
SENATE BILL 6935

State of Washington 60th Legislature 2008 Regular Session

By Senators Fairley and Hargrove

Read first time 02/07/08. Referred to Committee on Ways & Means.

1 AN ACT Relating to reallocation of existing lodging taxes for
2 support of heritage and arts programs, establishing the first
3 priorities fund, and care for the vulnerable, including children with
4 developmental disabilities, the mentally ill, and homeless people, in
5 a county with a population of one million or more; amending RCW
6 67.28.180, 67.28.1815, 82.14.049, and 82.14.360; adding a new chapter
7 to Title 36 RCW; creating a new section; and providing an effective
8 date.

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

10 NEW SECTION. **Sec. 1.** The legislature finds that it is
11 government's first priority to care for the vulnerable. The
12 legislature further finds that locally funded heritage and arts
13 programs build vital communities and preserve community history and
14 culture. It further finds that within existing revenue sources, local
15 jurisdictions should have the capability to preserve these programs in
16 the future.

17 Revenue streams have been developed to pay for sports stadiums and
18 convention facilities. Once those obligations are met, those revenues
19 should be used to care for the most vulnerable in society, which

1 include children with developmental disabilities, the mentally ill, and
2 the homeless. A portion of the hotel-motel tax revenue has been
3 provided to the local heritage and arts programs since 1989 and those
4 commitments should continue.

5 This act will provide a stable and predictable flow of funds to
6 these programs, provide for inflation and an expanding population, and
7 assure the future viability of the programs within existing revenue
8 flows.

9 **Sec. 2.** RCW 67.28.180 and 2007 c 189 s 1 are each amended to read
10 as follows:

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

16 (2) Any levy authorized by this section shall be subject to the
17 following:

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

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

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

18 A county is exempt under this subsection with respect to city
19 revenue or general obligation bonds issued after April 1, 1991, only if
20 such bonds mature before January 1, 2013. If any county located east
21 of the crest of the Cascade mountains has levied the tax authorized by
22 this section and has, prior to June 26, 1975, pledged the tax revenue
23 for payment of principal and interest on city revenue or general
24 obligation bonds, the county is exempt under this subsection with
25 respect to revenue or general obligation bonds issued after January 1,
26 2007, only if the bonds mature before January 1, 2021. Such a county
27 may only use funds under this subsection (2)(b) for constructing or
28 improving facilities authorized under this chapter, including county-
29 owned facilities for agricultural promotion, and must perform an annual
30 financial audit of organizations receiving funding on the use of the
31 funds.

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

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

3 (c)(i) No city within a county exempt under subsection (2)(b) of
4 this section may levy the tax authorized by this section so long as
5 said county is so exempt.

6 (ii) ~~((If bonds have been issued under RCW 43.99N.020 and any
7 necessary property transfers have been made under RCW 36.102.100,))~~ No
8 city within a county with a population of one million or more may levy
9 the tax authorized by this section ~~((before January 1, 2021))~~.

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

18 (3) Any levy authorized by this section by a county that has levied
19 the tax authorized by this section and has, prior to June 26, 1975,
20 either pledged the tax revenues for payment of principal and interest
21 on city revenue or general obligation bonds authorized and issued
22 pursuant to RCW 67.28.150 through 67.28.160 or has authorized and
23 issued revenue or general obligation bonds pursuant to the provisions
24 of RCW 67.28.150 through 67.28.160 shall be subject to the following:

25 (a) Taxes collected under this section in any calendar year before
26 2013 in excess of five million three hundred thousand dollars shall
27 only be used as follows:

28 (i) Seventy-five percent from January 1, 1992, through December 31,
29 2000, and seventy percent from January 1, 2001, through December 31,
30 2012, for art museums, cultural museums, heritage museums, heritage and
31 preservation programs, the arts, and the performing arts. Moneys spent
32 under this subsection (3)(a)(i) shall be used for the purposes of this
33 subsection (3)(a)(i) in all parts of the county.

34 (ii) Twenty-five percent from January 1, 1992, through December 31,
35 2000, and 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;

1 youth sports activities; and tourism promotion. If all or part of the
2 debt on the stadium is refinanced, all revenues under this subsection
3 (3)(a)(ii) shall be used to retire the debt.

