

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 2330

52nd Legislature
1992 Regular Session

Passed by the House February 14, 1992
Yeas 93 Nays 0

**Speaker of the
House of Representatives**

Passed by the Senate March 3, 1992
Yeas 46 Nays 0

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Alan Thompson, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is SUBSTITUTE HOUSE BILL 2330 as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 2330

Passed Legislature - 1992 Regular Session

State of Washington 52nd Legislature 1992 Regular Session

By House Committee on Natural Resources & Parks (originally sponsored by Representatives Sheldon, Brumsickle, Belcher, Riley, Beck, Rasmussen, Morton, Scott, Hargrove, Bowman, Nealey, Jones, Kremen, Chandler, Fuhrman, Wynne, Haugen, P. Johnson and Sprenkle)

Read first time 02/07/92.

1 AN ACT Relating to incentives to maintain the productive forest
2 land base; amending RCW 7.48.300, 7.48.305, 7.48.310, 76.09.330,
3 84.33.100, 84.34.300, 84.34.310, 84.34.320, 84.34.330, 84.34.340,
4 84.34.360, 84.34.370, 84.34.380, 76.09.060, 76.09.230, and 76.04.005;
5 reenacting and amending RCW 4.24.210; adding new sections to chapter
6 84.33 RCW; creating a new section; and providing an effective date.

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

8 **Sec. 1.** RCW 4.24.210 and 1991 c 69 s 1 and 1991 c 50 s 1 are each
9 reenacted and amended to read as follows:

10 (1) Except as otherwise provided in subsection (3) of this section,
11 any public or private landowners or others in lawful possession and
12 control of any lands whether designated resource, rural, or urban, or
13 water areas or channels and lands adjacent to such areas or channels,
14 who allow members of the public to use them for the purposes of outdoor

1 recreation, which term includes, but is not limited to, the cutting,
2 gathering, and removing of firewood by private persons for their
3 personal use without purchasing the firewood from the landowner,
4 hunting, fishing, camping, picnicking, swimming, hiking, bicycling, the
5 riding of horses or other animals, clam digging, pleasure driving of
6 off-road vehicles, snowmobiles, and other vehicles, boating, nature
7 study, winter or water sports, viewing or enjoying historical,
8 archaeological, scenic, or scientific sites, without charging a fee of
9 any kind therefor, shall not be liable for unintentional injuries to
10 such users.

11 (2) Except as otherwise provided in subsection (3) of this section,
12 any public or private landowner or others in lawful possession and
13 control of any lands whether rural or urban, or water areas or channels
14 and lands adjacent to such areas or channels, who offer or allow such
15 land to be used for purposes of a fish or wildlife cooperative project,
16 or allow access to such land for cleanup of litter or other solid
17 waste, shall not be liable for unintentional injuries to any volunteer
18 group or to any other users.

19 (3) Any public or private landowner, or others in lawful possession
20 and control of the land, may charge an administrative fee of up to
21 (~~ten~~) twenty-five dollars for the cutting, gathering, and removing of
22 firewood from the land. Nothing in this section shall prevent the
23 liability of such a landowner or others in lawful possession and
24 control for injuries sustained to users by reason of a known dangerous
25 artificial latent condition for which warning signs have not been
26 conspicuously posted. Nothing in RCW 4.24.200 and 4.24.210 limits or
27 expands in any way the doctrine of attractive nuisance. Usage by
28 members of the public, volunteer groups, or other users is permissive
29 and does not support any claim of adverse possession.

1 (4) For purposes of this section, a license or permit issued for
2 state-wide use under authority of chapter 43.51 RCW, Title 75, or Title
3 77 RCW is not a fee.

4 **Sec. 2.** RCW 7.48.300 and 1979 c 122 s 1 are each amended to read
5 as follows:

6 The legislature finds that agricultural activities conducted on
7 farmland and forest practices in urbanizing areas are often subjected
8 to nuisance lawsuits, and that such suits encourage and even force the
9 premature removal of the lands from agricultural uses and timber
10 production. It is therefore the purpose of RCW 7.48.300 through
11 7.48.310 and 7.48.905 to provide that agricultural activities conducted
12 on farmland and forest practices be protected from nuisance lawsuits.

13 **Sec. 3.** RCW 7.48.305 and 1979 c 122 s 2 are each amended to read
14 as follows:

15 Notwithstanding any other provision of this chapter, agricultural
16 activities conducted on farmland and forest practices, if consistent
17 with good agricultural and forest practices and established prior to
18 surrounding nonagricultural and nonforestry activities, are presumed
19 to be reasonable and do not constitute a nuisance unless the activity
20 has a substantial adverse effect on the public health and safety.

21 If ~~((that))~~ those agricultural ~~((activity is))~~ activities and
22 forest practices are undertaken in conformity with ~~((federal, state,~~
23 ~~and local))~~ all applicable laws and ~~((regulations))~~ rules, ~~((it is))~~
24 the activities are presumed to be good agricultural and forest
25 practices ~~((and))~~ not adversely affecting the public health and safety
26 for purposes of this section and RCW 7.48.300.

1 **Sec. 4.** RCW 7.48.310 and 1991 c 317 s 2 are each amended to read
2 as follows:

3 As used in RCW 7.48.305:

4 (1) "Agricultural activity" means a condition or activity which
5 occurs on a farm in connection with the commercial production of farm
6 products and includes, but is not limited to, marketed produce at
7 roadside stands or farm markets; noise; odors; dust; fumes; operation
8 of machinery and irrigation pumps; movement, including, but not limited
9 to, use of current county road ditches, streams, rivers, canals, and
10 drains, and use of water for agricultural activities; ground and aerial
11 application of seed, fertilizers, conditioners, and plant protection
12 products; employment and use of labor; roadway movement of equipment
13 and livestock; protection from damage by wildlife; prevention of
14 trespass; construction and maintenance of buildings, fences, roads,
15 bridges, ponds, drains, waterways, and similar features and maintenance
16 of streambanks and watercourses; and conversion from one agricultural
17 activity to another.

