

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
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LB 271

from taxation because it is held for public purpose? What I heard you say was, and I'll probably want you to clarify it, that your opinion would be no because the tax is paid by the tenant and that it's the value of the leasehold that is being taxed and not the property that's being taxed. But if you listen to Senator Landis' discussion with you, it's the treatment of the property as if it were a public purpose. And so I want to enter into that discussion briefly with you as to is that...are those leaseholds taxable or not?

SENATOR CUDABACK: Senator Wickersham.

SENATOR WICKERSHAM: Thank you. I think under the principles of LB 271 that if the government's use is a public use, the 75 feet, but the lessee's use is neither a public nor a charitable use that the value is subject to tax. It is a two-pronged analysis. You ask first is the governmental purpose there, you're halfway home. If it is unleased and is used for a public purpose, it's exempt. If you examine it and you say that the government use is public but it's been leased to someone else other than that public body, then the question is asked is the use exempt in the hands of the lessee? If it is leased to another governmental entity, for example, and that governmental entity uses it for one of its public purposes, it's exempt. If it is leased to a private entity and that entity is a charity and its use qualifies for the charitable exemption, it's exempt. If it is leased by a governmental body to an individual or an entity and the use is nonpublic or noncharitable, I believe it is subject to tax under the principles of 271. I hope that answers your...

SPEAKER KRISTENSEN: It starts to, yes. The examination then is you look at the...the first examination is the use of the tenant.

SENATOR WICKERSHAM: You can start on either side.

SPEAKER KRISTENSEN: I can start but for my purpose let's start, I examine the use of the tenant. If the tenant is not a public purpose tenant, then you go no further. It doesn't matter if that's public purpose property or not.