

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 1818

68th Legislature
2024 Regular Session

Passed by the House January 17, 2024
Yeas 97 Nays 0

**Speaker of the House of
Representatives**

Passed by the Senate March 1, 2024
Yeas 49 Nays 0

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 1818** 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 1818

Passed Legislature - 2024 Regular Session

State of Washington

68th Legislature

2023 Regular Session

By House Finance (originally sponsored by Representatives Tharinger and Chapman)

READ FIRST TIME 03/29/23.

1 AN ACT Relating to exclusion of compensating tax when land is
2 sold to a governmental entity intending to manage the land similarly
3 to designated forestland or timberland; amending RCW 84.33.140 and
4 84.34.108; and creating a new section.

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

6 **Sec. 1.** RCW 84.33.140 and 2017 3rd sp.s. c 37 s 1002 are each
7 amended to read as follows:

8 (1) When land has been designated as forestland under RCW
9 84.33.130, a notation of the designation must be made each year upon
10 the assessment and tax rolls. A copy of the notice of approval
11 together with the legal description or assessor's parcel numbers for
12 the land must, at the expense of the applicant, be filed by the
13 assessor in the same manner as deeds are recorded.

14 (2) In preparing the assessment roll as of January 1, 2002, for
15 taxes payable in 2003 and each January 1st thereafter, the assessor
16 must list each parcel of designated forestland at a value with
17 respect to the grade and class provided in this subsection and
18 adjusted as provided in subsection (3) of this section. The assessor
19 must compute the assessed value of the land using the same assessment
20 ratio applied generally in computing the assessed value of other

1 (3) On or before December 31, 2001, the department must adjust by
2 rule under chapter 34.05 RCW, the forestland values contained in
3 subsection (2) of this section in accordance with this subsection,
4 and must certify the adjusted values to the assessor who will use
5 these values in preparing the assessment roll as of January 1, 2002.
6 For the adjustment to be made on or before December 31, 2001, for use
7 in the 2002 assessment year, the department must:

8 (a) Divide the aggregate value of all timber harvested within the
9 state between July 1, 1996, and June 30, 2001, by the aggregate
10 harvest volume for the same period, as determined from the harvester
11 excise tax returns filed with the department under RCW 84.33.074; and

12 (b) Divide the aggregate value of all timber harvested within the
13 state between July 1, 1995, and June 30, 2000, by the aggregate
14 harvest volume for the same period, as determined from the harvester
15 excise tax returns filed with the department under RCW 84.33.074; and

16 (c) Adjust the forestland values contained in subsection (2) of
17 this section by a percentage equal to one-half of the percentage
18 change in the average values of harvested timber reflected by
19 comparing the resultant values calculated under (a) and (b) of this
20 subsection.

21 (4) For the adjustments to be made on or before December 31,
22 2002, and each succeeding year thereafter, the same procedure
23 described in subsection (3) of this section must be followed using
24 harvester excise tax returns filed under RCW 84.33.074. However, this
25 adjustment must be made to the prior year's adjusted value, and the
26 five-year periods for calculating average harvested timber values
27 must be successively one year more recent.

28 (5) Land graded, assessed, and valued as forestland must continue
29 to be so graded, assessed, and valued until removal of designation by
30 the assessor upon the occurrence of any of the following:

31 (a) Receipt of notice of request to withdraw land classified
32 under RCW 84.34.020(3) within two years before the date of the merger
33 under RCW 84.34.400. Land previously classified under chapter 84.34
34 RCW will be removed under the provisions of this chapter when two
35 assessment years have passed following receipt of the notice as
36 described in RCW 84.34.070(1);

37 (b) Receipt of notice from the owner to remove the designation;

38 (c) Sale or transfer to an ownership making the land exempt from
39 ad valorem taxation;

