

SUBSTITUTE SENATE BILL 5230

State of Washington

55th Legislature

1997 Regular Session

By Senate Committee on Ways & Means (originally sponsored by Senators Rossi, Haugen, McCaslin, McDonald and Hale)

Read first time 03/10/97.

1 AN ACT Relating to current use taxation provisions; amending RCW
2 84.33.120, 84.33.140, and 84.33.145; and declaring an emergency.

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

4 **Sec. 1.** RCW 84.33.120 and 1995 c 330 s 1 are each amended to read
5 as follows:

6 (1) In preparing the assessment rolls as of January 1, 1982, for
7 taxes payable in 1983 and each January 1st thereafter, the assessor
8 shall list each parcel of forest land at a value with respect to the
9 grade and class provided in this subsection and adjusted as provided in
10 subsection (2) of this section and shall compute the assessed value of
11 the land by using the same assessment ratio he or she applies generally
12 in computing the assessed value of other property in his or her county.
13 Values for the several grades of bare forest land shall be as follows.

LAND	OPERABILITY	VALUES
GRADE	CLASS	PER ACRE
	1	\$141
1	2	136
	3	131

1		4	95
2			
3		1	118
4	2	2	114
5		3	110
6		4	80
7			
8		1	93
9	3	2	90
10		3	87
11		4	66
12			
13		1	70
14	4	2	68
15		3	66
16		4	52
17			
18		1	51
19	5	2	48
20		3	46
21		4	31
22			
23		1	26
24	6	2	25
25		3	25
26		4	23
27			
28		1	12
29	7	2	12
30		3	11
31		4	11
32			
33	8		1
34			

35 (2) On or before December 31, 1981, the department shall adjust, by
36 rule under chapter 34.05 RCW, the forest land values contained in
37 subsection (1) of this section in accordance with this subsection, and
38 shall certify these adjusted values to the county assessor for his or
39 her use in preparing the assessment rolls as of January 1, 1982. For

1 the adjustment to be made on or before December 31, 1981, for use in
2 the 1982 assessment year, the department shall:

3 (a) Divide the aggregate value of all timber harvested within the
4 state between July 1, 1976, and June 30, 1981, by the aggregate harvest
5 volume for the same period, as determined from the harvester excise tax
6 returns filed with the department under RCW 82.04.291 and 84.33.071;
7 and

8 (b) Divide the aggregate value of all timber harvested within the
9 state between July 1, 1975, and June 30, 1980, by the aggregate harvest
10 volume for the same period, as determined from the harvester excise tax
11 returns filed with the department under RCW 82.04.291 and 84.33.071;
12 and

13 (c) Adjust the forest land values contained in subsection (1) of
14 this section by a percentage equal to one-half of the percentage change
15 in the average values of harvested timber reflected by comparing the
16 resultant values calculated under (a) and (b) of this subsection.

17 For the adjustments to be made on or before December 31, 1982, and
18 each succeeding year thereafter, the same procedure shall be followed
19 as described in this subsection utilizing harvester excise tax returns
20 filed under RCW 82.04.291 and this chapter except that this adjustment
21 shall be made to the prior year's adjusted value, and the five-year
22 periods for calculating average harvested timber values shall be
23 successively one year more recent.

24 (3) In preparing the assessment roll for 1972 and each year
25 thereafter, the assessor shall enter as the true and fair value of each
26 parcel of forest land the appropriate grade value certified to him or
27 her by the department of revenue, and he or she shall compute the
28 assessed value of such land by using the same assessment ratio he or
29 she applies generally in computing the assessed value of other property
30 in his or her county. In preparing the assessment roll for 1975 and
31 each year thereafter, the assessor shall assess and value as classified
32 forest land all forest land that is not then designated pursuant to RCW
33 84.33.120(4) or 84.33.130 and shall make a notation of such
34 classification upon the assessment and tax rolls. On or before January
35 15 of the first year in which such notation is made, the assessor shall
36 mail notice by certified mail to the owner that such land has been
37 classified as forest land and is subject to the compensating tax
38 imposed by this section. If the owner desires not to have such land
39 assessed and valued as classified forest land, he or she shall give the

1 assessor written notice thereof on or before March 31 of such year and
2 the assessor shall remove from the assessment and tax rolls the
3 classification notation entered pursuant to this subsection, and shall
4 thereafter assess and value such land in the manner provided by law
5 other than this chapter 84.33 RCW.

