

CERTIFICATION OF ENROLLMENT
ENGROSSED SUBSTITUTE HOUSE BILL 2693

Chapter 177, Laws of 2004

58th Legislature
2004 Regular Session

TIMBER TAX--PUBLIC LANDS

EFFECTIVE DATE: 1/1/05

Passed by the House February 17, 2004
Yeas 93 Nays 0

FRANK CHOPP

Speaker of the House of Representatives

Passed by the Senate March 10, 2004
Yeas 49 Nays 0

BRAD OWEN

President of the Senate

Approved March 26, 2004.

GARY F. LOCKE

Governor of the State of Washington

CERTIFICATE

I, Richard Nafziger, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE HOUSE BILL 2693** as passed by the House of Representatives and the Senate on the dates hereon set forth.

RICHARD NAFZIGER

Chief Clerk

FILED

March 26, 2004 - 4:36 p.m.

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE HOUSE BILL 2693

Passed Legislature - 2004 Regular Session

State of Washington 58th Legislature 2004 Regular Session

By House Committee on Finance (originally sponsored by
Representatives Hinkle, McIntire, Cairnes, Fromhold and Holmquist)

READ FIRST TIME 02/06/04.

1 AN ACT Relating to the taxation of timber on publicly owned land;
2 amending RCW 84.33.035, 84.33.051, 84.33.040, 84.33.078, and 79.15.100;
3 adding a new section to chapter 84.33 RCW; creating a new section; and
4 providing an effective date.

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

6 **Sec. 1.** RCW 84.33.035 and 2003 c 313 s 12 are each amended to read
7 as follows:

8 Unless the context clearly requires otherwise, the definitions in
9 this section apply throughout this chapter.

10 (1) "Agricultural methods" means the cultivation of trees that are
11 grown on land prepared by intensive cultivation and tilling, such as
12 irrigating, plowing, or turning over the soil, and on which all
13 unwanted plant growth is controlled continuously for the exclusive
14 purpose of raising trees such as Christmas trees and short-rotation
15 hardwoods.

16 (2) "Average rate of inflation" means the annual rate of inflation
17 as determined by the department averaged over the period of time as
18 provided in RCW 84.33.220 (1) and (2). This rate shall be published in

1 the state register by the department not later than January 1st of each
2 year for use in that assessment year.

3 (3) "Composite property tax rate" for a county means the total
4 amount of property taxes levied upon forest lands by all taxing
5 districts in the county other than the state, divided by the total
6 assessed value of all forest land in the county.

7 (4) "Forest land" is synonymous with "designated forest land" and
8 means any parcel of land that is twenty or more acres or multiple
9 parcels of land that are contiguous and total twenty or more acres that
10 is or are devoted primarily to growing and harvesting timber.
11 Designated forest land means the land only and does not include a
12 residential homesite. The term includes land used for incidental uses
13 that are compatible with the growing and harvesting of timber but no
14 more than ten percent of the land may be used for such incidental uses.
15 It also includes the land on which appurtenances necessary for the
16 production, preparation, or sale of the timber products exist in
17 conjunction with land producing these products.

18 (5) "Harvested" means the time when in the ordinary course of
19 business the quantity of timber by species is first definitely
20 determined. The amount harvested shall be determined by the Scribner
21 Decimal C Scale or other prevalent measuring practice adjusted to
22 arrive at substantially equivalent measurements, as approved by the
23 department.

24 (6) "Harvester" means every person who from the person's own land
25 or from the land of another under a right or license granted by lease
26 or contract, either directly or by contracting with others for the
27 necessary labor or mechanical services, fells, cuts, or takes timber
28 for sale or for commercial or industrial use. When the United States
29 or any instrumentality thereof, the state, including its departments
30 and institutions and political subdivisions, or any municipal
31 corporation therein so fells, cuts, or takes timber for sale or for
32 commercial or industrial use, the harvester is the first person other
33 than the United States or any instrumentality thereof, the state,
34 including its departments and institutions and political subdivisions,
35 or any municipal corporation therein, who acquires title to or a
36 possessory interest in the timber. The term "harvester" does not
37 include persons performing under contract the necessary labor or
38 mechanical services for a harvester.

