
ENGROSSED SENATE BILL 5169

State of Washington

62nd Legislature

2011 Regular Session

By Senators Rockefeller, Kilmer, and Shin

Read first time 01/17/11. Referred to Committee on Economic Development, Trade & Innovation.

1 AN ACT Relating to encouraging economic development by exempting
2 certain counties from the forest land compensating tax; amending RCW
3 84.33.145; and reenacting and amending RCW 84.33.140.

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

5 **Sec. 1.** RCW 84.33.140 and 2009 c 354 s 2, 2009 c 255 s 3, and 2009
6 c 246 s 2 are each reenacted and amended to read as follows:

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

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

1 assessment ratio applied generally in computing the assessed value of
2 other property in the county. Values for the several grades of bare
3 forest land (~~shall be~~) are as follows:

| 4 | LAND | OPERABILITY | VALUES |
|----|-------|-------------|----------|
| 5 | GRADE | CLASS | PER ACRE |
| 6 | | 1 | \$234 |
| 7 | 1 | 2 | 229 |
| 8 | | 3 | 217 |
| 9 | | 4 | 157 |
| 10 | | 1 | 198 |
| 11 | 2 | 2 | 190 |
| 12 | | 3 | 183 |
| 13 | | 4 | 132 |
| 14 | | 1 | 154 |
| 15 | 3 | 2 | 149 |
| 16 | | 3 | 148 |
| 17 | | 4 | 113 |
| 18 | | 1 | 117 |
| 19 | 4 | 2 | 114 |
| 20 | | 3 | 113 |
| 21 | | 4 | 86 |
| 22 | | 1 | 85 |
| 23 | 5 | 2 | 78 |
| 24 | | 3 | 77 |
| 25 | | 4 | 52 |
| 26 | | 1 | 43 |
| 27 | 6 | 2 | 39 |
| 28 | | 3 | 39 |
| 29 | | 4 | 37 |
| 30 | | 1 | 21 |
| 31 | 7 | 2 | 21 |
| 32 | | 3 | 20 |
| 33 | | 4 | 20 |
| 34 | 8 | | 1 |

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

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

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

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

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

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

32 (a) Receipt of notice from the owner to remove the designation;

33 (b) Sale or transfer to an ownership making the land exempt from ad
34 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 forest land
37 designation continuance, except transfer to an owner who is an heir or
38 devisee of a deceased owner, (~~shall~~) does not, by itself, result in

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

18 (d) Determination by the assessor, after giving the owner written
19 notice and an opportunity to be heard, that:

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

34 (ii) The owner has failed to comply with a final administrative or
35 judicial order with respect to a violation of the restocking, forest
36 management, fire protection, insect and disease control, and forest
37 debris provisions of Title 76 RCW or any applicable rules under Title
38 76 RCW; or

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

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

14 (7) The assessor (~~shall have~~) has the option of requiring an
15 owner of forest land to file a timber management plan with the assessor
16 upon the occurrence of one of the following:

- 17 (a) An application for designation as forest land is submitted; or
18 (b) Designated forest land is sold or transferred and a notice of
19 continuance, described in subsection (5)(c) of this section, is signed.

20 (8) If land is removed from designation because of any of the
21 circumstances listed in subsection (5)(a) through (c) of this section,
22 the removal (~~shall apply~~) applies only to the land affected. If land
23 is removed from designation because of subsection (5)(d) of this
24 section, the removal (~~shall apply~~) applies only to the actual area of
25 land that is no longer primarily devoted to the growing and harvesting
26 of timber, without regard to any other land that may have been included
27 in the application and approved for designation, as long as the
28 remaining designated forest land meets the definition of forest land
29 contained in RCW 84.33.035.

30 (9) Within thirty days after the removal of designation as forest
31 land, the assessor (~~shall~~) must notify the owner in writing, setting
32 forth the reasons for the removal. The seller, transferor, or owner
33 may appeal the removal to the county board of equalization in
34 accordance with the provisions of RCW 84.40.038.

35 (10) Unless the removal is reversed on appeal a copy of the notice
36 of removal with a notation of the action, if any, upon appeal, together
37 with the legal description or assessor's parcel numbers for the land
38 removed from designation (~~shall~~) must, at the expense of the

1 applicant, be filed by the assessor in the same manner as deeds are
2 recorded and a notation of removal from designation (~~((shall))~~) must
3 immediately be made upon the assessment and tax rolls. The assessor
4 (~~((shall))~~) must revalue the land to be removed with reference to its
5 true and fair value as of January 1st of the year of removal from
6 designation. Both the assessed value before and after the removal of
7 designation (~~((shall))~~) must be listed. Taxes based on the value of the
8 land as forest land (~~((shall-be))~~) are assessed and payable up until the
9 date of removal and taxes based on the true and fair value of the land
10 (~~((shall-be))~~) are assessed and payable from the date of removal from
11 designation.

