

# SENATE BILL REPORT

## SB 6162

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As Reported by Senate Committee On:  
Governmental Operations, February 6, 2014

**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:** Senators Litzow, Rolfes, Fain, Sheldon, McCoy, Hasegawa, McAuliffe, Conway and Kline.

**Brief History:**

**Committee Activity:** Governmental Operations: 1/28/14, 2/06/14 [DPS-WM].

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### SENATE COMMITTEE ON GOVERNMENTAL OPERATIONS

**Majority Report:** That Substitute Senate Bill No. 6162 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Benton, Vice Chair; Hasegawa, Ranking Member; Conway and McCoy.

**Staff:** Sam Thompson (786-7413)

**Background:** Property in Washington is subject to a property tax. Government-owned property is exempt from property tax. Private leasehold interests in government-owned property may be subject to a leasehold excise tax (LET).

There are 29 federally recognized Indian tribes in Washington. Federal law restricts state authority to impose taxes in Indian Country, a term defined in federal law to include land in Indian reservations and certain off-reservation land held in trust by the federal government. Property that is not in Indian Country that belongs exclusively to a federally recognized tribe is exempt from Washington property tax 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.

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*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.*

Fire protection districts (fire districts) are local government entities providing fire prevention, fire suppression, and emergency medical services. Fire districts may impose property taxes and benefit charges. A regional fire protection service authority consists of two or more fire protection jurisdictions.

**Summary of Bill (Recommended Substitute):** Economic development is recognized as an essential governmental service for purposes of qualifying tribally owned property for an exemption from property tax. Economic development is defined as commercial activities that facilitate creation or retention of businesses or jobs, or that improve the standard of living or economic health of tribal communities.

The LET is extended to leasehold interests in property owned exclusively by federally recognized Indian tribes. However, tribal property that is exempt from property tax is subject to payment in lieu of LET (PILT) if the property is used exclusively for economic development, there is no taxable leasehold interest in the property, the property is located outside a tribe's reservation, and the property is not otherwise exempt from taxation by federal law. PILT must be determined jointly and in good faith negotiation between the tribe owning the property and the county in which the property is located. PILT may not exceed LET that would otherwise be owed. Payment of PILT must be made by the tribe to the county. The county treasurer must distribute money collected to local taxing districts in the same proportion that each local taxing district would have shared if LET had been levied.

Fire districts and regional fire protection service authorities containing tax-exempt tribal property may contract with the tribe for compensation for providing fire protection services.

The Joint Legislative Audit and Review Committee must, by December 1, 2020, provide a report to the Legislature evaluating the economic impacts of the act.

The act takes effect January 1, 2015, and expires July 1, 2022.

**EFFECT OF CHANGES MADE BY GOVERNMENTAL OPERATIONS COMMITTEE (Recommended Substitute):** Changes clarify that PILT applies to property outside of a tribe's reservation; PILT must be negotiated by a tribe and the county in which the tribal property is located, rather than by a tribe and the state Department of Revenue; and PILT will be paid to the county rather than the State Treasurer. An exemption from PILT for deep water ports and affiliated property is deleted. The due date for a Joint Legislative Audit and Review Committee report is changed to December 1, 2020, from December 1, 2017. The effective date of the act is changed to January 1, 2015, from September 1, 2014, and the expiration date is changed to July 1, 2022, from July 1, 2021.

**Appropriation:** None.

**Fiscal Note:** Available.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** The act takes effect September 1, 2014, and expires on July 1, 2021.

**Staff Summary of Public Testimony on Original Bill:** PRO: This measure provides that, for tax purposes, Washington tribes will be treated like other government entities. It is the product of years of effort and negotiation. Further negotiation is underway.

CON: This measure would cause a tax shift, effectively raising taxes for other taxpayers. While it addresses loss of revenue to fire authorities, it does not address loss of revenue for other government services. It would give tribes a competitive advantage over other commercial operations. It is uncertain how much tribally owned property would be affected by this measure. All government property used for for-profit enterprises should be taxed.

**Persons Testifying:** PRO: Rick Jensen and Dylan Doty, Muckleshoot Indian Tribe.

CON: Monty Cobb, WA Assn. of County Officials; Josh Weiss, WA Assn. of Counties; Bill Clarke, WA Realtors; Victoria Lincoln, Assn. of WA Cities; Lloyd Hara, King County Assessor.