



SEATTLE CITY COUNCIL

Legislative Summary

CB 118557

Record No.: CB 118557

Type: Ordinance (Ord)

Status: Passed

Version: 1

124903

In Control: City Clerk

File Created: 10/28/2015

Final Action: 12/01/2015

Title: AN ORDINANCE related to exemption from admission tax; amending Section 5.40.085 of the Seattle Municipal Code.

Date

Notes:

Filed with City Clerk:

Mayor's Signature:

Sponsors: Licata

Vetoed by Mayor:

Veto Overridden:

Veto Sustained:

Attachments:

Drafter: patrick.wigren@seattle.gov

Filing Requirements/Dept Action:

History of Legislative File

Legal Notice Published:

Yes

No

Version:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	Full Council	11/09/2015	referred	Budget Committee			
	Action Text: The Council Bill (CB) was referred. to the Budget Committee						
	Notes:						
1	Budget Committee	11/16/2015	pass				Pass
	Action Text: The Committee recommends that Full Council pass the Council Bill (CB).						
	In Favor: 8 Chair Licata, Member Bagshaw, Member Burgess, Member Godden, Member O'Brien, Okamoto, Member Rasmussen, Member Sawant						
	Opposed: 0						
1	Full Council	11/23/2015	passed				Pass
	Action Text: The Council Bill (CB) was passed by the following vote and the President signed the Bill:						
	Notes:						
	In Favor: 9 Councilmember Bagshaw, Council President Burgess, Councilmember Godden, Councilmember Harrell, Councilmember Licata, Councilmember O'Brien, Okamoto, Councilmember Rasmussen, Councilmember Sawant						
	Opposed: 0						
1	City Clerk	11/30/2015	submitted for Mayor's signature	Mayor			
	Action Text: The Council Bill (CB) was submitted for Mayor's signature. to the Mayor						

Notes:

1 Mayor 12/01/2015 Signed

Action Text: The Council Bill (CB) was Signed.

Notes:

1 Mayor 12/01/2015 returned City Clerk

Action Text: The Council Bill (CB) was returned. to the City Clerk

Notes:

1 City Clerk 12/01/2015 attested by City Clerk

Action Text: The Ordinance (Ord) was attested by City Clerk.

Notes:

CITY OF SEATTLE
ORDINANCE 124903
COUNCIL BILL 118557

AN ORDINANCE related to exemption from admission tax; amending Section 5.40.085 of the Seattle Municipal Code.

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Section 5.40.085 of the Seattle Municipal Code, last amended by Ordinance 124808, is amended as follows:

5.40.085 Certificate of exemption—Application, issuance—Cancellation—Proof of nonprofit status

A. Any person seeking to secure an exemption (~~from the admission tax~~) pursuant to Section 5.40.025 from the admission tax as provided in this (~~chapter~~) Chapter 5.40 shall present, at the time of its application for a business license tax certificate as described in Section 5.55.030, official proof of its exemption from federal income taxation pursuant to Section 501(c)(3), (4) or (6) of the Internal Revenue Code of 1986, as now existing or hereafter amended, or in the alternative provide proof of its specific exemption from the requirement to file IRS Form 1023 in order to obtain tax exempt status. If the exemption applicant already has a business license tax certificate, then the request for exemption and proof required above shall be filed prior to engaging in the activity (~~which~~) that requires an admission. If the Director determines that persons paying such admission charge are not subject to the admission tax, the applicant shall receive a certification of such determination for the activity or series of activities, as the case may be. The Director shall issue a person a certificate of exemption that applies retroactively if the person presents proof of eligibility for a certificate of exemption under this

1 Section 5.40.085 for the entire period of retroactive certification and also remits to the City any
2 admission tax collected under subsection 5.40.020.H but not yet remitted. The City shall not
3 refund any admission tax already remitted to the City by the person prior to the issue of the
4 certificate of exemption.

5 B. The Director may cancel the certificate of exemption of any college, university, or
6 nonprofit organization ((which)) that (1) secures an exemption from the tax by making a false
7 representation in its application, or (2) otherwise violates Section 5.40.025 or a rule or regulation
8 of the Director implementing it.

