

CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 5751

Chapter 381, Laws of 2003

58th Legislature
2003 Regular Session

PUBLIC LANDS--VALUABLE MATERIALS

EFFECTIVE DATE: 7/27/03

Passed by the Senate April 21, 2003
YEAS 43 NAYS 0

BRAD OWEN

President of the Senate

Passed by the House April 14, 2003
YEAS 96 NAYS 0

FRANK CHOPP

Speaker of the House of Representatives

Approved May 20, 2003.

GARY LOCKE

Governor of the State of Washington

CERTIFICATE

I, Milton H. Doumit, Jr.,
Secretary of the Senate of the
State of Washington, do hereby
certify that the attached is
SUBSTITUTE SENATE BILL 5751 as
passed by the Senate and the House
of Representatives on the dates
hereon set forth.

MILTON H. DOUMIT JR.

Secretary

FILED

May 20, 2003 - 2:54 p.m.

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 5751

AS AMENDED BY THE HOUSE

Passed Legislature - 2003 Regular Session

State of Washington 58th Legislature 2003 Regular Session

By Senate Committee on Natural Resources, Energy & Water (originally sponsored by Senator Hargrove)

READ FIRST TIME 03/03/03.

1 AN ACT Relating to sales of valuable materials; amending RCW
2 79.01.184, 79.01.200, and 79.01.188; and reenacting and amending RCW
3 79.01.132.

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

5 **Sec. 1.** RCW 79.01.132 and 2001 c 250 s 4 and 2001 c 187 s 1 are
6 each reenacted and amended to read as follows:

7 (1) When valuable materials on state lands are sold separate from
8 the land, they may be sold as a lump sum sale or as a scale sale. Lump
9 sum sales under five thousand dollars appraised value shall be paid for
10 in cash on the day of sale. The initial deposit shall be maintained
11 until all contract obligations of the purchaser are satisfied.
12 However, all or a portion of the initial deposit may be applied as the
13 final payment for the valuable materials in the event the department of
14 natural resources determines that adequate security exists for the
15 performance or fulfillment of any remaining obligations of the
16 purchaser under the sale contract.

17 (2) The initial deposits required in RCW 79.01.204 may not exceed
18 twenty-five percent of the actual or projected purchase price, but in
19 the case of lump sum sales appraised at over five thousand dollars the

1 initial deposit may not be less than five thousand dollars, and shall
2 be made on the day of the sale. For those sales appraised below the
3 amount specified in RCW 79.01.200, the department of natural resources
4 may require full cash payment on the day of sale.

5 (3) The purchaser shall notify the department of natural resources
6 before any operation takes place on the sale site. Upon notification,
7 the department of natural resources shall determine and require advance
8 payment for the cutting, removal, or processing of the valuable
9 materials, or may allow purchasers to guarantee payment by submitting
10 as adequate security bank letters of credit, payment bonds, assignments
11 of savings accounts, assignments of certificates of deposit, or other
12 methods acceptable to the department as adequate security. The amount
13 of such advance payments and/or security shall be determined by the
14 department and at all times equal or exceed the value of timber cut and
15 other valuable materials processed or removed until paid for.

16 (4) In all cases where valuable materials are sold separate from
17 the land, the same shall revert to the state if not removed from the
18 land within the period specified in the sale contract. The specified
19 period shall not exceed five years from the date of the purchase
20 thereof: PROVIDED, That the specified periods in the sale contract for
21 stone, sand, fill material, or building stone shall not exceed thirty
22 years.

23 (5) In all cases where, in the judgment of the department of
24 natural resources, the purchaser is acting in good faith and
25 endeavoring to remove such materials, the department of natural
26 resources may extend the time for the removal thereof for any period
27 not exceeding forty years from the date of purchase for the stone,
28 sand, fill material, or building stone or for a total of ten years
29 beyond the normal termination date specified in the original sale
30 contract for all other material. Extension of a contract is contingent
31 upon payment to the state of a sum to be fixed by the department of
32 natural resources, based on the estimated loss of income per acre to
33 the state resulting from the granting of the extension. In no event
34 may the extension payment be less than fifty dollars per extension,
35 plus interest on the unpaid portion of the contract. The interest rate
36 shall be fixed, from time to time, by rule adopted by the board of
37 natural resources and shall not be less than six percent per annum.
38 The applicable rate of interest as fixed at the date of sale, the

1 maximum extension payment, and the method for calculating the unpaid
2 portion of the contract upon which such interest shall be paid by the
3 purchaser shall be set forth in the contract. The department of
4 natural resources shall pay into the state treasury all sums received
5 for such extension and the same shall be credited to the fund to which
6 was credited the original purchase price of the material so sold.

7 (6) A direct sale of valuable materials may be sold to the
8 applicant for cash at full appraised value without notice or
9 advertising. The board of natural resources shall, by resolution,
10 establish the value amount of a direct sale not to exceed (~~twenty~~)
11 twenty-five thousand dollars in appraised sale value, and establish
12 procedures to assure that competitive market prices and accountability
13 will be guaranteed.

