

HOUSE BILL REPORT

HB 2330

*As Reported By House Committee on:
Natural Resources & Parks*

Title: An act relating to incentives to maintain the productive forest land base.

Brief Description: Introducing incentives to maintain the forest land base.

Sponsor(s): Representatives Sheldon, Brumsickle, Belcher, Riley, Beck, Rasmussen, Morton, Scott, Hargrove, Bowman, Nealey, Jones, Kremen, Chandler, Fuhrman, Wynne, Haugen, P. Johnson and Sprenkle.

Brief History:

Reported by House Committee on:
Natural Resources & Parks, February 7, 1992, DPS.

**HOUSE COMMITTEE ON
NATURAL RESOURCES & PARKS**

Majority Report: *The substitute bill be substituted therefor and the substitute bill do pass.* Signed by 11 members: Representatives Belcher, Chair; Scott, Vice Chair; Beck, Ranking Minority Member; Brumsickle, Assistant Ranking Minority Member; Dellwo; Fraser; Hargrove; Morton; Riley; Sheldon; and Wynne.

Staff: Randy Acker (786-7129).

Background: As the population of Washington grows, there is increased pressure to convert forest lands to uses that are not compatible with long term timber production. In many areas, these are low elevation lands which are among the most productive forest lands in the state. With rising land values, owners of these productive lands have strong incentives to sell the lands for development. At a time when there is great concern about the state's timber supply, there is increased interest in creating incentives to maintain forest land in timber production.

EXEMPTION FROM SPECIAL BENEFITS ASSESSMENTS

Lands classified as farm and agricultural lands under the Open Space Act are exempt from special benefits assessments for sanitary and/or storm sewers, domestic water, or road

construction and/or improvement purposes on the basis that assessments for these purposes generally do not benefit lands under the farm and agricultural classification.

When a local improvement district is created for the purpose of levying a special benefits assessment, farm and agricultural lands are automatically exempted unless the landowner waives the exemption. Whenever exempted lands are withdrawn from classification, the lands are liable for the amount of the special benefit assessment, plus interest.

Lands classified as timberland under the Open Space Act (RCW 84.34) and forest lands classified or designated under RCW 84.33, are not currently eligible for exemption from special benefits assessments.

LANDOWNER LIABILITY

Under current law, public and private landowners are not liable for unintentional injuries to members of the public who use the land for outdoor recreation, provided no fee of any kind is charged for such use. Landowners are, however, allowed to charge an administrative fee of up to \$10 for the cutting, gathering and removal of firewood without incurring liability.

Under the Forest Practices Act, landowners may be required to leave trees standing in riparian areas to benefit public resources. Landowners are not liable for damages that may result when these trees blow down or fall into streams.

Agricultural activities that are conducted in a manner consistent with good agricultural practices and established prior to surrounding non-agricultural activities are protected against nuisance lawsuits. Agricultural activities are presumed to be good practices if carried out in accordance with federal, state, and local laws and regulations. No similar protection currently exists for forest practices.

FOREST PRACTICES

Forest practices applications and notifications must either be delivered in person or sent by mail. There is no provision allowing for them to be electronically filed.

Forest practices notifications to, and applications approved by, the Department of Natural Resources are effective for one year. There is no provision allowing for applications or notifications to cover multiple forest practices.

Appeals of forest practices decisions are heard by the Forest Practices Appeals Board. There is no charge for filing an appeal. There are no provisions allowing for mediation of disputes brought before the appeals board.

Summary of Substitute Bill:

SPECIAL BENEFITS ASSESSMENTS

Lands classified as timberland under the Open Space Act (RCW 84.34) and forest lands classified or designated under RCW 84.33 are exempt from special benefits assessments for local improvement districts.

LANDOWNER LIABILITY

The maximum administrative fee landowners may charge for firewood collection is increased from \$10 to \$25.

The Legislature finds that leaving trees unharvested in upland areas, in addition to riparian areas, provides benefits for wildlife. Landowners shall not be held liable for any injuries or damages resulting from leaving trees, including wildfire, erosion, and flooding.

The right to practice agriculture statutes are expanded to include forest practices as defined in the Forest Practices Act.

FOREST PRACTICES

Forest practices applications and notifications may be electronically filed. Notification and application approvals are effective for two years. Applications and notifications may be submitted to cover multiple forest practices within reasonable geographic and political boundaries.

Authority is granted to mediate cases brought before the Forest Practices Appeals Board when all parties consent to mediation. The mediation is to be conducted by the administrative appeals judge or authorized agent of the board.

Substitute Bill Compared to Original Bill: The provision intended to allow private owners of forest lands to charge a fee and not be liable for unintentional injuries is deleted. The \$100 fee for filing an appeal before the Forest Practices Appeals Board is removed, as is language allowing an exemption from the real estate excise tax when assembling forest land. Landowners are not liable for any injury

resulting from leaving snags and trees standing on their property to benefit wildlife. An effective date is added.

Fiscal Note: Available. New fiscal note requested February 8, 1992.

Effective Date of Substitute Bill: Ninety days after adjournment of session in which bill is passed, except Section 22 which takes effect August 1, 1992.

Testimony For: A two-year forest practices permit will allow greater flexibility for landowners in responding to market changes and will encourage submittal of harvest plans covering larger areas. This will enhance opportunities to manage forest on a landscape basis. Greater protection from liability is essential to forest landowners; without it, landowners may be faced with closing down their lands in order to protect themselves from liability. Right-to-practice-forestry provisions are needed as development encroaches on forest land.

Testimony Against: The section allowing two-year permits should not become effective before the forest practices rules now before the Forest Practices Board become effective. Otherwise, there may be a rush to get in before the rules are effective. A fee for filing forest practices appeals should not be imposed in the absence of application fees.

Witnesses: Bob Gustavson, Washington Forest Protection Association (in favor); Chris Palmquist, ITT Rayonier (in favor); Len Rolph, Champion International (in favor); Jerry Gutzwiler, Weyerhaeuser Company (in favor); Nick Handy, Department of Natural Resources (in favor); Mason Brown, John Hancock, Mutual Insurance (in favor); Nels Hanson, Washington Farm Forestry Association (in favor); Jeff Parsons, National Audubon Society (generally in favor but has some concerns); and Bill Vogler, Washington Association of Counties (in favor).