9 C. If the Director has ordered a certificate of exemption cancelled, an aggrieved person
10 may contest the cancellation by filing a notice of appeal and request for hearing with the
11 ((hearing examiner)) Hearing Examiner within ((ten(10))) 30 days after service or mailing of the
12 order. If a request for hearing is filed by the applicant within the prescribed period, a hearing
13 shall be scheduled before the Hearing Examiner and shall be conducted by the Hearing Examiner
14 according to the applicable Hearing Examiner rules.

15 D. ~~((Exempt persons shall reapply for their certificate of exemption on September 30th,~~
16 ~~five (5) years after the date the previous exemption was issued so that the Director may ensure~~
17 ~~that the agency still meets the criteria established for the exemption.)) A certificate of exemption
18 issued under subsection 5.40.085.A will be valid for as long as the person receiving the
19 certificate holds a business license tax certificate under Section 5.55.030 and remains eligible to
20 obtain a certificate under subsection 5.40.085.A.~~

1 Section 2. This ordinance shall take effect and be in force 30 days after its approval by
2 the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it
3 shall take effect as provided by Seattle Municipal Code Section 1.04.020.

4 Passed by the City Council the 23rd day of Nov., 2015, and
5 signed by me in open session in authentication of its passage this
6 23rd day of Nov., 2015.

7
8 
9 President _____ of the City Council

10
11 Approved by me this 1st day of December, 2015.

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13 
14 Edward B. Murray, Mayor

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16 Filed by me this 1st day of December, 2015.

17
18 
19 Monica Martinez Simmons, City Clerk

20
21
22 (Seal)
23

SUMMARY and FISCAL NOTE*

Department:	Contact Person/Phone:	Executive Contact/Phone:
LEG	Erik Sund/(206) 684-8368	

** Note that the Summary and Fiscal Note describes the version of the bill or resolution as introduced; final legislation including amendments may not be fully described.*

1. BILL SUMMARY

Legislation Title: AN ORDINANCE related to exemption from admission tax; amending Section 5.40.085 of the Seattle Municipal Code.

Summary and background of the Legislation: This Ordinance would permit the Director of the Department of Finance and Administrative Services (FAS) to issue a certificate of exemption from the City’s admission tax to a qualifying nonprofit entity with retroactive application. The admission tax is paid by persons who pay to enter a club, theater, other location for entertainment, recreation, or amusement. The venue is responsible for collecting the tax and remitting it to the City. The tax rate is 5% of the admission charge and the proceeds are shared between the General Subfund (25%) and the Arts Account (75%). Separate legislation has been proposed that would increase the Arts Account’s share of admission tax revenue to 80%.

The Seattle Municipal Code (SMC) provides for a number of exemptions from admission tax. One such exemption is for nonprofit organizations. To qualify for the nonprofit exemption, an organization must apply to the Director of FAS and provide proof of its status as a federal tax exempt 501(c)(3), (4), or (6) entity. The organization must reapply for the certificate of exemption every five years.

Current City law does not provide for retroactive application of the nonprofit exemption from admission tax, so an organization is liable for any admission tax that it should have collected up until the point of applying for and being awarded a certificate of exemption. This is true even if an organization would have been eligible for the exemption from the beginning had it simply applied for certificate.

This legislation would allow the Director of FAS to issue a certificate of exemption to an organization with retroactive application, provided that the organization can supply proof that it was eligible for the entire period of retroactivity. This effectively holds the entity harmless for not having applied, except that if the organization had actually collected admission tax and not remitted it to the City, it would still owe those amounts.

This legislation would also remove from Code the requirement that an entity reapply for the nonprofit exemption certificate every five years, provided that the organization maintains a business license tax certificate and continues to meet the eligibility criteria and would extend from 10 days to 30 days the period available for an entity to file an appeal with the Hearing Examiner in the event that its certificate of exemption is canceled.

2. CAPITAL IMPROVEMENT PROGRAM

This legislation creates, funds, or amends a CIP Project.
 (If box is checked, please attach a new (if creating a project) or marked-up (if amending) CIP Page to the Council Bill. Please include the spending plan as part of the attached CIP Page.)

Project Name:	Project I.D.:	Project Location:	Start Date:	End Date:	Total Cost:

3. SUMMARY OF FINANCIAL IMPLICATIONS

Please check one:

This legislation has direct financial implications. (If the legislation has direct fiscal impacts (appropriations, revenue, positions), fill out the relevant sections below. If the financial implications are indirect or longer-term, describe them in narrative in the "Other Implications" section.)

