
HOUSE BILL 1583

State of Washington 52nd Legislature 1991 Regular Session

By Representatives Sheldon, Ferguson, Hargrove, Rasmussen, Cantwell, Betrozoff, Jacobsen, Jones, R. King, Basich, R. Johnson, Haugen, Inslee, Kremen, Riley, Roland, Phillips, Orr, Wynne and Spanel.

Read first time February 4, 1991. Referred to Committee on Trade & Economic Development.

1 AN ACT Relating to the creation of the Washington public forest
2 commission; adding a new chapter to Title 76 RCW; prescribing
3 penalties; and declaring an emergency.

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

5 NEW SECTION. **Sec. 1.** The legislature recognizes that the
6 economic well-being of the state of Washington is directly affected by
7 the growing and harvesting of publicly owned timber. The industry
8 provides substantial and necessary revenues for the state and
9 employment for its citizens. The maintenance of a strong and
10 competitive forest industry in Washington requires a continuous and
11 adequate supply of timber from public lands and the further expansion
12 of markets for finished products. The research, development, and
13 communications of new forest management techniques and practices are
14 needed to strengthen the compatibility of growing and harvesting
15 softwood timber with other forest resource values. Creating and

1 maintaining a regulatory environment ensuring a sustainable yield of
2 softwood timber for harvest is vital to the state's economy. This
3 chapter is enacted in the exercise of the police power of this state
4 for the purpose of protecting the health, peace, safety, and general
5 welfare of the people of this state.

6 NEW SECTION. **Sec. 2.** Unless the context clearly requires
7 otherwise, the definitions in this section apply throughout this
8 chapter.

9 (1) "Commission" means the Washington public forest commission.

10 (2) "Person" means an individual, partnership, corporation, firm,
11 company, or other entity doing business in the state of Washington.

12 (3) "Producer" means any person who has legal title to timber when
13 it is harvested and removed from public lands in this state.

14 (4) "Public lands" means all federal, state, or any other lands
15 owned or controlled by a governmental entity including military
16 reservations, municipalities, and counties.

17 (5) "Research" means any economic, cultural, or biological search,
18 inquiry, examination, investigation, or experimentation, or any other
19 search, inquiry, examination, investigation, or experimentation.

20 (6) "Softwood" means the wood of a coniferous tree with leaves that
21 are needle-like, scale-like, awl-shaped, or linear.

22 (7) "Bid value" means the amount paid for timber to the public
23 landowner as defined by the department of revenue.

24 (8) "Timber" includes trees, standing or down, shake blocks and
25 boards, posts, and other red cedar products.

26 (9) "Product promotion" means the generic promotion of forest
27 products in domestic and foreign markets.

1 NEW SECTION. **Sec. 3.** (1) There is created the Washington
2 public forest commission, which is established solely for the purposes
3 set forth in this chapter. The commission shall be comprised of eleven
4 members who are producers.

5 (2) All members shall be initially appointed by the governor and
6 shall be appointed for staggered terms. Four members shall be
7 appointed to a two-year term, four members to a three-year term, and
8 three members to a four-year term.

9 (3) By January 1, 1992, the commission shall develop, by rule, a
10 method of electing board members to replace the appointed members.

11 (4)(a) The commission shall be comprised of: (i) Four members
12 elected by and from producers of five million board feet to twenty-five
13 million board feet, inclusive net Scribner Decimal C log rule softwood
14 logs, or the equivalent thereof, in the preceding calendar year; (ii)
15 four members shall be elected by and from producers of over twenty-five
16 million board feet but not more than seventy-five million board feet
17 net Scribner Decimal C log rule softwood logs, or the equivalent
18 thereof, in the preceding calendar year; and (iii) three members shall
19 be elected by and from producers of over seventy-five million board
20 feet net Scribner Decimal C log rule softwood logs, or the equivalent
21 thereof, in the preceding calendar year.

22 (b) At least three members shall be producers from east of the
23 crest of the Cascade mountains.

24 (5) The members of the board shall be, in addition to being
25 producers, citizens, and residents of the state of Washington, over the
26 age of twenty-one years, each of whom is and has been actively engaged,
27 either individually or as an executive officer, employee, or sales
28 manager on a management level or as a managing agent of an
29 organization, as a producer within the state of Washington for a period
30 of five years and has, during that time, derived most of his or her

1 income from these activities. The qualifications of members of the
2 board must continue during the terms of office. Only one member may be
3 in the employ of any one person or organization engaged as a producer
4 at any one time.

