

# HOUSE BILL REPORT

## HB 1794

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**As Reported by House Committee On:**  
State Government & Tribal Affairs

**Title:** An act relating to removing essential government services as a condition to exempt from taxation property belonging to any federally recognized Indian tribe located in the state.

**Brief Description:** Removing essential government services as a condition to exempt from taxation property belonging to federally recognized Indian tribes.

**Sponsors:** Representatives Conway, Simpson, McCoy, Chase, Wood and Moeller.

**Brief History:**

**Committee Activity:**

State Government & Tribal Affairs: 2/14/07, 2/27/07 [DPS].

**Brief Summary of Substitute Bill**

- Removes "essential government services" as a condition for exemption of property tax on property owned by a federally recognized Indian tribe, and provides that this exempted property is subject to leasehold excise tax.

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### HOUSE COMMITTEE ON STATE GOVERNMENT & TRIBAL AFFAIRS

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 6 members: Representatives Hunt, Chair; Appleton, Vice Chair; Green, McDermott, Miloscia and Ormsby.

**Minority Report:** Do not pass. Signed by 3 members: Representatives Chandler, Ranking Minority Member; Armstrong, Assistant Ranking Minority Member and Kretz.

**Staff:** Marsha Reilly (786-7135).

**Background:**

*Property Taxes - General Requirements and Limitations:*

The property tax is the oldest of taxes in Washington and is subject to a number of constitutional and statutory requirements. The State Constitution requires all property taxes to

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be applied "uniformly." This has been interpreted to mean that within any given taxing district, the district rate applied to each parcel of taxable property must be the same.

The Constitution limits the sum of property tax rates to a maximum of 1 percent of true and fair value, or \$10 per \$1,000 of value. Levies that are subject to the 1 percent rate limitation are known as "regular" levies, and there is no constitutional voting requirement for regular levies. The Constitution does provide a procedure for voter approval for tax rates that exceed the 1 percent limit. These taxes are called "excess" levies. The most common excess levies are maintenance and operation levies for school districts and bond retirement levies. The Constitution provides that excess levies must obtain a 60 percent majority vote plus meet a minimum voter turnout requirement.

*Property Taxes - Exemptions:*

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 Constitution. The Legislature may exempt other property by statute and has enacted a number of exemptions for property owned by various nonprofit organizations. Some examples of exempted property include that used for blood and tissue banks; public assembly halls or meeting places; public libraries; museums; schools and colleges; and transitional housing for low-income or homeless persons.

Federal law prohibits the taxation of Indian trust land, which is land that the federal government holds in trust for recognized Indian tribes. Tribes may own non-trust land, called fee land, and this land is subject to the usual state and local property taxes.

In 2004, a property tax exemption was provided for property belonging to a federally-recognized Indian tribe used exclusively for essential tribal government services. Essential government services are defined as services such as tribal administration, public facilities, fire, police, public health, education, sewer, water, environmental and land use, transportation, and utility services.

*Leasehold Excise Tax:*

Property owned by federal, state, or local governments is exempt from the property tax. However, private lessees of government property are subject to the leasehold excise tax. The purpose of the leasehold excise tax is to impose a tax burden on persons using publicly-owned, tax-exempt property similar to the property tax that they would pay if they owned the property. The tax is collected by public entities that lease property to private parties.

The tax rate is 12.84 percent of the amount paid in rent for the public property. Cities and counties may impose a local tax which is credited against the state tax. Counties may impose a tax of up to 6 percent, and cities may impose a tax of up to 4 percent. The city tax is credited against any county tax. The state tax is deposited into the State General Fund, and county taxes are distributed to taxing districts within the county in the same manner as property taxes.

**Summary of Substitute Bill:**

Essential government services as a condition to exempt property owned by federally-recognized Indian tribes is removed, and the exempted property is subject to the leasehold excise tax.

**Substitute Bill Compared to Original Bill:**

The substitute bill adds the requirement that property owned by federally-recognized Indian tribes be subject to the leasehold excise tax.

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**Appropriation:** None.

**Fiscal Note:** Available.

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

**Staff Summary of Public Testimony:**

(In support) This bill addresses government to government principals, not county to tribe principals. Tribal government property is purchased for government purposes. Tribal enterprise is the center for essential government services. The property is 100 percent taxed by the tribe and all money goes toward tribal services. Language is recommended that the exempted property be subject to leasehold tax, which means if the tribes own property that is leased or rented, the renters or leasees pay the leasehold tax. The Chehalis Tribe provides services on and off the reservation. A parking lot that is used two or three nights each year for casino parking overflow is subject to property tax even though the casino is not. Economic development money is put back into government services such as the tribal clinic and roads. The Hoh Tribe owns property that is taxed, and the tribe also pays a leasehold tax. The Hoh River is cutting through tribal land, and the tribe will need to relocate property. Indian tribes want to be recognized as a government with the same rights as counties.

(Opposed) Economic development to the tribes is not something that is available to counties or cities. No exemptions have been made for commercial development. Approximately \$240 million of assessed value will be taken off the roles, and \$1.5 million of the tax burden will be shifted. The current law exempting essential government services tribal property provides parity. The Department of Revenue has miscalculated the impact by over \$2 million per year. There will be a tax shift of \$2.59 million annually.

**Persons Testifying:** (In support) Rick Jensen, Muckleshoot Tribe; Jeff Warnke, Chehalis Tribe; Micheal Moran, Samish/Quilceute/Quinault Tribes; and Leslie Cushman, Department of Revenue.

(Opposed) Julie Murray, Washington Association of Counties; and Ronald Gamache, Yakima County Commissioner.

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