

HOUSE BILL REPORT

EHB 1287

As Passed House:
April 18, 2013

Title: An act relating to subjecting federally recognized Indian tribes to the same conditions as state and local governments for property owned exclusively by the tribe.

Brief Description: Subjecting federally recognized Indian tribes to the same conditions as state and local governments for property owned exclusively by the tribe.

Sponsors: Representatives Appleton, Dahlquist, Hurst, McCoy, Ryu, Santos and Pollet.

Brief History:

Committee Activity:

Community Development, Housing & Tribal Affairs: 1/30/13, 2/5/13, 2/6/13, 2/13/13 [DP];

Finance: 2/27/13, 2/28/13 [DP].

Floor Activity:

Passed House: 4/18/13, 64-29.

Brief Summary of Engrossed Bill

- Exempts a leasehold interest in property owned by a federally recognized Indian tribe from state property taxation.
- Extends the state leasehold excise tax to a private leasehold interest in property owned by a federally recognized Indian tribe.
- Recognizes economic development as an essential government service for purposes of qualifying tribally-owned property for state tax exemption.

HOUSE COMMITTEE ON COMMUNITY DEVELOPMENT, HOUSING & TRIBAL AFFAIRS

Majority Report: Do pass. Signed by 7 members: Representatives McCoy, Chair; Appleton, Vice Chair; Angel, Ranking Minority Member; Johnson, Assistant Ranking Minority Member; Ryu, Santos and Sawyer.

Minority Report: Do not pass. Signed by 2 members: Representatives Haler and Pike.

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.

Staff: Sean Flynn (786-7124).

HOUSE COMMITTEE ON FINANCE

Majority Report: Do pass. Signed by 10 members: Representatives Carlyle, Chair; Tharinger, Vice Chair; Nealey, Ranking Minority Member; Fitzgibbon, Hansen, Lytton, Pollet, Reykdal, Springer and Wilcox.

Minority Report: Do not pass. Signed by 3 members: Representatives Orcutt, Assistant Ranking Minority Member; Condotta and Vick.

Staff: Jeff Olsen (786-7175).

Background:

Public-Owned Property-Tax Exemption.

Real and personal property in the state is subject to a property tax. The state Constitution exempts property owned by federal, state, or local governments from property tax obligations. The Legislature may exempt other property from taxation by statute.

Leasehold Excise Tax.

The Legislature exempts a private leasehold interest in government-owned tax-exempt property from property tax. In lieu of a property tax, however, the leasehold interest may be subject to a leasehold excise tax on the possession and use of the property. This excise tax is assessed on the contract rent for the leasehold.

Certain leasehold interests are exempt from the excise tax. A leasehold interest in property that is held in trust for a tribe by the United States is exempt from the excise tax, as long as the contract rent for the leasehold is at least 90 percent of the fair market rental.

Tribal-Owned Property-Tax Exemption.

The Legislature also exempts all property belonging exclusively to a federally recognized Indian tribe from state taxation if the property is used exclusively for essential governmental services. Essential governmental services include tribal administration, public facilities, fire, police, public health, education, sewer, water, environmental and land use, transportation, and utility services. Federal law may also preempt the state's ability to impose taxes on tribes and activity on tribal lands held in trust by the United States.

Public Property Sold on Contract.

Real property sold on contract by the federal, state or local government that entitles the vendee to possess and use the property in compliance with the terms of the contract, must be assessed and taxed as if the property were privately owned. The title retained by the government body is deemed only as a security for the fulfillment of the contract although no foreclosure for delinquent taxes may affect the title retained by the government body.

Fire Protection Districts.

Fire protection districts (fire districts) are municipal corporations that are authorized to provide fire prevention, fire suppression, and emergency medical services to protect life and property.

The fire districts finance their activities and facilities by imposing regular property taxes, excess voter-approved property tax levies, and benefit charges. A regional fire protection service authority is made up of two or more adjacent fire protection jurisdictions.

Summary of Engrossed Bill:

A private leasehold interest in tax-exempt property owned by a federally recognized Indian tribe is exempt from property taxes. A private leasehold interest in tax-exempt tribal property is subject to a leasehold excise tax.

Economic development is recognized as an essential government service for purposes of qualifying tribally-owned property for tax-exempt status.

Property sold on contract by a federally recognized tribe that entitles the vendee to possess and use the property in compliance with the terms of the contract must be assessed and taxed as if the property were privately owned.

A fire protection district or regional fire protection service authority may contract for services with a tribe that owns tax exempt property within the boundaries of the district or authority.

The act expires in 2023.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony (Community Development, Housing & Tribal Affairs):

(In support) This bill applies to fee simple land, not trust land. It makes the definition of essential government services consistent with other governments within the state. Economic development is included in the definitions of essential government services that apply to local governments. This puts tribes on the same level as local governments. Counties own golf courses and restaurants.

(Opposed) Local governments have three sources of revenue: property tax, sales tax, and fees, which are used to provide government services to the community. Cities are not taxed for property owned for essential government services. If a city purchases property outside of its jurisdiction, for nongovernment related services, the property is taxable. Local governments do not run businesses. Changes in the tax structure would pose significant challenges for local government. There is a question whether this creates a general reduction in state tax revenues or a shift to other tax payers in the state. Property taxes are the biggest revenue source for county governments, which are capped at 1 percent. Drops in assessed

value and annexation have diminished property tax revenues. There is a need to clarify that exemption for economic development would not apply to the leasehold tax. Last year, there was a \$2 million tax shift due to the exemption for essential government services. Adding economic development would take the remaining highly assessed property owned by tribes off-reservation land off the tax roll. The impact would be significant. There is a delay in collecting excise taxes, which are passed through the state. The lessee pays the lessor, who pays the Department of Revenue. There is a problem for the state to try to enforce the collection of tribal entities. This bill does not address joint ownership issues.

Staff Summary of Public Testimony (Finance):

(In support) This bill is about parity for tribal governments. Cities and counties do not pay property taxes, and tribes should have the same treatment. Trust land is already exempt. Economic development is an essential government service for tribes.

(Opposed) Cities only have three sources of revenue to provide a variety of services including public safety, streets, and many other services. This bill would cause a significant tax shift to other taxpayers. The leasehold tax provisions are troubling, and may result in many cases where no leasehold excise tax will be paid. Economic development for cities is not the same as it is for tribes.

Persons Testifying (Community Development, Housing & Tribal Affairs): (In support) Representative Appleton, prime sponsor; and Rick Jensen, Muckleshoot Tribe.

(Opposed) Eric Johnson, Washington State Association of Counties; Carolyn Robertson, City of Auburn; and Monty Cobb, Association of County Officials.

Persons Testifying (Finance): (In support) Representative Appleton, prime sponsor; Rick Jensen and M.J. Durkan, Muckleshoot Tribe; and Mike Moran, Samish and Quinault Nations.

(Opposed) Carolyn Robertson, City of Auburn; and Monty Cobb, Washington Association of County Officials.

Persons Signed In To Testify But Not Testifying (Community Development, Housing & Tribal Affairs): None.

Persons Signed In To Testify But Not Testifying (Finance): None.