6 (4) In any year commencing with 1972, an owner of land which is
7 assessed and valued by the assessor other than pursuant to the
8 procedures set forth in RCW 84.33.110 and this section, and which has,
9 in the immediately preceding year, been assessed and valued by the
10 assessor as forest land, may appeal to the county board of equalization
11 by filing an application with the board in the manner prescribed in
12 subsection (2) of RCW 84.33.130. The county board shall afford the
13 applicant an opportunity to be heard if the application so requests and
14 shall act upon the application in the manner prescribed in subsection
15 (3) of RCW 84.33.130.

16 (5) Land that has been assessed and valued as classified forest
17 land as of any year commencing with 1975 assessment year or earlier
18 shall continue to be so assessed and valued until removal of
19 classification by the assessor only upon the occurrence of one of the
20 following events:

21 (a) Receipt of notice from the owner to remove such land from
22 classification as forest land;

23 (b) Sale or transfer to an ownership making such land exempt from
24 ad valorem taxation;

25 (c) Determination by the assessor, after giving the owner written
26 notice and an opportunity to be heard, that, because of actions taken
27 by the owner, such land is no longer primarily devoted to and used for
28 growing and harvesting timber. However, land shall not be removed from
29 classification if a governmental agency, organization, or other
30 recipient identified in subsection (9) of this section as exempt from
31 the payment of compensating tax has manifested its intent in writing or
32 by other official action to acquire a property interest in classified
33 forest land by means of a transaction that qualifies for an exemption
34 under subsection (9) of this section. The governmental agency,
35 organization, or recipient shall annually provide the assessor of the
36 county in which the land is located reasonable evidence in writing of
37 the intent to acquire the classified land as long as the intent
38 continues or within sixty days of a request by the assessor. The

1 assessor may not request this evidence more than once in a calendar
2 year;

3 (d) Determination that a higher and better use exists for such land
4 than growing and harvesting timber after giving the owner written
5 notice and an opportunity to be heard;

6 (e) Sale or transfer of all or a portion of such land to a new
7 owner, unless the new owner has signed a notice of forest land
8 classification continuance, except transfer to an owner who is an heir
9 or devisee of a deceased owner, shall not, by itself, result in removal
10 of classification. The signed notice of continuance shall be attached
11 to the real estate excise tax affidavit provided for in RCW 82.45.150.
12 The notice of continuance shall be on a form prepared by the department
13 of revenue. If the notice of continuance is not signed by the new
14 owner and attached to the real estate excise tax affidavit, all
15 compensating taxes calculated pursuant to subsection (7) of this
16 section shall become due and payable by the seller or transferor at
17 time of sale. The county auditor shall not accept an instrument of
18 conveyance of classified forest land for filing or recording unless the
19 new owner has signed the notice of continuance or the compensating tax
20 has been paid. The seller, transferor, or new owner may appeal the new
21 assessed valuation calculated under subsection (7) of this section to
22 the county board of equalization. Jurisdiction is hereby conferred on
23 the county board of equalization to hear these appeals.

24 The assessor shall remove classification pursuant to (c) or (d) of
25 this subsection prior to September 30 of the year prior to the
26 assessment year for which termination of classification is to be
27 effective. Removal of classification as forest land upon occurrence of
28 (a), (b), (d), or (e) of this subsection shall apply only to the land
29 affected, and upon occurrence of (c) of this subsection shall apply
30 only to the actual area of land no longer primarily devoted to and used
31 for growing and harvesting timber: PROVIDED, That any remaining
32 classified forest land meets necessary definitions of forest land
33 pursuant to RCW 84.33.100 (~~as now or hereafter amended~~)).

34 (6) Within thirty days after such removal of classification as
35 forest land, the assessor shall notify the owner in writing setting
36 forth the reasons for such removal. The owner of such land shall
37 thereupon have the right to apply for designation of such land as
38 forest land pursuant to subsection (4) of this section or RCW

1 84.33.130. The seller, transferor, or owner may appeal such removal to
2 the county board of equalization.

3 (7) Unless the owner successfully applies for designation of such
4 land or unless the removal is reversed on appeal, notation of removal
5 from classification shall immediately be made upon the assessment and
6 tax rolls, and commencing on January 1 of the year following the year
7 in which the assessor made such notation, such land shall be assessed
8 on the same basis as real property is assessed generally in that
9 county. Except as provided in subsections (5)(e) and (9) of this
10 section and unless the assessor shall not have mailed notice of
11 classification pursuant to subsection (3) of this section, a
12 compensating tax shall be imposed which shall be due and payable to the
13 county treasurer thirty days after the owner is notified of the amount
14 of the compensating tax. As soon as possible, the assessor shall
15 compute the amount of such compensating tax and mail notice to the
16 owner of the amount thereof and the date on which payment is due. The
17 amount of such compensating tax shall be equal to the difference, if
18 any, between the amount of tax last levied on such land as forest land
19 and an amount equal to the new assessed valuation of such land
20 multiplied by the dollar rate of the last levy extended against such
21 land, multiplied by a number, in no event greater than ten, equal to
22 the number of years, commencing with assessment year 1975, for which
23 such land was assessed and valued as forest land.