1 (d) Sale or transfer of all or a portion of the land to a new
2 owner, unless the new owner has signed a notice of forestland
3 designation continuance, except transfer to an owner who is an heir
4 or devisee of a deceased owner or transfer by a transfer on death
5 deed, does not, by itself, result in removal of designation. The
6 signed notice of continuance must be attached to the real estate
7 excise tax affidavit provided for in RCW 82.45.150. The notice of
8 continuance must be on a form prepared by the department. If the
9 notice of continuance is not signed by the new owner and attached to
10 the real estate excise tax affidavit, all compensating taxes
11 calculated under subsection (11) of this section are due and payable
12 by the seller or transferor at time of sale. The auditor may not
13 accept an instrument of conveyance regarding designated forestland
14 for filing or recording unless the new owner has signed the notice of
15 continuance or the compensating tax has been paid, as evidenced by
16 the real estate excise tax stamp affixed thereto by the treasurer.
17 The seller, transferor, or new owner may appeal the new assessed
18 valuation calculated under subsection (11) of this section to the
19 county board of equalization in accordance with the provisions of RCW
20 84.40.038. Jurisdiction is hereby conferred on the county board of
21 equalization to hear these appeals;

22 (e) Determination by the assessor, after giving the owner written
23 notice and an opportunity to be heard, that:

24 (i) The land is no longer primarily devoted to and used for
25 growing and harvesting timber. However, land may not be removed from
26 designation if a governmental agency, organization, or other
27 recipient identified in subsection (13) or (14) of this section as
28 exempt from the payment of compensating tax has manifested its intent
29 in writing or by other official action to acquire a property interest
30 in the designated forestland by means of a transaction that qualifies
31 for an exemption under subsection (13) or (14) of this section. The
32 governmental agency, organization, or recipient must annually provide
33 the assessor of the county in which the land is located reasonable
34 evidence in writing of the intent to acquire the designated land as
35 long as the intent continues or within sixty days of a request by the
36 assessor. The assessor may not request this evidence more than once
37 in a calendar year;

38 (ii) The owner has failed to comply with a final administrative
39 or judicial order with respect to a violation of the restocking,
40 forest management, fire protection, insect and disease control, and

1 forest debris provisions of Title 76 RCW or any applicable rules
2 under Title 76 RCW; or

3 (iii) Restocking has not occurred to the extent or within the
4 time specified in the application for designation of such land.

5 (6) Land may not be removed from designation if there is a
6 governmental restriction that prohibits, in whole or in part, the
7 owner from harvesting timber from the owner's designated forestland.
8 If only a portion of the parcel is impacted by governmental
9 restrictions of this nature, the restrictions cannot be used as a
10 basis to remove the remainder of the forestland from designation
11 under this chapter. For the purposes of this section, "governmental
12 restrictions" includes: (a) Any law, regulation, rule, ordinance,
13 program, or other action adopted or taken by a federal, state,
14 county, city, or other governmental entity; or (b) the land's zoning
15 or its presence within an urban growth area designated under RCW
16 36.70A.110.

17 (7) The assessor has the option of requiring an owner of
18 forestland to file a timber management plan with the assessor upon
19 the occurrence of one of the following:

20 (a) An application for designation as forestland is submitted;

21 (b) Designated forestland is sold or transferred and a notice of
22 continuance, described in subsection (5)(d) of this section, is
23 signed; or

24 (c) The assessor has reason to believe that forestland sized less
25 than twenty acres is no longer primarily devoted to and used for
26 growing and harvesting timber. The assessor may require a timber
27 management plan to assist with determining continuing eligibility as
28 designated forestland.

29 (8) If land is removed from designation because of any of the
30 circumstances listed in subsection (5)(a) through (d) of this
31 section, the removal applies only to the land affected. If land is
32 removed from designation because of subsection (5)(e) of this
33 section, the removal applies only to the actual area of land that is
34 no longer primarily devoted to the growing and harvesting of timber,
35 without regard to any other land that may have been included in the
36 application and approved for designation, as long as the remaining
37 designated forestland meets the definition of forestland contained in
38 RCW 84.33.035.

39 (9) Within thirty days after the removal of designation as
40 forestland, the assessor must notify the owner in writing, setting

1 forth the reasons for the removal. The seller, transferor, or owner
2 may appeal the removal to the county board of equalization in
3 accordance with the provisions of RCW 84.40.038.

