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**SUBSTITUTE SENATE BILL 5449**

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**State of Washington 64th Legislature 2015 Regular Session**

**By** Senate Law & Justice (originally sponsored by Senators Braun, Rivers, Brown, Hobbs, Dammeier, Becker, Mullet, Sheldon, Warnick, Fain, Honeyford, Hewitt, and Frockt)

AN ACT Relating to creating a tax division of the court of appeals; amending RCW 2.06.020, 2.06.030, 2.06.040, 2.06.050, 2.06.070, 2.06.150, 34.05.030, 39.88.060, 42.17A.705, 79.125.450, 82.01.090, 82.29A.060, 82.32.160, 82.32.170, 82.32.180, 82.49.060, 84.08.060, 84.08.130, 84.33.091, 84.34.065, 84.36.850, 84.39.020, 84.40.038, 84.48.080, 84.52.018, 84.56.290, 84.69.020, 84.69.030, and 84.69.180; reenacting and amending RCW 34.12.020; adding new sections to chapter 2.06 RCW; creating new sections; repealing RCW 82.03.010, 82.03.020, 82.03.030, 82.03.040, 82.03.050, 82.03.060, 82.03.070, 82.03.080, 82.03.090, 82.03.100, 82.03.110, 82.03.120, 82.03.130, 82.03.140, 82.03.150, 82.03.160, 82.03.170, 82.03.180, 82.03.190, 82.03.200, and 82.32.150; and providing effective dates.

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

**PART I**

**Creation of the Tax Appeal Division**

NEW SECTION. **Sec.**  (1) The legislature finds that taxes are a critically sensitive point of contact between citizens and their government. The legislature further finds that:

(a) Washington taxpayers have a right to expect that their taxes will be fairly assessed in accordance with the law;

(b) Taxpayers should have full opportunity for settlement and the right to a fair and impartial hearing prior to being required to pay a disputed tax; and

(c) Appeal procedures should encourage the resolution of tax disputes through mediation and other settlement processes.

(2) Therefore, the legislature finds that establishing a new tax appeal division in the court of appeals to resolve appeals of tax disputes will create an independent tax appeal forum within the judicial branch of government to promote public confidence in the tax system, insuring both the appearance and reality of due process and fundamental fairness, while promoting the consistency and predictability of tax decisions. The legislature further finds that hearing procedures should recognize financial practicalities, and finds that the procedural rules for the commissioner department should therefore provide for informal appeals and taxpayer representation by nonlawyers.

(3) This act must be interpreted and construed to further the purposes of the act, and court rules adopted for implementing this act should be structured and construed to further this intent.

**Sec.**  RCW 2.06.020 and 2009 c 77 s 1 are each amended to read as follows:

The court shall have three divisions((~~, one of which shall be headquartered in Seattle, one of which shall be headquartered in Spokane, and one of which shall be headquartered in Tacoma:~~)) of general appellate jurisdiction and one division for tax appeals. The first division of general appellate jurisdiction shall be headquartered in Seattle, the second division of general appellate jurisdiction shall be headquartered in Tacoma, the third division of general appellate jurisdiction shall be headquartered in Spokane, and the tax appeal division with jurisdiction over tax appeals as provided by statute headquartered in Olympia.

(1) The first division shall have twelve judges from three districts, as follows:

(a) District 1 shall consist of King county and shall have eight judges;

(b) District 2 shall consist of Snohomish county and shall have two judges; and

(c) District 3 shall consist of Island, San Juan, Skagit, and Whatcom counties and shall have two judges.

(2) The second division shall have eight judges from the following districts:

(a) District 1 shall consist of Pierce county and shall have three judges;

(b) District 2 shall consist of Clallam, Grays Harbor, Jefferson, Kitsap, Mason, and Thurston counties and shall have three judges;

(c) District 3 shall consist of Clark, Cowlitz, Lewis, Pacific, Skamania, and Wahkiakum counties and shall have two judges.

(3) The third division shall have five judges from the following districts:

(a) District 1 shall consist of Ferry, Lincoln, Okanogan, Pend Oreille, Spokane, and Stevens counties and shall have two judges;

(b) District 2 shall consist of Adams, Asotin, Benton, Columbia, Franklin, Garfield, Grant, Walla Walla, and Whitman counties and shall have one judge;

(c) District 3 shall consist of Chelan, Douglas, Kittitas, Klickitat, and Yakima counties and shall have two judges.

(4) The tax appeal division shall have three judges, one from each division specified in subsections (1) through (3) of this section, and shall have statewide jurisdiction over tax appeals as provided by statute. The tax appeal division may hold hearings in any location in the state that is convenient to the parties. The county clerk or board of county commissioners, upon a reasonable request of a judge of the tax appeal division, shall provide suitable rooms for hearings.

NEW SECTION. **Sec.**  A new section is added to chapter 2.06 RCW to read as follows:

The tax appeal division must consist of two departments:

(1) The main department:

(a) The main department of the tax appeal division must consist of three judges who may individually hear and decide tax appeals, except en banc proceedings that must be heard by a three judge panel.

(b) Upon petition by a party, the main department must initially hear appeals that involve complex issues, issues of substantial public importance, or issues that require expertise beyond a commissioner's proficiency. Unless otherwise allowed by the presiding judge for good cause shown, the petition for a direct appeal to the main department must be filed within sixty days of the filing of the initial appeal.

(c) A party may petition for an en banc hearing of the appeal, or en banc review of a final decision of the main department when: (i) The decision under appeal conflicts with a decision of the supreme court or a prior decision of the tax appeal division; or (ii) the appeal involves one or more questions of exceptional public importance; and (iii) there are no genuine issues of material fact. In so far as possible, en banc proceedings must be conducted in accordance with the rules of appellate procedure applicable in the divisions of general appellate jurisdiction.

(d) Decisions of the main department of the tax appeal division must be rendered no later than six months after submission of the last brief filed subsequent to completion of the hearing or, if briefs are not submitted, then no later than six months after completion of the hearing. The court may extend the six-month period, for good cause, up to three additional months; and

(2) The commissioner department:

(a) The commissioner department must hear all appeals that are not heard initially by the main department. The judges of the main department must appoint one or more individuals to sit as commissioners at locations within the state as the presiding judge must determine and must perform such duties as the presiding judge of the tax appeal division may direct. Commissioners may be appointed to serve on either a full-time or part-time basis.

(b) Small claims division of the commissioner department: There is hereby established a small claims division of the commissioner department. The small claims division is a cost-effective and informal option for taxpayers seeking an independent review of their contested tax assessment. The small claims division shall have jurisdiction, but not exclusive jurisdiction, in contested tax assessments proceedings when:

(i) The contested amount is less than twenty-five thousand dollars for a calendar year exclusive of interest and penalties; and

(ii) The taxpayer timely requests a small claims proceeding.

(c) In proceedings before the small claims division:

(i) A taxpayer may appear personally or may designate a representative;

(ii) Designated representatives include an employee of the taxpayer, a trustee of a trust, a personal representative of a decedent's estate, or a designated representative of a nonprofit organization. The taxpayer or the taxpayer's representative may testify;

(iii) The judges of the commissioner department must sit as the judges of the small claims division;

(iv) A taxpayer may elect to proceed in the small claims division of the commissioner department by filing a petition in the form prescribed by the commissioner department no later than ninety days after the taxpayer's receipt of written notice of the determination that is the subject of the petition. A taxpayer may not revoke an election to proceed in the small claims division;

(v) No later than thirty days after receipt of notice that the taxpayer has filed a petition in proper form, or at such other time as the commissioner department determines, the tax administration agency must file with the tax tribunal an answer similar to that required by section 111 of this act;

(vi) At any time prior to entry of judgment, a taxpayer may dismiss a proceeding in the small claims division by notifying the clerk of the tax tribunal in writing. Such dismissal is with prejudice and does not have the effect of revoking the election made in accordance with (d) of this subsection;

(vii) Hearings in the small claims division must be informal and the judge may receive such evidence as the judge deems appropriate for determination of the case. The taxpayer may offer witness testimony from a licensed real estate broker, a licensed appraiser, or an accounting or other professional services firm by an accountant licensed in this state or other person with knowledge of the facts of the case. Testimony must be given under oath or affirmation; and

(viii) A judgment of the small claims division is conclusive upon all parties and may not be appealed. A judgment of the small claims division may not be considered as precedent in any other case, hearing, or proceeding.

(d) Voluntary mediation process:

(i) The commissioner department shall provide an informal voluntary and confidential mediation process. The purpose of the mediation is to help the parties reach an agreement that settles the dispute. The department shall prescribe rules for the conduct of mediation consistent with the purpose of the mediation.

(ii) A dispute may only be submitted to mediation if all the parties agree to go to mediation and agree to the following:

(A) An appointed neutral mediator shall lead and facilitate the mediation. The mediator shall be a judge of the commissioner department who is not the assigned trial judge;

(B) The mediator's role is to assist the parties to work together to reach a mutually agreeable dispute resolution. The mediator will not issue findings of fact or a decision in the matter;

(C) Mediation is a confidential process. All mediation discussions, statements of parties, and materials provided as part of the mediation are confidential, shall not be disclosed outside the mediation, and shall not be used for any nonmediation purpose or used in any other proceeding;

(D) An agreement reached by the parties during the mediation shall be memorialized in writing and signed by the parties. Based on the signed agreement, the court enters an order closing the case; and

(E) If the mediation does not result in a written agreement resolving the dispute, the case shall proceed to trial in the commissioner department.

