

SENATE BILL REPORT

SB 6250

As Reported by Senate Committee On:
Government Operations, Tribal Relations & Elections, January 30, 2012

Title: An act relating to clarifying the definition of leasehold interest.

Brief Description: Clarifying the definition of leasehold interest.

Sponsors: Senators Regala, Carrell, Conway, Kilmer, Becker, Roach and Kastama.

Brief History:

Committee Activity: Government Operations, Tribal Relations & Elections: 1/26/12, 1/30/12 [DP-WM].

SENATE COMMITTEE ON GOVERNMENT OPERATIONS, TRIBAL RELATIONS & ELECTIONS

Majority Report: Do pass and be referred to Committee on Ways & Means.

Signed by Senators Pridemore, Chair; Prentice, Vice Chair; Swecker, Ranking Minority Member; Benton, Chase, Nelson and Roach.

Staff: Sam Thompson (786-7413)

Background: While government-owned property is exempt from property tax, private lessees of that property may be subject to a leasehold excise tax (LET), levied at 12.84 percent of the rent. Historically, pursuant to a 1979 determination by the state Department of Revenue (DOR), port districts have not been required to collect the LET from port tenants leasing wharf facilities on a non-exclusive, preferential use basis. Recently, DOR determined that state law does not provide for this exemption, and that port districts should collect the LET from tenants leasing port property on this basis.

Summary of Bill: Leasehold interests subject to the LET do not include the preferential use of publicly-owned cargo cranes and docks and associated areas used in loading and discharging of cargo at a port district marine facility. Preferential use means use by a private party under a written agreement with the public owner in which the public owner or a third party maintains a right to use the property when it is not being used by the private party.

Appropriation: None.

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.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: This bill clarifies that a longstanding interpretation of the law is retained. Businesses facing potential imposition of this tax could decide to go to out-of-state ports instead of Washington ports, causing the state to lose jobs and other tax revenue that these businesses generate. This bill will remove uncertainty and allow Washington ports to remain competitive with out-of-state ports, particularly with respect to shipping of agricultural products. Port districts worked with DOR to develop language in the bill.

Persons Testifying: PRO: Senator Regala, prime sponsor; Don Meyer, Lisa Thatcher, Port of Tacoma; John Creighton, Port of Seattle.