4 (10) Unless the removal is reversed on appeal a copy of the
5 notice of removal with a notation of the action, if any, upon appeal,
6 together with the legal description or assessor's parcel numbers for
7 the land removed from designation must, at the expense of the
8 applicant, be filed by the assessor in the same manner as deeds are
9 recorded and a notation of removal from designation must immediately
10 be made upon the assessment and tax rolls. The assessor must revalue
11 the land to be removed with reference to its true and fair value as
12 of January 1st of the year of removal from designation. Both the
13 assessed value before and after the removal of designation must be
14 listed. Taxes based on the value of the land as forestland are
15 assessed and payable up until the date of removal and taxes based on
16 the true and fair value of the land are assessed and payable from the
17 date of removal from designation.

18 (11) Except as provided otherwise in this section, a compensating
19 tax is imposed on land removed from designation as forestland. The
20 compensating tax is due and payable to the treasurer thirty days
21 after the owner is notified of the amount of this tax. As soon as
22 possible after the land is removed from designation, the assessor
23 must compute the amount of compensating tax, and the treasurer must
24 mail a notice to the owner of the amount of compensating tax owed and
25 the date on which payment of this tax is due. The amount of
26 compensating tax is equal to the difference between the amount of tax
27 last levied on the land as designated forestland and an amount equal
28 to the new assessed value of the land multiplied by the dollar rate
29 of the last levy extended against the land, multiplied by a number,
30 in no event greater than nine, equal to the number of years for which
31 the land was designated as forestland, plus compensating taxes on the
32 land at forestland values up until the date of removal and the
33 prorated taxes on the land at true and fair value from the date of
34 removal to the end of the current tax year.

35 (12) Compensating tax, together with applicable interest thereon,
36 becomes a lien on the land, which attaches at the time the land is
37 removed from designation as forestland and has priority and must be
38 fully paid and satisfied before any recognizance, mortgage, judgment,
39 debt, obligation, or responsibility to or with which the land may
40 become charged or liable. The lien may be foreclosed upon expiration

1 of the same period after delinquency and in the same manner provided
2 by law for foreclosure of liens for delinquent real property taxes as
3 provided in RCW 84.64.050. Any compensating tax unpaid on its due
4 date will thereupon become delinquent. From the date of delinquency
5 until paid, interest is charged at the same rate applied by law to
6 delinquent ad valorem property taxes.

7 (13) The compensating tax specified in subsection (11) of this
8 section may not be imposed if the removal of designation under
9 subsection (5) of this section resulted solely from:

10 (a) Transfer to a government entity in exchange for other
11 forestland located within the state of Washington;

12 (b) (i) A taking through the exercise of the power of eminent
13 domain, or (ii) a sale or transfer to an entity having the power of
14 eminent domain in anticipation of the exercise of such power based on
15 official action taken by the entity and confirmed in writing;

16 (c) A donation of fee title, development rights, or the right to
17 harvest timber, to a government agency or organization qualified
18 under RCW 84.34.210 and 64.04.130 for the purposes enumerated in
19 those sections, or the sale or transfer of fee title to a
20 governmental entity or a nonprofit nature conservancy corporation, as
21 defined in RCW 64.04.130, exclusively for the protection and
22 conservation of lands recommended for state natural area preserve
23 purposes by the natural heritage council and natural heritage plan as
24 defined in chapter 79.70 RCW or approved for state natural resources
25 conservation area purposes as defined in chapter 79.71 RCW, or for
26 acquisition and management as a community forest trust as defined in
27 chapter 79.155 RCW. At such time as the land is not used for the
28 purposes enumerated, the compensating tax specified in subsection
29 (11) of this section is imposed upon the current owner;

30 (d) The sale or transfer of fee title to the parks and recreation
31 commission for park and recreation purposes;

32 (e) Official action by an agency of the state of Washington or by
33 the county or city within which the land is located that disallows
34 the present use of the land;

35 (f) The creation, sale, or transfer of forestry riparian
36 easements under RCW 76.13.120;

37 (g) The creation, sale, or transfer of a conservation easement of
38 private forestlands within unconfined channel migration zones or
39 containing critical habitat for threatened or endangered species
40 under RCW 76.09.040;

1 (h) The sale or transfer of land within two years after the death
2 of the owner of at least a fifty percent interest in the land if the
3 land has been assessed and valued as classified forestland,
4 designated as forestland under this chapter, or classified under
5 chapter 84.34 RCW continuously since 1993. The date of death shown on
6 a death certificate is the date used for the purposes of this
7 subsection (13) (h); ~~((e))~~

8 (i) (i) The discovery that the land was designated under this
9 chapter in error through no fault of the owner. For purposes of this
10 subsection (13) (i), "fault" means a knowingly false or misleading
11 statement, or other act or omission not in good faith, that
12 contributed to the approval of designation under this chapter or the
13 failure of the assessor to remove the land from designation under
14 this chapter.