(e) Qualifications of commissioners:

(i) An individual who is appointed as a commissioner must be a citizen of the United States and a resident of this state and competent to perform the duties of the office including at least three years' of experience practicing in state or local tax law.

(ii)(A) Before entering office, each individual employed as a commissioner must take and subscribe to an oath or affirmation that the individual:

(I) Will support the Constitutions of the United States and Washington and faithfully and honestly discharge the duties of the office; and

(II) Does not hold, and while the individual is a commissioner will not hold, a position under any political party.

(B) The oath or affirmation must be filed with the clerk of the tax appeal division.

(iii) An individual while a commissioner may hold another office or position of profit or pursue another calling or vocation unless it:

(A) Is inconsistent with the expeditious, proper, and impartial performance of the duties of a commissioner; or

(B) Would interfere with the ability of the commissioner to perform fully the duties of the commissioner's position.

**Sec.**  RCW 2.06.030 and 1980 c 76 s 3 are each amended to read as follows:

(1) The administration and procedures of the court shall be as provided by rules of the supreme court. The court shall be vested with all power and authority, not inconsistent with said rules, necessary to carry into complete execution all of its judgments, decrees and determinations in all matters within its jurisdiction, according to the rules and principles of the common law and the Constitution and laws of this state.

(2) For the prompt and orderly administration of justice, the supreme court may ((~~(1)~~)) (a) transfer to the appropriate division of the court for decision a case or appeal pending before the supreme court; or ((~~(2)~~)) (b) transfer to the supreme court for decision a case or appeal pending in a division of the court.

(3) Subject to the provisions of this section((~~, the court shall have~~)) and section 109 of this act, the divisions of general appellate jurisdiction have exclusive appellate jurisdiction in all cases except:

(a) Cases of quo warranto, prohibition, injunction or mandamus directed to state officials;

(b) Criminal cases where the death penalty has been decreed;

(c) Cases where the validity of all or any portion of a statute, ordinance, tax, impost, assessment or toll is drawn into question on the grounds of repugnancy to the Constitution of the United States or of the state of Washington, or to a statute or treaty of the United States, and the superior court has held against its validity;

(d) Cases involving fundamental and urgent issues of broad public import requiring prompt and ultimate determination; and

(e) Cases involving substantive issues on which there is a direct conflict among prevailing decisions of panels of the court or between decisions of the supreme court;

all of which shall be appealed directly to the supreme court((~~: PROVIDED, That~~)). However, whenever a majority of the court before which an appeal is pending, but before a hearing thereon, is in doubt as to whether such appeal is within the categories set forth in ((~~subsection~~)) (d) or (e) of this ((~~section~~)) subsection, the cause shall be certified to the supreme court for such determination.

(4) The appellate jurisdiction of the court of appeals does not extend to civil actions at law for the recovery of money or personal property when the original amount in controversy, or the value of the property does not exceed the sum of two hundred dollars.

(5) The court shall have appellate jurisdiction over review of final decisions of administrative agencies certified by the superior court pursuant to RCW 34.05.518.

(6) Appeals from the court to the supreme court shall be only at the discretion of the supreme court upon the filing of a petition for review. No case, appeal or petition for a writ filed in the supreme court or the court shall be dismissed for the reason that it was not filed in the proper court, but it shall be transferred to the proper court.

**Sec.**  RCW 2.06.040 and 2007 c 34 s 1 are each amended to read as follows:

((~~The court~~)) (1) The divisions of general appellate jurisdiction shall sit in panels of three judges and decisions shall be rendered by not less than a majority of the panel. In the determination of causes all decisions of the court shall be given in writing and the grounds of the decisions shall be stated. All decisions of the court having precedential value shall be published as opinions of the court. Each panel shall determine whether a decision of the court has sufficient precedential value to be published as an opinion of the court. Decisions determined not to have precedential value shall not be published. Panels in the first division shall be comprised of such judges as the chief judge thereof shall from time to time direct. Judges of the respective divisions may sit in other divisions and causes may be transferred between divisions, as directed by written order of the chief justice. The court may hold sessions in cities as may be designated by rule.

(2) The court may establish rules supplementary to and not in conflict with rules of the supreme court.

(3) The final decisions of the main department of the tax appeal division must be issued in writing and the grounds of the decisions shall be stated. Except for en banc decisions, the decisions by the main department of the tax appeal division must include findings of fact and conclusions of law. All decisions by the main department must be published as opinions of the court.

(4) The decisions of the main department in proceedings before a single judge are subject to discretionary review by the supreme court in the same manner as the decisions of other divisions of the court of appeals. Except for decisions rendered in appeals from the superior court under section 109(3) of this act, the parties to an en banc decision have a right of appeal to the supreme court.

(5) The final decisions of the commissioner department must be rendered in writing, and must include a statement of the facts and the conclusions of law. Decisions of the commissioner department must be made readily available for online research but they may not be published as opinions of the tax appeal division and may not be cited or relied upon as precedent. The exclusive remedy for review of any decision or order of a commissioner must be by petition to the main department of the tax appeal division.

**Sec.**  RCW 2.06.050 and 2011 c 336 s 11 are each amended to read as follows:

A judge of the court shall be:

(1) Admitted to the practice of law in the courts of this state not less than five years prior to taking office.

(2) A resident for not less than one year at the time of appointment or initial election in the district for which his or her position was created.

(3) A judge of the tax appeal division must have at least five years' experience as an attorney practicing in state tax law.

**Sec.**  RCW 2.06.070 and 1969 ex.s. c 221 s 7 are each amended to read as follows:

(1) Upon the taking effect of RCW 2.06.010 through 2.06.100, the governor shall appoint the judges of the court of appeals for each district in the numbers provided in RCW 2.06.020, who shall hold office until the second Monday in January of the year following the first state general election following the effective date of this act. In making the original appointments the governor shall take into consideration such factors as: Personal character; intellect; ability; diversity of background of experience in the practice of the law; diversity of political philosophy; diversity of educational experience; and diversity of affiliation with social and economic groups, for the purpose of establishing a balanced appellate court with the highest quality of personnel. At the first state general election after the effective date of this act there shall be elected from each district the number of judges provided for in RCW 2.06.020. Upon taking office the judges of each division elected shall come together at the direction of the chief justice and be divided by lot into three equal groups; those of the first group shall hold office until the second Monday in January of 1973, those of the second group shall hold office until the second Monday in January of 1975, and those of the third group shall hold office until the second Monday in January of 1977, and until their successors are elected and qualified. Thereafter, judges shall be elected for the full term of six years and until their successors are elected and qualified, commencing with the second Monday in January succeeding their election((~~: PROVIDED, HOWEVER, That~~)). However, if the governor shall make appointments to the appellate court from membership of the superior court, the governor shall, in making appointments filling vacancies created in the superior courts by such action, take into consideration such factors as: Personal character; intellect; ability; diversity of background of experience in the practice of the law; diversity of political philosophy; diversity of educational experience; and diversity of affiliation with social and economic groups, for the purpose of maintaining a balanced superior court with the highest quality of personnel.

(2) At the first state general election after the establishment of the tax appeal division, there must be elected the number of judges to the tax appeal division provided for in RCW 2.06.020. Upon taking office the judges elected must come together to be divided by lot into three equal groups; those of the first group must hold office until the second Monday in January of 2019, those of the second group must hold office until the second Monday in January of 2021, and those of the third group must hold office until the second Monday in January of 2023, and until their successors are elected and qualified. Thereafter, judges must be elected for the full term of six years and until their successors are elected and qualified, commencing with the second Monday in January succeeding their election.

**Sec.**  RCW 2.06.150 and 1997 c 88 s 3 are each amended to read as follows:

(1) Whenever necessary for the prompt and orderly administration of justice, the chief justice of the supreme court of the state of Washington may appoint any regularly elected and qualified judge of the superior court or any retired judge of a court of record in this state to serve as judge pro tempore of the court of appeals((~~: PROVIDED, HOWEVER, That~~)). However, no judge pro tempore appointed to serve on the court of appeals may serve more than ninety days in any one year and a judge pro tempore of the tax appeal division must be qualified for the position as provided in RCW 2.06.050(3).

(2) If the term of a judge of the court of appeals expires with cases or other judicial business pending, the chief justice of the supreme court of the state of Washington, upon the recommendation of the chief presiding judge of the court of appeals, may appoint the judge to serve as judge pro tempore of the court of appeals, whenever necessary for the prompt and orderly administration of justice. No judge may be appointed under this subsection more than one time and no appointment may exceed sixty days.

(3) Before entering upon his or her duties as judge pro tempore of the court of appeals, the appointee shall take and subscribe an oath of office as provided for in Article IV, section 28 of the state Constitution.

NEW SECTION. **Sec.**  A new section is added to chapter 2.06 RCW to read as follows:

(1) Except as otherwise provided in this section, all proceedings before the tax appeal division are original, independent proceedings and must be tried without a jury and de novo. Except as provided in RCW 84.40.0301, in all appeals to the tax appeal division, the decision appealed from is presumed correct, and the appellant has the burden of proving otherwise by a preponderance of the evidence. The tax appeal division may exercise such procedural powers and authority as necessary to the full exercise of its jurisdiction, including the power to issue compulsory process as provided by court rule.