24 (8) Compensating tax, together with applicable interest thereon,
25 shall become a lien on such land which shall attach at the time such
26 land is removed from classification as forest land and shall have
27 priority to and shall be fully paid and satisfied before any
28 recognizance, mortgage, judgment, debt, obligation or responsibility to
29 or with which such land may become charged or liable. Such lien may be
30 foreclosed upon expiration of the same period after delinquency and in
31 the same manner provided by law for foreclosure of liens for delinquent
32 real property taxes as provided in RCW 84.64.050. Any compensating tax
33 unpaid on its due date shall thereupon become delinquent. From the
34 date of delinquency until paid, interest shall be charged at the same
35 rate applied by law to delinquent ad valorem property taxes.

36 (9) The compensating tax specified in subsection (7) of this
37 section shall not be imposed if the removal of classification as forest
38 land pursuant to subsection (5) of this section resulted solely from:

1 (a) Transfer to a government entity in exchange for other forest
2 land located within the state of Washington;

3 (b) A taking through the exercise of the power of eminent domain,
4 or sale or transfer to an entity having the power of eminent domain in
5 anticipation of the exercise of such power;

6 (c) A donation of fee title, development rights, or the right to
7 harvest timber, to a government agency or organization qualified under
8 RCW 84.34.210 and 64.04.130 for the purposes enumerated in those
9 sections, or the sale or transfer of fee title to a governmental entity
10 or a nonprofit nature conservancy corporation, as defined in RCW
11 64.04.130, exclusively for the protection and conservation of lands
12 recommended for state natural area preserve purposes by the natural
13 heritage council and natural heritage plan as defined in chapter 79.70
14 RCW: PROVIDED, That at such time as the land is not used for the
15 purposes enumerated, the compensating tax specified in subsection (7)
16 of this section shall be imposed upon the current owner;

17 (d) The sale or transfer of fee title to the parks and recreation
18 commission for park and recreation purposes; or

19 (e) Official action by an agency of the state of Washington or by
20 the county or city within which the land is located that disallows the
21 present use of such land.

22 (10) In a county with a population of more than one million
23 inhabitants, the compensating tax specified in subsection (7) of this
24 section shall not be imposed if the removal of classification as forest
25 land pursuant to subsection (5) of this section resulted solely from:

26 (a) An action described in subsection (9) of this section; or

27 (b) A transfer of a property interest to a government entity, or to
28 a nonprofit historic preservation corporation or nonprofit nature
29 conservancy corporation, as defined in RCW 64.04.130, to protect or
30 enhance public resources, or to preserve, maintain, improve, restore,
31 limit the future use of, or otherwise to conserve for public use or
32 enjoyment, the property interest being transferred. At such time as
33 the property interest is not used for the purposes enumerated, the
34 compensating tax shall be imposed upon the current owner.

35 (11) With respect to any land that has been designated prior to May
36 6, 1974, pursuant to RCW 84.33.120(4) or 84.33.130, the assessor may,
37 prior to January 1, 1975, on his or her own motion or pursuant to
38 petition by the owner, change, without imposition of the compensating

1 tax provided under RCW 84.33.140, the status of such designated land to
2 classified forest land.

3 **Sec. 2.** RCW 84.33.140 and 1995 c 330 s 2 are each amended to read
4 as follows:

5 (1) When land has been designated as forest land pursuant to RCW
6 84.33.120(4) or 84.33.130, a notation of such designation shall be made
7 each year upon the assessment and tax rolls, a copy of the notice of
8 approval together with the legal description or assessor's tax lot
9 numbers for such land shall, at the expense of the applicant, be filed
10 by the assessor in the same manner as deeds are recorded, and such land
11 shall be graded and valued pursuant to RCW 84.33.110 and 84.33.120
12 until removal of such designation by the assessor upon occurrence of
13 any of the following:

14 (a) Receipt of notice from the owner to remove such designation;

15 (b) Sale or transfer to an ownership making such land exempt from
16 ad valorem taxation;