15 (ii) For purposes of this subsection (13), the discovery that
16 land was designated under this chapter in error through no fault of
17 the owner is not the sole reason for removal of designation under
18 subsection (5) of this section if an independent basis for removal
19 exists. An example of an independent basis for removal includes the
20 land no longer being devoted to and used for growing and harvesting
21 timber; or

22 (j) The sale or transfer to a governmental entity if the
23 governmental entity manages the land in the same manner as designated
24 forestland under this chapter or property classified as timberland
25 under chapter 84.34 RCW, and the governmental entity provides the
26 county assessor with a timber management plan or a notice of intent
27 to manage the land as required under this subsection (13) (j). The
28 governmental entity must provide an updated timberland or forestland
29 management plan to the county assessor at least once every
30 reevaluation cycle. The county is authorized to collect a fee from the
31 governmental entity for the filing of the forestland or timberland
32 management plan in accordance with the county's fee schedule. When
33 the land is not managed as required under this subsection (13) (j), or
34 when the governmental entity sells or transfers the land at any time,
35 the compensating tax specified in subsection (11) of this section is
36 due from the current government owner, unless the change in use of
37 the land, sale or transfer, meets one of the other exceptions in this
38 subsection (13) and subsections (14) and (15) of this section.

39 (14) In a county with a population of more than six hundred
40 thousand inhabitants or in a county with a population of at least two

1 hundred forty-five thousand inhabitants that borders Puget Sound as
2 defined in RCW 90.71.010, the compensating tax specified in
3 subsection (11) of this section may not be imposed if the removal of
4 designation as forestland under subsection (5) of this section
5 resulted solely from:

6 (a) An action described in subsection (13) of this section; or

7 (b) A transfer of a property interest to a government entity, or
8 to a nonprofit historic preservation corporation or nonprofit nature
9 conservancy corporation, as defined in RCW 64.04.130, to protect or
10 enhance public resources, or to preserve, maintain, improve, restore,
11 limit the future use of, or otherwise to conserve for public use or
12 enjoyment, the property interest being transferred. At such time as
13 the property interest is not used for the purposes enumerated, the
14 compensating tax is imposed upon the current owner.

15 (15) Compensating tax authorized in this section may not be
16 imposed on land removed from designation as forestland solely as a
17 result of a natural disaster such as a flood, windstorm, earthquake,
18 wildfire, or other such calamity rather than by virtue of the act of
19 the landowner changing the use of the property.

20 **Sec. 2.** RCW 84.34.108 and 2017 3rd sp.s. c 37 s 1001 are each
21 amended to read as follows:

22 (1) When land has once been classified under this chapter, a
23 notation of the classification must be made each year upon the
24 assessment and tax rolls and the land must be valued pursuant to RCW
25 84.34.060 or 84.34.065 until removal of all or a portion of the
26 classification by the assessor upon occurrence of any of the
27 following:

28 (a) Receipt of notice from the owner to remove all or a portion
29 of the classification;

30 (b) Sale or transfer to an ownership, except a transfer that
31 resulted from a default in loan payments made to or secured by a
32 governmental agency that intends to or is required by law or
33 regulation to resell the property for the same use as before, making
34 all or a portion of the land exempt from ad valorem taxation;

35 (c) Sale or transfer of all or a portion of the land to a new
36 owner, unless the new owner has signed a notice of classification
37 continuance, except transfer to an owner who is an heir or devisee of
38 a deceased owner or transfer by a transfer on death deed does not, by
39 itself, result in removal of classification. The notice of