(2) The tax appeal division has jurisdiction to hear the following appeals:

(a) Appeals of a notice of denial of a petition or a notice of assessment made under RCW 82.34.110, 82.32.160, 82.32.170, or 82.49.060;

(b) Appeals from a county board of equalization;

(c) Appeals by an assessor or landowner from an order of the director of revenue made pursuant to RCW 84.08.010 and 84.08.060, if filed with the tax division of the court of appeals within ninety days after the mailing of the order;

(d) Appeals by an assessor or owner of an intercounty public utility or private car company from determinations by the director of revenue of equalized assessed valuation of property and the apportionment thereof to a county made pursuant to chapters 84.12 and 84.16 RCW, if filed with the tax division of the court of appeals within ninety days after mailing of the determination;

(e) Appeals by an assessor, landowner, or owner of an intercounty public utility or private car company from a determination of any county indicated ratio for such county compiled by the department of revenue pursuant to RCW 84.48.075, if the appeal is filed after review of the ratio under RCW 84.48.075(3). A hearing under this subsection (2)(e) before the court must be expeditiously held in accordance with rules prescribed by the court and must take precedence over all matters of the same character;

(f) Appeals from the decisions of sale price of second-class shorelands on navigable lakes by the department of natural resources pursuant to RCW 79.125.450;

(g) Appeals from urban redevelopment property tax apportionment district proposals established by governmental ordinances pursuant to RCW 39.88.060;

(h) Appeals from interest rates as determined by the department of revenue for use in valuing farmland under current use assessment pursuant to RCW 84.34.065;

(i) Appeals from revisions to stumpage value tables used to determine value by the department of revenue pursuant to RCW 84.33.091;

(j) Appeals from denial of a tax exemption application by the department of revenue pursuant to RCW 84.36.850;

(k) Appeals pursuant to RCW 84.40.038(3);

(l) Appeals pursuant to RCW 84.39.020;

(m) Appeals of refunds denied under Title 83 RCW; and

(n) Appeals from rulings issued by a tax authority by statute, rule, or policy that instructs a taxpayer regarding how taxes should be reported if failure to follow such instructions can result in the assessment of taxes, interest, or penalties.

(3) In addition to appeals under subsection (2) of this section and except for cases which may be appealed or transferred directly to the supreme court under RCW 2.06.030, the tax appeal division, sitting en banc, shall have exclusive appellate jurisdiction over appeals from the superior court in any case involving the validity of any tax, assessment, or toll.

(4) Except as otherwise specifically provided by law, the provisions of RCW 1.12.070 apply to all notices of appeal filed with the tax appeal division.

(5) Except in cases involving property taxes unless subject to RCW 84.52.018, the taxpayer has the right to have his or her case heard by the tax appeal division prior to the payment of any of the amounts asserted as due by the tax administration agency and prior to the posting of any bond.

(6) If, with or after the filing of a timely notice of appeal, the taxpayer pays all or part of the tax or other amount in issue before the tax appeal division has rendered a decision, the court must treat the taxpayer's petition as a protest of a denial of a claim for refund of the amount paid.

NEW SECTION. **Sec.**  A new section is added to chapter 2.06 RCW to read as follows:

(1) The tax appeal division must stay collection of all or any part of an assessment or additional assessment of the department of revenue, on petition of the taxpayer, unless it finds that:

(a) Staying collection will materially impair the department's ability to collect the assessment; or

(b) The taxpayer's appeal lacks merit and is brought for purposes of delaying payment of the assessment.

(2) The tax appeal division may stay collection in the interest of justice, or where the taxpayer provides adequate assurance that collection of the assessment will not be materially impaired.

(3) The tax appeal division may impose interest on the amount of any assessment for which collection is stayed.

(4) No stay of collection ordered by the tax appeal division may stay collection for more than sixty days past the date on which the tax appeal division issues its final decision or rules on a motion for reconsideration, whichever is later.

(5) Interest imposed under this section is in addition to the interest imposed under other provisions of law. The interest rate may be adjusted on the first day of January of each year.

(6) The tax appeal division may not stay collection in hearings where the notice of appeal was filed before January 1, 2017.

NEW SECTION. **Sec.**  A new section is added to chapter 2.06 RCW to read as follows:

(1) An appeal to the tax appeal division is initiated by the filing of a notice of appeal as provided by court rule. Except for property tax appeals under RCW 84.08.130, 84.34.065, 84.36.850, 84.40.038, 84.48.075, and as otherwise provided, the notice of appeal must be filed with the tax appeal division within ninety days after receipt of the tax determination being appealed.

(2) Upon filing a notice of appeal to the main department of the tax appeal division, the appellant must pay a fee in the amount of two hundred fifty dollars.

(3) Upon filing a notice of appeal to the commissioner of the tax appeal division, the appellant must pay a fee in the amount of fifty dollars.

**PART II**

**Conforming and Technical Corrections**

**Sec.**  RCW 34.05.030 and 2011 1st sp.s. c 43 s 431 are each amended to read as follows:

(1) This chapter ((~~shall~~)) does not apply to:

(a) The state militia, or

(b) The board of clemency and pardons, or

(c) The department of corrections or the indeterminate sentencing review board with respect to persons who are in their custody or are subject to the jurisdiction of those agencies.

(2) The provisions of RCW 34.05.410 through 34.05.598 shall not apply:

(a) To adjudicative proceedings of the board of industrial insurance appeals except as provided in RCW 7.68.110 and 51.48.131;

(b) Except for actions pursuant to chapter 46.29 RCW, to the denial, suspension, or revocation of a driver's license by the department of licensing;

(c) To the department of labor and industries where another statute expressly provides for review of adjudicative proceedings of a department action, order, decision, or award before the board of industrial insurance appeals;

(d) To actions of the Washington personnel resources board, the human resources director, or the office of financial management and the department of enterprise services when carrying out their duties under chapter 41.06 RCW;

(e) To adjustments by the department of revenue of the amount of the surcharge imposed under RCW 82.04.261; or

(f) To the extent they are inconsistent with any provisions of chapter 43.43 RCW.

(3) ((~~Unless a party makes an election for a formal hearing pursuant to RCW 82.03.140 or 82.03.190,~~)) RCW 34.05.410 through 34.05.598 do not apply to a review hearing conducted by the ((~~board of tax~~)) tax division of the court of appeals.

(4) The rule-making provisions of this chapter do not apply to:

(a) Reimbursement unit values, fee schedules, arithmetic conversion factors, and similar arithmetic factors used to determine payment rates that apply to goods and services purchased under contract for clients eligible under chapter 74.09 RCW; and

(b) Adjustments by the department of revenue of the amount of the surcharge imposed under RCW 82.04.261.

(5) All other agencies, whether or not formerly specifically excluded from the provisions of all or any part of the administrative procedure act, shall be subject to the entire act.

**Sec.**  RCW 34.12.020 and 2010 c 211 s 16 are each reenacted and amended to read as follows:

((~~Unless the context clearly requires otherwise,~~)) The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Administrative law judge" means any person appointed by the chief administrative law judge to conduct or preside over hearings as provided in this chapter.

(2) "Hearing" means an adjudicative proceeding within the meaning of RCW 34.05.010(1) conducted by a state agency under RCW 34.05.413 through 34.05.476.

(3) "Office" means the office of administrative hearings.

(4) "State agency" means any state board, commission, department, or officer authorized by law to make rules or to conduct adjudicative proceedings, except those in the legislative or judicial branches, the growth management hearings board, the utilities and transportation commission, the pollution control hearings board, the shorelines hearings board, the forest practices appeals board, the environmental and land use hearings office, the board of industrial insurance appeals, the Washington personnel resources board, and the public employment relations commission((~~, and the board of tax appeals~~)).

**Sec.**  RCW 39.88.060 and 1989 c 378 s 1 are each amended to read as follows:

(1) Any taxing district that objects to the apportionment district, the duration of the apportionment, the manner of apportionment, or the propriety of cost items established by the public improvement ordinance of the sponsor may, within thirty days after mailing of the ordinance, petition for review thereof by the ((~~state board of tax appeals. The state board of tax appeals shall meet within a reasonable time, hear all the evidence presented by the parties on matters in dispute, and determine the issues upon the evidence as may be presented to it at the hearing. The board~~)) tax division of the court of appeals. The tax division may approve or deny the public improvement ordinance as enacted or may grant approval conditioned upon modification of the ordinance by the sponsor. The decision by the ((~~state board of tax appeals shall be~~)) tax division of the court of appeals is final and conclusive but ((~~shall~~)) does not preclude modification or discontinuation of the public improvement.

(2) If the sponsor modifies the public improvement ordinance as directed by the ((~~board~~)) tax division of the court of appeals, the public improvement ordinance ((~~shall be~~)) is effective without further hearings or findings and ((~~shall~~)) is not ((~~be~~)) subject to any further appeal. If the sponsor modifies the public improvement ordinance in a manner other than as directed by the ((~~board~~)) tax division of the court of appeals, the public improvement ordinance ((~~shall be~~)) is subject to the procedures established pursuant to RCW 39.88.040 and 39.88.050.