4 (b) From January 1, 2013, through December 31, 2015, in a county
5 with a population of one million or more, all revenues under this
6 section shall be used to retire the debt on the stadium, (~~or deposited~~
7 ~~in the stadium and exhibition center account under RCW 43.99N.060~~
8 ~~after~~) until the debt on the stadium is retired. On and after the
9 date the debt on the stadium is retired, and through December 31, 2015,
10 all revenues under this section in a county of one million or more
11 shall be deposited in the account under (n) of this subsection.

12 (c) From January 1, 2016, through December 31, 2020, in a county
13 with a population of one million or more, all revenues under this
14 section shall be deposited in the stadium and exhibition center account
15 under RCW 43.99N.060.

16 (d) On and after January 1, 2021, at least fifty percent of
17 revenues under this section in a county of one million or more shall be
18 deposited in the account under (f) of this subsection, the remaining
19 fifty percent shall be deposited in the first priorities account under
20 (n) of this subsection.

21 (e) At least seventy percent of moneys spent under (a)(i) of this
22 subsection for the period January 1, 1992, through December 31, 2000,
23 shall be used only for the purchase, design, construction, and
24 remodeling of performing arts, visual arts, heritage, and cultural
25 facilities, and for the purchase of fixed assets that will benefit art,
26 heritage, and cultural organizations. For purposes of this subsection,
27 fixed assets are tangible objects such as machinery and other equipment
28 intended to be held or used for ten years or more. Moneys received
29 under this subsection (3)(~~(d)~~) (e) may be used for payment of
30 principal and interest on bonds issued for capital projects.
31 Qualifying organizations receiving moneys under this subsection
32 (3)(~~(d)~~) (e) must be financially stable and have at least the
33 following:

- 34 (i) A legally constituted and working board of directors;
- 35 (ii) A record of artistic, heritage, or cultural accomplishments;
- 36 (iii) Been in existence and operating for at least two years;
- 37 (iv) Demonstrated ability to maintain net current liabilities at
38 less than thirty percent of general operating expenses;

1 (v) Demonstrated ability to sustain operational capacity subsequent
2 to completion of projects or purchase of machinery and equipment; and

3 (vi) Evidence that there has been independent financial review of
4 the organization.

5 ~~((e))~~ (f) At least forty percent of the revenues distributed
6 pursuant to (a)(i) of this subsection for the period January 1, 2001,
7 through ~~((December 31, 2012,))~~ the effective date of this section shall
8 be deposited in ~~((an))~~ a special account ~~((and shall be used to
9 establish an endowment. Principal in the account shall remain
10 permanent and irreducible))~~. The ~~((earnings from investments of
11 balances in the))~~ account may only be used for the purposes of (a)(i)
12 of this subsection.

13 ~~((f))~~ (g) School districts and schools shall not receive revenues
14 distributed pursuant to (a)(i) of this subsection.

15 ~~((g))~~ (h) Moneys distributed to art museums, cultural museums,
16 heritage museums, heritage and preservation programs, programs for the
17 developmentally disabled, mental health, or the homeless, the arts, and
18 the performing arts, and moneys distributed for tourism promotion shall
19 be in addition to and may not be used to replace or supplant any other
20 funding by the legislative body of the county.

21 ~~((h))~~ (i) As used in this section, "tourism promotion" includes
22 activities intended to attract visitors for overnight stays, arts,
23 heritage, and cultural events, and recreational, professional, and
24 amateur sports events. Moneys allocated to tourism promotion in a
25 class AA county shall be allocated to nonprofit organizations formed
26 for the express purpose of tourism promotion in the county. Such
27 organizations shall use moneys from the taxes to promote events in all
28 parts of the class AA county.

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

36 ~~((j))~~ (k) No ad valorem property taxes may be used for debt
37 service on bonds issued for a public stadium that is financed by bonds

1 to which the tax is pledged, unless the taxes collected under this
2 section are or are projected to be insufficient to meet debt service
3 requirements on such bonds.

