

CERTIFICATION OF ENROLLMENT
SECOND SUBSTITUTE SENATE BILL 6144

Chapter 218, Laws of 2004

58th Legislature
2004 Regular Session

FOREST HEALTH IMPROVEMENT

EFFECTIVE DATE: 3/29/04

Passed by the Senate March 11, 2004
YEAS 48 NAYS 0

BRAD OWEN

President of the Senate

Passed by the House March 10, 2004
YEAS 96 NAYS 0

FRANK CHOPP

Speaker of the House of Representatives

CERTIFICATE

I, Milton H. Doumit, Jr.,
Secretary of the Senate of the
State of Washington, do hereby
certify that the attached is
SECOND SUBSTITUTE SENATE BILL 6144
as passed by the Senate and the
House of Representatives on the
dates hereon set forth.

MILTON H. DOUMIT JR.

Secretary

Approved March 29, 2004.

FILED

March 29, 2004 - 3:17 p.m.

GARY F. LOCKE

Governor of the State of Washington

**Secretary of State
State of Washington**

SECOND SUBSTITUTE SENATE BILL 6144

AS AMENDED BY THE HOUSE

Passed Legislature - 2004 Regular Session

State of Washington 58th Legislature 2004 Regular Session

By Senate Committee on Ways & Means (originally sponsored by
Senators Morton and Deccio)

READ FIRST TIME 02/10/04.

1 AN ACT Relating to opportunities and strategies for improving
2 forest health in Washington; amending RCW 79.15.510, 79.15.520, and
3 79.15.500; amending 2003 c 313 s 13 (uncodified); adding new sections
4 to chapter 76.06 RCW; adding a new section to chapter 79.15 RCW;
5 creating new sections; providing expiration dates; and declaring an
6 emergency.

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

8 NEW SECTION. **Sec. 1.** A new section is added to chapter 76.06 RCW
9 to read as follows:

10 (1) The legislature finds that Washington faces serious forest
11 health problems where forests are overcrowded or trees are infested
12 with or susceptible to insects, diseases, wind, ice storms, and fire.
13 The causes and contributions to these susceptible conditions include
14 fire suppression, past timber harvesting and silvicultural practices,
15 and the amplified risks that occur when the urban interface penetrates
16 forest land.

17 (2) The legislature further finds that forest health problems may
18 exist on forest land regardless of ownership, and the state should

1 explore all possible avenues for working in collaboration with the
2 federal government to address common health deficiencies.

3 (3) The legislature further finds that healthy forests benefit not
4 only the economic interests that rely on forest products but also
5 provide environmental benefits, such as improved water quality and
6 habitat for fish and wildlife.

7 NEW SECTION. **Sec. 2.** A new section is added to chapter 76.06 RCW
8 to read as follows:

9 (1) The commissioner of public lands is designated as the state of
10 Washington's lead for all forest health issues.

11 (2) The commissioner of public lands shall strive to promote
12 communications between the state and the federal government regarding
13 forest land management decisions that potentially affect the health of
14 forests in Washington and will allow the state to have an influence on
15 the management of federally owned land in Washington. Such government-
16 to-government cooperation is vital if the condition of the state's
17 public and private forest lands are to be protected. These activities
18 may include, when deemed by the commissioner to be in the best interest
19 of the state:

20 (a) Representing the state's interest before all appropriate local,
21 state, and federal agencies;

22 (b) Assuming the lead state role for developing formal comments on
23 federal forest management plans that may have an impact on the health
24 of forests in Washington; and

25 (c) Pursuing in an expedited manner any available and appropriate
26 cooperative agreements, including cooperating agency status
27 designation, with the United States forest service and the United
28 States bureau of land management that allow for meaningful
29 participation in any federal land management plans that could affect
30 the department's strategic plan for healthy forests and effective fire
31 prevention and suppression, including the pursuit of any options
32 available for giving effect to the cooperative philosophy contained
33 within the national environmental policy act of 1969 (42 U.S.C. Sec.
34 4331).

35 (3) The commissioner of public lands shall report to the chairs of
36 the appropriate standing committees of the legislature every year on

1 progress under this section, including the identification, if deemed
2 appropriate by the commissioner, of any needed statutory changes,
3 policy issues, or funding needs.

4 NEW SECTION. **Sec. 3.** The commissioner of public lands shall
5 develop a statewide plan for increasing forest resistance and
6 resilience to forest insects, disease, wind, and fire in Washington by
7 December 30, 2004. In developing the statewide plan, the commissioner
8 shall work with and consult the work group created in section 4 of this
9 act.

10 NEW SECTION. **Sec. 4.** (1) A work group is created to study
11 opportunities to improve the forest health issues enumerated in section
12 1 of this act that are facing forest land in Washington and to help the
13 commissioner of public lands develop a strategic plan under section 3
14 of this act. The work group may, if deemed necessary, identify and
15 focus on regions of the state where forest health issues enumerated in
16 section 1 of this act are the most critical.