18 (2) "Farm" means the land, buildings, freshwater ponds, freshwater
19 culturing and growing facilities, and machinery used in the commercial
20 production of farm products.

21 (3) "Farmland" means land or freshwater ponds devoted primarily to
22 the production, for commercial purposes, of livestock, freshwater
23 aquacultural, or other agricultural commodities.

24 (4) "Farm product" means those plants and animals useful to humans
25 and includes, but is not limited to, forages and sod crops, dairy and
26 dairy products, poultry and poultry products, livestock, including
27 breeding, grazing, and recreational equine use, fruits, vegetables,
28 flowers, seeds, grasses, trees, freshwater fish and fish products,
29 apiaries, equine and other similar products, or any other product which
30 incorporates the use of food, feed, fiber, or fur.

1 (5) "Forest practice" means "forest practice" as defined in RCW
2 76.09.020.

3 **Sec. 5.** RCW 76.09.330 and 1987 c 95 s 7 are each amended to read
4 as follows:

5 The legislature hereby finds and declares that riparian ecosystems
6 on forest lands in addition to containing valuable timber resources,
7 provide benefits for wildlife, fish, and water quality. The
8 legislature further finds and declares that leaving upland areas
9 unharvested for wildlife and leaving snags and green trees for future
10 snag recruitment provides benefits for wildlife. Forest landowners may
11 be required to leave trees standing in riparian and upland areas to
12 benefit public resources. It is recognized that these trees may blow
13 down or fall into streams and that organic debris may be allowed to
14 remain in streams. This is beneficial to riparian dependent and other
15 wildlife species. The landowner shall not be held liable for any
16 injury or damages resulting from (~~(the leave trees falling from natural~~
17 ~~causes in riparian areas)) these actions, including but not limited to~~
18 wildfire, erosion, flooding, and other damages resulting from the trees
19 being left.

20 **Sec. 6.** RCW 84.33.100 and 1983 c 3 s 224 are each amended to read
21 as follows:

22 As used in RCW 84.33.110 through 84.33.140 and sections 7 through
23 13 of this act:

24 (1) "Forest land" is synonymous with timberland and means all land
25 in any contiguous ownership of twenty or more acres which is primarily
26 devoted to and used for growing and harvesting timber and means the
27 land only.

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

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

11 (4) "Local improvement district" shall mean any local improvement
12 district, utility local improvement district, local utility district,
13 road improvement district, or any similar unit created by a local
14 government for the purpose of levying special benefit assessments
15 against property specially benefited by improvements relating to such
16 districts.

17 (5) The term "average rate of inflation" shall mean the annual rate
18 of inflation as determined by the department of revenue averaged over
19 the period of time as provided in section 8 (1) and (2) of this act.
20 Such determination shall be published not later than January 1 of each
21 year for use in that assessment year.

22 (6) "Special benefit assessments" shall mean special assessments
23 levied or capable of being levied in any local improvement district or
24 otherwise levied or capable of being levied by a local government to
25 pay for all or part of the costs of a local improvement and which may
26 be levied only for the special benefits to be realized by property by
27 reason of that local improvement.

28 NEW SECTION. Sec. 7. (1) Any forest land that is designated
29 for classification pursuant to chapter 84.33 RCW at the earlier of the

1 times the legislative authority of a local government adopts a
2 resolution, ordinance, or legislative act (a) to create a local
3 improvement district, in which such land is included or would have been
4 included but for such classification designation, or (b) to approve or
5 confirm a final special benefit assessment roll relating to a sanitary
6 or storm sewerage system, domestic water supply or distribution system,
7 or road construction or improvement, which roll would have included
8 such land but for such classification designation, shall be exempt from
9 special benefit assessments or charges in lieu of assessment for such
10 purposes as long as that land remains in such classification, except as
11 otherwise provided in section 11 of this act.

12 (2) Whenever a local government creates a local improvement
13 district, the levying, collection, and enforcement of assessments shall
14 be in the manner and subject to the same procedures and limitations as
15 are provided pursuant to the law concerning the initiation and
16 formation of local improvement districts for the particular local
17 government. Notice of the creation of a local improvement district
18 that includes forest land shall be filed with the county assessor and
19 the legislative authority of the county in which such land is located.
20 The county assessor, upon receiving notice of the creation of such a
21 local improvement district, shall send a notice to the owner of the
22 forest lands listed on the tax rolls of the applicable county treasurer
23 of:

24 (a) The creation of the local improvement district;

25 (b) The exemption of that land from special benefit assessments;

26 (c) The fact that the forest land may become subject to the special
27 benefit assessments if the owner waives the exemption by filing a
28 notarized document with the governing body of the local government
29 creating the local improvement district before the confirmation of the
30 final special benefit assessment roll; and

1 (d) The potential liability, pursuant to section 8 of this act, if
2 the exemption is not waived and the land is subsequently removed from
3 the forest land status.

