

CERTIFICATION OF ENROLLMENT

SENATE BILL 6638

Chapter 264, Laws of 2008

60th Legislature
2008 Regular Session

HERITAGE AND ARTS PROGRAMS--TAX REALLOCATION

EFFECTIVE DATE: 07/01/08

Passed by the Senate March 13, 2008
YEAS 43 NAYS 6

BRAD OWEN

President of the Senate

Passed by the House March 12, 2008
YEAS 67 NAYS 30

FRANK CHOPP

Speaker of the House of Representatives

Approved March 31, 2008, 11:32 a.m.

CHRISTINE GREGOIRE

Governor of the State of Washington

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SENATE BILL 6638** as passed by the Senate and the House of Representatives on the dates hereon set forth.

THOMAS HOEMANN

Secretary

FILED

April 1, 2008

**Secretary of State
State of Washington**

SENATE BILL 6638

AS AMENDED BY THE HOUSE

Passed Legislature - 2008 Regular Session

State of Washington 60th Legislature 2008 Regular Session

By Senators Murray, Roach, McAuliffe, Kohl-Welles, Fairley, Kline, Kauffman, Jacobsen, Eide, and Pflug

Read first time 01/21/08. Referred to Committee on Ways & Means.

1 AN ACT Relating to reallocation of existing lodging taxes for
2 support of heritage and arts programs in a county with a population of
3 one million or more; amending RCW 67.28.180, 67.28.1815, and 82.14.049;
4 creating a new section; and providing an effective date.

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

6 NEW SECTION. **Sec. 1.** The legislature finds that locally funded
7 heritage and arts programs build vital communities and preserve
8 community history and culture. It further finds that within existing
9 revenue sources, local jurisdictions should have the capability to
10 preserve these programs in the future.

11 The locally funded heritage and arts program in the state's most
12 populated county was established in 1989 using a portion of hotel-motel
13 tax revenues. This program was structured to provide for inflation and
14 an expanding population of the county.

15 In 1997, the legislature acted to assure the future of the heritage
16 and arts program by creating an endowment fund using these same local
17 funds. This funding mechanism has proved to be inadequate and unless
18 immediately modified will result in a seventy-five percent reduction of
19 funds for the program.

1 This act will provide a stable and predictable flow of funds to the
2 program, provide for inflation and an expanding population, and assure
3 the future viability of the program within existing revenue flows.

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

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

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

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

18 (b) In the event that any county has levied the tax authorized by
19 this section and has, prior to June 26, 1975, either pledged the tax
20 revenues for payment of principal and interest on city revenue or
21 general obligation bonds authorized and issued pursuant to RCW
22 67.28.150 through 67.28.160 or has authorized and issued revenue or
23 general obligation bonds pursuant to the provisions of RCW 67.28.150
24 through 67.28.160, such county shall be exempt from the provisions of
25 (a) of this subsection, to the extent that the tax revenues are pledged
26 for payment of principal and interest on bonds issued at any time
27 pursuant to the provisions of RCW 67.28.150 through 67.28.160:
28 PROVIDED, That so much of such pledged tax revenues, together with any
29 investment earnings thereon, not immediately necessary for actual
30 payment of principal and interest on such bonds may be used: (i) In
31 any county with a population of one million or more, for repayment
32 either of limited tax levy general obligation bonds or of any county
33 fund or account from which a loan was made, the proceeds from the bonds
34 or loan being used to pay for constructing, installing, improving, and
35 equipping stadium capital improvement projects, and to pay for any
36 engineering, planning, financial, legal and professional services
37 incident to the development of such stadium capital improvement

1 projects, regardless of the date the debt for such capital improvement
2 projects was or may be incurred; (ii) in any county with a population
3 of one million or more, for repayment or refinancing of bonded
4 indebtedness incurred prior to January 1, 1997, for any purpose
5 authorized by this section or relating to stadium repairs or
6 rehabilitation, including but not limited to the cost of settling legal
7 claims, reimbursing operating funds, interest payments on short-term
8 loans, and any other purpose for which such debt has been incurred if
9 the county has created a public stadium authority to develop a stadium
10 and exhibition center under RCW 36.102.030; or (iii) in other counties,
11 for county-owned facilities for agricultural promotion until January 1,
12 2009, and thereafter for any purpose authorized in this chapter.

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

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

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

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

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

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

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

23 (i) Seventy-five percent from January 1, 1992, through December 31,
24 2000, and seventy percent from January 1, 2001, through December 31,
25 2012, for art museums, cultural museums, heritage museums, heritage and
26 preservation programs, the arts, and the performing arts. Moneys spent
27 under this subsection (3)(a)(i) shall be used for the purposes of this
28 subsection (3)(a)(i) in all parts of the county.