1 (7) "Harvesting and marketing costs" means only those costs
2 directly associated with harvesting the timber from the land and
3 delivering it to the buyer and may include the costs of disposing of
4 logging residues. Any other costs that are not directly and
5 exclusively related to harvesting and marketing of the timber, such as
6 costs of permanent roads or costs of reforesting the land following
7 harvest, are not harvesting and marketing costs.

8 (8) "Incidental use" means a use of designated forest land that is
9 compatible with its purpose for growing and harvesting timber. An
10 incidental use may include a gravel pit, a shed or land used to store
11 machinery or equipment used in conjunction with the timber enterprise,
12 and any other use that does not interfere with or indicate that the
13 forest land is no longer primarily being used to grow and harvest
14 timber.

15 (9) "Local government" means any city, town, county, water-sewer
16 district, public utility district, port district, irrigation district,
17 flood control district, or any other municipal corporation, quasi-
18 municipal corporation, or other political subdivision authorized to
19 levy special benefit assessments for sanitary or storm sewerage
20 systems, domestic water supply or distribution systems, or road
21 construction or improvement purposes.

22 (10) "Local improvement district" means any local improvement
23 district, utility local improvement district, local utility district,
24 road improvement district, or any similar unit created by a local
25 government for the purpose of levying special benefit assessments
26 against property specially benefited by improvements relating to the
27 districts.

28 (11) "Owner" means the party or parties having the fee interest in
29 land, except where land is subject to a real estate contract "owner"
30 means the contract vendee.

31 (12) "Primarily" or "primary use" means the existing use of the
32 land is so prevalent that when the characteristic use of the land is
33 evaluated any other use appears to be conflicting or nonrelated.

34 (13) "Short-rotation hardwoods" means hardwood trees, such as but
35 not limited to hybrid cottonwoods, cultivated by agricultural methods
36 in growing cycles shorter than fifteen years.

37 (14) "Small harvester" means every person who from his or her own
38 land or from the land of another under a right or license granted by

1 lease or contract, either directly or by contracting with others for
2 the necessary labor or mechanical services, fells, cuts, or takes
3 timber for sale or for commercial or industrial use in an amount not
4 exceeding two million board feet in a calendar year. When the United
5 States or any instrumentality thereof, the state, including its
6 departments and institutions and political subdivisions, or any
7 municipal corporation therein so fells, cuts, or takes timber for sale
8 or for commercial or industrial use, not exceeding these amounts, the
9 small harvester is the first person other than the United States or any
10 instrumentality thereof, the state, including its departments and
11 institutions and political subdivisions, or any municipal corporation
12 therein, who acquires title to or a possessory interest in the timber.
13 Small harvester does not include persons performing under contract the
14 necessary labor or mechanical services for a harvester, and it does not
15 include the harvesters of Christmas trees or short-rotation hardwoods.

16 (15) "Special benefit assessments" means special assessments levied
17 or capable of being levied in any local improvement district or
18 otherwise levied or capable of being levied by a local government to
19 pay for all or part of the costs of a local improvement and which may
20 be levied only for the special benefits to be realized by property by
21 reason of that local improvement.

22 (16) "Stumpage value of timber" means the appropriate stumpage
23 value shown on tables prepared by the department under RCW 84.33.091,
24 provided that for timber harvested from public land and sold under a
25 competitive bidding process, stumpage value shall mean the actual
26 amount paid to the seller in cash or other consideration. The stumpage
27 value of timber from public land does not include harvesting and
28 marketing costs if the timber from public land is harvested by, or
29 under contract for, the United States or any instrumentality of the
30 United States, the state, including its departments and institutions
31 and political subdivisions, or any municipal corporation therein.
32 Whenever payment for the stumpage includes considerations other than
33 cash, the value shall be the fair market value of the other
34 consideration. If the other consideration is permanent roads, the
35 value of the roads shall be the appraised value as appraised by the
36 seller.

37 (17) "Timber" means forest trees, standing or down, on privately or

1 publicly owned land, and except as provided in RCW 84.33.170 includes
2 Christmas trees and short-rotation hardwoods.

