H-1830.1

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**SUBSTITUTE HOUSE BILL 1540**

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**State of Washington 64th Legislature 2015 Regular Session**

**By** House Community Development, Housing & Tribal Affairs (originally sponsored by Representatives Kretz, Blake, Pettigrew, Condotta, Stanford, Lytton, Short, Sawyer, S. Hunt, Hurst, Moscoso, and Wylie)

AN ACT Relating to tribal timber harvest excise tax agreements; amending RCW 43.06.475, 43.06.480, and 84.33.081; and adding a new section to chapter 43.06 RCW.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

**Sec.**  RCW 43.06.475 and 2007 c 69 s 2 are each amended to read as follows:

(1) The governor may enter into timber harvest excise tax agreements concerning the harvest of timber under RCW 43.06.480(1). All timber harvest excise tax agreements must meet the requirements ((~~for timber harvest excise tax agreements~~)) under this section. The terms of a timber harvest excise tax agreement are not effective unless the agreement is authorized in RCW 43.06.480.

(2) Timber harvest excise tax agreements shall be in regard to timber harvests on fee land within the exterior boundaries of the reservation of the Indian tribe and are not in regard to timber harvests on trust land or land owned by the tribe within the exterior boundaries of the reservation.

(3) The agreement must provide that the tribal tax shall be credited against the state and county taxes imposed under RCW 84.33.041 and 84.33.051.

(4) Tribal ordinances for timber harvest excise taxation, or other authorizing tribal laws, which implement the timber harvest excise tax agreement with the state, must incorporate or contain provisions identical to chapter 84.33 RCW that relate to the tax rates and measures, such as stumpage values.

(5) Timber harvest excise tax agreements must be for renewable periods of no more than eight years.

(6) Timber harvest excise tax agreements must include provisions for compliance, such as inspection procedures, recordkeeping, and audit requirements.

(7) Tax revenue retained by the tribe must be used for essential government services. Use of tax revenue for subsidization of timber harvesters is prohibited.

(8) The timber harvest excise tax agreement may include provisions to resolve disputes using a nonjudicial process, such as mediation.

(9) The governor may delegate the power to negotiate the timber harvest excise tax agreements to the department of revenue.

(10) Information received by the state or open to state review under the terms of a timber harvest excise tax agreement is subject to the provisions of RCW 82.32.330. The department of revenue may enter into an information sharing agreement with the tribe to facilitate sharing information to improve tax collection.

(11) The timber harvest excise tax agreement must include dispute resolution procedures, contract termination procedures, and provisions delineating the respective roles and responsibilities of the tribe and the department of revenue.

(12) The timber harvest excise tax agreement must include provisions to require taxpayers to submit information that may be required by the department of revenue or tribe.

(13) For the purposes of this section:

(a) "Essential government services" means services such as forest land management; protection, enhancement, regulation, and stewardship of forested land; land consolidation; tribal administration; public facilities; fire; police; public health; education; job services; sewer; water; environmental and land use; transportation; utility services; and public facilities serving economic development purposes as those terms are defined in RCW 82.14.370(3)(c);

(b) "Forest land" has the same meaning as in RCW 84.33.035;

(c) "Harvester" has the same meaning as in RCW 84.33.035;

(d) "Indian tribe" or "tribe" means a federally recognized Indian tribe located within the geographical boundaries of the state of Washington; and

(e) "Timber" has the same meaning as in RCW 84.33.035.

(14) This section does not apply to an agreement under RCW 43.06.480(2) unless otherwise agreed to under section 3 of this act.

**Sec.**  RCW 43.06.480 and 2007 c 69 s 3 are each amended to read as follows:

(1) The governor is authorized to enter into a timber harvest excise tax agreement with the Quinault Nation. Agreements adopted under this section must provide that the tribal timber harvest excise tax rate be one hundred percent of the state timber harvest excise tax. A timber harvest excise tax agreement under this subsection is subject to RCW 43.06.475.

(2) ((~~A timber harvest excise tax agreement under this section is subject to RCW 43.06.475.~~)) The governor is authorized to enter into a tribal timber harvest excise tax agreement with the Confederated Tribes of the Colville Nation. A timber harvest excise tax agreement under this subsection is subject to section 3 of this act and RCW 84.33.081(7)(b).

NEW SECTION. **Sec.**  A new section is added to chapter 43.06 RCW to read as follows:

(1) The governor may enter into timber harvest excise tax agreements concerning the harvest of timber under RCW 43.06.480(2). All timber harvest excise tax agreements authorized under RCW 43.06.480(2) must meet the requirements under this section. The terms of a timber harvest excise tax agreement are not effective unless the agreement is authorized in RCW 43.06.480(2).

(2) The agreement may incorporate any terms for timber harvest excise tax agreements under RCW 43.06.475 (2) and (5) through (12), but must include a provision for reimbursement to the department of revenue for the collection and administration of the state and county taxes imposed under RCW 84.33.041 and 84.33.051 and collected within the borders of the reservation.

(3) The agreement may not authorize the department of revenue to assess or collect the tax under RCW 84.33.041 and 84.33.051 in a different amount or manner than as authorized under chapter 84.33 RCW. Nothing in this subsection may be construed to affect the negotiation for an amount to reimburse the department for collection and administration of state and county taxes as provided in subsection (2) of this section.

