection must be deposited in a special account.  
25 The account may only be used for the purposes of (a)(i) of this  
26 subsection.

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

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

34 (h) For the purposes of this section:

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

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

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

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

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

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

37 (4) If a court of competent jurisdiction declares any provision  
38 of subsection (3) of this section invalid, then that invalid

1 provision is null and void and the remainder of this section is not  
2 affected.

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