

SENATE BILL REPORT

SB 5903

As Reported By Senate Committee On:
Ways & Means, March 5, 2007

Title: An act relating to cooperative agreements concerning the timber harvest excise taxation of timber harvests on fee land within the boundaries of the Quinault Indian Reservation.

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

Sponsors: Senators Hargrove, Hatfield and Sheldon.

Brief History:

Committee Activity: Ways & Means: 3/05/07 [DPS].

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Substitute Senate Bill No. 5903 be substituted therefor, and the substitute bill do pass.

Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Pridemore, Vice Chair, Operating Budget; Zarelli, Ranking Minority Member; Brandland, Carrell, Hatfield, Hobbs, Honeyford, Keiser, Kohl-Welles, Parlette, Rasmussen, Regala, Roach, Rockefeller and Schoesler.

Staff: Dianne Criswell (786-7433)

Background: Forest Excise Tax: In place of the property tax on timber, timber harvesters must pay a 5 percent forest excise tax (FET) on the stumpage value of any trees harvested from private or public lands.

The FET is paid quarterly by the timber harvester. The law defines a timber harvester as "anyone who fells, cuts, or takes timber for sale or for commercial or industrial use." The law specifically excludes a person performing, under contract, the labor and mechanical services for a harvester. When timber is harvested from public lands, the harvester is the first person (other than the public entity) to acquire title possessory interest in the timber.

Harvests of timber on private land must have a cutting permit, called a Forest Practice Application (FPA), issued by the Department of Natural Resources or a local government permitting agency. The permitting agency forwards a copy of the cutting permit to the Department of Revenue, which then mails the forest tax reporting forms and instructions to the taxpayer. The reporting process is similar for timber cut on state and federal land, except that

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the timber sale contract is used instead of a cutting permit to alert the Department of Revenue of a timber sale.

Tax revenues collected from timber harvested on private and public lands go to both the state and local government. In general, the tax rates are composed of a county forest tax rate of 4 percent and a state tax rate of 1 percent for a total of 5 percent of the stumpage value. The 4 percent county tax revenue is distributed among local taxing districts within the county. The state's 1 percent share of the tax goes to the state General Fund and is used to help support various state programs, including schools and social services.

Cigarette Tax Contracts: In 2001, the Legislature authorized the Governor to negotiate and enter into cigarette tax contracts with certain named federally recognized tribes located in Washington. Contracts must be for renewable periods of eight years or less. Cigarettes sold on Indian lands under a contract are subject to a tribal cigarette tax and are exempt from state cigarette and sales and use taxes. The tribal cigarette tax must equal 100 percent of the cigarette tax and sales and use taxes. The rate may be phased in over three years, but can be no lower than 80 percent of the state cigarette and sales tax rate.

Since 2001, RCW 43.06.460 has been amended and currently lists 25 tribes with which the Governor may contract. RCW 43.06.465 separately authorizes the Governor to enter into a contract with the Puyallup Tribe. Of the 26 tribes eligible under these sections, 19 tribes have signed cigarette contracts with the state.

Summary of Bill: The Governor may enter into 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. Tax revenue retained by the tribe through the timber harvest excise tax may only be used for essential government services. 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.

EFFECT OF CHANGES MADE BY RECOMMENDED SUBSTITUTE AS PASSED COMMITTEE (Ways & Means): Clarifies that the contract will govern the timber harvest excise tax on fee land within the exterior boundaries of the reservation. Provides a reimbursement to counties from the state's timber tax distribution account for forest excise tax revenues that counties will no longer receive if an agreement goes into effect. Includes additional provisions for administration of the tax. Makes other technical changes.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: The Department of Revenue has had difficulty getting access to fee land within the exterior boundaries of the reservation. There has been poor compliance with payment of the forest excise tax in these areas. The Quinault Nation

has excellent forest management practices and is in a better position to collect this tax. This bill is a moderate proposal that is good for the environment and for state-tribal relations. The substitute reflects the work of stakeholders to create a consensus.

Persons Testifying: PRO: Michael Moran, Quinault Nation.