17 (c) Sale or transfer of all or a portion of such land to a new
18 owner, unless the new owner has signed a notice of forest land
19 designation continuance, except transfer to an owner who is an heir or
20 devisee of a deceased owner, shall not, by itself, result in removal of
21 classification. The signed notice of continuance shall be attached to
22 the real estate excise tax affidavit provided for in RCW 82.45.150.
23 The notice of continuance shall be on a form prepared by the department
24 of revenue. If the notice of continuance is not signed by the new
25 owner and attached to the real estate excise tax affidavit, all
26 compensating taxes calculated pursuant to subsection (3) of this
27 section shall become due and payable by the seller or transferor at
28 time of sale. The county auditor shall not accept an instrument of
29 conveyance of designated forest land for filing or recording unless the
30 new owner has signed the notice of continuance or the compensating tax
31 has been paid. The seller, transferor, or new owner may appeal the new
32 assessed valuation calculated under subsection (3) of this section to
33 the county board of equalization. Jurisdiction is hereby conferred on
34 the county board of equalization to hear these appeals;

35 (d) Determination by the assessor, after giving the owner written
36 notice and an opportunity to be heard, that:

37 (i) Such land is no longer primarily devoted to and used for
38 growing and harvesting timber. However, land shall not be removed from

1 designation if a governmental agency, organization, or other recipient
2 identified in subsection (5) of this section as exempt from the payment
3 of compensating tax has manifested its intent in writing or by other
4 official action to acquire a property interest in designated forest
5 land by means of a transaction that qualifies for an exemption under
6 subsection (5) of this section. The governmental agency, organization,
7 or recipient shall annually provide the assessor of the county in which
8 the land is located reasonable evidence in writing of the intent to
9 acquire the designated land as long as the intent continues or within
10 sixty days of a request by the assessor. The assessor may not request
11 this evidence more than once in a calendar year;

12 (ii) The owner has failed to comply with a final administrative or
13 judicial order with respect to a violation of the restocking, forest
14 management, fire protection, insect and disease control and forest
15 debris provisions of Title 76 RCW or any applicable regulations
16 thereunder; or

17 (iii) Restocking has not occurred to the extent or within the time
18 specified in the application for designation of such land.

19 Removal of designation upon occurrence of any of (a) through (c) of
20 this subsection shall apply only to the land affected, and upon
21 occurrence of (d) of this subsection shall apply only to the actual
22 area of land no longer primarily devoted to and used for growing and
23 harvesting timber, without regard to other land that may have been
24 included in the same application and approval for designation:
25 PROVIDED, That any remaining designated forest land meets necessary
26 definitions of forest land pursuant to RCW 84.33.100 (~~as now or~~
27 ~~hereafter amended~~)).

28 (2) Within thirty days after such removal of designation of forest
29 land, the assessor shall notify the owner in writing, setting forth the
30 reasons for such removal. The seller, transferor, or owner may appeal
31 such removal to the county board of equalization.

32 (3) Unless the removal is reversed on appeal a copy of the notice
33 of removal with notation of the action, if any, upon appeal, together
34 with the legal description or assessor's tax lot numbers for the land
35 removed from designation shall, at the expense of the applicant, be
36 filed by the assessor in the same manner as deeds are recorded, and
37 commencing on January 1 of the year following the year in which the
38 assessor mailed such notice, such land shall be assessed on the same
39 basis as real property is assessed generally in that county. Except as

1 provided in subsection (5) of this section, a compensating tax shall be
2 imposed which shall be due and payable to the county treasurer thirty
3 days after the owner is notified of the amount of the compensating tax.
4 As soon as possible, the assessor shall compute the amount of such
5 compensating tax and mail notice to the owner of the amount thereof and
6 the date on which payment is due. The amount of such compensating tax
7 shall be equal to the difference between the amount of tax last levied
8 on such land as forest land and an amount equal to the new assessed
9 valuation of such land multiplied by the dollar rate of the last levy
10 extended against such land, multiplied by a number, in no event greater
11 than ten, equal to the number of years for which such land was
12 designated as forest land.

13 (4) Compensating tax, together with applicable interest thereon,
14 shall become a lien on such land which shall attach at the time such
15 land is removed from designation as forest land and shall have priority
16 to and shall be fully paid and satisfied before any recognizance,
17 mortgage, judgment, debt, obligation or responsibility to or with which
18 such land may become charged or liable. Such lien may be foreclosed
19 upon expiration of the same period after delinquency and in the same
20 manner provided by law for foreclosure of liens for delinquent real
21 property taxes as provided in RCW 84.64.050. Any compensating tax
22 unpaid on its due date shall thereupon become delinquent. From the
23 date of delinquency until paid, interest shall be charged at the same
24 rate applied by law to delinquent ad valorem property taxes.

