

SENATE BILL REPORT

SHB 1063

As of February 23, 2018

Title: An act relating to allowing federally recognized tribes with lands held in trust in a county that is west of the Cascade mountain range that borders Puget Sound with a population of at least one hundred eighteen thousand, but less than two hundred fifty thousand, persons to enter into agreements regarding fuel taxes.

Brief Description: Allowing federally recognized tribes with lands held in trust in a county that is west of the Cascade mountain range that borders Puget Sound with a population of at least one hundred eighteen thousand, but less than two hundred fifty thousand, persons to enter into agreements regarding fuel taxes.

Sponsors: House Committee on Community Development, Housing & Tribal Affairs (originally sponsored by Representatives Morris, Lytton, Fitzgibbon, Appleton and Sawyer).

Brief History: Passed House: 2/13/18, 52-46.

Committee Activity: Transportation: 2/19/18.

Brief Summary of Bill

- Allows the Department of Licensing (DOL) to enter into fuel tax agreements with certain federally recognized tribes with lands held in trust.

SENATE COMMITTEE ON TRANSPORTATION

Staff: Kim Johnson (786-7472)

Background: Under federal law, absent explicit congressional authorization, states may not impose taxes on a tribe or its members for sales made on tribal lands. In 2007, state legislation was enacted that authorized the Governor to enter into a motor vehicle fuel tax agreement with any federally recognized Indian tribe with a reservation in Washington. The Governor has delegated this authority to the DOL. There are currently 29 federally recognized Indian tribes in Washington, 24 of which currently have a fuel tax agreement with DOL.

There are two types of fuel tax agreements:

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1. Seventy-five Percent Refund/25 Percent (75/25) State Tax Agreement. Under a 75/25 state tax agreement, tribes agree to purchase the fuel sold at tribally owned retail stations from state-licensed fuel distributors with the state fuel tax included. Tribes report their purchases to the DOL and receive 75 percent of the state fuel tax revenue collected as a refund, and the state retains 25 percent as state tax.
2. Per Capita Agreement. A per capita agreement is a computational formula resulting in an estimate of the amount of fuel tax most likely paid by tribal members purchasing fuel on the reservation. This formula provides an annual amount of fuel tax to be refunded to each tribe. All per capita agreements were entered into prior to the 2007 legislation.

Summary of Bill: The Governor may enter into fuel tax agreements with federally recognized Indian tribes with trust lands in certain counties. The federally recognized tribe must have trust lands located in a county that is west of the Cascade mountain range that borders the Puget Sound and has a population of at least 118,000, but less than 250,000 people. The agreement is applicable only to fuel taxes included in the price of fuel delivered to a retail station located on property held in trust on the effective date of this act.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: The bill contains an emergency clause and takes effect immediately.

Staff Summary of Public Testimony: PRO: This bill is about fairness and equality. The original intent of the tribal fuel tax legislation was not to exclude Washington tribes with trust lands from participating in the fuel tax agreements. Since the mid-90's the state has entered into fuel tax agreements with tribes and in 2007 codified this process. There are very strict auditing and reporting requirements. We would like to have the same opportunity to use this economic development tool as other tribes in Washington enjoy.

CON: With the increase in the gas tax, we now have a very difficult time competing with a tribal fuel station. We have lost many privately owned stations. The proliferation of the tribally owned fuel stations will only continue to increase. We did not envision this expansion. Our objection is not to the Samish, but rather the underlying policy and the economic impact it has had on Washington business owners.

Persons Testifying: PRO: Tom Wooten, Samish Indian Nation; Gary Hatch, Samish Indian Nation; Cody Arledge, Samish Indian Nation.

CON: Dave Ducharme, Washington Oil Marketers Association.

Persons Signed In To Testify But Not Testifying: No one.