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.

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.

GARY F. LOCKE
Governor of the State of Washington

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

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

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

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

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

(2) "Average rate of inflation" means the annual rate of inflation as determined by the department averaged over the period of time as provided in RCW 84.33.220 (1) and (2). This rate shall be published in
the state register by the department not later than January 1st of each
year for use in that assessment year.

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

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

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

(6) "Harvester" means every person who from the person's own land
or from the land of another under a right or license granted by lease
or contract, either directly or by contracting with others for the
necessary labor or mechanical services, fells, cuts, or takes timber
for sale or for commercial or industrial use. When the United States
or any instrumentality thereof, the state, including its departments
and institutions and political subdivisions, or any municipal
corporation therein so fells, cuts, or takes timber for sale or for
commercial or industrial use, the harvester is the first person other
than the United States or any instrumentality thereof, the state,
including its departments and institutions and political subdivisions,
or any municipal corporation therein, who acquires title to or a
possessory interest in the timber. The term "harvester" does not
include persons performing under contract the necessary labor or
mechanical services for a harvester.
(7) "Harvesting and marketing costs" means only those costs directly associated with harvesting the timber from the land and delivering it to the buyer and may include the costs of disposing of logging residues. Any other costs that are not directly and exclusively related to harvesting and marketing of the timber, such as costs of permanent roads or costs of reforesting the land following harvest, are not harvesting and marketing costs.

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

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

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

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

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

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

(14) "Small harvester" means every person who from his or her own land or from the land of another under a right or license granted by
lease or contract, either directly or by contracting with others for
the necessary labor or mechanical services, fells, cuts, or takes
timber for sale or for commercial or industrial use in an amount not
exceeding two million board feet in a calendar year. When the United
States or any instrumentality thereof, the state, including its
departments and institutions and political subdivisions, or any
municipal corporation therein so fells, cuts, or takes timber for sale
or for commercial or industrial use, not exceeding these amounts, the
small harvester is the first person other than the United States or any
instrumentality thereof, the state, including its departments and
institutions and political subdivisions, or any municipal corporation
therein, who acquires title to or a possessory interest in the timber.
Small harvester does not include persons performing under contract the
necessary labor or mechanical services for a harvester, and it does not
include the harvesters of Christmas trees or short-rotation hardwoods.

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

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

(17) "Timber" means forest trees, standing or down, on privately or
publicly owned land, and except as provided in RCW 84.33.170 includes
Christmas trees and short-rotation hardwoods.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(g) For timber harvested January 1, 2011, through December 31, 2011, 3.1 percent;
(h) For timber harvested January 1, 2012, through December 31, 2012, 3.4 percent;

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

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

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

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

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

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

(When any timber standing on public land, other than federally owned land, is sold separate from the land, the department of natural resources or other governmental unit, as appropriate, shall state in its notice of the sale or prospectus that timber sold separate from the land is subject to property tax and that the amount of the tax paid may be used as a credit against any tax imposed with respect to business of harvesting timber from publicly owned land under RCW 84.33.041.) If the timber from public land is harvested by the state, its departments and institutions and political subdivisions, or any municipal corporation therein, the governmental unit, or governmental units, that harvest or market the timber must provide the harvester purchasing the timber with its harvesting and marketing costs as defined in RCW 84.33.035(7).
Sec. 5. RCW 79.15.100 and 2003 c 334 s 334 are each amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

(b) Upon notification as provided in (a) of this subsection, the department must require advanced payment or may allow purchasers to submit adequate security.
(c) The amount of advanced payments or security must be determined by the department and must at all times equal or exceed the value of timber cut and other valuable materials processed or removed until paid for.

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

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

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

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

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

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

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

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

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

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

(c) The sale contract shall specify:

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

(ii) The method for calculating the unpaid portion of the contract upon which interest is paid.
(d) The minimum extension fee is fifty dollars per extension plus interest on the unpaid portion of the contract.

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

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

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

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

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

(1) The department shall estimate the number of acres of public forest land that are available for timber harvesting. The department shall provide the estimates for each county and for each taxing district within each county by August 30th of each year except that the department may authorize a county, at the county's option, to make its own estimates for public forest land in that county. In estimating the number of acres, the department shall use the best available information to include public land comparable to private land that qualifies as forest land for assessment purposes and exclude other public lands. The department is not required to update the estimates unless improved information becomes available. The department of natural resources shall assist the department with these determinations by providing any data and information in the possession of the department of natural resources on public forest lands, broken out by county and legal description, including a detailed map of each county
showing the location of the described lands. The data and information shall be provided to the department by July 15th of each year. In addition, the department may contract with other parties to provide data or assistance necessary to implement this section.

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

(a) For calendar year 2005, 70 percent;
(b) For calendar year 2006, 62.5 percent;
(c) For calendar year 2007, 55 percent;
(d) For calendar year 2008, 47.5 percent;
(e) For calendar year 2009, 40 percent;
(f) For calendar year 2010, 32.5 percent;
(g) For calendar year 2011, 22.5 percent;
(h) For calendar year 2012, 15 percent;
(i) For calendar year 2013, 7.5 percent; and
(j) For calendar year 2014 and thereafter, the department shall not reduce its estimates of the number of acres of public forest land that are available for timber harvesting.

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