

SENATE BILL REPORT

SB 6162

As of February 4, 2014

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: Senators Litzow, Rolfes, Fain, Sheldon, McCoy, Hasegawa, McAuliffe, Conway and Kline.

Brief History:

Committee Activity: Governmental Operations: 1/28/14.

SENATE COMMITTEE ON GOVERNMENTAL OPERATIONS

Staff: Sam Thompson (786-7413)

Background: Property in Washington is subject to a property tax. Government-owned property is exempt from property tax.

Private leasehold interests in government-owned property are exempt from property tax, but may be subject to a leasehold excise tax (LET). The LET is assessed on contract rent for a leasehold. Certain leasehold interests are exempt from the LET, including leasehold interests in property held in trust for a tribe by the United States, as long as contract rent is at least 90 percent of fair market rent.

There are 29 federally recognized Indian tribes in Washington. Property belonging exclusively to a federally recognized Indian tribe is exempt from state taxation if it 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 and restrict state authority to impose taxes on tribes and activity on tribal lands held in trust by the United States, including land on reservations.

Fire protection districts (fire districts) are local government entities providing fire prevention, fire suppression, and emergency medical services. Fire districts may impose property taxes

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and benefit charges. A regional fire protection service authority consists of two or more fire protection jurisdictions.

Summary of Bill: Economic development is recognized as an essential governmental service for purposes of qualifying tribally owned property for an exemption from property tax. Economic development is defined as commercial activities that facilitate creation or retention of businesses or jobs, or that improve the standard of living or economic health of tribal communities.

The LET is extended to leasehold interests in property owned exclusively by federally recognized Indian tribes in Washington.

Tribal property that is exempt from property tax is subject to payment in lieu of LET if the property is used exclusively for economic development, there is no taxable leasehold interest in the property, and the property is not otherwise exempt from taxation by federal law. Deep-water ports and associated property are exempt. The Department of Revenue (DOR) must determine payment in lieu of LET based on fair market rent, which will not exceed LET otherwise owed. DOR must collect and apportion revenue to taxing districts.

Fire districts and regional fire protection service authorities containing exempt tribal property may contract with the tribe for compensation for providing fire protection services.

The Joint Legislative Audit and Review Committee must provide an economic impact report to the Legislature evaluating the impacts of the act by December 1, 2017.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: The act takes effect September 1, 2014, and expires on July 1, 2021.

Staff Summary of Public Testimony: PRO: This measure provides that, for tax purposes, Washington tribes will be treated like other government entities. It is the product of years of effort and negotiation. Further negotiation is underway.

CON: This measure would cause a tax shift, effectively raising taxes for other taxpayers. While it addresses loss of revenue to fire authorities, it does not address loss of revenue for other government services. It would give tribes a competitive advantage over other commercial operations. It is uncertain how much tribally owned property would be affected by this measure. All government property used for for-profit enterprises should be taxed.

Persons Testifying: PRO: Rick Jensen and Dylan Doty, Muckleshoot Indian Tribe.

CON: Monty Cobb, WA Assn. of County Officials; Josh Weiss, WA Assn. of Counties; Bill Clarke, WA Realtors; Victoria Lincoln, Assn. of WA Cities; Lloyd Hara, King County Assessor.