4 ~~((k))~~ (l) If a substantial part of the operation and management
5 of a public stadium that is financed directly or indirectly by bonds to
6 which the tax is pledged is performed by a nonpublic entity or if a
7 public stadium is sold that is financed directly or indirectly by bonds
8 to which the tax is pledged, any bonds to which the tax is pledged
9 shall be retired. This subsection (3)~~((k))~~ (l) does not apply in
10 respect to a public stadium under chapter 36.102 RCW transferred to,
11 owned by, or constructed by a public facilities district under chapter
12 36.100 RCW or a stadium and exhibition center.

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

20 (n) The first priorities account is established to fund programs
21 for the developmentally disabled, mental health, and the homeless in a
22 county of over one million population. Funds in the account may be
23 used only for the purposes listed in section 6 of this act.

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

27 (4) "Programs for the developmentally disabled," "mental health
28 programs," and "programs for the homeless" have the same meanings as in
29 section 6 of this act.

30 **Sec. 3.** RCW 67.28.1815 and 1997 c 452 s 4 are each amended to read
31 as follows:

32 Except as provided in RCW 67.28.180, all revenue from taxes imposed
33 under this chapter shall be credited to a special fund in the treasury
34 of the municipality imposing such tax and used solely for the purpose
35 of paying all or any part of the cost of tourism promotion, acquisition
36 of tourism-related facilities, or operation of tourism-related

1 facilities. Municipalities may, under chapter 39.34 RCW, agree to the
2 utilization of revenue from taxes imposed under this chapter for the
3 purposes of funding a multijurisdictional tourism-related facility.

4 **Sec. 4.** RCW 82.14.049 and 1997 c 220 s 502 are each amended to
5 read as follows:

6 The legislative authority of any county may impose a sales and use
7 tax, in addition to the tax authorized by RCW 82.14.030, upon retail
8 car rentals within the county that are taxable by the state under
9 chapters 82.08 and 82.12 RCW. The rate of tax shall be one percent of
10 the selling price in the case of a sales tax or rental value of the
11 vehicle in the case of a use tax. Proceeds of the tax shall not be
12 used to subsidize any professional sports team and shall be used solely
13 for the following purposes:

14 (1) Acquiring, constructing, maintaining, or operating public
15 sports stadium facilities;

16 (2) Engineering, planning, financial, legal, or professional
17 services incidental to public sports stadium facilities;

18 (3) Youth or amateur sport activities or facilities; ~~((or))~~

19 (4) Debt or refinancing debt issued for the purposes of subsection
20 (1) of this section; or

21 (5) Programs for the developmentally disabled, mentally ill, and
22 homeless. For the purposes of this subsection, "programs for the
23 developmentally disabled," "mental health programs," and "programs for
24 the homeless" have the same meanings as in section 6 of this act.

25 At least seventy-five percent of the tax imposed under this section
26 shall be used for the purposes of subsections (1), (2), and (4) of this
27 section. In a county of one million or more, at least seventy-five
28 percent of the tax imposed under this section shall be used to retire
29 the debt on the stadium under RCW 67.28.180(2)(b)(ii), until that debt
30 is fully retired; then the funds must be used for the purposes of
31 subsection (5) of this section.

32 **Sec. 5.** RCW 82.14.360 and 2000 c 103 s 10 are each amended to read
33 as follows:

34 (1) The legislative authority of a county with a population of one
35 million or more may impose a special stadium sales and use tax upon the
36 retail sale or use within the county by restaurants, taverns, and bars

1 of food and beverages that are taxable by the state under chapters
2 82.08 and 82.12 RCW. The rate of the tax shall not exceed five-tenths
3 of one percent of the selling price in the case of a sales tax, or
4 value of the article used in the case of a use tax. The tax imposed
5 under this subsection is in addition to any other taxes authorized by
6 law and shall not be credited against any other tax imposed upon the
7 same taxable event. As used in this section, "restaurant" does not
8 include grocery stores, mini-markets, or convenience stores.