4 (3) When a local government approves and confirms a special benefit
5 assessment roll, from which forest land has been exempted pursuant to
6 this section, it shall file a notice of such action with the county
7 assessor and the legislative authority of the county in which such land
8 is located and with the treasurer of that local government, which
9 notice shall describe the action taken, the type of improvement
10 involved, the land exempted, and the amount of the special benefit
11 assessment that would have been levied against the land if it had not
12 been exempted. The filing of such notice with the county assessor and
13 the treasurer of that local government shall constitute constructive
14 notice to a purchaser or encumbrancer of the affected land, and every
15 person whose conveyance or encumbrance is subsequently executed or
16 subsequently recorded, that such exempt land is subject to the charges
17 provided in sections 8 and 9 of this act, if such land is withdrawn or
18 removed from its classification as forest land.

19 (4) The owner of the land exempted from special benefit assessments
20 pursuant to this section may waive that exemption by filing a notarized
21 document to that effect with the legislative authority of the local
22 government upon receiving notice from said local government concerning
23 the assessment roll hearing and before the local government confirms
24 the final special benefit assessment roll. A copy of that waiver shall
25 be filed by the local government with the county assessor, but the
26 failure of such filing shall not affect the waiver.

27 (5) Except to the extent provided in section 11 of this act, the
28 local government shall have no duty to furnish service from the
29 improvement financed by the special benefit assessment to such exempted
30 land.

1 NEW SECTION. **Sec. 8.**

2 Whenever forest land has once been
3 exempted from special benefit assessments pursuant to section 7 of this
4 act, any withdrawal from classification or change in use from forest
land under chapter 84.33 RCW shall result in the following:

5 (1) If the bonds used to fund the improvement in the local
6 improvement district have not been completely retired, such land shall
7 immediately become liable for:

8 (a) The amount of the special benefit assessment listed in the
9 notice provided for in section 7 of this act; plus

10 (b) Interest on the amount determined in (a) of this subsection,
11 compounded annually at a rate equal to the average rate of inflation
12 from the time the initial notice is filed by the governmental entity
13 that created the local improvement district as provided in section 7 of
14 this act to the time the owner withdraws such land from the exemption
15 category provided by this chapter; or

16 (2) If the bonds used to fund the improvement in the local
17 improvement district have been completely retired, such land shall
18 immediately become liable for:

19 (a) The amount of the special benefit assessment listed in the
20 notice provided for in section 7 of this act; plus

21 (b) Interest on the amount determined in (a) of this subsection
22 compounded annually at a rate equal to the average rate of inflation
23 from the time the initial notice is filed by the governmental entity
24 that created the local improvement district as provided in section 7 of
25 this act, to the time the bonds used to fund the improvement have been
26 retired; plus

27 (c) Interest on the total amount determined in (a) and (b) of this
28 subsection at a simple per annum rate equal to the average rate of
29 inflation from the time the bonds used to fund the improvement have

1 been retired to the time the owner withdraws such lands from the
2 exemption category provided by this chapter;

3 (3) The amount payable pursuant to this section shall become due on
4 the date such land is withdrawn or removed from its forest land
5 classification and shall be a lien on the land prior and superior to
6 any other lien whatsoever except for the lien for general taxes, and
7 shall be enforceable in the same manner as the collection of special
8 benefit assessments are enforced by that local government.

9 NEW SECTION. **Sec. 9.** Whenever forest land is withdrawn or
10 removed from its forest land classification, the county assessor of the
11 county in which such land is located shall forthwith give written
12 notice of such withdrawal or removal to the local government or its
13 successor that had filed with the assessor the notice required by
14 section 7 of this act. Upon receipt of the notice from the assessor,
15 the local government shall mail a written statement to the owner of
16 such land for the amounts payable as provided in section 8 of this act.
17 Such amounts due shall be delinquent if not paid within one hundred
18 eighty days after the date of mailing of the statement, and shall be
19 subject to the same interest, penalties, lien priority, and enforcement
20 procedures that are applicable to delinquent assessments on the
21 assessment roll from which that land had been exempted, except that the
22 rate of interest charged shall not exceed the rate provided in section
23 8 of this act.

24 NEW SECTION. **Sec. 10.** Payments collected pursuant to sections
25 8 and 9 of this act, or by enforcement procedures referred to therein,
26 after the payment of the expenses of their collection, shall first be
27 applied to the payment of general or special debt incurred to finance
28 the improvements related to the special benefit assessments, and, if

1 such debt is retired, then into the maintenance fund or general fund of
2 the governmental entity that created the local improvement district, or
3 its successor, for any of the following purposes: (1) Redemption or
4 servicing of outstanding obligations of the district; (2) maintenance
5 expenses of the district; or (3) construction or acquisition of any
6 facilities necessary to carry out the purpose of the district.

7 NEW SECTION. **Sec. 11.** The department of revenue shall adopt
8 rules it shall deem necessary to implement RCW 84.33.100 and sections
9 7 through 13 of this act, which shall include, but not be limited to,
10 procedures to determine the extent to which a portion of the land
11 otherwise exempt may be subject to a special benefit assessment for:
12 (1) The actual connection to the domestic water system or sewerage
13 facilities; (2) for access to the road improvement in relation to its
14 value as forest land as distinguished from its value under more
15 intensive uses; and (3) for such lands that benefit from or cause the
16 need for a local improvement district. The provision for limited
17 special benefit assessments shall not relieve such land from liability
18 for the amounts provided in sections 8 and 9 of this act when such land
19 is withdrawn or removed from its forest land classification.

20 NEW SECTION. **Sec. 12.** Whenever a portion of a parcel of land
21 that was classified as forest land pursuant to this chapter is
22 withdrawn from classification or there is a change in use, and such
23 land has been exempted from any benefit assessments pursuant to section
24 6 of this act, the previously exempt benefit assessments shall become
25 due on only that portion of the land that is withdrawn or changed.