3 (18) "Timber assessed value" for a county means (~~a value,~~
4 ~~calculated by the department before October 1st of each year, equal~~
5 ~~to~~) the sum of: (a) The total stumpage value of timber harvested from
6 publicly owned land in the county multiplied by the public timber
7 ratio, plus; (b) the total stumpage value of timber harvested from
8 privately owned land in the county (~~during the most recent four~~
9 ~~calendar quarters for which the information is available~~) multiplied
10 by ((a)) the private timber ratio. The numerator of the public timber
11 ratio is the rate of tax imposed by the county under RCW 84.33.051 on
12 public timber harvests for the year of the calculation. The numerator
13 of the private timber ratio is the rate of tax imposed by the county
14 under RCW 84.33.051 on private timber harvests for the year of the
15 calculation. The denominator of the private timber ratio and the
16 public timber ratio is the composite property tax rate for the county
17 for taxes due in the year of the calculation, expressed as a percentage
18 of assessed value. The department shall use the stumpage value of
19 timber harvested during the most recent four calendar quarters for
20 which the information is available. The department shall calculate the
21 timber assessed value for each county before October 1st of each year.

22 (19) "Timber assessed value" for a taxing district means the timber
23 assessed value for the county multiplied by a ratio. The numerator of
24 the ratio is the total assessed value of forest land in the taxing
25 district. The denominator is the total assessed value of forest land
26 in the county. As used in this section, "assessed value of forest
27 land" means the assessed value of forest land for taxes due in the year
28 the timber assessed value for the county is calculated plus an
29 additional value for public forest land. The additional value for
30 public forest land is the product of the number of acres of public
31 forest land that are available for timber harvesting determined under
32 section 6 of this act and the average assessed value per acre of
33 private forest land in the county.

34 (20) "Timber management plan" means a plan prepared by a trained
35 forester, or any other person with adequate knowledge of timber
36 management practices, concerning the use of the land to grow and
37 harvest timber. Such a plan includes:

38 (a) A legal description of the forest land;

1 (b) A statement that the forest land is held in contiguous
2 ownership of twenty or more acres and is primarily devoted to and used
3 to grow and harvest timber;

4 (c) A brief description of the timber on the forest land or, if the
5 timber on the land has been harvested, the owner's plan to restock the
6 land with timber;

7 (d) A statement about whether the forest land is also used to graze
8 livestock;

9 (e) A statement about whether the land has been used in compliance
10 with the restocking, forest management, fire protection, insect and
11 disease control, and forest debris provisions of Title 76 RCW; and

12 (f) If the land has been recently harvested or supports a growth of
13 brush and noncommercial type timber, a description of the owner's plan
14 to restock the forest land within three years.

15 **Sec. 2.** RCW 84.33.051 and 1984 c 204 s 8 are each amended to read
16 as follows:

17 (1) The legislative body of any county may impose a tax upon every
18 person engaging in the county in business as a harvester effective
19 October 1, 1984. The tax shall be equal to the stumpage value of
20 timber harvested from privately owned land multiplied by a rate of
21 ~~((four))~~ 4 percent; and equal to the stumpage value of timber harvested
22 from publicly owned land multiplied by the following rates:

23 (a) For timber harvested January 1, 2005, through December 31,
24 2005, 1.2 percent;

25 (b) For timber harvested January 1, 2006, through December 31,
26 2006, 1.5 percent;

27 (c) For timber harvested January 1, 2007, through December 31,
28 2007, 1.8 percent;

29 (d) For timber harvested January 1, 2008, through December 31,
30 2008, 2.1 percent;

31 (e) For timber harvested January 1, 2009, through December 31,
32 2009, 2.4 percent;

33 (f) For timber harvested January 1, 2010, through December 31,
34 2010, 2.7 percent;

35 (g) For timber harvested January 1, 2011, through December 31,
36 2011, 3.1 percent;

1 (h) For timber harvested January 1, 2012, through December 31,
2 2012, 3.4 percent;

3 (i) For timber harvested January 1, 2013, through December 31,
4 2013, 3.7 percent;

5 (j) For timber harvested January 1, 2014, and thereafter, 4.0
6 percent.

7 (2) Before the effective date of any ordinance imposing a tax under
8 this section, the county shall contract with the department of revenue
9 for administration and collection of the tax. The tax collected by the
10 department of revenue under this section shall be deposited by the
11 department in the timber tax distribution account. Moneys in the
12 account may be spent only for distributions to counties under RCW
13 84.33.081 and, after appropriation by the legislature, for the
14 activities undertaken by the department of revenue relating to the
15 collection and administration of the taxes imposed under this section
16 and RCW 84.33.041. Appropriations are not required for distributions
17 to counties under RCW 84.33.081.