9 (2) The legislative authority of a county with a population of one
10 million or more may impose a special stadium sales and use tax upon
11 retail car rentals within the county that are taxable by the state
12 under chapters 82.08 and 82.12 RCW. The rate of the tax shall not
13 exceed two percent of the selling price in the case of a sales tax, or
14 rental value of the vehicle in the case of a use tax. The tax imposed
15 under this subsection is in addition to any other taxes authorized by
16 law and shall not be credited against any other tax imposed upon the
17 same taxable event.

18 (3) Until the date that is the earlier of the date on which bonds
19 issued for the construction of a baseball stadium are retired or
20 defeased or twenty years after the taxes in this section are first
21 collected, the revenue from the taxes imposed under this section shall
22 be used for the purpose of principal and interest payments on bonds,
23 issued by the county, to acquire, construct, own, remodel, maintain,
24 equip, reequip, repair, and operate a baseball stadium. Revenues from
25 the taxes authorized in this section may be used for design and other
26 preconstruction costs of the baseball stadium until bonds are issued
27 for the baseball stadium. The county shall issue bonds, in an amount
28 determined to be necessary by the public facilities district, for the
29 district to acquire, construct, own, and equip the baseball stadium.
30 The county shall have no obligation to issue bonds in an amount greater
31 than that which would be supported by the tax revenues under this
32 section, RCW 82.14.0485, and 36.38.010(4) (a) and (b).

33 (4) Until the date that is the earlier of the date on which bonds
34 issued for the construction of a baseball stadium are retired or
35 defeased or twenty years after the taxes in this section are first
36 collected, if the revenue from the taxes imposed under this section
37 exceeds the amount needed for such principal and interest payments in
38 any year, the excess shall be used solely:

1 (a) For early retirement or defeasance of the bonds issued for the
2 baseball stadium; and

3 (b) If the revenue from the taxes imposed under this section
4 exceeds the amount needed for the purposes in (a) of this subsection in
5 any year, the excess shall be placed in a contingency fund which may
6 only be used to pay unanticipated capital costs on the baseball
7 stadium, excluding any cost overruns on initial construction.

8 ~~((4))~~ (5) The taxes authorized under this section shall not be
9 collected after June 30, 1997, unless the county executive has
10 certified to the department of revenue that a professional major league
11 baseball team has made a binding and legally enforceable contractual
12 commitment to:

13 (a) Play at least ninety percent of its home games in the stadium
14 for a period of time not shorter than the term of the bonds issued to
15 finance the initial construction of the stadium;

16 (b) Contribute forty-five million dollars toward the reasonably
17 necessary preconstruction costs including, but not limited to
18 architectural, engineering, environmental, and legal services, and the
19 cost of construction of the stadium, or to any associated public
20 purpose separate from bond-financed property, including without
21 limitation land acquisition, parking facilities, equipment,
22 infrastructure, or other similar costs associated with the project,
23 which contribution shall be made during a term not to exceed the term
24 of the bonds issued to finance the initial construction of the stadium.
25 If all or part of the contribution is made after the date of issuance
26 of the bonds, the team shall contribute an additional amount equal to
27 the accruing interest on the deferred portion of the contribution,
28 calculated at the interest rate on the bonds maturing in the year in
29 which the deferred contribution is made. No part of the contribution
30 may be made without the consent of the county until a public facilities
31 district is created under chapter 36.100 RCW to acquire, construct,
32 own, remodel, maintain, equip, reequip, repair, and operate a baseball
33 stadium. To the extent possible, contributions shall be structured in
34 a manner that would allow for the issuance of bonds to construct the
35 stadium that are exempt from federal income taxes; and

36 (c) Share a portion of the profits generated by the baseball team
37 from the operation of the professional franchise for a period of time
38 equal to the term of the bonds issued to finance the initial

1 construction of the stadium, after offsetting any losses incurred by
2 the baseball team after (~~the effective date of chapter 14, Laws of~~
3 ~~1995 1st sp. sess.~~) June 14, 1995. Such profits and the portion to be
4 shared shall be defined by agreement between the public facilities
5 district and the baseball team. The shared profits shall be used to
6 retire or defease the bonds issued to finance the initial construction
7 of the stadium. If the bonds are retired or defeased before the
8 expiration of their term, the shared profits shall be paid to the
9 public facilities district.