**Sec.**  RCW 42.17A.705 and 2012 c 229 s 582 are each amended to read as follows:

For the purposes of RCW 42.17A.700, "executive state officer" includes:

(1) The chief administrative law judge, the director of agriculture, the director of the department of services for the blind, the chief information officer of the office of chief information officer, the director of the state system of community and technical colleges, the director of commerce, the director of the consolidated technology services agency, the secretary of corrections, the director of early learning, the director of ecology, the commissioner of employment security, the chair of the energy facility site evaluation council, the director of enterprise services, the secretary of the state finance committee, the director of financial management, the director of fish and wildlife, the executive secretary of the forest practices appeals board, the director of the gambling commission, the secretary of health, the administrator of the Washington state health care authority, the executive secretary of the health care facilities authority, the executive secretary of the higher education facilities authority, the executive secretary of the horse racing commission, the human resources director, the executive secretary of the human rights commission, the executive secretary of the indeterminate sentence review board, the executive director of the state investment board, the director of labor and industries, the director of licensing, the director of the lottery commission, the director of the office of minority and women's business enterprises, the director of parks and recreation, the executive director of the public disclosure commission, the executive director of the Puget Sound partnership, the director of the recreation and conservation office, the director of retirement systems, the director of revenue, the secretary of social and health services, the chief of the Washington state patrol, ((~~the executive secretary of the board of tax appeals,~~)) the secretary of transportation, the secretary of the utilities and transportation commission, the director of veterans affairs, the president of each of the regional and state universities and the president of The Evergreen State College, and each district and each campus president of each state community college;

(2) Each professional staff member of the office of the governor;

(3) Each professional staff member of the legislature; and

(4) Central Washington University board of trustees, the boards of trustees of each community college and each technical college, each member of the state board for community and technical colleges, state convention and trade center board of directors, Eastern Washington University board of trustees, Washington economic development finance authority, Washington energy northwest executive board, The Evergreen State College board of trustees, executive ethics board, fish and wildlife commission, forest practices appeals board, forest practices board, gambling commission, Washington health care facilities authority, student achievement council, higher education facilities authority, horse racing commission, state housing finance commission, human rights commission, indeterminate sentence review board, board of industrial insurance appeals, state investment board, commission on judicial conduct, legislative ethics board, life sciences discovery fund authority board of trustees, liquor control board, lottery commission, Pacific Northwest electric power and conservation planning council, parks and recreation commission, Washington personnel resources board, board of pilotage commissioners, pollution control hearings board, public disclosure commission, public employees' benefits board, recreation and conservation funding board, salmon recovery funding board, shorelines hearings board, ((~~board of tax appeals,~~)) transportation commission, University of Washington board of regents, utilities and transportation commission, Washington State University board of regents, and Western Washington University board of trustees.

**Sec.**  RCW 79.125.450 and 2005 c 155 s 520 are each amended to read as follows:

(1) The legislature finds that maintaining public lands in public ownership is often in the public interest. However, when second-class shorelands on navigable lakes have minimal public value, the sale of those shorelands to the abutting upland owner may not be contrary to the public interest. However, the purpose of this section is to remove the prohibition contained in RCW 79.125.200 regarding the sale of second-class shorelands to abutting owners, whose uplands front on the shorelands. Nothing contained in this section ((~~shall~~)) may be construed to otherwise affect the rights of interested parties relating to public or private ownership of shorelands within the state.

(2) Notwithstanding the provisions of RCW 79.125.200, the department may sell second-class shorelands on navigable lakes to abutting owners whose uplands front upon the shorelands in cases where the board has determined that these sales would not be contrary to the public interest. These shorelands ((~~shall~~)) must be sold at fair market value, but not less than five percent of the fair market value of the abutting upland, less improvements, to a maximum distance of one hundred and fifty feet landward from the line of ordinary high water.

(3) Review of the decision of the department regarding the sale price established for a shoreland to be sold pursuant to this section may be obtained by the upland owner by filing a petition with the ((~~board of tax appeals created in accordance with chapter 82.03 RCW within thirty~~)) tax division of the court of appeals within thirty days after the mailing of notification by the department to the owner regarding the price. The ((~~board of tax appeals shall~~)) tax division of the court of appeals must review the cases in an adjudicative proceeding as described in chapter 34.05 RCW, the administrative procedure act, and the ((~~board's~~)) court's review ((~~shall~~)) must be de novo. Decisions of the ((~~board of tax~~)) tax division of the court of appeals regarding fair market values determined pursuant to this section ((~~shall be~~)) are final ((~~unless appealed to the superior court pursuant to RCW 34.05.510 through 34.05.598~~)).

**Sec.**  RCW 82.01.090 and 1967 ex.s. c 26 s 6 are each amended to read as follows:

Except for the powers and duties devolved upon the ((~~board of tax appeals by the provisions of RCW 82.03.010 through 82.03.190~~)) tax appeal division of the court of appeals, the director of revenue ((~~shall~~)) must, after July 1, 1967, exercise those powers, duties and functions theretofore vested in the tax commission of the state of Washington, including all powers, duties and functions of the commission acting as the commission or as the state board of equalization or in any other capacity.

**Sec.**  RCW 82.29A.060 and 1994 c 95 s 1 are each amended to read as follows:

(1) All administrative provisions in chapters 82.02 and 82.32 RCW ((~~shall be~~)) are applicable to taxes imposed pursuant to this chapter.

(2)(a) A lessee, or a sublessee in the case where the sublessee is responsible for paying the tax imposed under this chapter, of property used for residential purposes may petition the county board of equalization for a change in appraised value when the department of revenue establishes taxable rent under RCW 82.29A.020(2)((~~(b)~~)) (g) based on an appraisal done by the county assessor at the request of the department. The petition must be on forms prescribed or approved by the department ((~~of revenue~~)) and any petition not conforming to those requirements or not properly completed ((~~shall~~)) may not be considered by the board. The petition must be filed with the board within the time period set forth in RCW 84.40.038. A decision of the board of equalization may be appealed by the taxpayer to the ((~~board of tax~~)) tax division of the court of appeals as provided in RCW 84.08.130.

(b) A sublessee, in the case where the sublessee is responsible for paying the tax imposed under this chapter, of property used for residential purposes may petition the department for a change in taxable rent when the department of revenue establishes taxable rent under RCW 82.29A.020(2)((~~(b)~~)) (g).

(c) Any change in tax resulting from an appeal under this subsection ((~~shall~~)) must be allocated to the lessee or sublessee responsible for paying the tax.

(3) This section ((~~shall~~)) does not authorize the issuance of any levy upon any property owned by the public lessor.

(4) In selecting leasehold excise tax returns for audit the department ((~~of revenue shall~~)) must give priority to any return an audit of which is specifically requested in writing by the county assessor or treasurer or other chief financial officer of any city or county affected by such return. Notwithstanding the provisions of RCW 82.32.330, findings of fact and determinations of the amount of taxable rent made pursuant to the provisions of this chapter ((~~shall~~)) must be open to public inspection at all reasonable times.

**Sec.**  RCW 82.32.160 and 2007 c 111 s 110 are each amended to read as follows:

(1) Any person having been issued a notice of additional taxes, delinquent taxes, interest, or penalties assessed by the department((~~,~~)) may within ((~~thirty~~)) ninety days after the issuance of the original notice of the amount thereof or within the period covered by any extension of the due date thereof granted by the department petition the department in writing for a correction of the amount of the assessment, and a conference for examination and review of the assessment, or file an appeal with the tax division of the court of appeals. The petition ((~~shall~~)) must set forth the reasons why the correction should be granted and the amount of the tax, interest, or penalties, which the petitioner believes to be due. The department ((~~shall~~)) must promptly consider the petition and may grant or deny it. If denied, the petitioner ((~~shall~~)) must be notified by mail, or electronically as provided in RCW 82.32.135, thereof forthwith. If a conference is granted, the department ((~~shall~~)) must fix the time and place therefor and notify the petitioner thereof by mail or electronically as provided in RCW 82.32.135. After the conference the department may make such determination as may appear to it to be just and lawful and ((~~shall~~)) must mail a copy of its determination to the petitioner, or provide a copy of its determination electronically as provided in RCW 82.32.135. If no such petition is filed within the ((~~thirty-day~~)) ninety-day period the assessment covered by the notice shall become final.

(2) The procedures provided for ((~~herein shall~~)) in this section apply also to a notice denying, in whole or in part, an application for a pollution control tax exemption and credit certificate, with such modifications to such procedures established by departmental rules and regulations as may be necessary to accommodate a claim for exemption or credit.

**Sec.**  RCW 82.32.170 and 2013 c 23 s 324 are each amended to read as follows:

Any person, having paid any tax, original assessment, additional assessment, or corrected assessment of any tax((~~,~~)) may apply to the department within the time limitation for refund provided in this chapter, by petition in writing for a correction of the amount paid((~~, and a conference for examination and review of the tax liability, in which petition he or she shall set forth the reasons why the conference should be granted, and the amount in which the tax, interest, or penalty, should be refunded. The department shall promptly consider the petition, and may grant or deny it. If denied, the petitioner shall be notified by mail, or electronically as provided in RCW 82.32.135, thereof forthwith. If a conference is granted, the department shall notify the petitioner by mail, or electronically as provided in RCW 82.32.135, of the time and place fixed therefor. After the hearing, the department may make such determination as may appear to it just and lawful, and shall mail a copy of its determination to the petitioner, or provide a copy of its determination electronically as provided in RCW 82.32.135~~)). The petition must set forth the amount of the tax, interest, or penalty the taxpayer contends should be refunded and the reasons. The department must promptly consider the petition, and may grant or deny it and must notify the taxpayer of its decision by mail, or electronically as provided in RCW 82.32.135. If denied, the taxpayer may file an appeal with the tax division of the court of appeals within ninety days.