(4) Tribal timber harvest excise tax agreements entered into under RCW 43.06.480(1) are not subject to this section.

**Sec.**  RCW 84.33.081 and 2007 c 69 s 5 are each amended to read as follows:

(1) On the last business day of the second month of each calendar quarter, the state treasurer ((~~shall~~)) must distribute from the timber tax distribution account to each county the amount of tax collected on behalf of each county under RCW 84.33.051, less each county's proportionate share of appropriations for collection and administration activities under RCW 84.33.051, and ((~~shall~~)) must transfer to the state general fund the amount of tax collected on behalf of the state under RCW 84.33.041, less the amount of the distribution under subsection (7) of this section and the state's proportionate share of appropriations for collection and administration activities under RCW 84.33.041. The county treasurer ((~~shall~~)) must deposit moneys received under this section in a county timber tax account, which ((~~shall~~)) must be established by each county. Following receipt of moneys under this section, the county treasurer ((~~shall~~)) must make distributions from any moneys available in the county timber tax account to taxing districts in the county, except the state, under subsections (2) through (4) of this section.

(2) From moneys available, there first ((~~shall~~)) must be a distribution to each taxing district having debt service payments due during the calendar year, based upon bonds issued under authority of a vote of the people conducted pursuant to RCW 84.52.056 and based upon excess levies for a capital project fund authorized pursuant to RCW 84.52.053, of an amount equal to the timber assessed value of the district multiplied by the tax rate levied for payment of the debt service and capital projects((~~: PROVIDED, That~~)). However, in respect to levies for a debt service or capital project fund authorized before July 1, 1984, the amount allocated ((~~shall~~)) may not be less than an amount equal to the same percentage of such debt service or capital project fund represented by timber tax allocations to such payments in calendar year 1984. Distribution under this subsection (2) ((~~shall~~)) may be used only for debt service and capital projects payments. The distribution under this subsection ((~~shall~~)) must be made as follows: One-half of such amount ((~~shall~~)) must be distributed in the first quarter of the year and one-half ((~~shall~~)) must be distributed in the third quarter of the year.

(3) From the moneys remaining after the distributions under subsection (2) of this section, the county treasurer ((~~shall~~)) must distribute to each school district an amount equal to one-half of the timber assessed value of the district or eighty percent of the timber roll of such district in calendar year 1983 as determined under this chapter, whichever is greater, multiplied by the tax rate, if any, levied by the district under RCW 84.52.052 or 84.52.053 for purposes other than debt service payments and capital projects supported under subsection (2) of this section. The distribution under this subsection ((~~shall~~)) must be made as follows: One-half of such amount ((~~shall~~)) must be distributed in the first quarter of the year and one-half ((~~shall~~)) must be distributed in the third quarter of the year.

(4) After the distributions directed under subsections (2) and (3) of this section, if any, each taxing district ((~~shall~~)) must receive an amount equal to the timber assessed value of the district multiplied by the tax rate, if any, levied as a regular levy of the district or as a special levy not included in subsection (2) or (3) of this section.

(5) If there are insufficient moneys in the county timber tax account to make full distribution under subsection (4) of this section, the county treasurer ((~~shall~~)) must multiply the amount to be distributed to each taxing district under that subsection by a fraction. The numerator of the fraction is the county timber tax account balance before making the distribution under that subsection. The denominator of the fraction is the account balance ((~~which~~)) that would be required to make full distribution under that subsection.

(6) After making the distributions under subsections (2) through (4) of this section in the full amount indicated for the calendar year, the county treasurer ((~~shall~~)) must place any excess revenue up to twenty percent of the total distributions made for the year under subsections (2) through (4) of this section in a reserve status until the beginning of the next calendar year. Any moneys remaining in the county timber tax account after this amount is placed in reserve ((~~shall~~)) must be distributed to each taxing district in the county in the same proportions as the distributions made under subsection (4) of this section.

(7)(a) On the last business day of the second month of each calendar quarter, the state treasurer ((~~shall~~)) must distribute from the timber tax distribution account to each county an amount of tax collected by the state under RCW 84.33.041 equal to the amount of any tribal tax credited against the county's tax under an agreement entered into under RCW 43.06.480(1).

(b) On the last business day of the second month of each calendar quarter, the state treasurer must make distributions from the timber tax distribution account to a tribe, as defined in RCW 43.06.475 and whose reservation is in excess of 1.35 million acres, for the duration an agreement entered into under RCW 43.06.480(2) is in effect. The amount of the distribution is equal to the amount of state and county excise taxes imposed under RCW 84.33.041 and 84.33.051 and collected by the department during the immediately preceding calendar quarter with respect to timber harvested within the tribe's reservation boundaries, less an amount negotiated under section 3 of this act to reimburse the department for administrative costs to collect those taxes that are collected within the reservation's boundaries. Nothing in this subsection (7)(b) may be construed to affect distributions to a county, as provided in subsection (1) of this section, of taxes collected on behalf of the county under RCW 84.33.051 with respect to timber harvested within a tribe's reservation boundaries.

(c) No appropriation is required for distributions to a tribe under this subsection.

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