18 **Sec. 3.** RCW 84.33.040 and 1984 c 204 s 18 are each amended to read
19 as follows:

20 Timber (~~(on privately owned land or federally owned land shall be)~~)
21 is exempt from ad valorem taxation.

22 **Sec. 4.** RCW 84.33.078 and 2003 c 313 s 11 are each amended to read
23 as follows:

24 (~~(When any timber standing on public land, other than federally~~
25 ~~owned land, is sold separate from the land, the department of natural~~
26 ~~resources or other governmental unit, as appropriate, shall state in~~
27 ~~its notice of the sale or prospectus that timber sold separate from the~~
28 ~~land is subject to property tax and that the amount of the tax paid may~~
29 ~~be used as a credit against any tax imposed with respect to business of~~
30 ~~harvesting timber from publicly owned land under RCW 84.33.041.)) If
31 the timber from public land is harvested by the state, its departments
32 and institutions and political subdivisions, or any municipal
33 corporation therein, the governmental unit, or governmental units, that
34 harvest or market the timber must provide the harvester purchasing the
35 timber with its harvesting and marketing costs as defined in RCW
36 84.33.035(7).~~

1 **Sec. 5.** RCW 79.15.100 and 2003 c 334 s 334 are each amended to
2 read as follows:

3 (1) Valuable materials may be sold separately from the land as a
4 "lump sum sale" or as a "scale sale."

5 (a) "Lump sum sale" means any sale offered with a single total
6 price applying to all the material conveyed.

7 (b) "Scale sale" means any sale offered with per unit prices to be
8 applied to the material conveyed.

9 (2) Payment for lump sum sales must be made as follows:

10 (a) Lump sum sales under five thousand dollars appraised value
11 require full payment on the day of sale.

12 (b) Lump sum sales appraised at over five thousand dollars but
13 under one hundred thousand dollars may require full payment on the day
14 of sale.

15 (c) Lump sum sales requiring full payment on the day of sale may be
16 paid in cash or by certified check, cashier's check, bank draft, or
17 money order, all payable to the department.

18 (3) Except for sales paid in full on the day of sale or sales with
19 adequate bid bonds, an initial deposit not to exceed twenty-five
20 percent of the actual or projected purchase price shall be made on the
21 day of sale.

22 (a) Sales with bid bonds are subject to the day of sale payment and
23 replacement requirements prescribed by RCW 79.15.110.

24 (b) The initial deposit must be maintained until all contract
25 obligations of the purchaser are satisfied. However, all or a portion
26 of the initial deposit may be applied as the final payment for the
27 valuable materials in the event the department determines that adequate
28 security exists for the performance or fulfillment of any remaining
29 obligations of the purchaser under the sale contract.

30 (4) Advance payments or other adequate security acceptable to the
31 department is required for valuable materials sold on a scale sale
32 basis or a lump sum sale not requiring full payment on the day of sale.

33 (a) The purchaser must notify the department before any operation
34 takes place on the sale site.

35 (b) Upon notification as provided in (a) of this subsection, the
36 department must require advanced payment or may allow purchasers to
37 submit adequate security.

1 (c) The amount of advanced payments or security must be determined
2 by the department and must at all times equal or exceed the value of
3 timber cut and other valuable materials processed or removed until paid
4 for.

5 (d) Security may be bank letters of credit, payment bonds,
6 assignments of savings accounts, assignments of certificates of
7 deposit, or other methods acceptable to the department as adequate
8 security.

9 (5) All valuable material must be removed from the sale area within
10 the period specified in the contract.

11 (a) The specified period may not exceed five years from date of
12 purchase except for stone, sand, gravel, fill material, or building
13 stone.

14 (b) The specified period for stone, sand, gravel, fill material, or
15 building stone may not exceed thirty years.

16 (c) In all cases, any valuable material not removed from the land
17 within the period specified in the contract reverts to the state.