**Sec.**  RCW 82.32.180 and 1997 c 156 s 4 are each amended to read as follows:

(1) Any person, except one who has failed to keep and preserve books, records, and invoices as required in this chapter and chapter 82.24 RCW, ((~~having paid any tax as required and feeling aggrieved by the amount of the tax~~)) may appeal to the superior court of Thurston county((~~,~~)) or the tax division of the court of appeals. The appeal must be filed within the time limitation for a refund provided in this chapter ((~~82.32 RCW~~)) or, if an application for refund has been made to the department within that time limitation, then within ((~~thirty~~)) ninety days after rejection of the application, whichever time limitation is later. In the appeal the taxpayer ((~~shall~~)) must set forth the amount of the tax imposed upon the taxpayer which the taxpayer concedes to be the correct tax and the reason why the tax should be reduced or abated. The appeal shall be perfected by serving a copy of the notice of appeal upon the department within the time ((~~herein~~)) specified in this section and by filing the original thereof with proof of service with the clerk of the superior court of Thurston county or the tax division of the court of appeals.

(2) The trial in the superior court on appeal ((~~shall~~)) or the tax division of the court of appeals must be de novo and without the necessity of any pleadings other than the notice of appeal. At trial, the burden ((~~shall~~)) rests upon the taxpayer to prove that the tax as paid by the taxpayer is incorrect, either in whole or in part, and to establish the correct amount of the tax. In such proceeding the taxpayer ((~~shall be~~)) is deemed the plaintiff, and the state, the defendant; and both parties ((~~shall be~~)) are entitled to subpoena the attendance of witnesses as in other civil actions and to produce evidence that is competent, relevant, and material to determine the correct amount of the tax that should be paid by the taxpayer. Either party may seek appellate review in the same manner as other civil actions are appealed to the appellate courts.

(3) It ((~~shall~~)) is not ((~~be~~)) necessary for the taxpayer to protest against the payment of any tax or to make any demand to have the same refunded or to petition the director for a hearing in order to appeal to the superior court or the tax division of the court of appeals, but no court action or proceeding of any kind ((~~shall~~)) may be maintained by the taxpayer to recover any tax paid, or any part thereof, except as ((~~herein~~)) provided in this section.

((~~The provisions of this section shall not apply to any tax payment which has been the subject of an appeal to the board of tax appeals with respect to which appeal a formal hearing has been elected.~~))

**Sec.**  RCW 82.49.060 and 1993 c 33 s 1 are each amended to read as follows:

(1) Any vessel owner disputing an appraised value under RCW 82.49.050 or disputing whether the vessel is taxable, may petition for a conference with the department as provided under RCW 82.32.160, or for reduction of the tax due as provided under RCW 82.32.170.

(2) Any vessel owner having received a notice of denial of a petition or a notice of determination made for the owner's vessel under RCW 82.32.160 or 82.32.170 may appeal to the ((~~board of tax appeals as provided under RCW 82.03.190~~)) tax division of the court of appeals. In deciding a case appealed under this section, the ((~~board of tax~~)) tax division of the court of appeals may require an independent appraisal of the vessel. The cost of the independent appraisal ((~~shall~~)) must be apportioned between the department and the vessel owner as provided by the ((~~board~~)) court.

**Sec.**  RCW 84.08.060 and 1988 c 222 s 9 are each amended to read as follows:

(1) The department ((~~of revenue shall have~~)) has power to direct and to order any county board of equalization to raise or lower the valuation of any taxable property, or to add any property to the assessment list, or to perform or complete any other duty required by statute. The department ((~~of revenue~~)) may require any such board of equalization to reconvene after its adjournment for the purpose of performing any order or requirement made by the department ((~~of revenue~~)) and may make such orders as it ((~~shall~~)) determines to be just and necessary.

(2) The department may require any county board of equalization to reconvene at any time for the purpose of performing or completing any duty or taking any action it might lawfully have performed or taken at any of its previous meetings. No board may be reconvened later than three years after the date of adjournment of its regularly convened session. If such board of equalization ((~~shall~~)) fails or refuses ((~~forthwith~~)) to comply with any such order or requirement of the department ((~~of revenue~~)), the department ((~~of revenue shall have~~)) has the power to take any other appropriate action, or to make such correction or change in the assessment list, and such corrections and changes ((~~shall~~)) must be a part of the record of the proceedings of the ((~~said~~)) board of equalization((~~: PROVIDED, That~~)). However, in all cases where the department ((~~of revenue shall~~)) raises the valuation of any property or adds property to the assessment list, ((~~it shall~~)) the department must give notice either for the same time and in the same manner as is now required in like cases of county boards of equalization, or if ((~~it shall deem~~)) the department deems such method of giving notice impracticable it ((~~shall~~)) must give notice by publication thereof in a newspaper of general circulation within the county in which the property affected is situated once each week for two consecutive weeks, and the department ((~~of revenue shall~~)) may not proceed to raise such valuation or add such property to the assessment list until a period of five days ((~~shall have~~)) has elapsed subsequent to the date of the last publication of such notice((~~: PROVIDED FURTHER, That~~)). Moreover, appeals to the ((~~board of tax~~)) tax division of the court of appeals by any taxpayer or taxing unit concerning any action of the county board of equalization ((~~shall~~)) may not raise the valuation of the property to an amount greater than the larger of either the valuation of the property by the county assessor or the valuation of the property assigned by the county board of equalization. Such notice ((~~shall~~)) must give the legal description of each tract of land involved, or a general description in case of personal property; the tax record-owner thereof; the assessed value thereof determined by the county board of equalization in case the property is on the assessment roll; and the assessed value thereof as determined by the department ((~~of revenue~~)) and ((~~shall~~)) must state that the department ((~~of revenue~~)) proposes to increase the assessed valuation of such property to the amount stated and to add such property to the assessment list at the assessed valuation stated. The necessary expense incurred by the department ((~~of revenue~~)) in making such reassessment and/or adding such property to the assessment list ((~~shall~~)) must be borne by the county or township in which the property as reassessed and/or so added to the assessment list is situated and ((~~shall~~)) must be paid out of the proper funds of such county upon the order of the department of revenue.

**Sec.**  RCW 84.08.130 and 1998 c 54 s 3 are each amended to read as follows:

(1) Any taxpayer or taxing unit feeling aggrieved by the action of any county board of equalization may appeal to the ((~~board of tax~~)) tax division of the court of appeals by filing with the ((~~board of tax~~)) tax division of the court of appeals in accordance with RCW 1.12.070 a notice of appeal within thirty days after the mailing of the decision of such board of equalization, which notice ((~~shall~~)) must specify the actions complained of; and in like manner any county assessor may appeal to the ((~~board of tax~~)) tax division of the court of appeals from any action of any county board of equalization. ((~~There shall be no fee charged for the filing of an appeal. The board shall transmit a copy of the notice of appeal to all named parties within thirty days of its receipt by the board. Appeals which are not filed as provided in this section shall be dismissed. The board of tax appeals shall~~)) The tax division of the court of appeals must transmit a copy of the notice of appeal to all named parties within thirty days of its receipt by the tax division of the court of appeals. Appeals which are not filed as provided in this section must be dismissed. The tax division of the court of appeals must require the board appealed from to file a true and correct copy of its decision in such action and all evidence taken in connection therewith, and may receive further evidence, and ((~~shall~~)) must make such order as in its judgment is just and proper.

(2) The ((~~board of tax~~)) tax division of the court of appeals may enter an order, pursuant to subsection (1) of this section, that has effect up to the end of the assessment cycle used by the assessor, if there has been no intervening change in the value during that time.

**Sec.**  RCW 84.33.091 and 1998 c 311 s 13 are each amended to read as follows:

(1) The department ((~~of revenue shall~~)) must designate areas containing timber having similar growing, harvesting, and marketing conditions to be used as units for the preparation and application of stumpage values. Each year on or before December 31st for use the following January through June 30th, and on or before June 30th for use the following July through December 31st, the department ((~~shall~~)) must prepare tables of stumpage values of each species or subclassification of timber within these units. The stumpage value ((~~shall be~~)) is the amount that each such species or subclassification would sell for at a voluntary sale made in the ordinary course of business for purposes of immediate harvest. These stumpage values, expressed in terms of a dollar amount per thousand board feet or other unit measure, ((~~shall~~)) must be determined in a manner which makes reasonable and adequate allowances for age, size, quality, costs of removal, accessibility to point of conversion, market conditions, and all other relevant factors from:

(a) Gross proceeds from sales on the stump of similar timber of like quality and character at similar locations, and in similar quantities;

(b) Gross proceeds from sales of logs adjusted to reflect only the portion of such proceeds attributable to value on the stump immediately prior to harvest; or

(c) A combination of (a) and (b) of this subsection.

(2) Upon application from any person who plans to harvest damaged timber, the stumpage values for which have been materially reduced from the values shown in the applicable tables due to damage resulting from fire, blow down, ice storm, flood, or other sudden unforeseen cause, the department ((~~shall~~)) must revise the stumpage value tables for any area in which such timber is located and shall specify any additional accounting or other requirements to be complied with in reporting and paying the tax.

