

# FINAL BILL REPORT

## SHB 2008

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C 69 L 07

Synopsis as Enacted

**Brief Description:** Creating a cooperative agreement relating to the timber harvest excise taxation of timber harvests within the Quinault Indian Reservation.

**Sponsors:** By House Committee on State Government & Tribal Affairs (originally sponsored by Representatives VanDeWege, Kessler, Haigh, Takko and Ericks).

**House Committee on State Government & Tribal Affairs**

**House Committee on Finance**

**Senate Committee on Ways & Means**

**Background:**

Timber Harvest Excise Tax.

In 1971, the Legislature excluded timber from property taxation. Instead of a property tax, the state imposes a timber harvest excise tax, also referred to as the forest excise tax or FET, on every person in the state who engages in the business of harvesting timber on either public or private land. Timber owners pay a 5 percent excise tax on the stumpage value of the timber when it is harvested.

The person who owns the timber at the time of harvest, in effect the harvester, is responsible for paying the FET. Anyone who intends to harvest timber on private land must obtain a permit from the Department of Revenue (DOR); anyone who is not required to obtain a permit must register with the DOR. When the owner of the timber at the time of harvest cannot be determined, the landowner at the time of harvest is responsible for the tax. The FET is paid quarterly on all timber harvested during the previous quarter.

Revenue from the FET is split between the counties and the State General Fund. Four percent of the tax is distributed to the counties with the remaining 1 percent being distributed to the State General Fund. Under statute, both the state and counties may impose the FET; the 5 percent rate is inclusive of both levies. The state administers both levies and distributes revenues to the counties.

Timber Harvest Excise Tax Revenue.

Thirteen counties have forested fee land within the exterior boundary of a reservation that is subject to the FET. These counties, and the portion of their revenue distribution that is from such forest lands are as follows:

County Percentage

Clallam 0.75

Ferry 4

Grays Harbor 2

Jefferson 0.25  
Kitsap 0.5  
Klickitat 0.5  
Mason 0.5  
Okanogan 2  
Skagit 0.5  
Snohomish 0.75  
Stevens 1  
Whatcom 0.5  
Yakima 2

In 2006 the state distributed \$38,719,697.96 of FET revenue to all counties. An average 1.1 percent of the state's total FET revenue comes from forest lands within the exterior boundaries of a tribal reservation. Thirteen million of the total amount was distributed to counties that have taxable forest lands within the exterior boundaries of a reservation; of that \$13 million, \$153,439.60 was from forest lands within the exterior boundaries of a tribal reservation.

Other Government-to-Government Agreements.

For comparison, since 2001, the state has also entered into government-to-government agreements with some of the 29 federally recognized tribes regarding cigarette tax. The terms of such contracts are non-negotiable and set by the Legislature in statute. Since then, 26 contracts have been executed with the tribes; one contract is pending legislative authorization. Tribal cigarette tax contracts are for renewable eight-year periods. The amount of tribal cigarette tax is equal to the total amount of the state cigarette tax and the state and local sales tax; the tribal cigarette tax is in lieu of the state cigarette and state and local sales tax.

**Summary:**

The Governor may enter into a timber harvest excise tax contracts with the Quinault Nation. These contracts are for timber harvests on fee land within the exterior boundaries of the tribe's reservation and do not pertain to timber harvests on trust land or land owned by the tribe. The tribal timber harvest excise tax must be equal to 100 percent of the state timber harvest excise tax. Tribal timber harvest excise tax contracts are for renewable eight-year periods. The Governor may delegate the power to negotiate the timber harvest excise tax to the DOR.

Those individuals that are subject to a tribal timber harvest excise tax pursuant to a contract between the tribe and state are allowed a tax credit against the state and county timber harvest excise tax for the amount of the tribal timber harvest excise tax. (In effect, individuals will not be subject to overlapping timber harvest excise tax liabilities.)

The state will distribute funds from the state's portion of the timber harvest excise tax revenue to counties affected by the timber harvest excise tax contracts in an amount equal to that of any tribal tax credited against the county's portion of the timber harvest excise tax revenue.

Tribal timber harvest excise contracts are subject to the following terms:

- The tribal tax shall be credited against the state and county taxes imposed under statute.

- Tribal ordinances or other laws for timber harvest excise taxation that implement the terms of the timber harvest excise tax must reflect provisions that are identical to those in state code for tax rates and measures.
- Contracts must include provisions for compliance, recordkeeping, and audit requirements.
- Contracts must include provisions for dispute resolution and contract termination, and provisions delineating the respective roles and responsibilities of the tribe and the state.
- Contracts must include provisions that require taxpayers to submit necessary information to the state or the tribe.

Tax revenue retained by the tribe through the timber harvest excise tax may only be used for essential government services. For the purposes of these contracts, essential government services are:

- forest land management;
- protection, enhancement, regulation, and stewardship of forested land;
- land consolidation;
- tribal administration;
- public facilities, fire, and police;
- public health;
- education;
- job services;
- sewer and water;
- environmental and land use;
- transportation;
- utility services; and
- public facilities serving economic development purposes.

**Votes on Final Passage:**

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| House  | 63 | 33 |
| Senate | 48 | 1  |

**Effective:** July 22, 2007