26 NEW SECTION. **Sec. 13.** (1) Forest land on which the right to
27 future development has been acquired by any local government, the state

1 of Washington, or the United States government shall be exempt from
2 special benefit assessments in lieu of assessment for such purposes in
3 the same manner, and under the same liabilities for payment and
4 interest, as land classified under this chapter as forest land, for as
5 long as such classification applies.

6 (2) Any interest, development right, easement, covenant, or other
7 contractual right that effectively protects, preserves, maintains,
8 improves, restores, prevents the future nonforest use of, or otherwise
9 conserves forest land shall be exempt from special benefit assessments
10 as long as such development right or other such interest effectively
11 serves to prevent nonforest development of such land.

12 **Sec. 14.** RCW 84.34.300 and 1979 c 84 s 1 are each amended to read
13 as follows:

14 The legislature finds that farming, timber production, and the
15 related agricultural ~~((industry))~~ and forest industries have
16 historically been and currently are central factors in the economic and
17 social lifeblood of the state; that it is a fundamental policy of the
18 state to protect agricultural and timber lands as a major natural
19 resource in order to maintain a source to supply a wide range of
20 agricultural and forest products; and that the public interest in the
21 protection and stimulation of farming, timber production, and the
22 agricultural ~~((industry))~~ and forest industries is a basic element of
23 enhancing the economic viability of this state. The legislature
24 further finds that farmland and timber land in urbanizing areas ~~((is))~~
25 are often subjected to high levels of property taxation and benefit
26 assessment, and that such levels of taxation and assessment encourage
27 and even force the ~~((premature))~~ removal of such lands from
28 agricultural and forest uses. The legislature further finds that
29 because of this level of taxation and assessment, such farmland and

1 timber land in urbanizing areas (~~is~~) are either converted to
2 nonagricultural and nonforest uses when significant amounts of nearby
3 nonagricultural and nonforest area could be suitably used for such
4 nonagricultural and nonforest uses, or, much of this farmland and
5 timber land is left in an unused state. The legislature further finds
6 that with the approval by the voters of the Fifty-third Amendment to
7 the state Constitution, and with the enactment of chapter 84.34 RCW,
8 the owners of farmlands and timber lands were provided with an
9 opportunity to have such land valued on the basis of its current use
10 and not its "highest and best use" and that such current use valuation
11 is one mechanism to protect agricultural and timber lands. The
12 legislature further finds that despite this potential property tax
13 reduction, farmlands and timber lands in urbanized areas are still
14 subject to high levels of benefit assessments and continue to be
15 removed from farm and forest uses.

16 It is therefore the purpose of the legislature to establish, with
17 the enactment of RCW 84.34.300 through 84.34.380, another mechanism to
18 protect agricultural and timber land which creates an analogous system
19 of relief from certain benefit assessments for farm and agricultural
20 land and timber land. It is the intent of the legislature that special
21 benefit assessments not be imposed for the availability of sanitary
22 and/or storm sewerage service, or domestic water service, or for road
23 construction and/or improvement purposes on farm and agricultural lands
24 and timber lands which have been designated for current use
25 classification as farm and agricultural lands or timber lands until
26 such lands are withdrawn or removed from such classification or unless
27 such lands benefit from or cause the need for the local improvement
28 district.

29 The legislature finds, and it is the intent of RCW 84.34.300
30 through 84.34.380 and 84.34.922, that special benefit assessments for

1 the improvement or construction of sanitary and/or storm sewerage
2 service, or domestic water service, or certain road construction do not
3 generally benefit land which has been classified as open space farm and
4 agricultural land or timber land under the open space act, chapter
5 84.34 RCW, until such land is withdrawn from such classification or
6 such land is used for a more intense and nonagricultural use, or the
7 land is no longer used as timber land. The purpose of RCW 84.34.300
8 through 84.34.380 and 84.34.922 is to provide an exemption from certain
9 special benefit assessments which do not benefit timber land or open
10 space farm and agricultural land, and to provide the means for local
11 governmental entities to recover such assessments in current dollar
12 value in the event such land is no longer devoted to farming or timber
13 production under chapter 84.34 RCW. Where the owner of such land
14 chooses to make limited use of improvements related to special benefit
15 assessments, RCW 84.34.300 through 84.34.380 (~~and 84.34.922~~) provides
16 the means for the partial assessment on open space timber and farmland
17 to the extent the land is directly benefited by the improvement.

18 **Sec. 15.** RCW 84.34.310 and 1979 c 84 s 2 are each amended to read
19 as follows:

20 As used in RCW 84.34.300 through 84.34.380, unless a different
21 meaning is required, the words defined in this section shall have the
22 meanings indicated.

23 (1) "Farm and agricultural land" shall mean the same as defined in
24 RCW 84.34.020(2).

25 (2) "Timber land" shall mean the same as defined in RCW
26 84.34.020(3).

27 (3) "Local government" shall mean any city, town, county, sewer
28 district, water district, public utility district, port district,
29 irrigation district, flood control district, or any other municipal

1 corporation, quasi municipal corporation, or other political
2 subdivision authorized to levy special benefit assessments for sanitary
3 and/or storm sewerage systems, domestic water supply and/or
4 distribution systems, or road construction or improvement purposes.

5 ~~((3))~~ (4) "Local improvement district" shall mean any local
6 improvement district, utility local improvement district, local utility
7 district, road improvement district, or any similar unit created by a
8 local government for the purpose of levying special benefit assessments
9 against property specially benefited by improvements relating to such
10 districts.

11 ~~((4))~~ (5) "Owner" shall mean the same as defined in RCW
12 84.34.020(5) or the applicable statutes relating to special benefit
13 assessments.