14 (7) The department may, in addition to any other securities,
15 require a performance security to guarantee compliance with all
16 contract requirements. The security is limited to those types listed
17 in subsection (3) of this section. The value of the performance
18 security will, at all times, equal or exceed the value of work
19 performed or to be performed by the purchaser.

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

27 (9) The provisions of this section apply unless otherwise provided
28 by statute. The board of natural resources shall establish procedures
29 to protect against cedar theft and to ensure adequate notice is given
30 for persons interested in purchasing cedar.

31 **Sec. 2.** RCW 79.01.184 and 2001 c 250 s 6 are each amended to read
32 as follows:

33 When the department of natural resources shall have decided to sell
34 any state lands or valuable materials thereon, or with the consent of
35 the board of regents of the University of Washington, or by legislative
36 directive, shall have decided to sell any lot, block, tract, or tracts

1 of university lands, or the valuable materials thereon, it shall be the
2 duty of the department to fix the date, place, and time of sale, and no
3 sale shall be had on any day which is a legal holiday.

4 The department shall give notice of the sale by advertisement
5 published not less than two times during a four week period prior to
6 the time of sale in at least one newspaper of general circulation in
7 the county in which the whole, or any part of any lot, block, or tract
8 of land to be sold(~~(, or the material upon which is to be sold)~~) is
9 situated, and by posting a copy of the notice in a conspicuous place in
10 the department's Olympia office, the region headquarters administering
11 such sale, and in the office of the county auditor of such county. The
12 notice shall specify the place, date, and time of sale, the appraised
13 value thereof, and describe with particularity each parcel of land to
14 be sold(~~(, or from which valuable materials are to be sold)~~). In the
15 case of valuable materials sales, the advertisement may be by newspaper
16 or as provided in RCW 79.01.188, provided that the estimated volume
17 will be identified and the terms of sale will be available in the
18 region headquarters and the department's Olympia office.

19 The advertisement is for informational purposes only, and under no
20 circumstances does the information in the notice of sale constitute a
21 warranty that the purchaser will receive the stated values, volumes, or
22 acreage. All purchasers are expected to make their own measurements,
23 evaluations, and appraisals.

24 A direct sale of valuable materials may be sold to the applicant
25 for cash at full appraised value without notice or advertising(~~(. The~~
26 ~~board of natural resources shall, by resolution, establish the value~~
27 ~~amount of a direct sale not to exceed twenty thousand dollars in~~
28 ~~appraised sale value, and establish procedures to ensure that~~
29 ~~competitive market prices and accountability will be guaranteed)~~),
30 consistent with the provisions of RCW 79.01.132(6).

31 **Sec. 3.** RCW 79.01.200 and 1989 c 148 s 3 are each amended to read
32 as follows:

33 All sales of land shall be at public auction, and all sales of
34 valuable materials shall be at public auction or by sealed bid to the
35 highest bidder, on the terms prescribed by law and as specified in the
36 notice provided, and no land or materials shall be sold for less than
37 its appraised value: PROVIDED, That on public lands granted to the

1 state for educational purposes sealed bids may be accepted for sales of
2 timber or stone only: PROVIDED FURTHER, That when valuable material
3 has been appraised at an amount not exceeding (~~one~~) two hundred fifty
4 thousand dollars, the department of natural resources, when authorized
5 by the board of natural resources, may arrange for the sale at public
6 auction of said valuable material and for its removal under such terms
7 and conditions as the department may prescribe, after the department
8 shall have caused to be published not less than ten days prior to sale
9 a notice of such sale in a newspaper of general circulation located
10 nearest to property to be sold. In addition, the commissioner of
11 public lands may seek additional means of publishing the information,
12 such as on the internet, to increase the number of prospective buyers.
13 This section does not apply to direct sales authorized in RCW
14 79.01.184.

15 **Sec. 4.** RCW 79.01.188 and 2001 c 250 s 7 are each amended to read
16 as follows:

17 (1) The commissioner of public lands shall cause to be printed a
18 list of all public lands, or valuable materials thereon, and the
19 appraised value thereof, that are to be sold. This list should be
20 published in a pamphlet form to be issued at least four weeks prior to
21 the date of any sale of the lands or valuable materials thereon. The
22 list should be organized by county and by alphabetical order, and
23 provide sale information to prospective buyers. The commissioner of
24 public lands shall retain for free distribution in his or her office
25 and the region offices sufficient copies of the pamphlet, to be kept in
26 a conspicuous place, and, when requested so to do, shall mail copies of
27 the pamphlet as issued to any requesting applicant. The commissioner
28 of public lands may seek additional means of publishing the information
29 in the pamphlet, such as on the internet, to increase the number of
30 prospective buyers.

31 (2) The sale of valuable materials appraised at an amount not
32 exceeding two hundred fifty thousand dollars, as described in RCW
33 79.01.200 and as authorized by the board of natural resources, are
34 exempt from the requirements of subsection (1) of this section.

Passed by the Senate April 21, 2003.

Passed by the House April 14, 2003.

Approved by the Governor May 20, 2003.

Filed in Office of Secretary of State May 20, 2003.