

ESHB 2233 - S COMM AMD

By Committee on Government Operations, Tribal Relations & Elections

ADOPTED AS AMENDED 02/28/2012

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** A new section is added to chapter 37.12 RCW
4 to read as follows:

5 (1) The process by which the state may retrocede to the United
6 States all or part of the civil and/or criminal jurisdiction previously
7 acquired by the state over a federally recognized Indian tribe, and the
8 Indian country of such tribe, must be accomplished in accordance with
9 the requirements of this section.

10 (2) To initiate civil and/or criminal retrocession the duly
11 authorized governing body of a tribe must submit a retrocession
12 resolution to the governor accompanied by information about the tribe's
13 plan regarding the tribe's exercise of jurisdiction following the
14 proposed retrocession. The resolution must express the desire of the
15 tribe for the retrocession by the state of all or any measures or
16 provisions of the civil and/or criminal jurisdiction acquired by the
17 state under this chapter over the Indian country and the members of
18 such Indian tribe. Before a tribe submits a retrocession resolution to
19 the governor, the tribe and affected municipalities are encouraged to
20 collaborate in the adoption of interlocal agreements, or other
21 collaborative arrangements, with the goal of ensuring that the best
22 interests of the tribe and the surrounding communities are served by
23 the retrocession process.

24 (3) Upon receiving a resolution under this section, the governor
25 must within ninety days convene a government-to-government meeting with
26 either the governing body of the tribe or duly authorized tribal
27 representatives for the purpose of considering the tribe's retrocession
28 resolution. The governor's office must consult with elected officials
29 from the counties, cities, and towns proximately located to the area of
30 the proposed retrocession.

1 (4) Within one year of the receipt of an Indian tribe's
2 retrocession resolution the governor must issue a proclamation, if
3 approving the request either in whole or in part. This one-year
4 deadline may be extended by the mutual consent of the tribe and the
5 governor, as needed. In addition, either the tribe or the governor may
6 extend the deadline once for a period of up to six months. Within ten
7 days of issuance of a proclamation approving the retrocession
8 resolution, the governor must formally submit the proclamation to the
9 federal government in accordance with the procedural requirements for
10 federal approval of the proposed retrocession. In the event the
11 governor denies all or part of the resolution, the reasons for such
12 denial must be provided to the tribe in writing.

13 (5) Within one hundred twenty days of the governor's receipt of a
14 tribe's resolution requesting civil and/or criminal retrocession, but
15 prior to the governor's issuance of the proclamation approving or
16 denying the tribe's resolution, the appropriate standing committees of
17 the state house and senate may conduct public hearings on the tribe's
18 request for state retrocession. The majority leader of the senate must
19 designate the senate standing committee and the speaker of the house of
20 representatives must designate the house standing committee. Following
21 such public hearings, the designated legislative committees may submit
22 advisory recommendations and/or comments to the governor regarding the
23 proposed retrocession, but in no event are such legislative
24 recommendations binding on the governor or otherwise of legal effect.

25 (6) The proclamation for retrocession does not become effective
26 until it is approved by a duly designated officer of the United States
27 government and in accordance with the procedures established by the
28 United States for the approval of a proposed state retrocession.

29 (7) The provisions of RCW 37.12.010 are not applicable to a civil
30 and/or criminal retrocession that is accomplished in accordance with
31 the requirements of this section.

32 (8) The following definitions apply for the purposes of this
33 section:

34 (a) "Civil retrocession" means the state's act of returning to the
35 federal government the civil jurisdiction acquired over Indians and
36 Indian country under federal Public Law 280, Act of August 15, 1953, 67
37 Stat. 588 (codified as amended at 18 U.S.C. Sec. 1162, 25 U.S.C. Secs.
38 1321-1326, and 28 U.S.C. Sec. 1360);

1 (b) "Criminal retrocession" means the state's act of returning to
2 the federal government the criminal jurisdiction acquired over Indians
3 and Indian country under federal Public Law 280, Act of August 15,
4 1953, 67 Stat. 588 (codified as amended at 18 U.S.C. Sec. 1162, 25
5 U.S.C. Secs. 1321-1326, and 28 U.S.C. Sec. 1360);

6 (c) "Indian tribe" means any federally recognized Indian tribe,
7 nation, community, band, or group;

8 (d) "Indian country" means:

9 (i) All land within the limits of any Indian reservation under the
10 jurisdiction of the United States government, notwithstanding the
11 issuance of any patent, and including rights-of-way running through the
12 reservation;

13 (ii) All dependent Indian communities with the borders of the
14 United States whether in the original or subsequently acquired
15 territory thereof, and whether within or without the limits of a state;
16 and

17 (iii) All Indian allotments, the Indian titles to which have not
18 been extinguished, including rights-of-way running through the same.

19 NEW SECTION. **Sec. 2.** A new section is added to chapter 37.12 RCW
20 to read as follows:

21 A civil or criminal retrocession accomplished pursuant to the
22 procedure set forth in section 1 of this act does not:

23 (1) Affect the state's civil jurisdiction over the civil commitment
24 of sexually violent predators pursuant to chapter 71.09 RCW and the
25 state must retain such jurisdiction notwithstanding the completion of
26 the retrocession process authorized under section 1 of this act; and

27 (2) Abate any action or proceeding which has been filed with any
28 court or agency of the state or local government preceding the
29 effective date of the completion of a retrocession authorized under
30 section 1 of this act.

31 NEW SECTION. **Sec. 3.** A new section is added to chapter 37.12 RCW
32 to read as follows:

33 (1) The provisions of section 1 of this act do not affect the
34 validity of any retrocession procedure commenced under RCW 37.12.100
35 through 37.12.140 prior to the effective date of this section.

1 (2) Any Indian tribe that has commenced but not completed the
2 retrocession procedure authorized in RCW 37.12.100 through 37.12.140
3 may request retrocession under section 1 of this act in lieu of
4 completing that procedure.

5 (3) Any Indian tribe that has completed the retrocession procedure
6 authorized in RCW 37.12.100 through 37.12.140 may use the process
7 authorized under section 1 of this act to request retrocession of any
8 civil or criminal jurisdiction retained by the state under RCW
9 37.12.120 or 37.12.010.

10 (4) The provisions of RCW 37.12.120 are not applicable to a civil
11 and/or criminal retrocession that is accomplished in accordance with
12 the requirements of section 1 of this act."

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13 On page 1, line 3 of the title, after "country;" strike the
14 remainder of the title and insert "and adding new sections to chapter
15 37.12 RCW."

EFFECT: Makes clarifications and technical changes. Adds provisions specifying that a retrocession will not abate any action or proceeding filed with any court or agency of state or local government preceding the effective date of the retrocession.

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