14 ~~((5))~~ (6) The term "average rate of inflation" shall mean the
15 annual rate of inflation as determined by the department of revenue
16 averaged over the period of time as provided in RCW 84.34.330 (1) and
17 (2). Such determination shall be published not later than January 1 of
18 each year for use in that assessment year.

19 ~~((6))~~ (7) "Special benefit assessments" shall mean special
20 assessments levied or capable of being levied in any local improvement
21 district or otherwise levied or capable of being levied by a local
22 government to pay for all or part of the costs of a local improvement
23 and which may be levied only for the special benefits to be realized by
24 property by reason of that local improvement.

25 **Sec. 16.** RCW 84.34.320 and 1979 c 84 s 3 are each amended to read
26 as follows:

27 Any farm and agricultural land or timber land which is designated
28 for current use classification pursuant to chapter 84.34 RCW at the
29 earlier of the times the legislative authority of a local government

1 adopts a resolution, ordinance, or legislative act (1) to create a
2 local improvement district, in which such land is included or would
3 have been included but for such classification designation, or (2) to
4 approve or confirm a final special benefit assessment roll relating to
5 a sanitary and/or storm sewerage system, domestic water supply and/or
6 distribution system, or road construction and/or improvement, which
7 roll would have included such land but for such classification
8 designation, shall be exempt from special benefit assessments or
9 charges in lieu of assessment for such purposes as long as that land
10 remains in such classification, except as otherwise provided in RCW
11 84.34.360.

12 Whenever a local government creates a local improvement district,
13 the levying, collection and enforcement of assessments shall be in the
14 manner and subject to the same procedures and limitations as are
15 provided pursuant to the law concerning the initiation and formation of
16 local improvement districts for the particular local government.
17 Notice of the creation of a local improvement district that includes
18 farm and agricultural land or timber land shall be filed with the
19 county assessor and the legislative authority of the county in which
20 such land is located. The county assessor, upon receiving notice of
21 the creation of such a local improvement district, shall send a notice
22 to the owner of the farm and agricultural land(~~s~~) or timber land
23 listed on the tax rolls of the applicable county treasurer of: (1) the
24 creation of the local improvement district; (2) the exemption of that
25 land from special benefit assessments; (3) the fact that the farm and
26 agricultural land or timber land may become subject to the special
27 benefit assessments if the owner waives the exemption by filing a
28 notarized document with the governing body of the local government
29 creating the local improvement district before the confirmation of the
30 final special benefit assessment roll; and (4) the potential liability,

1 pursuant to RCW 84.34.330, if the exemption is not waived and the land
2 is subsequently removed from the farm and agricultural land or timber
3 land status. When a local government approves and confirms a special
4 benefit assessment roll, from which farm and agricultural land or
5 timber land has been exempted pursuant to this section, it shall file
6 a notice of such action with the county assessor and the legislative
7 authority of the county in which such land is located and with the
8 treasurer of that local government, which notice shall describe the
9 action taken, the type of improvement involved, the land exempted, and
10 the amount of the special benefit assessment which would have been
11 levied against the land if it had not been exempted. The filing of
12 such notice with the county assessor and the treasurer of that local
13 government shall constitute constructive notice to a purchaser or
14 encumbrancer of the affected land, and every person whose conveyance or
15 encumbrance is subsequently executed or subsequently recorded, that
16 such exempt land is subject to the charges provided in RCW 84.34.330
17 and 84.34.340 if such land is withdrawn or removed from its current use
18 classification as farm and agricultural land or timber land.

19 The owner of the land exempted from special benefit assessments
20 pursuant to this section may waive that exemption by filing a notarized
21 document to that effect with the legislative authority of the local
22 government upon receiving notice from said local government concerning
23 the assessment roll hearing and before the local government confirms
24 the final special benefit assessment roll. A copy of that waiver shall
25 be filed by the local government with the county assessor, but the
26 failure of such filing shall not affect the waiver.

27 Except to the extent provided in RCW 84.34.360, the local
28 government shall have no duty to furnish service from the improvement
29 financed by the special benefit assessment to such exempted land.

1 **Sec. 17.** RCW 84.34.330 and 1979 c 84 s 4 are each amended to read
2 as follows:

3 Whenever farm and agricultural land or timber land has once been
4 exempted from special benefit assessments pursuant to RCW 84.34.320,
5 any withdrawal from classification or change in use from farm and
6 agricultural land or timber land under chapter 84.34 RCW shall result
7 in the following:

8 (1) If the bonds used to fund the improvement in the local
9 improvement district have not been completely retired, such land shall
10 immediately become liable for: (a) The amount of the special benefit
11 assessment listed in the notice provided for in RCW 84.34.320; plus (b)
12 interest on the amount determined in (1)(a) of this section, compounded
13 annually at a rate equal to the average rate of inflation from the time
14 the initial notice is filed by the governmental entity which created
15 the local improvement district as provided in RCW 84.34.320 to the time
16 the owner withdraws such land from the exemption category provided by
17 this chapter; or

18 (2) If the bonds used to fund the improvement in the local
19 improvement district have been completely retired, such land shall
20 immediately become liable for: (a) The amount of the special benefit
21 assessment listed in the notice provided for in RCW 84.34.320; plus (b)
22 interest on the amount determined in (2)(a) of this section compounded
23 annually at a rate equal to the average rate of inflation from the time
24 the initial notice is filed by the governmental entity which created
25 the local improvement district as provided in RCW 84.34.320, to the
26 time the bonds used to fund the improvement have been retired; plus (c)
27 interest on the total amount determined in (2) (a) and (b) of this
28 section at a simple per annum rate equal to the average rate of
29 inflation from the time the bonds used to fund the improvement have

1 been retired to the time the owner withdraws such lands from the
2 exemption category provided by this chapter.