5 (6) Each commission member shall serve until the election of a
6 successor. Six voting members shall constitute a quorum for
7 transaction of any business of the commission. Commission members
8 shall not be paid compensation but may be reimbursed for travel
9 expenses as provided in RCW 43.03.050 and 43.03.060.

10 NEW SECTION. **Sec. 4.** The commission shall have the powers and
11 duties to carry out any acts reasonably necessary to implement this
12 chapter and shall include, but are not limited to, the following:

13 (1) The commission may adopt, by rule, and, from time to time,
14 alter, rescind, modify, and amend bylaws, regulations, operating
15 procedures, and orders, including regulations for appeals from any
16 bylaw, regulation, operating procedure, or order of the commission.

17 (2) The commission may administer and enforce this chapter and do
18 and perform all acts and exercise all powers incidental to, or in
19 connection with, or deemed reasonably necessary.

20 (3) The commission may appoint its own officers, including a
21 chairperson, one or more vice-chairpersons, and other officers as it
22 deems necessary. The officers shall have the powers and duties
23 delegated to them by the commission.

24 (4) The commission may employ a person to serve at the pleasure of
25 the commission as president and chief executive officer of the
26 commission, and other personnel, including legal counsel.

27 (5) The commission may fix the compensation for all of its
28 employees.

1 (6) The commission may appoint committees composed of both members
2 and nonmembers of the commission to advise the commission.

3 (7) The commission may establish offices and incur expenses, enter
4 into any and all necessary contracts and agreements, create
5 liabilities, and borrow funds in advance of receipt of assessments as
6 may be necessary, in the opinion of the commission, for the proper
7 administration and enforcement of this chapter and performance of its
8 duties.

9 (8) The commission shall keep accurate books, records, and accounts
10 of all of its dealings which shall be subject to an annual audit by an
11 auditing firm selected by the commission.

12 (9) The commission may present facts, negotiate with and conduct
13 any other necessary activities with state, federal, and foreign
14 agencies on matters which affect this chapter, and, in particular, the
15 management of the timber resources on public lands.

16 (10) The commission may enter into contracts to receive or render
17 services in formulating and conducting plans and programs and any other
18 contracts or agreements that the commission may deem necessary.

19 (11) The commission may conduct, and contract with others to
20 conduct, research, including the study, analysis, accumulation, and
21 dissemination of information obtained from the research or elsewhere,
22 regarding this chapter.

23 (12) The commission may communicate with the public to increase the
24 public understanding of the industry and its issues and concerns and
25 may help educate the public with respect to the practice of forestry
26 and the use and benefits of forest products.

27 (13) The commission may promote the sale of forest products by
28 advertising and other promotional means, including cost sharing
29 advertising, for the purpose of maintaining and expanding present
30 markets and creating new and larger intrastate, interstate, and foreign

1 markets for forest products and to educate and instruct the public with
2 respect to the use of forest products.

3 (14) The commission may accept contributions or match private,
4 state, or federal funds, and employ or make contributions of funds to
5 other persons, organizations, or state or federal agencies.

6 (15) The commission may publish and distribute, without charge,
7 bulletins or other communications to persons subject to this chapter.

8 (16) The commission shall establish an assessment rate to defray
9 its operating costs and administer this chapter.

10 (17) The commission shall adopt an annual budget according to
11 generally accepted accounting practices.

12 (18) The commission shall keep confidential and shall not disclose,
13 except when required in a judicial proceeding, all lists in their
14 possession of persons subject to this chapter.

15 (19) The commission may bring legal and administrative actions to
16 implement this chapter; and may investigate and prosecute civil
17 violations of this chapter and file complaints with appropriate law
18 enforcement agencies or officers for suspected criminal violations of
19 this chapter.

20 NEW SECTION. **Sec. 5.** (1) To provide for funding of the
21 commission, assessments shall be levied by the commission on all
22 producers.