1 continuance must be on a form prepared by the department. If the
2 notice of continuance is not signed by the new owner and attached to
3 the real estate excise tax affidavit, all additional taxes,
4 applicable interest, and penalty calculated pursuant to subsection
5 (4) of this section become due and payable by the seller or
6 transferor at time of sale. The auditor may not accept an instrument
7 of conveyance regarding classified land for filing or recording
8 unless the new owner has signed the notice of continuance or the
9 additional tax, applicable interest, and penalty has been paid, as
10 evidenced by the real estate excise tax stamp affixed thereto by the
11 treasurer. The seller, transferor, or new owner may appeal the new
12 assessed valuation calculated under subsection (4) of this section to
13 the county board of equalization in accordance with the provisions of
14 RCW 84.40.038. Jurisdiction is hereby conferred on the county board
15 of equalization to hear these appeals;

16 (d) (i) Determination by the assessor, after giving the owner
17 written notice and an opportunity to be heard, that all or a portion
18 of the land no longer meets the criteria for classification under
19 this chapter. The criteria for classification pursuant to this
20 chapter continue to apply after classification has been granted.

21 (ii) The granting authority, upon request of an assessor, must
22 provide reasonable assistance to the assessor in making a
23 determination whether the land continues to meet the qualifications
24 of RCW 84.34.020 (1) or (3). The assistance must be provided within
25 thirty days of receipt of the request.

26 (2) Land may not be removed from classification because of:

27 (a) The creation, sale, or transfer of forestry riparian
28 easements under RCW 76.13.120; or

29 (b) The creation, sale, or transfer of a fee interest or a
30 conservation easement for the riparian open space program under RCW
31 76.09.040.

32 (3) Within thirty days after the removal of all or a portion of
33 the land from current use classification under subsection (1) of this
34 section, the assessor must notify the owner in writing, setting forth
35 the reasons for the removal. The seller, transferor, or owner may
36 appeal the removal to the county board of equalization in accordance
37 with the provisions of RCW 84.40.038. The removal notice must explain
38 the steps needed to appeal the removal decision, including when a
39 notice of appeal must be filed, where the forms may be obtained, and
40 how to contact the county board of equalization.

1 (4) Unless the removal is reversed on appeal, the assessor must
2 revalue the affected land with reference to its true and fair value
3 on January 1st of the year of removal from classification. Both the
4 assessed valuation before and after the removal of classification
5 must be listed and taxes must be allocated according to that part of
6 the year to which each assessed valuation applies. Except as provided
7 in subsection (6) of this section, an additional tax, applicable
8 interest, and penalty must be imposed, which are due and payable to
9 the treasurer thirty days after the owner is notified of the amount
10 of the additional tax, applicable interest, and penalty. As soon as
11 possible, the assessor must compute the amount of additional tax,
12 applicable interest, and penalty and the treasurer must mail notice
13 to the owner of the amount thereof and the date on which payment is
14 due. The amount of the additional tax, applicable interest, and
15 penalty must be determined as follows:

16 (a) The amount of additional tax is equal to the difference
17 between the property tax paid as "open space land," "farm and
18 agricultural land," or "timberland" and the amount of property tax
19 otherwise due and payable for the seven years last past had the land
20 not been so classified;

21 (b) The amount of applicable interest is equal to the interest
22 upon the amounts of the additional tax paid at the same statutory
23 rate charged on delinquent property taxes from the dates on which the
24 additional tax could have been paid without penalty if the land had
25 been assessed at a value without regard to this chapter;

26 (c) The amount of the penalty is as provided in RCW 84.34.080.
27 The penalty may not be imposed if the removal satisfies the
28 conditions of RCW 84.34.070.

29 (5) Additional tax, applicable interest, and penalty become a
30 lien on the land. The lien attaches at the time the land is removed
31 from classification under this chapter and has priority to and must
32 be fully paid and satisfied before any recognizance, mortgage,
33 judgment, debt, obligation, or responsibility to or with which the
34 land may become charged or liable. This lien may be foreclosed upon
35 expiration of the same period after delinquency and in the same
36 manner provided by law for foreclosure of liens for delinquent real
37 property taxes as provided in RCW 84.64.050. Any additional tax
38 unpaid on the due date is delinquent as of the due date. From the
39 date of delinquency until paid, interest must be charged at the same
40 rate applied by law to delinquent ad valorem property taxes.