3 (3) The amount payable pursuant to this section shall become due on
4 the date such land is withdrawn or removed from its current use or
5 timber land classification and shall be a lien on the land prior and
6 superior to any other lien whatsoever except for the lien for general
7 taxes, and shall be enforceable in the same manner as the collection of
8 special benefit assessments are enforced by that local government.

9 **Sec. 18.** RCW 84.34.340 and 1979 c 84 s 5 are each amended to read
10 as follows:

11 Whenever farm and agricultural land or timber land is withdrawn or
12 removed from its current use classification as farm and agricultural
13 land or timber land, the county assessor of the county in which such
14 land is located shall forthwith give written notice of such withdrawal
15 or removal to the local government or its successor which had filed
16 with the assessor the notice required by RCW 84.34.320. Upon receipt
17 of the notice from the assessor, the local government shall mail a
18 written statement to the owner of such land for the amounts payable as
19 provided in RCW 84.34.330. Such amounts due shall be delinquent if not
20 paid within one hundred and eighty days after the date of mailing of
21 the statement, and shall be subject to the same interest, penalties,
22 lien priority, and enforcement procedures that are applicable to
23 delinquent assessments on the assessment roll from which that land had
24 been exempted, except that the rate of interest charged shall not
25 exceed the rate provided in RCW 84.34.330.

26 **Sec. 19.** RCW 84.34.360 and 1979 c 84 s 7 are each amended to read
27 as follows:

1 (~~Within ninety days after June 7, 1979,~~) The department of
2 revenue shall adopt rules it shall deem necessary to implement RCW
3 84.34.300 through 84.34.380 which shall include, but not be limited to,
4 procedures to determine the extent to which a portion of the land
5 otherwise exempt may be subject to a special benefit assessment for the
6 actual connection to the domestic water system or sewerage facilities,
7 and further to determine the extent to which all or a portion of such
8 land may be subject to a special benefit assessment for access to the
9 road improvement in relation to its value as farm and agricultural land
10 or timber land as distinguished from its value under more intensive
11 uses. The provision for limited special benefit assessments shall not
12 relieve such land from liability for the amounts provided in RCW
13 84.34.330 and 84.34.340 when such land is withdrawn or removed from its
14 current use classification as farm and agricultural land or timber
15 land.

16 **Sec. 20.** RCW 84.34.370 and 1979 c 84 s 8 are each amended to read
17 as follows:

18 Whenever a portion of a parcel of land which was classified as farm
19 and agricultural or timber land pursuant to this chapter is withdrawn
20 from classification or there is a change in use, and such land has been
21 exempted from any benefit assessments pursuant to RCW 84.34.320, the
22 previously exempt benefit assessments shall become due on only that
23 portion of the land which is withdrawn or changed.

24 **Sec. 21.** RCW 84.34.380 and 1979 c 84 s 9 are each amended to read
25 as follows:

26 Farm and agricultural land or timber land on which the right to
27 future development has been acquired by any local government, the state
28 of Washington, or the United States government shall be exempt from

1 special benefit assessments in lieu of assessment for such purposes in
2 the same manner, and under the same liabilities for payment and
3 interest, as land classified under this chapter as farm and
4 agricultural land or timber land, for as long as such classification
5 applies.

6 Any interest, development right, easement, covenant, or other
7 contractual right which effectively protects, preserves, maintains,
8 improves, restores, prevents the future nonagricultural or nonforest
9 use of, or otherwise conserves farm and agricultural land or timber
10 land shall be exempt from special benefit assessments as long as such
11 development right or other such interest effectively serves to prevent
12 nonagricultural or nonforest development of such land.

13 **Sec. 22.** RCW 76.09.060 and 1990 1st ex.s. c 17 s 62 are each
14 amended to read as follows:

15 (1) The department shall prescribe the form and contents of the
16 notification and application. The forest practices (~~regulations~~)
17 rules shall specify by whom and under what conditions the notification
18 and application shall be signed or otherwise certified as acceptable.
19 The application or notification shall be delivered in person (~~or~~) to
20 the department, sent by (~~certified~~) first class mail to the
21 department or electronically filed in a form defined by the department.
22 The form for electronic filing shall be readily convertible to a paper
23 copy, which shall be available to the public pursuant to chapter 42.17
24 RCW. The information required may include, but (~~shall~~) is not (~~be~~)
25 limited to:

26 (a) Name and address of the forest landowner, timber owner, and
27 operator;

28 (b) Description of the proposed forest practice or practices to be
29 conducted;

1 (c) Legal description of the land on which the forest practices are
2 to be conducted;

3 (d) Planimetric and topographic maps showing location and size of
4 all lakes and streams and other public waters in and immediately
5 adjacent to the operating area and showing all existing and proposed
6 roads and major tractor roads;

7 (e) Description of the silvicultural, harvesting, or other forest
8 practice methods to be used, including the type of equipment to be used
9 and materials to be applied;

10 (f) Proposed plan for reforestation and for any revegetation
11 necessary to reduce erosion potential from roadsides and yarding roads,
12 as required by the forest practices (~~(regulations)~~) rules;

13 (g) Soil, geological, and hydrological data with respect to forest
14 practices;

15 (h) The expected dates of commencement and completion of all forest
16 practices specified in the application;

17 (i) Provisions for continuing maintenance of roads and other
18 construction or other measures necessary to afford protection to public
19 resources; and

20 (j) An affirmation that the statements contained in the
21 notification or application are true.