23 (2) The assessment for each producer shall be one percent of the
24 bid value of all softwood timber removed from public lands in
25 Washington state under a timber sale entered into after the effective
26 date of this act with advertised volume of five hundred thousand board
27 feet net Scribner Decimal C log rule, the equivalent of, or more.

1 (3) The assessment shall be payable to the commission with respect
2 to each timber sale on the last day of the month following the end of
3 the calendar quarter in which the timber is removed.

4 (4) The rate of assessment payable to the commission by any
5 producer shall not be changed so long as the timber sale contract for
6 which the assessment is being made is in force.

7 (5) The assessment rate payable to the commission may be changed
8 for new timber sales with a two-thirds vote of the commission. A
9 producer shall be responsible to pay according to the assessment rate
10 change when it is received by the producer from the commission as
11 provided in subsection (7) of this section. The effective date of the
12 assessment change shall be the later of the first day of the month
13 following the month in which the vote occurs or fourteen days after
14 written notification has been received.

15 (6) A penalty for late payment of assessments will be five percent
16 in the first month of delinquency, ten percent in the second month, and
17 twenty percent in the third or later month of delinquency.

18 (7) Any notice provided for in this chapter to a producer shall be
19 delivered to the producer at the address supplied by the producer to
20 the commission either by personal delivery or by certified mail, return
21 receipt requested. A notice shall be deemed given, if by personal
22 delivery, on the date of such delivery, or, if by certified mail, on
23 the date of receipt. Notice to the commission shall be delivered or
24 addressed to an officer of the commission at the commission's principal
25 office.

26 NEW SECTION. **Sec. 6.** Obligations incurred by the commission
27 and liabilities or claims against the commission shall be enforced only
28 against the assets of the commission in the same manner as if it were
29 a corporation and no liability for the debts or actions of the

1 commission shall exist against either the state of Washington or any
2 subdivision or against any member, officer, employee, or agent of the
3 commission in his or her individual capacity. The members of the
4 commission, including employees of the commission, shall not be held
5 responsible in any way whatsoever to any person for errors in judgment,
6 mistakes, or other acts, either of commission or omission, as principle
7 agent, person, or employees, except for their own individual acts of
8 dishonesty or crime. A person or employee shall not be held
9 responsible individually for any act or omission of any other members
10 of the commission.

11 NEW SECTION. **Sec. 7.** (1) It is a misdemeanor for any person
12 to do any of the following:

13 (a) Refuse to render a report, statement, or record required by the
14 commission.

15 (b) Furnish a false report, statement, or record required by the
16 commission.

17 (c) Fail or refuse to furnish the commission, or its duly
18 authorized agents, information concerning the names and addresses of
19 persons from whom timber has been received and the quantity so
20 received.

21 (d) Secrete, destroy, or alter records required to be kept under
22 this chapter.

23 (2) The commission may commence civil actions and utilize all
24 remedies provided in law or equity for the collection of assessments
25 and civil penalties and for the obtaining of injunctive relief or
26 specific performance regarding this chapter and the rules and
27 regulations adopted under this chapter. A court shall issue to the
28 commission any requested writ of attachment or injunctive relief upon
29 a prima facie showing by verified complaint that a named defendant has

1 violated this chapter or any rule or regulations of the commission,
2 including, but not limited to, the nonpayment of assessments. The
3 commission shall not be required to post a bond as a condition for the
4 issuance of any writ of attachment or injunctive relief.

5 (3) Upon entry of any final judgment on behalf of the commission
6 against any defendant, the court shall enjoin the defendant from
7 conducting any type of business regarding timber until there is full
8 compliance and satisfaction of the judgment. Upon a favorable judgment
9 for the commission, it is entitled to receive reimbursement for any
10 reasonable attorneys' fees and other actual related costs. Venue for
11 these actions may be established at the domicile or place of business
12 of the defendant or in the county of the principal office of the
13 commission. The commission may be used only in the county of its
14 principal office.

15 NEW SECTION. **Sec. 8.** Sections 1 through 7 of this act shall
16 constitute a new chapter in Title 76 RCW.

17 NEW SECTION. **Sec. 9.** If any provision of this act or its
18 application to any person or circumstance is held invalid, the
19 remainder of the act or the application of the provision to other
20 persons or circumstances is not affected.

21 NEW SECTION. **Sec. 10.** 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 shall take
24 effect immediately.