10 (~~(+5)~~) (6) If a county with a population of one million or more
11 has established the first priorities account under section 2 of this
12 act, the following condition applies: After the earlier of the date
13 the bonds issued for the construction of a baseball stadium are retired
14 or defeased or twenty years after the taxes in this section are first
15 collected, money collected under subsections (1) and (2) of this
16 section shall be used for, and may be pledged to, the first priorities
17 account.

18 (7) No tax may be collected under this section before January 1,
19 1996. Before collecting the taxes under this section or issuing bonds
20 for a baseball stadium, the county shall create a public facilities
21 district under chapter 36.100 RCW to acquire, construct, own, remodel,
22 maintain, equip, reequip, repair, and operate a baseball stadium.

23 (~~(+6)~~) (8) The county shall assemble such real property as the
24 district determines to be necessary as a site for the baseball stadium.
25 Property which is necessary for this purpose that is owned by the
26 county on October 17, 1995, shall be contributed to the district, and
27 property which is necessary for this purpose that is acquired by the
28 county on or after October 17, 1995, shall be conveyed to the district.

29 (~~(+7)~~) (9) The proceeds of any bonds issued for (~~the~~) a baseball
30 stadium shall be provided to the public facilities district that owns
31 the baseball stadium.

32 (~~(+8)~~) (10) As used in this section, "baseball stadium" means
33 "baseball stadium" as defined in RCW 82.14.0485.

34 (~~(+9)~~) (11) The taxes imposed under this section (~~shall~~) expire
35 (~~when~~) the earlier of the date on which the bonds issued for the
36 construction of the baseball stadium are retired or defeased, but not
37 later than twenty years after the taxes are first collected.

1 NEW SECTION. **Sec. 6.** A new chapter is added to Title 36 RCW to
2 read as follows:

3 (1) A county with a population of one million or more is granted
4 the authority, and it is hereby declared to be a public purpose for
5 such county, to establish and administer programs for the
6 developmentally disabled, mentally ill, and homeless either directly or
7 by creating public corporations or authorities to carry out the
8 programs and to expend their own funds, including the funds provided in
9 this act, for such purposes, as well as to expend federal, state, or
10 private funds that are made available for such purposes. These funds
11 are to be deposited into an account entitled the first priorities
12 account in the treasury. Funds provided to this account must be used
13 to expand or enrich programs, and may not supplant existing county
14 funding.

15 (2) Distribution of funds in the first priorities account is as
16 follows:

17 (a) Fifty percent of the funds derived from the hotel-motel tax
18 deposited in this account under RCW 67.28.180(3)(b), must be used for
19 programs for the developmentally disabled, and sixty percent of the
20 balance must be used for programs for the mentally ill, with the
21 remaining forty percent of the balance used for programs to provide
22 transient housing for the homeless. Funds obtained under this
23 provision may be placed in trust to fund future benefits or to purchase
24 assets to be used to provide the programs.

25 (b) Funds derived from the hotel-motel tax deposited in this
26 account under RCW 67.28.180(3)(d) must be used to fund programs for the
27 developmentally disabled.

28 (c) Fifty percent of the funds derived from the rental car tax
29 deposited in this account under RCW 82.14.049 must be used for programs
30 for the developmentally disabled, and sixty percent of the balance must
31 be used for programs for the mentally ill, with the remaining forty
32 percent of the balance used to fund programs to provide transient
33 housing for the homeless.

34 (d) Sixty percent of the funds derived from the food and beverage
35 tax deposited in this account under RCW 82.14.360 must be used for
36 programs for the mentally ill, and the balance must be used for the
37 purchase of transient housing for the homeless.

1 (3) The definitions in this subsection apply throughout this
2 section unless the context clearly requires otherwise.

3 (a) "Programs for the developmentally disabled" means early
4 childhood programs, including infant-toddler early intervention, high
5 school transition and employment programs, and community access
6 programs.

7 (b) "Mental health programs" means any programs for the mentally
8 ill, including but not limited to treatment and shelter programs.

9 (c) "Programs for the homeless" means the provision, acquisition,
10 maintenance, and operations of transient housing for the homeless.

11 NEW SECTION. **Sec. 7.** This act takes effect July 1, 2008.

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