22 ~~(2) ((At the option of the applicant, the application or
23 notification may be submitted to cover a single forest practice or any
24 number of forest practices within reasonable geographic or political
25 boundaries as specified by the department.))~~ Long range plans may be
26 submitted to the department for review and consultation.

27 (3) The application for a forest practice or the notification of a
28 Class II forest practice shall indicate whether any land covered by the
29 application or notification will be converted or is intended to be

1 converted to a use other than commercial timber production within three
2 years after completion of the forest practices described in it.

3 (a) If the application states that any such land will be or is
4 intended to be so converted:

5 (i) The reforestation requirements of this chapter and of the
6 forest practices (~~((regulations))~~) rules shall not apply if the land is
7 in fact so converted unless applicable alternatives or limitations are
8 provided in forest practices (~~((regulations))~~) rules issued under RCW
9 76.09.070 as now or hereafter amended;

10 (ii) Completion of such forest practice operations shall be deemed
11 conversion of the lands to another use for purposes of chapters 84.28,
12 84.33, and 84.34 RCW unless the conversion is to a use permitted under
13 a current use tax agreement permitted under chapter 84.34 RCW;

14 (iii) The forest practices described in the application are subject
15 to applicable county, city, town, and regional governmental authority
16 permitted under RCW 76.09.240 as now or hereafter amended as well as
17 the forest practices (~~((regulations))~~) rules.

18 (b) If the application or notification does not state that any land
19 covered by the application or notification will be or is intended to be
20 so converted:

21 (i) For six years after the date of the application the county,
22 city, town, and regional governmental entities may deny any or all
23 applications for permits or approvals, including building permits and
24 subdivision approvals, relating to nonforestry uses of land subject to
25 the application;

26 (ii) Failure to comply with the reforestation requirements
27 contained in any final order or decision shall constitute a removal
28 from classification under the provisions of RCW 84.28.065, a removal of
29 designation under the provisions of RCW 84.33.140, and a change of use
30 under the provisions of RCW 84.34.080, and, if applicable, shall

1 subject such lands to the payments and/or penalties resulting from such
2 removals or changes; and

3 (iii) Conversion to a use other than commercial timber operations
4 within three years after completion of the forest practices without the
5 consent of the county, city, or town shall constitute a violation of
6 each of the county, municipal city, town, and regional authorities to
7 which the forest practice operations would have been subject if the
8 application had so stated.

9 (c) The application or notification shall be either signed by the
10 landowner or accompanied by a statement signed by the landowner
11 indicating his or her intent with respect to conversion and
12 acknowledging that he or she is familiar with the effects of this
13 subsection.

14 (4) Whenever an approved application authorizes a forest practice
15 which, because of soil condition, proximity to a water course or other
16 unusual factor, has a potential for causing material damage to a public
17 resource, as determined by the department, the applicant shall, when
18 requested on the approved application, notify the department two days
19 before the commencement of actual operations.

20 (5) Before the operator commences any forest practice in a manner
21 or to an extent significantly different from that described in a
22 previously approved application or notification, there shall be
23 submitted to the department a new application or notification form in
24 the manner set forth in this section.

25 (6) The notification to or the approval given by the department to
26 an application to conduct a forest practice shall be effective for a
27 term of (~~one~~) two years from the date of approval or notification and
28 shall not be renewed unless a new application is filed and approved or
29 a new notification has been filed. At the option of the applicant, an
30 application or notification may be submitted to cover a single forest

1 practice or a number of forest practices within reasonable geographic
2 or political boundaries as specified by the department. An application
3 or notification that covers more than one forest practice may have an
4 effective term of more than two years. The board shall adopt rules
5 that establish standards and procedures for approving an application or
6 notification that has an effective term of more than two years. Such
7 rules shall include extended time periods for application or
8 notification approval or disapproval. On an approved application with
9 a term of more than two years, the applicant shall inform the
10 department before commencing operations.

11 (7) Notwithstanding any other provision of this section, no prior
12 application or notification shall be required for any emergency forest
13 practice necessitated by fire, flood, windstorm, earthquake, or other
14 emergency as defined by the board, but the operator shall submit an
15 application or notification, whichever is applicable, to the department
16 within forty-eight hours after commencement of such practice.

17 **Sec. 23.** RCW 76.09.230 and 1989 c 175 s 165 are each amended to
18 read as follows:

19 (1) In all appeals over which the appeals board has jurisdiction,
20 a party taking an appeal may elect either a formal or an informal
21 hearing, unless such party has had an informal hearing with the
22 department. Such election shall be made according to the rules of
23 practice and procedure to be promulgated by the appeals board. In the
24 event that appeals are taken from the same decision, order, or
25 determination, as the case may be, by different parties and only one of
26 such parties elects a formal hearing, a formal hearing shall be
27 granted.

28 (2) In all appeals over which the appeals board has jurisdiction,
29 upon request of one or more parties and with the consent of all

1 parties, the appeals board shall promptly schedule a conference for the
2 purpose of attempting to mediate the case. The mediation conference
3 shall be held prior to the hearing on not less than seven days' advance
4 written notice to all parties. All other proceedings pertaining to the
5 appeal shall be stayed until completion of mediation, which shall
6 continue so long as all parties consent: PROVIDED, That this shall not
7 prevent the appeals board from deciding motions filed by the parties
8 while mediation is ongoing: PROVIDED, FURTHER, That discovery may be
9 conducted while mediation is ongoing if agreed to by all parties.
10 Mediation shall be conducted by an administrative appeals judge or
11 other duly authorized agent of the appeals board who has received
12 training in dispute resolution techniques or has a demonstrated history
13 of successfully resolving disputes, as determined by the appeals board.
14 A person who mediates in a particular appeal shall not participate in
15 a hearing on that appeal or in writing the decision and order in the
16 appeal. Documentary and other physical evidence presented and evidence
17 of conduct or statements made during the course of mediation shall be
18 treated by the mediator and the parties in a confidential manner and
19 shall not be admissible in subsequent proceedings in the appeal except
20 in accordance with the provisions of the Washington Rules of Evidence
21 pertaining to compromise negotiations.