18 (6) The department may extend a contract beyond the normal
19 termination date specified in the sale contract as the time for removal
20 of valuable materials when, in the department's judgment, the purchaser
21 is acting in good faith and endeavoring to remove the materials. The
22 extension is contingent upon payment of the fees specified below.

23 (a) The extended time for removal shall not exceed:

24 (i) Forty years from date of purchase for stone, sand, gravel, fill
25 material, or building stone;

26 (ii) A total of ten years beyond the original termination date for
27 all other valuable materials.

28 (b) An extension fee fixed by the department will be charged based
29 on the estimated loss of income per acre to the state resulting from
30 the granting of the extension plus interest on the unpaid portion of
31 the contract. The board must periodically fix and adopt by rule the
32 interest rate, which shall not be less than six percent per annum.

33 (c) The sale contract shall specify:

34 (i) The applicable rate of interest as fixed at the day of sale and
35 the maximum extension payment; and

36 (ii) The method for calculating the unpaid portion of the contract
37 upon which interest is paid.

1 (d) The minimum extension fee is fifty dollars per extension plus
2 interest on the unpaid portion of the contract.

3 (e) Moneys received for any extension must be credited to the same
4 fund in the state treasury as was credited the original purchase price
5 of the valuable material sold.

6 (7) The department may, in addition to any other securities,
7 require a performance security to guarantee compliance with all
8 contract requirements. The security is limited to those types listed
9 in subsection (4) of this section. The value of the performance
10 security will, at all times, equal or exceed the value of work
11 performed or to be performed by the purchaser.

12 ~~(8) ((Any time that the department sells timber by contract that
13 includes a performance bond, the department must require the purchaser
14 to present proof of any and all property taxes paid prior to the
15 release of the performance bond. Within thirty days of payment of
16 taxes due by the timber purchaser, the county treasurer must provide
17 certified evidence of property taxes paid, clearly disclosing the sale
18 contract number.~~

19 ~~(9))~~) The provisions of this section apply unless otherwise
20 provided by statute.

21 NEW SECTION. **Sec. 6.** A new section is added to chapter 84.33 RCW
22 to read as follows:

23 (1) The department shall estimate the number of acres of public
24 forest land that are available for timber harvesting. The department
25 shall provide the estimates for each county and for each taxing
26 district within each county by August 30th of each year except that the
27 department may authorize a county, at the county's option, to make its
28 own estimates for public forest land in that county. In estimating the
29 number of acres, the department shall use the best available
30 information to include public land comparable to private land that
31 qualifies as forest land for assessment purposes and exclude other
32 public lands. The department is not required to update the estimates
33 unless improved information becomes available. The department of
34 natural resources shall assist the department with these determinations
35 by providing any data and information in the possession of the
36 department of natural resources on public forest lands, broken out by
37 county and legal description, including a detailed map of each county

1 showing the location of the described lands. The data and information
2 shall be provided to the department by July 15th of each year. In
3 addition, the department may contract with other parties to provide
4 data or assistance necessary to implement this section.

5 (2) To accommodate the phase-in of the county forest excise tax on
6 the harvest of timber from public lands as provided in RCW 84.33.051,
7 the department shall adjust its actual estimates of the number of acres
8 of public forest land that are available for timber harvesting. The
9 department shall reduce its estimates for the following years by the
10 following amounts:

11 (a) For calendar year 2005, 70 percent;

12 (b) For calendar year 2006, 62.5 percent;

13 (c) For calendar year 2007, 55 percent;

14 (d) For calendar year 2008, 47.5 percent;

15 (e) For calendar year 2009, 40 percent;

16 (f) For calendar year 2010, 32.5 percent;

17 (g) For calendar year 2011, 22.5 percent;

18 (h) For calendar year 2012, 15 percent;

19 (i) For calendar year 2013, 7.5 percent; and

20 (j) For calendar year 2014 and thereafter, the department shall not
21 reduce its estimates of the number of acres of public forest land that
22 are available for timber harvesting.

23 NEW SECTION. **Sec. 7.** Section 3 of this act applies to taxes
24 levied for collection in 2005 and thereafter.

25 NEW SECTION. **Sec. 8.** This act takes effect January 1, 2005.

Passed by the House February 17, 2004.

Passed by the Senate March 10, 2004.

Approved by the Governor March 26, 2004.

Filed in Office of Secretary of State March 26, 2004.