1 (6) The additional tax, applicable interest, and penalty
2 specified in subsection (4) of this section may not be imposed if the
3 removal of classification pursuant to subsection (1) of this section
4 resulted solely from:

5 (a) Transfer to a government entity in exchange for other land
6 located within the state of Washington;

7 (b) (i) A taking through the exercise of the power of eminent
8 domain, or (ii) sale or transfer to an entity having the power of
9 eminent domain in anticipation of the exercise of such power, said
10 entity having manifested its intent in writing or by other official
11 action;

12 (c) A natural disaster such as a flood, windstorm, earthquake,
13 wildfire, or other such calamity rather than by virtue of the act of
14 the landowner changing the use of the property;

15 (d) Official action by an agency of the state of Washington or by
16 the county or city within which the land is located which disallows
17 the present use of the land;

18 (e) Transfer of land to a church when the land would qualify for
19 exemption pursuant to RCW 84.36.020;

20 (f) Acquisition of property interests by state agencies or
21 agencies or organizations qualified under RCW 84.34.210 and 64.04.130
22 for the purposes enumerated in those sections. At such time as these
23 property interests are not used for the purposes enumerated in RCW
24 84.34.210 and 64.04.130 the additional tax specified in subsection
25 (4) of this section must be imposed;

26 (g) Removal of land classified as farm and agricultural land
27 under RCW 84.34.020(2)(f);

28 (h) Removal of land from classification after enactment of a
29 statutory exemption that qualifies the land for exemption and receipt
30 of notice from the owner to remove the land from classification;

31 (i) The creation, sale, or transfer of forestry riparian
32 easements under RCW 76.13.120;

33 (j) The creation, sale, or transfer of a conservation easement of
34 private forestlands within unconfined channel migration zones or
35 containing critical habitat for threatened or endangered species
36 under RCW 76.09.040;

37 (k) The sale or transfer of land within two years after the death
38 of the owner of at least a fifty percent interest in the land if the
39 land has been assessed and valued as classified forestland,
40 designated as forestland under chapter 84.33 RCW, or classified under

1 this chapter continuously since 1993. The date of death shown on a
2 death certificate is the date used for the purposes of this
3 subsection (6)(k); (~~(6)~~)

4 (l)(i) The discovery that the land was classified under this
5 chapter in error through no fault of the owner. For purposes of this
6 subsection (6)(l), "fault" means a knowingly false or misleading
7 statement, or other act or omission not in good faith, that
8 contributed to the approval of classification under this chapter or
9 the failure of the assessor to remove the land from classification
10 under this chapter.

11 (ii) For purposes of this subsection (6), the discovery that land
12 was classified under this chapter in error through no fault of the
13 owner is not the sole reason for removal of classification pursuant
14 to subsection (1) of this section if an independent basis for removal
15 exists. Examples of an independent basis for removal include the
16 owner changing the use of the land or failing to meet any applicable
17 income criteria required for classification under this chapter; or

18 (m) The sale or transfer to a governmental entity if the
19 governmental entity manages the land in the same manner as designated
20 forestland under chapter 84.33 RCW, or as property classified as
21 timberland under this chapter, and the governmental entity provides
22 the county assessor with a timber management plan or a notice of
23 intent to manage the land as required under this subsection (6)(m).
24 The governmental entity must provide an updated timberland or
25 forestland management plan to the county assessor at least once every
26 revaluation cycle. The county is authorized to collect a fee from the
27 governmental entity for the filing of the forestland or timberland
28 management plan in accordance with the county's fee schedule. When
29 the land is not managed as required under this subsection (6)(m), or
30 when the governmental entity sells or transfers the land at any time,
31 the additional tax specified in subsection (4) of this section is due
32 from the current government owner, unless the change in use of the
33 land, sale or transfer, meets one of the other exceptions in this
34 subsection (6).

35 NEW SECTION. **Sec. 3.** RCW 82.32.805 and 82.32.808 do not apply
36 to this act.

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