12 (11) Except as provided in subsection (5)(c), (13), or (14) of this
13 section, a compensating tax (~~((shall-be))~~) is imposed on land removed
14 from designation as forest land. The compensating tax (~~((shall-be))~~) is
15 due and payable to the treasurer thirty days after the owner is
16 notified of the amount of this tax. As soon as possible after the land
17 is removed from designation, the assessor (~~((shall))~~) must compute the
18 amount of compensating tax and mail a notice to the owner of the amount
19 of compensating tax owed and the date on which payment of this tax is
20 due. The amount of compensating tax (~~((shall-be))~~) is equal to the
21 difference between the amount of tax last levied on the land as
22 designated forest land and an amount equal to the new assessed value of
23 the land multiplied by the dollar rate of the last levy extended
24 against the land, multiplied by a number, in no event greater than
25 nine, equal to the number of years for which the land was designated as
26 forest land, plus compensating taxes on the land at forest land values
27 up until the date of removal and the prorated taxes on the land at true
28 and fair value from the date of removal to the end of the current tax
29 year.

30 (12) Compensating tax, together with applicable interest thereon,
31 (~~((shall))~~) becomes a lien on the land, which (~~((shall-attach))~~) attaches
32 at the time the land is removed from designation as forest land and
33 (~~((shall-have))~~) has priority (~~((to))~~) and (~~((shall))~~) must be fully paid and
34 satisfied before any recognizance, mortgage, judgment, debt,
35 obligation, or responsibility to or with which the land may become
36 charged or liable. The lien may be foreclosed upon expiration of the
37 same period after delinquency and in the same manner provided by law
38 for foreclosure of liens for delinquent real property taxes as provided

1 in RCW 84.64.050. Any compensating tax unpaid on its due date
2 (~~shall~~) will thereupon become delinquent. From the date of
3 delinquency until paid, interest (~~shall be~~) is charged at the same
4 rate applied by law to delinquent ad valorem property taxes.

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

8 (a) Transfer to a government entity in exchange for other forest
9 land located within the state of Washington;

10 (b) A taking through the exercise of the power of eminent domain,
11 or sale or transfer to an entity having the power of eminent domain in
12 anticipation of the exercise of such power;

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

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

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

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

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

37 (h) 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

1 land has been assessed and valued as classified forest land, designated
2 as forest land under this chapter, or classified under chapter 84.34
3 RCW continuously since 1993. The date of death shown on a death
4 certificate is the date used for the purposes of this subsection
5 (13)(h); or

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

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

19 (14) In a county with a population of more than six hundred
20 thousand inhabitants or in a county with a population of at least two
21 hundred forty-five thousand inhabitants that borders Puget Sound as
22 defined in RCW 90.71.010, the compensating tax specified in subsection
23 (11) of this section (~~shall~~) may not be imposed if the removal of
24 designation as forest land under subsection (5) of this section
25 resulted solely from:

- 26 (a) An action described in subsection (13) of this section; or
- 27 (b) A transfer of a property interest to a government entity, or to
28 a nonprofit historic preservation corporation or nonprofit nature
29 conservancy corporation, as defined in RCW 64.04.130, to protect or
30 enhance public resources, or to preserve, maintain, improve, restore,
31 limit the future use of, or otherwise to conserve for public use or
32 enjoyment, the property interest being transferred. At such time as
33 the property interest is not used for the purposes enumerated, the
34 compensating tax (~~shall be~~) is imposed upon the current owner.

35 **Sec. 2.** RCW 84.33.145 and 2009 c 354 s 4 are each amended to read
36 as follows:

37 (1) If no later than thirty days after removal of designation the

1 owner applies for classification under RCW 84.34.020 (1), (2), or (3),
2 then the designated forest land (~~shall~~) may not be considered removed
3 from designation for purposes of the compensating tax under RCW
4 84.33.140 until the application for current use classification under
5 chapter 84.34 RCW is denied or the property is removed from
6 classification under RCW 84.34.108. Upon removal of classification
7 under RCW 84.34.108, the amount of compensating tax due under this
8 chapter (~~shall be~~) is equal to:

9 (a) The difference, if any, between the amount of tax last levied
10 on the land as designated forest land and an amount equal to the new
11 assessed valuation of the land when removed from classification under
12 RCW 84.34.108 multiplied by the dollar rate of the last levy extended
13 against the land, multiplied by

14 (b) A number equal to:

15 (i) The number of years the land was designated under this chapter,
16 if the total number of years the land was designated under this chapter
17 and classified under chapter 84.34 RCW is less than ten; or

18 (ii) Ten minus the number of years the land was classified under
19 chapter 84.34 RCW, if the total number of years the land was designated
20 under this chapter and classified under chapter 84.34 RCW is at least
21 ten.

22 (2) Nothing in this section authorizes the continued designation
23 under this chapter or defers or reduces the compensating tax imposed
24 upon forest land not transferred to classification under subsection (1)
25 of this section which does not meet the definition of forest land under
26 RCW 84.33.035. Nothing in this section affects the additional tax
27 imposed under RCW 84.34.108.

28 (3) In a county with a population of more than six hundred thousand
29 inhabitants or in a county with a population of at least two hundred
30 forty-five thousand inhabitants that borders Puget Sound as defined in
31 RCW 90.71.010, no amount of compensating tax is due under this section
32 if the removal from classification under RCW 84.34.108 results from a
33 transfer of property described in RCW 84.34.108(6).

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