(3) The preliminary area designations and stumpage value tables and any revisions thereof are subject to review by the ways and means committees of the house of representatives and senate prior to finalization. Tables of stumpage values ((~~shall~~)) must be signed by the director or the director's designee. A copy thereof ((~~shall~~)) must be mailed to anyone who has submitted to the department a written request for a copy.

(4) On or before the sixtieth day after the date of final adoption of any stumpage value tables, any harvester may appeal to the ((~~board of tax~~)) tax division of the court of appeals for a revision of stumpage values for an area determined pursuant to subsection (3) of this section.

**Sec.**  RCW 84.34.065 and 2014 c 97 s 310 are each amended to read as follows:

(1) The true and fair value of farm and agricultural land ((~~shall~~)) must be determined by consideration of the earning or productive capacity of comparable lands from crops grown most typically in the area averaged over not less than five years, capitalized at indicative rates. The earning or productive capacity of farm and agricultural lands is the "net cash rental," capitalized at a "rate of interest" charged on long term loans secured by a mortgage on farm or agricultural land plus a component for property taxes. The current use value of land under RCW 84.34.020(2)(f) must be established as: The prior year's average value of open space farm and agricultural land used in the county plus the value of land improvements such as septic, water, and power used to serve the residence. This may not be interpreted to require the assessor to list improvements to the land with the value of the land.

(2) For the purposes of the ((~~above~~)) computation in subsection (1) of this section:

(a)(i) The term "net cash rental" means the average rental paid on an annual basis, in cash, for the land being appraised and other farm and agricultural land of similar quality and similarly situated that is available for lease for a period of at least three years to any reliable person without unreasonable restrictions on its use for production of agricultural crops. There is allowed as a deduction from the rental received or computed any costs of crop production charged against the landlord if the costs are such as are customarily paid by a landlord. If "net cash rental" data is not available, the earning or productive capacity of farm and agricultural lands is determined by the cash value of typical or usual crops grown on land of similar quality and similarly situated averaged over not less than five years. Standard costs of production are allowed as a deduction from the cash value of the crops.

(ii) The current "net cash rental" or "earning capacity" is determined by the assessor with the advice of the advisory committee as provided in RCW 84.34.145, and through a continuing internal study, assisted by studies of the department ((~~of revenue~~)). This net cash rental figure as it applies to any farm and agricultural land may be challenged before the same boards or authorities as would be the case with regard to assessed values on general property.

(b)(i) ((~~The term~~)) "Rate of interest" means the rate of interest charged by the farm credit administration and other large financial institutions regularly making loans secured by farm and agricultural lands through mortgages or similar legal instruments, averaged over the immediate past five years.

(ii) The "rate of interest" must be determined annually by a rule adopted by the department ((~~of revenue~~)) and such rule must be published in the state register not later than January 1st of each year for use in that assessment year. The department ((~~of revenue~~)) determination may be appealed to the ((~~state board of tax~~)) tax division of the court of appeals within thirty days after the date of publication by any owner of farm or agricultural land or the assessor of any county containing farm and agricultural land.

(c) ((~~The~~)) "Component for property taxes" ((~~is~~)) means a figure obtained by dividing the assessed value of all property in the county into the property taxes levied within the county in the year preceding the assessment and multiplying the quotient obtained by one hundred.

**Sec.**  RCW 84.36.850 and 2013 c 23 s 352 are each amended to read as follows:

(1) Any applicant aggrieved by the department's ((~~of revenue's~~)) denial of an exemption application may petition the ((~~state board of tax~~)) tax division of the court of appeals to review an application for either real or personal property tax exemption and the ((~~board shall~~)) tax division of the court of appeals must consider any appeals to determine ((~~(1)~~)): If the property is entitled to an exemption((~~,~~)); and ((~~(2)~~)) the amount or portion thereof.

(2) A county assessor of the county in which the exempted property is located ((~~shall be~~)) is empowered to appeal to the ((~~state board of tax~~)) tax division of the court of appeals to review any real or personal property tax exemption approved by the department ((~~of revenue which~~)) that he or she feels is not warranted.

(3) Appeals from a department ((~~of revenue~~)) decision must be made within thirty days after the mailing of the approval or denial.

**Sec.**  RCW 84.39.020 and 2005 c 253 s 2 are each amended to read as follows:

(1) Each claimant applying for assistance under RCW 84.39.010 ((~~shall~~)) must file a claim with the department, on forms prescribed by the department, no later than thirty days before the tax is due. The department may waive this requirement for good cause shown. The department ((~~shall~~)) must supply forms to the county assessor to allow persons to apply for the program at the county assessor's office.

(2) The claim ((~~shall~~)) must designate the property to which the assistance applies and ((~~shall~~)) must include a statement setting forth ((~~(a)~~)): A list of all members of the claimant's household((~~, (b)~~)); facts establishing the eligibility under this section((~~,~~)); and ((~~(c)~~)) any other relevant information required by the rules of the department. Each copy ((~~shall~~)) must be signed by the claimant subject to the penalties as provided in chapter 9A.72 RCW for false swearing. The first claim ((~~shall~~)) must include proof of the claimant's age acceptable to the department.

(3)(a) The following documentation ((~~shall~~)) must be filed with a claim along with any other documentation required by the department:

((~~(a)~~)) (i) The deceased veteran's DD 214 report of separation, or its equivalent, that must be under honorable conditions;

((~~(b)~~)) (ii) A copy of the applicant's certificate of marriage to the deceased;

((~~(c)~~)) (iii) A copy of the deceased veteran's death certificate; and

((~~(d)~~)) (iv) A letter from the United States veterans' administration certifying that the death of the veteran meets the requirements of RCW 84.39.010(2).

(b) The department of veterans affairs ((~~shall~~)) must assist an eligible widow or widower in the preparation and submission of an application and the procurement of necessary substantiating documentation.

(4) The department ((~~shall~~)) must determine if each claimant is eligible each year. Any applicant aggrieved by the department's denial of assistance may petition the ((~~state board of tax~~)) tax division of the court of appeals to review the denial and the ((~~board shall~~)) tax division of the court of appeals must consider any appeals to determine ((~~(a)~~)): If the claimant is entitled to assistance; and ((~~(b)~~)) the amount or portion thereof.

**Sec.**  RCW 84.40.038 and 2014 c 97 s 407 are each amended to read as follows:

(1) The owner or person responsible for payment of taxes on any property may petition the county board of equalization for a change in the assessed valuation placed upon such property by the county assessor or for any other reason specifically authorized by statute. Such petition must be made on forms prescribed or approved by the department ((~~of revenue~~)) and any petition not conforming to those requirements or not properly completed may not be considered by the board. The petition must be filed with the board:

(a) On or before July 1st of the year of the assessment or determination;

(b) Within thirty days after the date the assessment, value change notice, or other notice was mailed;

(c) Within thirty days after the date that the assessor electronically (i) transmitted the assessment, value change notice, or other notice, or (ii) notified the owner or person responsible for payment of taxes that the assessment, value change notice, or other notice was available to be accessed by the owner or other person; or

(d) Within a time limit of up to sixty days adopted by the county legislative authority, whichever is later. If a county legislative authority sets a time limit, the authority may not change the limit for three years from the adoption of the limit.

(2) The board of equalization may waive the filing deadline if the petition is filed within a reasonable time after the filing deadline and the petitioner shows good cause for the late filing. However, the board of equalization must waive the filing deadline for the circumstance described under (f) of this subsection if the petition is filed within a reasonable time after the filing deadline. The decision of the board of equalization regarding a waiver of the filing deadline is final and not appealable under RCW 84.08.130. Good cause may be shown by one or more of the following events or circumstances:

(a) Death or serious illness of the taxpayer or his or her immediate family;

(b) The taxpayer was absent from the address where the taxpayer normally receives the assessment or value change notice, was absent for more than fifteen days of the days allowed in subsection (1) of this section before the filing deadline, and the filing deadline is after July 1;

(c) Incorrect written advice regarding filing requirements received from board of equalization staff, county assessor's staff, or staff of the property tax advisor designated under RCW 84.48.140;

(d) Natural disaster such as flood or earthquake;

(e) Delay or loss related to the delivery of the petition by the postal service, and documented by the postal service;

(f) The taxpayer was not sent a revaluation notice under RCW 84.40.045 for the current assessment year and the taxpayer can demonstrate both of the following:

(i) The taxpayer's property value did not change from the previous year; and

(ii) The taxpayer's property is located in an area revalued by the assessor for the current assessment year; or

(g) Other circumstances as the department may provide by rule.

(3) The owner or person responsible for payment of taxes on any property may request that the appeal be heard by the ((~~state board of tax~~)) tax division of the court of appeals without a hearing by the county board of equalization when the assessor, the owner or person responsible for payment of taxes on the property, and a majority of the county board of equalization agree that a direct appeal to the ((~~state board of tax~~)) tax division of the court of appeals is appropriate. The ((~~state board of tax~~)) tax division of the court of appeals may reject the appeal, in which case the county board of equalization must consider the appeal under RCW 84.48.010. Notice of such a rejection, together with the reason therefor, must be provided to the affected parties and the county board of equalization within thirty days of receipt of the direct appeal by the ((~~state board~~)) tax division of the court of appeals.

