

SENATE BILL REPORT

EHB 1287

As Reported by Senate Committee On:
Ways & Means, April 27, 2013

Title: An act relating to subjecting federally recognized Indian tribes to the same conditions as state and local governments for property owned exclusively by the tribe.

Brief Description: Subjecting federally recognized Indian tribes to the same conditions as state and local governments for property owned exclusively by the tribe.

Sponsors: Representatives Appleton, Dahlquist, Hurst, McCoy, Ryu, Santos and Pollet.

Brief History: Passed House: 4/18/13, 64-29.

Committee Activity: Ways & Means: 4/24/13, 4/27/13 [DPA, DNP, w/oRec].

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: Do pass as amended.

Signed by Senators Hill, Chair; Hargrove, Ranking Member; Nelson, Assistant Ranking Member; Bailey, Becker, Braun, Conway, Dammeier, Hasegawa, Keiser, Ranker, Rivers, Schoesler and Tom.

Minority Report: Do not pass.

Signed by Senators Honeyford, Capital Budget Chair; Hewitt, Padden and Parlette.

Minority Report: That it be referred without recommendation.

Signed by Senator Fraser.

Staff: Dean Carlson (786-7305)

Background: Publicly Owned Property-Tax Exemption. Real and personal property in the state are subject to a property tax. The state constitution exempts property owned by federal, state, or local governments from property tax obligations. The Legislature may exempt other property from taxation by statute.

Leasehold Excise Tax. The Legislature exempts a private leasehold interest in government-owned, tax-exempt property from the property tax. In lieu of a property tax however, the leasehold interest may be subject to a leasehold excise tax on the possession and use of the property. This excise tax is assessed on the contract rent for the leasehold.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Certain leasehold interests are exempt from the excise tax. A leasehold interest in property that is held in trust for a tribe by the United States is exempt from the excise tax, as long as the contract rent for the leasehold is at least 90 percent of the fair market rental.

Tribally Owned Property-Tax Exemption. The Legislature also exempts all property belonging exclusively to a federally recognized Indian tribe from state taxation if the property is used exclusively for essential governmental services. Essential governmental services include tribal administration, public facilities, fire, police, public health, education, sewer, water, environmental and land use, transportation, and utility services. Federal law may also preempt the state's ability to impose taxes on tribes and activity on tribal lands held in trust by the United States.

Public Property Sold on Contract. Real property sold on contract by the federal, state, or local government that entitles the vendee to possess and use the property in compliance with the terms of the contract, must be assessed and taxed as if the property were privately owned. The title retained by the government body is deemed only as a security for the fulfillment of the contract although no foreclosure for delinquent taxes may affect the title retained by the government body.

Fire Protection Districts. Fire protection districts (fire districts) are municipal corporations that are authorized to provide fire prevention, fire suppression, and emergency medical services to protect life and property. The fire districts finance their activities and facilities by imposing regular property taxes, excess voter-approved property tax levies, and benefit charges. A regional fire protection service authority is made up of two or more adjacent fire protection jurisdictions.

Summary of Bill (Recommended Amendments): Property used for for-profit horse racing owned by a federally recognized Indian tribe, and a deepwater port used to service the maritime industry located in Pierce County owned by a federally recognized Indian tribe, are exempt from property tax.

A private leasehold interest in tax-exempt property owned by a federally recognized Indian tribe is exempt from property taxes. A private leasehold interest in tax-exempt tribal property is subject to a leasehold excise tax.

Property sold on contract by a federally recognized tribe that entitles the vendee to possess and use the property in compliance with the terms of the contract must be assessed and taxed as if the property were privately owned.

A fire protection district or regional fire protection service authority may contract for services with a tribe that owns tax-exempt property within the boundaries of the district or authority.

The act expires in 2023.

EFFECT OF CHANGES MADE BY WAYS & MEANS COMMITTEE (Recommended Amendments): The property tax exemption for federally recognized Indian tribes for property used for economic development is eliminated. Instead, property used for for-profit horse racing owned by a federally recognized Indian tribe, and a deepwater port used to

service the maritime industry located in Pierce County owned by a federally recognized Indian tribe are exempt from property tax. The amendment also clarifies that it must be a federal recognized Indian tribe located in this state.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: When this bill was first passed in 2004 there was concern that it would have drastic impacts, so economic development was left out. The 2004 legislation did not have drastic impacts and now it is time to add economic development. There is not a lot of downside to this bill. Cities and ports currently do economic development and they are not subject to property taxes. This bill is about parity, treating tribal governments the same as other governments when it comes to property taxes.

CON: We are adamantly against this bill. We feel that the fiscal note is undervalued. We are not sure what this bill does as economic development is not defined. If this bill was just about Emerald Downs we would be all for it, but it is not. We are concerned about the tax shifts and potential tax losses in some areas as well as the uncertainty as to the magnitude of this bill.

Persons Testifying: PRO: Dylan Doty, Dave Mastin, Muckleshoot Indian Tribe.

CON: Carolyn Robertson, City of Auburn; Monty Cobb, WA Assn. of County Officials; Victoria Lincoln, Assn. of WA Cities; Josh Weiss, WA State Assn. of Counties.