

HOUSE BILL REPORT

SHB 1711

As Amended by the Senate

Title: An act relating to providing a sales and use tax exemption related to internet and telecommunications infrastructure projects involving a federally recognized Indian tribe.

Brief Description: Providing a sales and use tax exemption related to internet and telecommunications infrastructure projects involving a federally recognized Indian tribe.

Sponsors: House Committee on Finance (originally sponsored by Representatives Chapman, Tharinger, Lekanoff, Ryu, Callan, Reed, Volz, Kloba, Stearns, Stokesbary and Santos).

Brief History:

Committee Activity:

Finance: 2/21/23, 3/9/23 [DPS].

Floor Activity:

Passed House: 3/16/23, 95-0.

Senate Amended.

Passed Senate: 4/19/23, 48-0.

Brief Summary of Substitute Bill

- Provides a sales and use tax exemption for internet and telecommunications infrastructure projects involving a federally recognized Indian tribe.

HOUSE COMMITTEE ON FINANCE

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 13 members: Representatives Berg, Chair; Street, Vice Chair; Orcutt, Ranking Minority Member; Jacobsen, Assistant Ranking Minority Member; Barnard, Chopp, Ramel, Santos, Springer, Stokesbary, Thai, Walen and Wylie.

Staff: Tracey Taylor (786-7152).

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Background:

Retail Sales and Use Tax.

Retail sales taxes are imposed on retail sales of most articles of tangible personal property, digital products, and some services. A retail sale is a sale to the final consumer or end user of the property, digital product, or service. If retail sales taxes were not collected when the user acquired the property, digital products, or services, then use tax applies to the value of property, digital product, or service when used in this state. The state, all counties, and all cities levy retail sales and use taxes. The state sales and use tax rate is 6.5 percent; local sales and use tax rates vary from 0.5 percent to 4.0 percent, depending on the location.

Tax Preference Performance Statement.

State law provides for a range of tax preferences that confer reduced tax liability upon a designated class of taxpayer. Tax preferences include tax exclusions, deductions, exemptions, preferential tax rates, deferrals, and credits. Currently, Washington has over 650 tax preferences, including a variety of sales and use tax exemptions. Legislation that establishes or expands a tax preference must include a Tax Preference Performance Statement that identifies the public policy objective of the preference, as well as specific metrics that the Joint Legislative Audit and Review Committee can use to evaluate the effectiveness of the preference. All new tax preferences automatically expire after 10 years unless an alternative expiration date is provided.

Summary of Substitute Bill:

A sales and use tax exemption for building materials, telecommunications equipment, or any personal property used or incorporated into a qualified infrastructure project is provided. The exemption also applies to charges made for the labor and services related to the construction of a qualified infrastructure project or the installation of any equipment or personal property incorporated into such project.

A taxpayer seeking the exemption must submit an application to the Department of Revenue in order to obtain an exemption certificate. The application must include a certification from the owner of a qualified infrastructure project that the taxpayer is associated with the project.

The exemption certificate must be presented to the seller at the time of sale. The exemption certificate is effective from the date of issuance and no refunds may be issued for purchases made prior to the effective date. The exemption certificate expires on the earlier of the date the project is certified complete or on December 31, 2029.

The work on the qualified infrastructure project must be performed under the terms of a community workforce agreement or project labor agreement negotiated prior to the start of a qualified infrastructure project.

A "qualified infrastructure project" means the construction of buildings and utilities related to the deployment of modern global internet and telecommunications infrastructure that occurs in part in a distressed county located on the coast in Washington.

A "qualified infrastructure project owner" means a wholly owned subsidiary of a federally recognized tribe and that is located in a county that borders the Pacific Ocean that is developing a qualified infrastructure project.

The act expires December 31, 2030, and the provisions of RCW 82.32.808 do not apply.

Accountability provisions include prevailing wage requirements, project labor agreement requirements, sustainable design and green building standards, and energy efficiency provisions.

EFFECT OF SENATE AMENDMENT(S):

The Senate amendment limits the tax exemption to the state sales and use tax; caps the total amount of state sales and use tax that may be exempted to \$8 million; adds an emergency clause with a July 1, 2023, effective date; and updates definitions and makes technical corrections.

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:

(In support) Quinault Indian Nation is a treaty tribe composed of 3,000 members from seven distinct tribes. The tribe is the largest employer in Grays Harbor. This project is vital for not just our tribal members, but residents all over Washington. Internet connectivity has always been a challenge in rural areas and, unfortunately, the COVID-19 pandemic reinforced this. Despite using tribal resources to increase connectivity for the community, short-term fixes still have the community far below Federal Communication Commission internet minimums. There is the need and demand for reliable high-speed access and the opportunity is welcome to partner with Washington to build the necessary infrastructure.

Global demand for broadband has increased and it is critical to Washington. A wholly owned tribal enterprise is leading a project to build internet infrastructure on the Olympic peninsula. The landing of undersea cable is a critical step to providing route diversity and ownership. No new cables have been landed in Washington since 1999. This project will enhance Washington's competitiveness in landing other undersea cables and attract

economic growth to the area.

This is the first project of its kind to be owned by an Indigenous nation in the United States. It will advance digital equity and support workforce development.

(Opposed) None.

Persons Testifying: (In support) Guy Capoeman and Tyson Johnston, Quinault Indian Nation.

(Other) Mark Vasconi, Washington State Department of Commerce–Washington State Broadband Office.

Persons Signed In To Testify But Not Testifying: None.