**Sec.**  RCW 84.48.080 and 2008 c 86 s 502 are each amended to read as follows:

(1) Annually during the months of September and October, the department ((~~of revenue shall~~)) must examine and compare the returns of the assessment of the property in the several counties of the state, and the assessment of the property of railroad and other companies assessed by the department, and proceed to equalize the same, so that each county in the state ((~~shall~~)) must pay its due and just proportion of the taxes for state purposes for such assessment year, according to the ratio the valuation of the property in each county bears to the total valuation of all property in the state.

(a) The department ((~~shall~~)) must classify all property, real and personal, and ((~~shall~~)) must raise and lower the valuation of any class of property in any county to a value that ((~~shall be~~)) equals, so far as possible, to the true and fair value of such class as of January 1st of the current year for the purpose of ascertaining the just amount of tax due from each county for state purposes. In equalizing personal property as of January 1st of the current year, the department ((~~shall~~)) must use valuation data with respect to personal property from the three years immediately preceding the current assessment year in a manner it deems appropriate. Such classification may be on the basis of types of property, geographical areas, or both. For purposes of this section, for each county that has not provided the department with an assessment return by December 1st, the department ((~~shall~~)) must proceed, using facts and information and in a manner it deems appropriate, to estimate the value of each class of property in the county.

(b) The department ((~~shall~~)) must keep a full record of its proceedings and the same ((~~shall~~)) must be published annually by the department.

(2) The department ((~~shall~~)) must levy the state taxes authorized by law. The amount levied in any one year for general state purposes ((~~shall~~)) may not exceed the lawful dollar rate on the dollar of the assessed value of the property of the entire state, which assessed value ((~~shall~~)) must be one hundred percent of the true and fair value of the property in money. The department ((~~shall~~)) must apportion the amount of tax for state purposes levied by the department, among the several counties, in proportion to the valuation of the taxable property of the county for the year as equalized by the department((~~: PROVIDED, That~~)). However, for purposes of this apportionment, the department ((~~shall~~)) must recompute the previous year's levy and the apportionment thereof to correct for changes and errors in taxable values reported to the department after October 1 of the preceding year and ((~~shall~~)) must adjust the apportioned amount of the current year's state levy for each county by the difference between the apportioned amounts established by the original and revised levy computations for the previous year. For purposes of this section, changes in taxable values mean a final adjustment made by a county board of equalization, ((~~the state board of tax appeals, or~~)) a court of competent jurisdiction ((~~and shall~~)), or the tax division of the court of appeals and must include additions of omitted property, other additions or deletions from the assessment or tax rolls, any assessment return provided by a county to the department subsequent to December 1st, or a change in the indicated ratio of a county. Errors in taxable values mean errors corrected by a final reviewing body.

(3) The department ((~~shall have~~)) has authority to adopt rules and regulations to enforce obedience to its orders in all matters in relation to the returns of county assessments, the equalization of values, and the apportionment of the state levy by the department.

(4) After the completion of the duties prescribed in this section, the director of the department ((~~shall~~)) must certify the record of the proceedings of the department under this section, the tax levies made for state purposes and the apportionment thereof among the counties, and the certification ((~~shall~~)) must be available for public inspection.

**Sec.**  RCW 84.52.018 and 1994 c 124 s 37 are each amended to read as follows:

(1) Whenever any property value or claim for exemption or cancellation of a property assessment is appealed to the ((~~state board of tax appeals or~~)) court of competent jurisdiction or tax division of the court of appeals and the dollar difference between the total value asserted by the taxpayer and the total value asserted by the opposing party exceeds one-fourth of one percent of the total assessed value of property in the county, the assessor ((~~shall~~)) may use only that portion of the total value which is not in controversy for purposes of computing the levy rates and extending the tax on the tax roll in accordance with this chapter, unless the ((~~state board of tax~~)) tax division of the court of appeals has issued its determination at the time of extending the tax.

(2) When the ((~~state board of tax~~)) tax division of the court of appeals or court of competent jurisdiction makes its final determination, the proper amount of tax ((~~shall~~)) must be extended and collected for each taxing district if this has not already been done. The amount of tax collected and extended ((~~shall~~)) must include interest at the rate of nine percent per year on the amount of the ((~~board's~~)) tax division of the court of appeals' final determination minus the amount not in controversy. The interest ((~~shall~~)) accrues from the date the taxes on the amount not in controversy were first due and payable. Any amount extended in excess of that permitted by chapter 84.55 RCW ((~~shall~~)) must be held in abeyance and used to reduce the levy rates of the next succeeding levy.

**Sec.**  RCW 84.56.290 and 1991 c 245 s 37 are each amended to read as follows:

(1) Whenever any tax ((~~shall have been heretofore, or shall be hereafter,~~)) has been canceled, reduced, or modified in any final judicial, county board of equalization, ((~~state board of tax appeals,~~)) or administrative proceeding; or whenever any tax ((~~shall have been heretofore, or shall be hereafter~~)) has been canceled by sale of property to any irrigation district under foreclosure proceedings for delinquent irrigation district assessments; or whenever any contracts or leases on public lands ((~~shall have been heretofore, or shall be hereafter,~~)) has been canceled and the tax thereon remains unpaid for a period of two years, the director ((~~of revenue shall~~)) must, upon receipt from the county treasurer of a certified copy of the final judgment, order, or decree canceling, reducing, or modifying taxes, or of a certificate from the county treasurer of the cancellation by sale to an irrigation district, or of a certificate from the commissioner of public lands and the county treasurer of the cancellation of public land contracts or leases and nonpayment of taxes thereon, as the case may be, make corresponding entries and corrections on the director's records of the state's portion of reduced or canceled tax.

(2) Upon canceling taxes deemed uncollectible, the county commissioners ((~~shall~~)) must notify the county treasurer of such action, whereupon the county treasurer ((~~shall~~)) must deduct on the treasurer's records the amount of such uncollectible taxes due the various state funds and ((~~shall~~)) must immediately notify the department ((~~of revenue~~)) of the treasurer's action and of the reason therefor; which uncollectible tax ((~~shall not then nor thereafter be~~)) is not due or owing the various state funds and the necessary corrections ((~~shall~~)) must be made by the county treasurer upon the quarterly settlement next following.

(3) When any assessment of property is made which does not appear on the assessment list certified by the county board of equalization to the department ((~~of revenue~~)) the county assessor ((~~shall~~)) must indicate to the county treasurer the assessments and the taxes due therefrom when the list is delivered to the county treasurer on December 15th. The county treasurer ((~~shall~~)) must then notify the department ((~~of revenue~~)) of the taxes due the state from the assessments which did not appear on the assessment list certified by the county board of equalization to the department ((~~of revenue~~)). The county treasurer ((~~shall~~)) must make proper accounting of all sums collected as either advance tax, compensating or additional tax, or supplemental or omitted tax and ((~~shall~~)) must notify the department ((~~of revenue~~)) of the amounts due the various state funds according to the levy used in extending such tax, and those amounts ((~~shall~~)) immediately become due and owing to the various state funds, to be paid to the state treasurer in the same manner as taxes extended on the regular tax roll.

**Sec.**  RCW 84.69.020 and 2005 c 502 s 9 are each amended to read as follows:

(1) On the order of the county treasurer, ad valorem taxes paid before or after delinquency ((~~shall~~)) must be refunded if they were:

((~~(1)~~)) (a) Paid more than once;

((~~(2)~~)) (b) Paid as a result of manifest error in description;

((~~(3)~~)) (c) Paid as a result of a clerical error in extending the tax rolls;

((~~(4)~~)) (d) Paid as a result of other clerical errors in listing property;

((~~(5)~~)) (e) Paid with respect to improvements which did not exist on assessment date;

((~~(6)~~)) (f) Paid under levies or statutes adjudicated to be illegal or unconstitutional;

((~~(7)~~)) (g) Paid as a result of mistake, inadvertence, or lack of knowledge by any person exempted from paying real property taxes or a portion thereof pursuant to RCW 84.36.381 through 84.36.389, as now or hereafter amended;

((~~(8)~~)) (h) Paid as a result of mistake, inadvertence, or lack of knowledge by either a public official or employee or by any person with respect to real property in which the person paying the same has no legal interest;

((~~(9)~~)) (i) Paid on the basis of an assessed valuation which was appealed to the county board of equalization and ordered reduced by the board;

((~~(10)~~)) (j) Paid on the basis of an assessed valuation ((~~which~~)) that was appealed to the ((~~state board of tax~~)) tax division of the court of appeals and ordered reduced by the ((~~board: PROVIDED, That~~)) tax division of the court of appeals. However, the amount refunded under ((~~subsections (9) and (10) of this section shall~~)) (i) and (j) of this subsection (1) may only be for the difference between the tax paid on the basis of the appealed valuation and the tax payable on the valuation adjusted in accordance with the ((~~board's~~)) court's order;

((~~(11)~~)) (k) Paid as a state property tax levied upon property, the assessed value of which has been established by the ((~~state board of tax~~)) tax division of the court of appeals for the year of such levy((~~: PROVIDED, HOWEVER, That~~)). However, the amount refunded ((~~shall~~)) may only be for the difference between the state property tax paid and the amount of state property tax which would, when added to all other property taxes within the one percent limitation of Article VII, section 2 of the state Constitution equal one percent of the assessed value established by the ((~~board~~)) court;

((~~(12)~~)) (l) Paid on the basis of an assessed valuation which was adjudicated to be unlawful or excessive((~~: PROVIDED, That~~)). However, the amount refunded ((~~shall~~)) must be for the difference between the amount of tax which was paid on the basis of the valuation adjudged unlawful or excessive and the amount of tax payable on the basis of the assessed valuation determined as a result of the proceeding;

((~~(13)~~)) (m) Paid on property acquired under RCW 84.60.050, and canceled under RCW 84.60.050(2);

((~~(14)~~)) (n) Paid on the basis of an assessed valuation that was reduced under RCW 84.48.065;

((~~(15)~~)) (o) Paid on the basis of an assessed valuation that was reduced under RCW 84.40.039; or

((~~(16)~~)) (p) Abated under RCW 84.70.010.