29 (ii) Twenty-five percent from January 1, 1992, through December 31,
30 2000, and 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) shall be used to retire the debt.

37 (b) From January 1, 2013, through December 31, 2015, in a county
38 with a population of one million or more, all revenues under this

1 section shall be used to retire the debt on the stadium, (~~or deposited~~
2 ~~in the stadium and exhibition center account under RCW 43.99N.060~~
3 ~~after~~) until the debt on the stadium is retired. On and after the
4 date the debt on the stadium is retired, and through December 31, 2015,
5 all revenues under this section in a county of a million or more shall
6 be deposited in the special account under (f) of this subsection.

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

11 (d) On and after January 1, 2021, at least thirty-seven and
12 one-half percent of revenues under this section in a county of a
13 million or more shall be deposited in the special account under (f) of
14 this subsection.

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

- 28 (i) A legally constituted and working board of directors;
- 29 (ii) A record of artistic, heritage, or cultural accomplishments;
- 30 (iii) Been in existence and operating for at least two years;
- 31 (iv) Demonstrated ability to maintain net current liabilities at
32 less than thirty percent of general operating expenses;
- 33 (v) Demonstrated ability to sustain operational capacity subsequent
34 to completion of projects or purchase of machinery and equipment; and
- 35 (vi) Evidence that there has been independent financial review of
36 the organization.

37 (~~(e)~~) (f) At least forty percent of the revenues distributed
38 pursuant to (a)(i) of this subsection for the period January 1, 2001,

1 through ~~((December 31, 2012,))~~ the effective date of this section shall
2 be deposited in ~~((an))~~ a special account ~~((and shall be used to~~
3 ~~establish an endowment. Principal in the account shall remain~~
4 ~~permanent and irreducible))~~. The ~~((earnings from investments of~~
5 ~~balances in the))~~ account may only be used for the purposes of (a)(i)
6 of this subsection.

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

9 ~~((g))~~ (h) Moneys distributed to art museums, cultural museums,
10 heritage museums, heritage and preservation programs, the arts, and the
11 performing arts, and moneys distributed for tourism promotion shall be
12 in addition to and may not be used to replace or supplant any other
13 funding by the legislative body of the county.

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

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

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

34 ~~((k))~~ (l) If a substantial part of the operation and management
35 of a public stadium that is financed directly or indirectly by bonds to
36 which the tax is pledged is performed by a nonpublic entity or if a
37 public stadium is sold that is financed directly or indirectly by bonds
38 to which the tax is pledged, any bonds to which the tax is pledged

1 shall be retired. This subsection (3)((~~+~~)) (1) does not apply in
2 respect to a public stadium under chapter 36.102 RCW transferred to,
3 owned by, or constructed by a public facilities district under chapter
4 36.100 RCW or a stadium and exhibition center.

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

12 If a court of competent jurisdiction declares any provision of this
13 subsection (3) invalid, then that invalid provision shall be null and
14 void and the remainder of this section is not affected. Section 2,
15 chapter . . ., Laws of 2008 (section 2 of this act), expires July 1,
16 2009.

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

19 Except as provided in RCW 67.28.180, all revenue from taxes imposed
20 under this chapter shall be credited to a special fund in the treasury
21 of the municipality imposing such tax and used solely for the purpose
22 of paying all or any part of the cost of tourism promotion, acquisition
23 of tourism-related facilities, or operation of tourism-related
24 facilities. Municipalities may, under chapter 39.34 RCW, agree to the
25 utilization of revenue from taxes imposed under this chapter for the
26 purposes of funding a multijurisdictional tourism-related facility.

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

29 The legislative authority of any county may impose a sales and use
30 tax, in addition to the tax authorized by RCW 82.14.030, upon retail
31 car rentals within the county that are taxable by the state under
32 chapters 82.08 and 82.12 RCW. The rate of tax shall be one percent of
33 the selling price in the case of a sales tax or rental value of the
34 vehicle in the case of a use tax. Proceeds of the tax shall not be
35 used to subsidize any professional sports team and shall be used solely
36 for the following purposes:

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

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

5 (3) Youth or amateur sport activities or facilities; or

6 (4) Debt or refinancing debt issued for the purposes of subsection
7 (1) of this section.

8 At least seventy-five percent of the tax imposed under this section
9 shall be used for the purposes of subsections (1), (2), and (4) of this
10 section. In a county of one million or more, at least seventy-five
11 percent of the tax imposed under this section shall be used to retire
12 the debt on the stadium under RCW 67.28.180(2)(b)(ii), until that debt
13 is fully retired.

14 NEW SECTION. Sec. 5. This act takes effect July 1, 2008.
Passed by the Senate March 13, 2008.
Passed by the House March 12, 2008.
Approved by the Governor March 31, 2008.
Filed in Office of Secretary of State April 1, 2008.