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**State Government & Tribal  
Affairs Committee**

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**HB 2008**

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

**Sponsors:** Representatives VanDeWege, Kessler, Haigh, Takko and Ericks.

**Brief Summary of Bill**

- Allows the Governor to enter into a Timber Harvest Excise Tax Contract with the Quinault Nation.

**Hearing Date:** 2/26/07

**Staff:** Colleen Kerr (786-7168).

**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 five 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 State General Fund. Four percent of the tax is distributed to the counties with the remaining one percent being distributed to the State

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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 to the counties.

#### Timber Harvest Excise Tax Revenue

Thirteen counties have tribal forest-lands within their borders that are subject to the FET. These counties, and the portion of their distribution that is from forest-lands within the exterior boundaries of a reservation, 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 states total FET revenue comes from forest-lands within the exterior boundaries of a 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 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.

There are statutory requirements for Tribal cigarette tax contracts:

- The terms of the cigarette tax contract apply to retail sales by Indian sellers in Indian Country, which is land within the boundaries of the reservation and land held in trust for a tribe or by a tribal member; tribal retails sales are limited to Indian Country;
- Cigarettes may only be sold to individuals 18 years and older;
- Tribal cigarette tax must be used for essential government services, including tribal administration, public facilities, fire, police, public health, education, job services, sewer, water, environmental and land use, transportation, utility services, and economic development;
- Cigarettes sold under this contract must bear a tribal cigarette tax stamp;

- Tribal retailers must purchase cigarettes only from approved wholesalers;
- Contracts must contain provisions for compliance; and
- Disputes regarding the interpretation and administration of the contract's provisions may be resolved by mediation and other nonjudicial process.

### **Summary of Bill:**

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 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 one hundred 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 Department of Revenue.

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 that 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, 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
- economic development.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect 90 days after adjournment of session in which bill is passed.