

VETO MESSAGE ON SB 5967-S

May 28, 1993

To the Honorable President and Members,  
The Senate of the State of Washington  
Ladies and Gentlemen:

I am returning herewith, without my approval as to sections 306, 405, 406, 407, and 1001, Second Engrossed Substitute Senate Bill No. 5967 entitled:

"AN ACT Relating to taxation;"

Section 306 amends current law which provides a sales tax exemption for property purchased for use outside this state by nonresidents of Washington who live in a state or Canadian province with a sales tax rate of less than three percent by adding the requirement that the beneficiary state be "contiguous to the state of Washington." This would effectively limit the exemption to only Oregon residents.

This amendment presents a constitutional problem, since there does not appear to be a rational basis for distinguishing between residents of noncontiguous states and residents of contiguous states. If a successful class action lawsuit was brought on behalf of all affected parties, the state's costs for administering any payout to members of the class could be substantial.

While I agree that amending current law is necessary, I have vetoed this section because I am concerned with the possible unconstitutionality of this amendment and the consequences of potential lawsuits. Therefore, I will ask the Department of Revenue to develop legislation which addresses the proponents concerns and avoids the constitutional problems for consideration during the 1994 Legislative Session.

Sections 405, 406, and 407 extend the sales and use tax deferral program of chapter 82.61 RCW to include any pulp and paper products plant in operation prior to 1960 and located in a county with a population between 40,000 and 70,000. It was the intent of the sales tax deferral program to encourage new business locations in the state, not to provide a tax break for existing businesses. These sections were not intended to benefit the pulp and paper products industry generally; rather, these criteria were very carefully drawn in order to limit availability of the deferral program to a single taxpayer.

However, the impact could be significantly greater because several taxpayers potentially qualify for the program. Counties that are eligible based on the population range of 40,000 to 70,000 are Chelan, Clallam, Grant, Grays Harbor, Island, Lewis, and Walla Walla. At least four pulp and paper products companies located in these counties were in operation prior to 1960. In addition, there are 21 other pulp and paper products companies that were established prior to 1960, but which are headquartered in non-eligible counties. If any of these 21 other companies also have a plant in an eligible county, they could potentially qualify.

For these reasons, I have vetoed section 405, 406, and 407.

Section 1001 requires the Department of Revenue to determine the amount of revenue generated in excess of projections during the biennium as a result of this act. The State Treasurer would transfer the excess revenue from the general fund to the budget

stabilization account. If actual revenue collections exceed the forecast, the Legislature can always choose to make transfers to the budget stabilization account. Therefore, it is not clear why this section is needed.

In addition, this section would require costly and burdensome accounting procedures for the Department of Revenue and would require the department to make unreasonable, and in some cases impossible requests for information from taxpayers. The Department of Revenue already has the capability to measure these and other revenues by other means which are less costly to administer and do not place unreasonable burdens on taxpayers.

For these reasons, I have vetoed section 1001. However, in line with the intent of this section, I am directing the Department of Revenue to report quarterly how well estimates for all of these revenue sources are tracking.

With the exception of sections 306, 405, 406, 407, and 1001, Second Engrossed Substitute Senate Bill No. 5967 is approved.

Respectfully submitted,  
Mike Lowry  
Governor