This legislation does not have direct financial implications.
 (Please skip to "Other Implications" section at the end of the document and answer questions a-i.)

Budget program(s) affected:	General Fund \$		Other \$	
	2015	2016	2015	2016
Estimated \$ Appropriation change:				
Estimated \$ Revenue change:	Revenue to General Fund		Revenue to Other Funds	
	2015	2016	2015	2016
Positions affected:	No. of Positions		Total FTE Change	
	2015	2016	2015	2016
Other departments affected:				

3.a. Appropriations

This legislation adds, changes, or deletes appropriations.
 (If this box is checked, please complete this section. If this box is not checked, please proceed to Revenues)

Fund Name and number	Dept	Budget Control Level Name/##*	2015 Appropriation Change	2016 Estimated Appropriation Change
TOTAL				

*See budget book to obtain the appropriate Budget Control Level for your department.
 (This table should reflect appropriations that are a direct result of this legislation. In the event that the project/programs associated with this ordinance had, or will have, appropriations in other legislation please provide details in the Appropriation Notes section below. If the

appropriation is not complete supported by revenue/reimbursements listed below, please identify the funding source (e.g. available fund balance) to cover this appropriation in the notes section. Also indicate if the legislation changes appropriations one-time, ongoing, or both.)

Appropriations Notes:

3.b. Revenues/Reimbursements

This legislation adds, changes, or deletes revenues or reimbursements.

(If this box is checked, please complete this section. If this box is not checked, please proceed to Positions)

Anticipated Revenue/Reimbursement Resulting from this Legislation:

Fund Name and Number	Dept	Revenue Source	2015 Revenue	2016 Estimated Revenue
TOTAL				

(This table should reflect revenues/reimbursements that are a direct result of this legislation. In the event that the issues/projects associated with this ordinance/resolution have revenues or reimbursements that were, or will be, received because of previous or future legislation or budget actions, please provide details in the Notes section below. Do the revenue sources have match requirements? If so, what are they?)

Revenue/Reimbursement Notes:

3.c. Positions

This legislation adds, changes, or deletes positions.

(If this box is checked, please complete this section. If this box is not checked, please proceed to Other Implications)

Total Regular Positions Created, Modified, or Abrogated through this Legislation, Including FTE Impact:

Position # for Existing Positions	Position Title & Department*	Fund Name & #	Program & BCL	PT/FT	2015 Positions	2015 FTE	Does it sunset? (If yes, explain below in Position Notes)
TOTAL							

* List each position separately

(This table should only reflect the actual number of positions created by this legislation. In the event that positions have been, or will be, created as a result of previous or future legislation or budget actions, please provide details in the Notes section below.)

Position Notes:

4. OTHER IMPLICATIONS

- a) **Does the legislation have indirect or long-term financial impacts to the City of Seattle that are not reflected in the above?**

This ordinance would effectively provide an amnesty for admission tax collections owed on past admission charges for qualifying organizations, provided that they can prove that they were eligible for the exemption for the entire period of retroactive certification. The amount of forgone collections is difficult to estimate because the City does not know what organizations would be eligible for a certificate exemption but have not applied for it.

- b) **Is there financial cost or other impacts of not implementing the legislation?**

(Estimate the costs to the City of not implementing the legislation, including estimated costs to maintain or expand an existing facility or the cost avoidance due to replacement of an existing facility, potential conflicts with regulatory requirements, or other potential costs or consequences.)

- c) **Does this legislation affect any departments besides the originating department?**

(If so, please list the affected department(s), the nature of the impact (financial, operational, etc), and indicate which staff members in the other department(s) are aware of the proposed legislation.)

If admission tax revenues were reduced, there would be a financial impact on the Office of Arts and Culture.

- d) **Is a public hearing required for this legislation?**

(If yes, what public hearing(s) have been held to date, and/or what public hearing(s) are planned for the future?)

- e) **Is publication of notice with *The Daily Journal of Commerce* and/or *The Seattle Times* required for this legislation?**

(For example, legislation related to sale of surplus property, condemnation, or certain capital projects with private partners may require publication of notice. If you aren't sure, please check with your lawyer. If publication of notice is required, describe any steps taken to comply with that requirement.)

