

HOUSE BILL REPORT

HB 1526

As Reported by House Committee On:
State Government & Tribal Affairs

Title: An act relating to removing essential government services as a condition to exempt from taxation property belonging to any federally recognized Indian tribe located in the state.

Brief Description: Removing essential government services as a condition to exempt from taxation property belonging to federally recognized Indian tribes.

Sponsors: Representatives Santos, Simpson, McCoy, Sullivan and Nelson.

Brief History:

Committee Activity:

State Government & Tribal Affairs: 2/12/09, 2/17/09 [DP].

Brief Summary of Bill

- Removes "essential government services" as a condition for exemption of property tax on property owned by a federally recognized Indian tribe, and provides that this exempt property is subject to leasehold excise tax.

HOUSE COMMITTEE ON STATE GOVERNMENT & TRIBAL AFFAIRS

Majority Report: Do pass. Signed by 5 members: Representatives Hunt, Chair; Appleton, Vice Chair; Flannigan, Hurst and Miloscia.

Minority Report: Do not pass. Signed by 2 members: Representatives Armstrong, Ranking Minority Member; Alexander.

Staff: Pam Madson (786-7111)

Background:

Property Taxes.

All real and personal property in this state is subject to property tax each year based on its value, unless a specific exemption is provided by law. Property owned by the United States, the State of Washington, counties, cities, and other local governments is exempted from

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property tax under the state Constitution. The Legislature may exempt other property by statute and has enacted a number of exemptions for publicly owned property, property owned by various nonprofit organizations, privately owned property, and personal property.

Federal law prohibits the taxation of Indian trust land by state and local governments. Indian trust land is land that the federal government holds in trust for recognized Indian tribes or tribal members. Tribes may own non-trust land, called fee land, and this land is subject to the usual state and local property taxes.

In 2004 a property tax exemption was provided for property belonging exclusively to a federally-recognized Indian tribe used exclusively for essential government services. Essential government services are defined as services such as tribal administration, public facilities, fire, police, public health, education, sewer, water, environmental and land use, transportation, and utility services.

Leasehold Excise Tax.

Property owned by federal, state, or local governments is exempt from the property tax. However, private lessees of government property are subject to the leasehold excise tax. The purpose of the leasehold excise tax is to impose a tax burden on persons using publicly-owned, tax-exempt property similar to the property tax that they would pay if they owned the property. The tax is collected by public entities that lease property to private parties.

The tax rate is 12.84 percent of the amount paid in rent for the public property. Cities and counties may impose a local tax which is credited against the state tax. Counties may impose a tax of up to 6 percent, and cities may impose a tax of up to 4 percent. The city tax is credited against any county tax. The state tax is deposited into the State General Fund, and county taxes are distributed to taxing districts within the county in the same manner as property taxes.

Summary of Bill:

Essential government services as a condition to exempt property owned by federally-recognized Indian tribes from property taxes is removed, and the exempted property is subject to the leasehold excise tax.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) This is an issue of justice and sovereignty. We exempt all governments from paying property tax except tribal governments. If property is moved from property tax status to leasehold tax status there is a gain at the state level and at the local level. There will be tax shifts. The shift with the greatest impact occurs in King County. There will be losses from the property tax exemption but there will be gains from the leasehold taxes. For property owned by tribal governments but leased by non-tribal businesses, leasehold taxes would apply. In general, governments don't tax governments. This bill embodies that principle. Washington has established government-to-government relationships with Tribes since 1989. Economic development by tribal governments is the driver for payment of essential government services. Tribal enterprises contribute to local economies. The bill subjects tribal fee lands leased to private sector leaseholds to leasehold excise taxes. Governments other than tribal governments lease land for golf courses, and use of retail activity and cafes. This bill is a step in recognizing that Tribes are an essential part of this state and are sovereign governments.

(Opposed) Consequences of this bill will be devastating to property owners and taxing districts. It will result in a tremendous tax shift to property owners who may not be able to afford it. With less land on the tax rolls and budgets remaining static, levy rates would increase. Nothing in the bill subjects property owned by tribal governments that is not trust land to local government regulations similar to any other land owner. It does not extend leasehold tax to property owned by the Tribes with activity operated by the Tribes. It would allow Indian tribes to buy land anywhere and for any purpose and be tax exempt. Other governments with exempt properties are not in businesses for profit and Tribes do operate businesses for profit.

Persons Testifying: (In support) Representative Santos, prime sponsor; David Burnett, Chehalis Tribe; Rick Jensen and Martin Durkan, Jr., Muckleshoot Tribe.

(Opposed) Patricia Costello, Thurston County Assessor.

Persons Signed In To Testify But Not Testifying: None.