

HOUSE BILL REPORT

HB 1446

As Reported by House Committee On:
State Government & Tribal Affairs

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: Removing essential government services as a condition to exempt from taxation property belonging to any federally recognized Indian tribe located in the state.

Sponsors: Representatives Appleton, Santos, McCoy and Ryu.

Brief History:

Committee Activity:

State Government & Tribal Affairs: 2/10/11, 2/16/11 [DP].

Brief Summary of Bill

- Exempts all property belonging exclusively to a federally recognized Indian tribe located in the state from property tax.
- Extends the leasehold excise tax to include real or personal property owned by a federally recognized Indian tribe.
- Allows a fire protection district or authority to contract with a tribe for compensation for providing fire protection services.

HOUSE COMMITTEE ON STATE GOVERNMENT & TRIBAL AFFAIRS

Majority Report: Do pass. Signed by 6 members: Representatives Hunt, Chair; Darneille, Dunshee, Hurst, McCoy and Miloscia.

Minority Report: Do not pass. Signed by 4 members: Representatives Taylor, Ranking Minority Member; Overstreet, Assistant Ranking Minority Member; Alexander and Condotta.

Staff: Marsha Reilly (786-7135).

Background:

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.

Property Taxes.

All real and personal property in this state is subject to a property tax each year based on its value, unless a specific exemption is provided by law. Property owned by the United States, the State of Washington, counties, cities, and other local governments is exempted from property tax under the state Constitution. The Legislature may exempt other property by statute and has enacted a number of exemptions for publicly-owned property, property owned by various nonprofit organizations, privately-owned property, and personal property.

Federal law prohibits the taxation of Indian trust land by state and local governments. Indian trust land is land that the federal government holds in trust for recognized Indian tribes. Tribes may own non-trust land, called fee land, and this land is subject to the usual state and local property taxes.

In 2004 a property tax exemption was provided for property belonging exclusively to federally recognized Indian tribes and used exclusively for essential government services. Essential government services are defined as services such as tribal administration, public facilities, fire, police, public health, education, sewer, water, environmental and land use, transportation, and utility services.

When exempted property falls within a fire protection district and is owned by the legislative or administrative authority of a state agency or institution, or a municipal corporation, the agency or institution or municipal corporation involved must contract with the district for fire protection services, unless fire protection services are provided by contract from another entity.

Leasehold Excise Tax.

Property owned by federal, state, or local governments is exempt from the property tax. However, private lessees of government property are subject to the leasehold excise tax. The purpose of the leasehold excise tax is to impose a tax burden on persons using publicly-owned, tax-exempt property similar to the property tax that they would pay if they owned the property.

The tax is collected by public entities that lease property to private parties. The tax rate is 12.84 percent of the amount paid in rent for the public property. Cities and counties may impose a local tax which is credited against the state tax. Counties may impose a tax of up to 6 percent, and cities may impose a tax of up to 4 percent. The city tax is credited against any county tax. The state tax is deposited into the State General Fund, and county taxes are distributed to taxing districts within the county in the same manner as property taxes.

Summary of Bill:

All property belonging exclusively to any federally recognized Indian tribe located in the state is exempt from taxation. Publicly-owned real or personal property, for purposes of

leasehold interest, includes real or personal property owned by a federally recognized Indian tribe in the state.

In the event that exempt tribal property is located within the boundaries of a fire protection district or a regional fire protection service authority, the district or authority is authorized to contract with the tribe for compensation for providing fire protection services in an amount, and under such terms, as are mutually agreed upon by the district or authority, and the tribe.

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) The bill exempts tribal property from property tax, but applies a leasehold tax to property rented by tribes. In 2004 when the property tax bill for fee land was passed, a caveat was included that the property had to be used for essential government services, and that definition is interpreted differently around the state. The problem is that in order to have essential government services, there has to be revenue. The definition excluded economic development as an essential government service. The tribes want to be treated like other governments. Leasehold language is included because that is how other governments are treated. Tribes own property in fee status and trust status. This bill does not affect tribal trust property, only fee property. The Umatilla Tribes have land in Washington that is exempted by law. The tribes are asking for parity in government. Other government entities are exempted. The burden in identifying properties under the essential government services provisions is removed. Fire protection agreements are important and tribes enter into these agreements because public safety is important.

(With concerns) Fire districts will receive less money through the property tax exemption, and if the property is leased, fire districts will be affected. Fire districts already have the authority to enter into a contract for fire protection services.

(Opposed) Counties and sub-taxing districts rely on property tax. When there is a shrinking tax base, the voters have to be asked to provide more money. The bill will result in a tax shift to other tax payers. All 39 counties would see a tax shift of about \$4.2 million each year. The land previously exempted through essential government services resulted in a shift of \$1.4 million. The current bill will remove about \$100 million from the tax base. The leasehold tax is hard to enforce.

Persons Testifying: (In support) Representative McCoy; Rick Jensen and Richard Reich, Muckleshoot Indian Tribe; and Naomi Stacy, Confederated Tribes of the Umatilla Reservation.

(With concerns) Ryan Spiller, Washington Fire Commissioners.

(Opposed) Judi Morris, Washington Association of County Officials; and Dianne Dorey, Washington State Association of County Assessors.

Persons Signed In To Testify But Not Testifying: None.