17 (2)(a) The work group is comprised of individuals selected on the
18 basis of their knowledge of forests, forest ecology, or forest health
19 issues and, if determined by the commissioner of public lands to be
20 necessary, should represent a mix of individuals with knowledge
21 regarding specific regions of the state. Members of the work group
22 shall be appointed by the commissioner of public lands, unless
23 otherwise specified, and shall include:

24 (i) The commissioner of public lands or the commissioner's
25 designee, who shall serve as chair;

26 (ii) A representative of a statewide industrial timber landowner's
27 group;

28 (iii) A landowner representative from the small forest landowner
29 advisory committee established in RCW 76.13.110;

30 (iv) A representative of a college within a state university that
31 specializes in forestry or natural resources science;

32 (v) A representative of an environmental organization;

33 (vi) A representative of a county that has within its borders
34 state-owned forest lands that are known to suffer from the forest
35 health deficiencies enumerated in section 1 of this act;

1 (vii) A representative of the Washington state department of fish
2 and wildlife;

3 (viii) A forest hydrologist, an entomologist, and a fire ecologist,
4 if available;

5 (ix) A representative of the governor appointed by the governor;
6 and

7 (x) A representative of a professional forestry organization.

8 (b) In addition to the membership of the work group outlined in
9 this section, the commissioner of public lands shall also invite the
10 full and equal participation of:

11 (i) A representative of a tribal government located in a region of
12 the state where the forest health issues enumerated in section 1 of
13 this act are present; and

14 (ii) A representative of both the United States forest service and
15 the United States fish and wildlife service stationed to work primarily
16 in Washington.

17 (3) The work group shall:

18 (a) Determine whether the goals and requirements of chapter 76.06
19 RCW are being met with regard to the identification, designation, and
20 reduction of significant forest insect and disease threats to public
21 and private forest resources, and whether the provisions of chapter
22 76.06 RCW are the most effective and appropriate way to address forest
23 health issues;

24 (b) Study what incentives could be used to assist landowners with
25 the costs of creating and maintaining forest health;

26 (c) Identify opportunities and barriers for improved prevention of
27 losses of public and private resources to forest insects, diseases,
28 wind, and fire;

29 (d) Assist the commissioner in developing a strategic plan under
30 section 3 of this act for increasing forest resistance and resilience
31 to forest insects, disease, wind, and fire in Washington;

32 (e) Develop funding alternatives for consideration by the
33 legislature;

34 (f) Explore possible opportunities for the state to enter into
35 cooperative agreements with the federal government, or other avenues
36 for the state to provide input on the management of federally owned
37 land in Washington;

1 (g) Develop recommendations for the proper treatment of infested
2 and fire and wind damaged forests on public and private lands within
3 the context of working with interdisciplinary teams under the forest
4 practices act to ensure that forest health is achieved with the
5 protection of fish, wildlife, and other public resources;

6 (h) Analyze the state noxious weed control statutes and procedures
7 (chapter 17.10 RCW) and the extreme hazard regulations adopted under
8 the forest protection laws, to determine if the policies and procedures
9 of these laws are applicable, or could serve as a model to support
10 improved forest health; and

11 (i) Recommend whether the work group should be extended beyond the
12 time that the required report has been submitted.

13 (4) The work group shall submit to the department of natural
14 resources and the appropriate standing committees of the legislature,
15 no later than December 30, 2004, its findings and recommendations for
16 legislation that is necessary to implement the findings.

17 (5) The department of natural resources shall provide technical and
18 staff support from existing staff for the work group created by this
19 section.

20 (6) This section expires June 30, 2005.

21 NEW SECTION. **Sec. 5.** A new section is added to chapter 79.15 RCW
22 to read as follows:

23 (1) The legislature intends to ensure, to the extent feasible given
24 all applicable trust responsibilities, that trust beneficiaries receive
25 long-term income from timber lands through improved forest conditions
26 and by reducing the threat of forest fire to state trust forest lands.

27 (2) In order to implement the intent of subsection (1) of this
28 section, the department may initiate contract harvesting timber sales,
29 or other silvicultural treatments when appropriate, in specific areas
30 of state trust forest land where the department has identified forest
31 health deficiencies as enumerated in section 1 of this act. All
32 harvesting or silvicultural treatments applied under this section must
33 be tailored to improve the health of the specific stand, must be
34 consistent with any applicable state forest plans and other management
35 agreements, and must comply with all applicable state and federal laws
36 and regulations regarding the harvest of timber by the department of
37 natural resources.

1 (3) In utilizing contract harvesting to address forest health
2 issues as outlined in this section, the department shall give priority
3 to silvicultural treatments that assist the department in meeting
4 forest health strategies included in any management or landscape plans
5 that exist for state forests.

6 **Sec. 6.** RCW 79.15.510 and 2003 c 313 s 3 are each amended to read
7 as follows:

8 (1) The department may establish a contract harvesting program
9 (~~by~~) for directly contracting for the removal of timber and other
10 valuable materials from state lands and for conducting silvicultural
11 treatments consistent with section 5 of this act.