22 (3) In all appeals the appeals board shall have all powers relating
23 to administration of oaths, issuance of subpoenas, and taking of
24 depositions, but such powers shall be exercised in conformity with
25 chapter 34.05 RCW.

26 ((+3)) (4) In all appeals involving formal hearing the appeals
27 board, and each member thereof, shall be subject to all duties imposed
28 upon and shall have all powers granted to, an agency by those
29 provisions of chapter 34.05 RCW relating to adjudicative proceedings.

1 (~~(4)~~) (5) All proceedings, including both formal and informal
2 hearings, before the appeals board or any of its members shall be
3 conducted in accordance with such rules of practice and procedure as
4 the board may prescribe. The appeals board shall publish such rules
5 and arrange for the reasonable distribution thereof.

6 (~~(5)~~) (6) Judicial review of a decision of the appeals board
7 shall be de novo except when the decision has been rendered pursuant to
8 the formal hearing, in which event judicial review may be obtained only
9 pursuant to RCW 34.05.510 through 34.05.598.

10 **Sec. 24.** RCW 76.04.005 and 1986 c 100 s 1 are each amended to read
11 as follows:

12 As used in this chapter, the following terms have the meanings
13 indicated unless the context clearly requires otherwise.

14 (1) "Additional fire hazard" means a condition existing on any land
15 in the state covered wholly or in part by forest debris which is likely
16 to further the spread of fire and thereby endanger life or property.
17 The term "additional fire hazard" does not include green trees or snags
18 left standing in upland or riparian areas under the provisions of RCW
19 76.04.465 or chapter 76.09 RCW.

20 (2) "Closed season" means the period between April 15 and October
21 15, unless the department designates different dates because of
22 prevailing fire weather conditions.

23 (3) "Department" means the department of natural resources, or its
24 authorized representatives, as defined in chapter 43.30 RCW.

25 (4) "Department protected lands" means all lands subject to the
26 forest protection assessment under RCW 76.04.610 or covered under
27 contract or agreement pursuant to RCW 76.04.135 by the department.

28 (5) "Emergency fire costs" means those costs incurred or approved
29 by the department for emergency forest fire suppression, including the

1 employment of personnel, rental of equipment, and purchase of supplies
2 over and above costs regularly budgeted and provided for nonemergency
3 fire expenses for the biennium in which the costs occur.

4 (6) "Forest debris" includes forest slash, chips, and any other
5 vegetative residue resulting from activities on forest land.

6 (7) "Forest fire service" includes all wardens, rangers, and other
7 persons employed especially for preventing or fighting forest fires.

8 (8) "Forest land" means any unimproved lands which have enough
9 trees, standing or down, or flammable material, to constitute in the
10 judgment of the department, a fire menace to life or property.
11 Sagebrush and grass areas east of the summit of the Cascade mountains
12 may be considered forest lands when such areas are adjacent to or
13 intermingled with areas supporting tree growth. Forest land, for
14 protection purposes, does not include structures.

15 (9) "Forest landowner," "owner of forest land," "landowner," or
16 "owner" means the owner or the person in possession of any public or
17 private forest land.

18 (10) "Forest material" means forest slash, chips, timber, standing
19 or down, or other vegetation.

20 (11) "Landowner operation" means every activity, and supporting
21 activities, of a forest landowner and the landowner's agents,
22 employees, or independent contractors or permittees in the management
23 and use of forest land subject to the forest protection assessment
24 under RCW 76.04.610 for the primary benefit of the owner. The term
25 includes, but is not limited to, the growing and harvesting of forest
26 products, the development of transportation systems, the utilization of
27 minerals or other natural resources, and the clearing of land. The
28 term does not include recreational and/or residential activities not
29 associated with these enumerated activities.

1 (12) "Participating landowner" means an owner of forest land whose
2 land is subject to the forest protection assessment under RCW
3 76.04.610.

4 (13) "Slash" means organic forest debris such as tree tops, limbs,
5 brush, and other dead flammable material remaining on forest land as a
6 result of a landowner operation.

7 (14) "Slash burning" means the planned and controlled burning of
8 forest debris on forest lands by broadcast burning, underburning, pile
9 burning, or other means, for the purposes of silviculture, hazard
10 abatement, or reduction and prevention or elimination of a fire hazard.

11 (15) "Suppression" means all activities involved in the containment
12 and control of forest fires, including the patrolling thereof until
13 such fires are extinguished or considered by the department to pose no
14 further threat to life or property.

15 (16) "Unimproved lands" means those lands that will support grass,
16 brush and tree growth, or other flammable material when such lands are
17 not cleared or cultivated and, in the opinion of the department, are a
18 fire menace to life and property.

19 NEW SECTION. **Sec. 25.** Nothing in RCW 84.34.300 through
20 84.34.340 or 84.34.360 through 84.34.380 shall amend the provisions of
21 chapter 79.44 RCW.

22 NEW SECTION. **Sec. 26.** Sections 7 through 13 of this act are
23 each added to chapter 84.33 RCW.

24 NEW SECTION. **Sec. 27.** Section 22 of this act shall take effect
25 August 1, 1992.