(2) No refunds under the provisions of this section ((~~shall~~)) may be made because of any error in determining the valuation of property, except as authorized in subsection((~~s (9), (10), (11), and (12)~~)) (1)(i), (j), (k), and (l) of this section nor may any refunds be made if a bona fide purchaser has acquired rights that would preclude the assessment and collection of the refunded tax from the property that should properly have been charged with the tax. Any refunds made on delinquent taxes ((~~shall~~)) must include the proportionate amount of interest and penalties paid. However, no refunds as a result of an incorrect payment authorized under subsection ((~~(8)~~)) (1)(h) of this section made by a third party payee ((~~shall~~)) may be granted. The county treasurer may deduct from moneys collected for the benefit of the state's levy, refunds of the state levy including interest on the levy as provided by this section and chapter 84.68 RCW.

(3) The county treasurer of each county ((~~shall~~)) must make all refunds determined to be authorized by this section, and by the first Monday in February of each year, report to the county legislative authority a list of all refunds made under this section during the previous year. The list is to include the name of the person receiving the refund, the amount of the refund, and the reason for the refund.

**Sec.**  RCW 84.69.030 and 2014 c 16 s 1 are each amended to read as follows:

(1) Except as provided in this section, no orders for a refund under this chapter may be made except on a claim:

(a) Verified by the person who paid the tax, the person's guardian, executor or administrator; and

(b) Filed with the county treasurer within three years after the due date of the payment sought to be refunded; and

(c) Stating the statutory ground upon which the refund is claimed.

(2) No claim for an order of refund is required for a refund that is based upon:

(a) An order of the board of equalization, ((~~state board of tax appeals~~)) tax division of the court of tax appeals, or court of competent jurisdiction justifying a refund under RCW 84.69.020 (9) through (12);

(b) A decision by the treasurer or assessor that is rendered within three years after the due date of the payment to be refunded, justifying a refund under RCW 84.69.020; or

(c) A decision by the assessor or department approving an exemption application that is filed under chapter 84.36 RCW within three years after the due date of the payment to be refunded.

NEW SECTION. **Sec.**  To provide an orderly transition in establishing the tax division of the court of appeals, beginning February 1, 2017, prior to the creation of the tax division of the court of appeals, judges for the tax division of the court of appeals may take any action necessary to enable the judges to properly exercise the duties, functions, and powers given the tax division of the court of appeals.

**Sec.**  RCW 84.69.180 and 2013 c 239 s 1 are each amended to read as follows:

(1) Taxing districts other than the state may levy a tax upon all the taxable property within the district for the purpose of:

(a) Funding refunds paid or to be paid under this chapter, except for refunds under RCW 84.69.020(1)(a), including interest, as ordered by the county treasurer or county legislative authority within the preceding twelve months; and

(b) Reimbursing the taxing district for taxes abated or cancelled, offset by any supplemental taxes collected under this title, other than amounts collected under RCW 84.52.018 within the preceding twelve months. This subsection (1)(b) only applies to abatements and cancellations that do not require a refund under this chapter. Abatements and cancellations that require a refund are included within the scope of (a) of this subsection.

(2) As provided in RCW 84.55.070, the provisions of chapter 84.55 RCW do not apply to a levy made by or for a taxing district under this section.

NEW SECTION. **Sec.**  (1) The state board of tax appeals is transferred to the tax division of the court of appeals.

(2)(a) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the state board of tax appeals must be delivered to the custody of the tax division of the court of appeals. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the state board of tax appeals must be made available to the tax division of the court of appeals. All funds, credits, or other assets held by the state board of tax appeals must be assigned to the tax division of the court of appeals.

(b) Any appropriations made to the state board of tax appeals, on the effective date of this section, must be transferred and credited to the tax division of the court of appeals.

(c) If any question arises as to the transfer of any personnel, funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management must make a determination as to the proper allocation and certify the same to the state agencies concerned.

(3) All employees of the state board of tax appeals are transferred to the jurisdiction of the tax division of the court of appeals. All employees classified under chapter 41.06 RCW, the state civil service law, are assigned to the tax division of the court of appeals to perform their usual duties upon the same terms as formerly, without any loss of rights, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing state civil service.

(4) All rules and all pending business before the state board of tax appeals must be continued and acted upon by the tax division of the court of appeals. All existing contracts and obligations remain in full force and must be performed by the tax division of the court of appeals.

(5) The transfer of the powers, duties, functions, and personnel of the state board of tax appeals does not affect the validity of any act performed before the effective date of this section.

(6) If apportionments of budgeted funds are required because of the transfers directed by this section, the director of financial management must certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these must make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification.

NEW SECTION. **Sec.**  The following acts or parts of acts are each repealed:

(1) RCW 82.03.010 (Board created) and 1967 ex.s. c 26 s 30;

(2) RCW 82.03.020 (Members—Number—Qualifications—Appointment) and 1967 ex.s. c 26 s 31;

(3) RCW 82.03.030 (Terms—Vacancies) and 1967 ex.s. c 26 s 32;

(4) RCW 82.03.040 (Removal of members—Grounds—Procedure) and 1967 ex.s. c 26 s 33;

(5) RCW 82.03.050 (Operation on part-time or full-time basis—Salary—Compensation—Travel expenses) and 2013 c 23 s 311, 1975-'76 2nd ex.s. c 34 s 176, 1970 ex.s. c 65 s 2, & 1967 ex.s. c 26 s 34;

(6) RCW 82.03.060 (Members not to be candidate or hold public office, engage in inconsistent occupation nor be on political committee—Restriction on leaving board) and 2013 c 23 s 312 & 1967 ex.s. c 26 s 35;

(7) RCW 82.03.070 (Executive director, tax referees, clerk, assistants) and 1988 c 222 s 2 & 1967 ex.s. c 26 s 36;

(8) RCW 82.03.080 (Chair) and 2013 c 23 s 313 & 1967 ex.s. c 26 s 37;

(9) RCW 82.03.090 (Office of board—Quorum—Hearings) and 1967 ex.s. c 26 s 38;

(10) RCW 82.03.100 (Findings and decisions—Signing—Filing—Public inspection) and 1967 ex.s. c 26 s 39;

(11) RCW 82.03.110 (Publication of findings and decisions) and 1967 ex.s. c 26 s 40;

(12) RCW 82.03.120 (Journal of final findings and decisions) and 1988 c 222 s 3 & 1967 ex.s. c 26 s 41;

(13) RCW 82.03.130 (Appeals to board—Jurisdiction as to types of appeals—Filing) and 2005 c 253 s 7, 1998 c 54 s 1, 1994 c 123 s 3, 1992 c 206 s 9, 1989 c 378 s 4, 1982 1st ex.s. c 46 s 6, 1977 ex.s. c 284 s 2, & 1967 ex.s. c 26 s 42;

(14) RCW 82.03.140 (Appeals to board—Election of formal or informal hearing) and 2000 c 103 s 1, 1988 c 222 s 4, 1982 1st ex.s. c 46 s 8, & 1967 ex.s. c 26 s 43;

(15) RCW 82.03.150 (Appeals to board—Informal hearings, powers of board or tax referees—Assistance) and 2000 c 103 s 2, 1988 c 222 s 5, & 1967 ex.s. c 26 s 44;

(16) RCW 82.03.160 (Appeals to board—Formal hearings, powers of board or tax referees—Assistance) and 2000 c 103 s 3, 1989 c 175 s 175, 1988 c 222 s 6, & 1967 ex.s. c 26 s 45;

(17) RCW 82.03.170 (Rules of practice and procedure) and 1988 c 222 s 7 & 1967 ex.s. c 26 s 46;

(18) RCW 82.03.180 (Judicial review) and 2000 c 103 s 4, 1989 c 175 s 176, 1982 1st ex.s. c 46 s 9, & 1967 ex.s. c 26 s 47;

(19) RCW 82.03.190 (Appeal to board from denial of petition or notice of determination as to reduction or refund—Procedure—Notice) and 2012 c 39 s 3, 1998 c 54 s 2, 1989 c 378 s 5, 1983 c 3 s 211, 1979 ex.s. c 209 s 50, 1975 1st ex.s. c 158 s 3, & 1967 ex.s. c 26 s 48;

(20) RCW 82.03.200 (Appeals from county board of equalization—Evidence submission in advance of hearing) and 1994 c 301 s 17; and

(21) RCW 82.32.150 (Contest of tax—Prepayment required—Restraining orders and injunctions barred) and 1961 c 15 s 82.32.150.

**PART III**

**Miscellaneous Provisions**

NEW SECTION. **Sec.**  (1) Except for sections 226 and 227 of this act, this act takes effect January 1, 2016.

(2) Sections 226 and 227 of this act take effect July 1, 2017.

**--- END ---**