12 (2) The contract requirements must be compatible with the office of
13 financial management's guide to public service contracts.

14 (3) The department may not use contract harvesting for more than
15 ten percent of the total annual volume of timber offered for sale.
16 However, volume removed primarily to address an identified forest
17 health issue under section 5 of this act may not be included in
18 calculating the ten percent annual limit of contract harvesting sales.

19 **Sec. 7.** RCW 79.15.520 and 2003 c 313 s 4 are each amended to read
20 as follows:

21 (1) The contract harvesting revolving account is created in the
22 custody of the state treasurer. All receipts from the gross proceeds
23 of the sale of logs from a contract harvesting sale must be deposited
24 into the account. Expenditures from the account may be used only for
25 the payment of harvesting costs incurred on contract harvesting sales
26 and for payment of costs incurred from silvicultural treatments
27 necessary to improve forest health conducted under section 5 of this
28 act. Only the commissioner or the commissioner's designee may
29 authorize expenditures from the account. The board of natural
30 resources has oversight of the account, and the commissioner must
31 periodically report to the board of natural resources as to the status
32 of the account, its disbursement, and receipts. The account is subject
33 to allotment procedures under chapter 43.88 RCW, but an appropriation
34 is not required for expenditures.

35 (2) When the logs from a contract harvesting sale are sold, the
36 gross proceeds must be deposited into the contract harvesting revolving

1 account. Moneys equal to the harvesting costs must be retained in the
2 account and be deducted from the gross proceeds to determine the net
3 proceeds. The net proceeds from the sale of the logs must be
4 distributed in accordance with RCW (~~(43.85.130)~~) 43.30.325(1)(b). The
5 final receipt of gross proceeds on a contract harvesting sale must be
6 retained in the contract harvesting revolving account until all
7 required costs for that sale have been paid. The contract harvesting
8 revolving account is an interest-bearing account and the interest must
9 be credited to the account. The account balance may not exceed one
10 million dollars at the end of each fiscal year. Moneys in excess of
11 one million dollars must be disbursed according to RCW (~~(76.12.030,~~
12 ~~76.12.120)~~) 79.22.040, 79.22.050, and 79.64.040. If the department
13 permanently discontinues the use of contract harvesting sales, any sums
14 remaining in the contract harvesting revolving account must be returned
15 to the resource management cost account and the forest development
16 account in proportion to each account's contribution to the initial
17 balance of the contract harvesting revolving account.

18 **Sec. 8.** RCW 79.15.500 and 2003 c 313 s 2 are each amended to read
19 as follows:

20 The definitions in this section apply throughout (~~(this chapter)~~)
21 RCW 79.15.500 through 79.15.530 and section 5 of this act unless the
22 context clearly requires otherwise.

23 (1) "Commissioner" means the commissioner of public lands.

24 (2) "Contract harvesting" means a timber operation occurring on
25 state forest lands, in which the department contracts with a firm or
26 individual to perform all the necessary harvesting work to process
27 trees into logs sorted by department specifications. The department
28 then sells the individual log sorts.

29 (3) "Department" means the department of natural resources.

30 (4) "Harvesting costs" are those expenses related to the production
31 of log sorts from a stand of timber. These expenses typically involve
32 road building, labor for felling, bucking, and yarding, as well as the
33 transporting of sorted logs to the forest product purchasers.

34 (5) "Net proceeds" means gross proceeds from a contract harvesting
35 sale less harvesting costs.

36 (6) "Silvicultural treatment" means any vegetative or other

1 treatment applied to a managed forest to improve the conditions of the
2 stand, and may include harvesting, thinning, prescribed burning, and
3 pruning.

4 **Sec. 9.** 2003 c 313 s 13 (uncodified) is amended to read as
5 follows:

6 By December 31, 2006, the department of natural resources must
7 provide a report to the appropriate committees of the legislature
8 (~~concerning~~) that provides:

9 (1) An accounting of the costs and effectiveness of the contract
10 harvesting program; and

11 (2) A summary of sales carried out under the contract harvesting
12 program primarily for silvicultural treatments that are permitted under
13 section 5 of this act. (~~The report must be submitted by December 31,~~
14 ~~2006.~~)

15 NEW SECTION. **Sec. 10.** Sections 5 through 8 of this act are
16 intended to provide interim tools to the department of natural
17 resources to address forest health issues on state land prior to the
18 completion of the assignment given to the work group in section 4 of
19 this act. As such, sections 5 through 8 of this act expire December
20 31, 2007.

21 NEW SECTION. **Sec. 11.** This act is necessary for the immediate
22 preservation of the public peace, health, or safety, or support of the
23 state government and its existing public institutions, and takes effect
24 immediately.

Passed by the Senate March 11, 2004.

Passed by the House March 10, 2004.

Approved by the Governor March 29, 2004.

Filed in Office of Secretary of State March 29, 2004.