

HOUSE BILL REPORT

SHB 1322

As Passed House:

March 4, 2004

Title: An act relating to exempting from taxation certain property belonging to any federally recognized Indian tribe located in the state.

Brief Description: Exempting from taxation certain property belonging to any federally recognized Indian tribe located in the state.

Sponsors: By House Committee on Finance (originally sponsored by Representatives G. Simpson, Cairnes, McCoy and Roach).

Brief History:

Committee Activity:

Finance: 3/4/04 [DPS].

Floor Activity:

Passed House: 3/4/04, 67-28.

Brief Summary of Substitute Bill

- Exempts from taxation property owned by a federally recognized Indian tribe and used for essential government services.

HOUSE COMMITTEE ON FINANCE

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives McIntire, Chair; Hunter, Vice Chair; Cairnes, Ranking Minority Member; Ahern, Conway, Morris, Roach and Santos.

Minority Report: Do not pass. Signed by 1 member: Representative Orcutt, Assistant Ranking Minority Member.

Staff: Bob Longman (786-7139).

Background:

All real and personal property in this state is subject to property tax each year based on its value, unless a specific exemption is provided by law. Property owned by the United

States, the State of Washington, counties, cities, and other local governments is exempted from property tax by the State Constitution. The Legislature is authorized to exempt other property by statute, and has enacted a number of exemptions for property owned by various nonprofit organizations.

The question of whether property owned by an Indian tribe is exempt from tax can be a complicated legal matter. Often, tribal property is held in trust for the tribe by the United States, and is therefore exempt from tax. Other property owned by a tribe may not qualify as trust land and may not be exempt.

Summary of Substitute Bill:

Property owned by a federally recognized Indian tribe, and used for essential government services, is exempt from property tax.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.

Testimony For: All federal, state, and local government property is exempt from tax. Tribal government property is only exempt if it is on tribal trust land or if it is covered by an exemption previously adopted by the Legislature. The Legislature has exempted property owned by a tribal housing authority, but other tribal property used for government services remains subject to tax. It is unfair for this sort of tribal government property to be the only government property that is taxable. This bill will end this inequity. The state should recognize the sovereign nature of the tribes and treat tribal property on an equal footing with other government property. Often it is not practical for a tribe to provide essential government services solely from facilities on trust land. While it is possible for a tribe to acquire land and place it in trust status, which would make it exempt, the trust process is complicated, cumbersome, and not always available. There should be no concern that this bill expands tribal casinos, as federal law requires the casinos to be on trust land which is already exempt. This bill is very important for smaller tribes with little or no trust land base on which to locate the facilities the tribe needs in order to provide essential government services. The bill would exempt property used for essential government services but would not provide an exemption for proprietary activities such as operating a large electric generating facility as a tribal business. The tribes support the change made in the substitute bill.

Testimony Against: (Concerns) County assessors are concerned that wording of the

original bill is too broad. There might be unanticipated losses of state and local property tax revenue if the courts interpret the exemption broadly. The substitute bill mitigates this problem somewhat. The county assessor organization is concerned about the growth of property tax exemptions in general. These exemptions result in increased property taxes for other taxpayers.

Persons Testifying: (In support) Representative Simpson, G., prime sponsor; Leo Le Clair and Martin Durham, Muckleshoot Indian Tribe; and Mike Moran, Samish Indian Tribe/Quileute Indian Tribe.

(Concerns) Scott Noble, Washington State Association of County Assessors.

Persons Signed In To Testify But Not Testifying: None.