- f) **Does this legislation affect a piece of property?**

(If yes, and if a map or other visual representation of the property is not already included as an exhibit or attachment to the legislation itself, then you must include a map and/or other visual representation of the property and its location as an attachment to the fiscal note. Place a note on the map attached to the fiscal note that indicates the map is intended for illustrative or informational purposes only and is not intended to modify anything in the legislation.)

- g) **Please describe any perceived implication for the principles of the Race and Social Justice Initiative. Does this legislation impact vulnerable or historically disadvantaged communities?**

(If yes, please explain how this legislation may impact vulnerable or historically disadvantaged communities. Using the racial equity toolkit is one way to help determine the legislation's impact on certain communities.)

- h) **If this legislation includes a new initiative or a major programmatic expansion: What are the long-term and measurable goals of the program? Please describe how this legislation would help achieve the program's desired goals.**

(This answer should highlight measurable outputs and outcomes.)

- i) **Other Issues:**

List attachments/exhibits below:

STATE OF WASHINGTON -- KING COUNTY

--SS.

331450

No. 124899,900,902,903,904,05

CITY OF SEATTLE, CLERKS OFFICE

Affidavit of Publication

The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12th day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

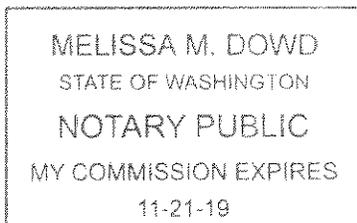
The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

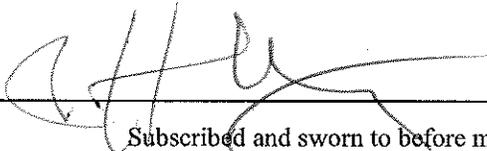
CT: TITLE ONLY ORDINANCES

was published on

12/15/15

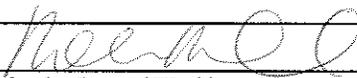
The amount of the fee charged for the foregoing publication is the sum of \$93.00 which amount has been paid in full.





Subscribed and sworn to before me on

12/15/2015



Notary public for the State of Washington,
residing in Seattle

Affidavit of Publication

State of Washington, King County

City of Seattle

Title Only Ordinances

The full text of the following legislation, passed by the City Council on November 23, 2015, and published below by title only, will be mailed upon request, or can be accessed at <http://clerk.seattle.gov>. For information on upcoming meetings of the Seattle City Council, please visit <http://www.seattle.gov/council/calendar>. Document Type Contact: Office of the City Clerk at (206) 684-8344.

Ordinance 124899

AN ORDINANCE authorizing, in 2015, acceptance of funding from non-City sources; authorizing the heads of the Human Services Department, Seattle Fire Department, Seattle Police Department and the Department of Finance and Administrative

Services to accept specified grants, private funding and donations and to execute, deliver, and perform corresponding agreements; and ratifying and confirming certain prior acts.

Ordinance 124900

AN ORDINANCE relating to the 2015 Budget; amending Ordinance 124648, which adopted the 2015 Budget, including the 2015-2020 Capital Improvement Program (CIP); changing appropriations to various departments and budget control levels, and from various funds in the Budget; adding new projects; revising project allocations for certain projects in the 2015-2020 CIP; creating both exempt and nonexempt positions; and ratifying and confirming certain prior acts; all by a 3/4 vote of the City Council.

Ordinance 124902

AN ORDINANCE related to exemption from admission tax; amending Section 5.40.028 of the Seattle Municipal Code.

Ordinance 124903

AN ORDINANCE related to exemption from admission tax; amending Section 5.40.085 of the Seattle Municipal Code.

Ordinance 124904

AN ORDINANCE relating to the financing of the Mercer West project; authorizing the loan of funds from the City's Consolidated (Residual) Cash Pool, or its participating funds, to the Transportation Master Fund; and providing for the repayment thereof.

Ordinance 124905

AN ORDINANCE relating to street and sidewalk use; amending the Street Use Permit Fee Schedule authorized by Section 15.04.074 of the Seattle Municipal Code.

Date of publication in the Seattle Daily Journal of Commerce, December 15, 2015.

12/15(331450)