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ENGROSSED SUBSTITUTE HOUSE BILL 2502

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State of Washington

62nd Legislature

2012 Regular Session

By House Ways & Means (originally sponsored by Representatives Hansen and Appleton)

READ FIRST TIME 02/07/12.

1 AN ACT Relating to modifying exceptions to the compensating tax  
2 provisions for removal from forest land classification to more closely  
3 parallel open space property tax provisions; amending RCW 84.33.145;  
4 and reenacting and amending RCW 84.33.140.

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

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

8 (1) When land has been designated as forest land under RCW  
9 84.33.130, a notation of the designation (~~shall~~) must be made each  
10 year upon the assessment and tax rolls. A copy of the notice of  
11 approval together with the legal description or assessor's parcel  
12 numbers for the land (~~shall~~) must, at the expense of the applicant,  
13 be filed by the 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 (~~shall~~) must list each parcel of designated forest land at a value  
17 with respect to the grade and class provided in this subsection and  
18 adjusted as provided in subsection (3) of this section. The assessor  
19 (~~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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