

SENATE BILL REPORT

SB 6162

As of February 12, 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, 2/06/14 [DPS-WM].
Ways & Means: 2/10/14, 2/11/14 [DPF].

SENATE COMMITTEE ON GOVERNMENTAL OPERATIONS

Majority Report: That Substitute Senate Bill No. 6162 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Benton, Vice Chair; Hasegawa, Ranking Member; Conway and McCoy.

Staff: Sam Thompson (786-7413)

SENATE COMMITTEE ON WAYS & MEANS

Staff: Dean Carlson (786-7305)

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 may be subject to a leasehold excise tax (LET).

There are 29 federally recognized Indian tribes in Washington. Federal law restricts state authority to impose taxes in Indian Country, a term defined in federal law to include land in Indian reservations and certain off-reservation land held in trust by the federal government. Property that is not in Indian Country that belongs exclusively to a federally recognized tribe is exempt from Washington property tax if the property is used exclusively for essential governmental services. Essential governmental services include tribal administration, public

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facilities, fire, police, public health, education, sewer, water, environmental and land use, transportation, and utility services.

Fire protection districts (fire districts) are local government entities providing fire prevention, fire suppression, and emergency medical services. Fire districts may impose property taxes and benefit charges. A regional fire protection service authority consists of two or more fire protection jurisdictions.

Summary of Bill (Proposed Second Substitute): 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 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 (Proposed Second Substitute): 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.

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A fire 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 GOVERNMENTAL OPERATIONS COMMITTEE (Recommended First Substitute): Changes clarify that PILT applies to property outside of a tribe's reservation; PILT must be negotiated by a tribe and the county in which the tribal property is located, rather than by a tribe and the state Department of Revenue; and PILT will be paid to the county rather than the State Treasurer. An exemption from PILT for deep water ports and affiliated property is deleted. The due date for a Joint Legislative Audit and Review Committee report is changed to December 1, 2020, from

December 1, 2017. The effective date of the act is changed to January 1, 2015, from September 1, 2014, and the expiration date is changed to July 1, 2022, from July 1, 2021.

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 on Original Bill (Governmental Operations): 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 (Governmental Operations): 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.

Staff Summary of Public Testimony on Recommended First Substitute (Ways & Means): PRO: This is fee simple land off the reservation. We worked on a lot of safeguards on this bill. It would not cover casinos. We took the concerns from last year and improved the bill. Tribes should have the same application of property tax as state and local government property held in fee.

CON: This bill is improved from last year with the addition of the PILT payment. This will negatively impact some local jurisdictions. We like the movement of the bill, but are still opposed because of the potential large tax shift. This creates an economic advantage for the tribes. The property in the bill does not have a comparison to other local governments. The tribes are much different.

OTHER: The PILT is negotiated between the tribes and the county. There is no fallback if there is not agreement. We want to make sure that PILT distributions go to the cities.

Persons Testifying (Ways & Means): PRO: Rick Jensen, Muckleshoot Indian Tribe 360; Dylan Doty, Muckleshoot Indian Tribe; Miguel Perez-Gibson, Colville Tribes, Makah Tribes.

CON: Josh Weiss, WA State Assn. of Counties; Monty Cobb, WA State Assn. of County Officials; Bill Clarke, WA Realtors.

OTHER: Victoria Lincoln, Assn. of WA Cities.