

House Committee On Rural Communities, Land Use, and Water

Fiscal: No Fiscal Impact

Revenue: Revenue impact issued

Action Date: 02/19/15

Action: Do Pass With Amendments, Be Printed Engrossed And Be Referred To Revenue By Prior Reference.

Meeting Dates: 02/10, 02/19

House

Yeas: 7 - Clem, Gilliam, Gomberg, Witt, McLane, Post, Helm

Prepared By: Ian Davidson, Committee Administrator

WHAT THE MEASURE DOES:

Exempts permanent improvements located on federal land held in trust for federally recognized Indian tribe or tribe member from state and local property taxes, fees, charges and assessments. Clarifies that permanent improvements are exempt only from state and local fees, charges and assessments “related to property taxation.” Takes effect on 91st day following adjournment sine die.

ISSUES DISCUSSED:

- Background of *Confederated Tribes of the Chehalis Reservations v. Thurston County Board of Equalization*
- Influence of Federal Preemption in bill

EFFECT OF COMMITTEE AMENDMENT:

Clarifies that permanent improvements are exempt only from state and local fees, charges and assessments “related to property taxation.”

BACKGROUND:

Similar to state and local governments, tribal governments do not pay taxes. Individual tribal members pay federal income tax, with a small exception for some income that is derived from treaty resources. As Oregonians, individual members pay state and local taxes. The one exception for paying state income tax is for those members who live and make their income on a reservation. State property tax does not apply on reservation or trust lands. Tribes that hold a portion of property “in fee” (not the same as “in trust”) are subject to state property tax laws with a limited exemption for property being placed into trust.

Trust lands are lands held by the United States for the use or benefit of American Indian tribes. Percentages of the trust lands are located in or near reservations and the tribes possess the authority to purchase land and to petition the federal government to hold it in trust, which protects the land from encroachment and seizure. Acquisition of land by a tribe for housing and economic development is considered a high priority by the federal government.

On July 30, 2013, a three-judge panel of the U.S. Ninth Circuit Court of Appeals issued a decision in *Confederated Tribes of the Chehalis Reservation v. Thurston County Board of Equalization*, in which it held that the exemption of trust lands from state and local taxation under 25 U.S.C. § 465 extends to permanent improvements on trust lands regardless of the particular form in which the tribe chooses to conduct its business. Thurston County did not file a request to hear an appeal of the case with the United States Supreme Court within the required 90-day period. Thus, the Ninth Circuit Court’s decision is now final and binding within its jurisdiction, which includes Oregon.

House Bill 2148A would exempt “permanent improvements” located on federal land held in trust for federally recognized Indian tribe or tribe member from state and local property taxes, fees, charges and assessments.

“Permanent improvements,” according to House Bill 2148A, means “real property” as defined in ORS 307.010(1)(b)(B) which reads “All buildings, structures, improvements, machinery, equipment or fixtures erected upon, above or affixed to the land.”