

# HOUSE BILL REPORT

## HB 1063

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**As Reported by House Committee On:**  
Community Development, Housing & Tribal Affairs  
Transportation

**Title:** An act relating to allowing federally recognized tribes with lands held in trust in a county that is west of the Cascade mountain range that borders Puget Sound with a population of at least one hundred eighteen thousand, but less than two hundred fifty thousand, persons to enter into agreements regarding fuel taxes.

**Brief Description:** Allowing federally recognized tribes with lands held in trust in a county that is west of the Cascade mountain range that borders Puget Sound with a population of at least one hundred eighteen thousand, but less than two hundred fifty thousand, persons to enter into agreements regarding fuel taxes.

**Sponsors:** Representatives Morris, Lytton, Fitzgibbon, Appleton and Sawyer.

**Brief History:**

**Committee Activity:**

Community Development, Housing & Tribal Affairs: 1/25/17, 1/26/17 [DP], 2/1/18 [DPS];  
Transportation: 2/22/17, 2/23/17 [DP], 2/5/18, 2/6/18 [DP2S(w/o sub CDHT)].

**Brief Summary of Second Substitute Bill**

- Allows the Department of Licensing to enter into fuel tax agreements with certain federally recognized tribes with lands held in trust.
- Restricts the trust lands that federally recognized tribes with lands held in trust may operate retail stations on to property held in trust on the effective date of the act.

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**HOUSE COMMITTEE ON COMMUNITY DEVELOPMENT, HOUSING & TRIBAL AFFAIRS**

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 4 members: Representatives Ryu, Chair; Macri, Vice Chair; Reeves and Sawyer.

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*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.*

**Minority Report:** Do not pass. Signed by 3 members: Representatives Barkis, Ranking Minority Member; McCabe, Assistant Ranking Minority Member; Jenkin.

**Staff:** Kirsten Lee (786-7133).

**Background:**

Under federal law, absent explicit congressional authorization, states may not impose taxes on a tribe or its members for sales made on tribal lands. In 2007 state legislation was enacted that authorized the Governor to enter into a motor vehicle fuel tax agreement with any federally recognized Indian tribe with a reservation in Washington. The Governor has delegated this authority to the Department of Licensing (DOL).

There are two types of fuel tax agreements: the 75 Percent Refund/25 Percent (75/25) State Tax Agreement, and the Per Capita Agreement.

Seventy-five Percent Refund/25 Percent (75/25) State Tax Agreement.

Under a 75/25 state tax agreement, tribes agree to purchase the fuel sold at tribally owned retail stations from state-licensed fuel distributors with the state fuel tax included. Tribes report their purchases to the DOL and receive 75 percent of the state fuel tax revenue collected as a refund, and the state retains 25 percent as state tax.

Per Capita Agreement.

A per capita agreement is a computational formula resulting in an estimate of the amount of fuel tax most likely paid by tribal members purchasing fuel on the reservation. This formula provides an annual amount of fuel tax to be refunded to each tribe. All per capita agreements were entered into prior to the 2007 legislation.

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**Summary of Substitute Bill:**

The Governor may enter into fuel tax agreements with federally recognized Indian tribes with trust lands in certain counties. The federally recognized tribe must have trust lands located in a county that is west of the Cascade mountain range that borders the Puget Sound, and has a population of at least 118,000, but less than 250,000 people. These federally recognized tribes may only operate retail stations, per the agreement, on property held in trust on the effective date of this act.

**Substitute Bill Compared to Original Bill:**

The substitute bill: (1) limits qualifying trust lands to lands held in trust on the effective date of the act; and (2) amends the emergency clause to take effect immediately.

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**Appropriation:** None.

**Fiscal Note:** Available. New fiscal note requested on February 2, 2018.

**Effective Date of Substitute Bill:** The bill contains an emergency clause and takes effect immediately.

**Staff Summary of Public Testimony:**

See House Bill Report in the 2017 Legislative Session.

**Persons Testifying:**

See House Bill Report in the 2017 Legislative Session.

**Persons Signed In To Testify But Not Testifying:**

See House Bill Report in the 2017 Legislative Session.

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**HOUSE COMMITTEE ON TRANSPORTATION**

**Majority Report:** The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Community Development, Housing & Tribal Affairs. Signed by 16 members: Representatives Clibborn, Chair; Fey, Vice Chair; Wylie, Vice Chair; Chapman, Gregerson, Hayes, Kloba, Lovick, McBride, Morris, Ortiz-Self, Pellicciotti, Riccelli, Tarleton, Valdez and Young.

**Minority Report:** Do not pass. Signed by 8 members: Representatives Orcutt, Ranking Minority Member; Hargrove, Assistant Ranking Minority Member; Harmsworth, Assistant Ranking Minority Member; Irwin, Pike, Rodne, Shea and Van Werven.

**Minority Report:** Without recommendation. Signed by 1 member: Representative Stambaugh.

**Staff:** David Munnecke (786-7315).

**Summary of Recommendation of Committee On Transportation Compared to Recommendation of Committee On Community Development, Housing & Tribal Affairs:**

The emergency clause, which required that the bill go into effect immediately, is removed in the second substitute bill.

**Appropriation:** None.

**Fiscal Note:** Available.

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

**Staff Summary of Public Testimony:**

(In support) The Samish Tribe does not have a reservation, but would still be allowed to have a fueling facility if this bill passes. It would allow the Samish to enter into the same agreements regarding fuel taxes as the other 24 tribes, and spend the funds on transportation infrastructure.

The new language in the bill has resolved the concerns regarding the bill. The bill only allows for construction on current trust lands, and audits would insure that funds are only spent on transportation purposes.

(Opposed) The bill allows for only current tribal trust lands to be used for fueling facilities. This should be the case with all of the tribes in Washington.

**Persons Testifying:** (In support) Representative Morris, prime sponsor; and Cody Arledge, Samish Indian Nation.

(Opposed) Dave Ducharme, Washington Oil Marketers Association.

**Persons Signed In To Testify But Not Testifying:** None.