

SENATE BILL REPORT

SHB 1711

As Reported by Senate Committee On:
Ways & Means, April 4, 2023

Title: An act relating to providing a sales and use tax exemption related to internet and telecommunications infrastructure projects involving a federally recognized Indian tribe.

Brief Description: Providing a sales and use tax exemption related to internet and telecommunications infrastructure projects involving a federally recognized Indian tribe.

Sponsors: House Committee on Finance (originally sponsored by Representatives Chapman, Tharinger, Lekanoff, Ryu, Callan, Reed, Volz, Kloba, Stearns, Stokesbary and Santos).

Brief History: Passed House: 3/16/23, 95-0.

Committee Activity: Ways & Means: 4/04/23 [DPA, w/oRec].

Brief Summary of Amended Bill

- Provides a sales and use tax exemption for the construction of buildings and utilities related to the deployment of modern global Internet and telecommunications infrastructure owned by a federally recognized tribe.

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: Do pass as amended.

Signed by Senators Rolfes, Chair; Robinson, Vice Chair, Operating & Revenue; Mullet, Vice Chair, Capital; Wilson, L., Ranking Member, Operating; Gildon, Assistant Ranking Member, Operating; Schoesler, Ranking Member, Capital; Rivers, Assistant Ranking Member, Capital; Warnick, Assistant Ranking Member, Capital; Billig, Boehnke, Braun, Conway, Dhingra, Hasegawa, Hunt, Keiser, Muzzall, Nguyen, Saldaña, Torres and Wagoner.

Minority Report: That it be referred without recommendation.

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

Signed by Senators Pedersen, Van De Wege and Wellman.

Staff: Jeffrey Mitchell (786-7438)

Background: Retail Sales and Use Tax. Retail sales taxes are imposed on retail sales of most articles of tangible personal property, digital products, and some services. A retail sale is a sale to the final consumer or end user of the property, digital product, or service. If retail sales taxes were not collected when the user acquired the property, digital products, or services, then use tax applies to the value of property, digital product, or service when used in this state. The state, all counties, and all cities levy retail sales and use taxes. The state sales and use tax rate is 6.5 percent; local sales and use tax rates vary from 0.5 percent to 4 percent, depending on the location.

Tax Preference Performance Statement. State law provides for a range of tax preferences that confer reduced tax liability upon a designated class of taxpayer. Tax preferences include tax exclusions, deductions, exemptions, preferential tax rates, deferrals, and credits. Currently, Washington has over 650 tax preferences, including a variety of sales and use tax exemptions. Legislation that establishes or expands a tax preference must include a Tax Preference Performance Statement that identifies the public policy objective of the preference, as well as specific metrics that the Joint Legislative Audit and Review Committee (JLARC) can use to evaluate the effectiveness of the preference. All new tax preferences automatically expire after ten years unless an alternative expiration date is provided.

Summary of Amended Bill: A state and local sales and use tax exemption is provided for:

- labor and services rendered in respect to the construction of a qualified infrastructure project, or the installation of any equipment or tangible personal property incorporated into a qualified infrastructure project; and
- building materials, telecommunications equipment, and tangible personal property incorporated into a qualified infrastructure project.

To obtain an exemption certificate under this section, a qualified infrastructure project owner must submit an application to the department for an exemption certificate. If the department approves the application, the department must issue an exemption certificate used by the project owner to claim the exemption.

The exemption certificate is effective on the date the application is received by the department, which is the date of issuance. The exemption provided in this section does not apply to any property or services that are received by the qualified infrastructure project owner, or its agent, before the effective date of this section or on or after January 1, 2030.

The exemption certificate expires on the date the project is certified as operationally complete by the qualified infrastructure project owner or January 1, 2030, whichever is first.

"Qualified infrastructure project" means the construction of buildings and utilities related to the deployment of a modern global Internet and telecommunications infrastructure that occurs in part in a distressed area, as defined in RCW 43.168.020, that is located on the coast of Washington. The infrastructure may include, but is not limited to, cable landing stations, communications hubs, buried utility connections and extension, and any related equipment and buildings that will add broadband capacity and infrastructure to the area. "Qualified infrastructure project owner" means a wholly owned subsidiary of a federally recognized tribe located in a county that borders the Pacific Ocean that is developing a qualified infrastructure project.

To obtain the exemption, a qualified infrastructure project owner must certify to the Department of Labor and Industries that the work performed on the qualified infrastructure project by the prime contractor and its subcontractors was performed under the terms of a community workforce agreement or project labor agreement negotiated prior to the start of the qualified infrastructure project. The agreements must include worker compensation requirements consistent with the payment of area standard prevailing wages, apprenticeship utilization requirements, and tribal employment and contracting opportunities

The bill is exempt from the requirements of including a tax preference performance statement and JLARC review.

EFFECT OF WAYS & MEANS COMMITTEE AMENDMENT(S):

- Caps the total amount of state sales and use tax that may be exempted at \$8 million.
- Provides definitions and makes other technical clarifications to improve administrability of the sales and use tax exemption.
- Adds an emergency clause with a July 1, 2023, effective date.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: The bill contains an emergency clause and takes effect on July 1, 2023.

Staff Summary of Public Testimony on Substitute House Bill: *The committee recommended a different version of the bill than what was heard.* No public hearing was held.

Persons Testifying: N/A

Persons Signed In To Testify But Not Testifying: N/A