25 (5) The compensating tax specified in subsection (3) of this
26 section shall not be imposed if the removal of designation pursuant to
27 subsection (1) of this section resulted solely from:

28 (a) Transfer to a government entity in exchange for other forest
29 land located within the state of Washington;

30 (b) A taking through the exercise of the power of eminent domain,
31 or sale or transfer to an entity having the power of eminent domain in
32 anticipation of the exercise of such power;

33 (c) A donation of fee title, development rights, or the right to
34 harvest timber, to a government agency or organization qualified under
35 RCW 84.34.210 and 64.04.130 for the purposes enumerated in those
36 sections, or the sale or transfer of fee title to a governmental entity
37 or a nonprofit nature conservancy corporation, as defined in RCW
38 64.04.130, exclusively for the protection and conservation of lands
39 recommended for state natural area preserve purposes by the natural

1 heritage council and natural heritage plan as defined in chapter 79.70
2 RCW: PROVIDED, That at such time as the land is not used for the
3 purposes enumerated, the compensating tax specified in subsection (3)
4 of this section shall be imposed upon the current owner;

5 (d) The sale or transfer of fee title to the parks and recreation
6 commission for park and recreation purposes; or

7 (e) Official action by an agency of the state of Washington or by
8 the county or city within which the land is located that disallows the
9 present use of such land.

10 (6) In a county with a population of more than one million
11 inhabitants, the compensating tax specified in subsection (3) of this
12 section shall not be imposed if the removal of classification as forest
13 land pursuant to subsection (1) of this section resulted solely from:

14 (a) An action described in subsection (5) of this section; or

15 (b) A transfer of a property interest to a government entity, or to
16 a nonprofit historic preservation corporation or nonprofit nature
17 conservancy corporation, as defined in RCW 64.04.130, to protect or
18 enhance public resources, or to preserve, maintain, improve, restore,
19 limit the future use of, or otherwise to conserve for public use or
20 enjoyment, the property interest being transferred. At such time as
21 the property interest is not used for the purposes enumerated, the
22 compensating tax shall be imposed upon the current owner.

23 **Sec. 3.** RCW 84.33.145 and 1992 c 69 s 3 are each amended to read
24 as follows:

25 (1) If no later than thirty days after removal of classification or
26 designation the owner applies for classification under RCW 84.34.020
27 (1), (2), or (3), then the classified or designated forest land shall
28 not be considered removed from classification or designation for
29 purposes of the compensating tax under RCW 84.33.120 or 84.33.140 until
30 the application for current use classification under RCW 84.34.030 is
31 denied or the property is removed from designation under RCW 84.34.108.
32 Upon removal from designation under RCW 84.34.108, the amount of
33 compensating tax due under this chapter shall be equal to:

34 (a) The difference, if any, between the amount of tax last levied
35 on such land as forest land and an amount equal to the new assessed
36 valuation of such land when removed from designation under RCW
37 84.34.108 multiplied by the dollar rate of the last levy extended
38 against such land, multiplied by

1 (b) A number equal to:

2 (i) The number of years the land was classified or designated under
3 this chapter, if the total number of years the land was classified or
4 designated under this chapter and classified under chapter 84.34 RCW is
5 less than ten; or

6 (ii) Ten minus the number of years the land was classified under
7 chapter 84.34 RCW, if the total number of years the land was classified
8 or designated under this chapter and classified under chapter 84.34 RCW
9 is at least ten.

10 (2) Nothing in this section authorizes the continued classification
11 or designation under this chapter or defers or reduces the compensating
12 tax imposed upon forest land not transferred to classification under
13 subsection (1) of this section which does not meet the necessary
14 definitions of forest land under RCW 84.33.100. Nothing in this
15 section affects the additional tax imposed under RCW 84.34.108.

16 (3) In a county with a population of more than one million
17 inhabitants, no amount of compensating tax is due under this section if
18 the removal from designation under RCW 84.34.108 results from a
19 transfer of property described in RCW 84.34.108 (5) or (6).

20 NEW SECTION. **Sec. 4.** This act is necessary for the immediate
21 preservation of the public peace, health, or safety, or support of the
22 state government and its existing public institutions, and takes effect
23 immediately.

--- END ---