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SENATE BILL 5833

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State of Washington

54th Legislature

1995 Regular Session

By Senators Fraser and Fairley

Read first time 02/08/95. Referred to Committee on Government Operations.

1 AN ACT Relating to providing latitude to local governments in  
2 administering programs for the protection of habitat lands and  
3 recreational opportunities; amending RCW 84.33.120, 84.33.140,  
4 84.34.108, 64.04.130, 84.34.037, 84.34.070, 84.34.020, 84.34.230,  
5 36.70A.160, 84.34.240, 36.68.400, and 28A.150.250; adding a new section  
6 to chapter 36.68 RCW; adding a new section to chapter 35.21 RCW;  
7 creating new sections; and declaring an emergency.

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

9 NEW SECTION. **Sec. 1.** This act provides for the removal of  
10 unnecessary restraints on local governments in order that they may  
11 better be able to fulfill their responsibility to protect fish and  
12 wildlife, provide for water quality and habitat preservation, provide  
13 and preserve urban forests and greenbelts, and enhance recreational  
14 opportunities. By allowing greater flexibility in the creation,  
15 administration, and funding of open space and recreational programs,  
16 local communities may design, implement, and fund the conservation and  
17 recreational programs designed to most effectively serve local needs.

18 State studies have shown that our state is losing thirty-five  
19 thousand acres of wildlife habitat, wetlands, open space, and

1 recreational properties each year. In order to adequately protect our  
2 quality of life, diversity of species, fish populations, tourism, and  
3 resource and recreation-based economies at a time of diminishing state  
4 and local revenues, it is essential to allow each community's  
5 legislative body greater flexibility in order to meet local needs.

6 **PART I - PROPERTY TAXES: CURRENT USE CLASSIFICATION**

7 **Sec. 2.** RCW 84.33.120 and 1992 c 69 s 1 are each amended to read  
8 as follows:

9 (1) In preparing the assessment rolls as of January 1, 1982, for  
10 taxes payable in 1983 and each January 1st thereafter, the assessor  
11 shall list each parcel of forest land at a value with respect to the  
12 grade and class provided in this subsection and adjusted as provided in  
13 subsection (2) of this section and shall compute the assessed value of  
14 the land by using the same assessment ratio he or she applies generally  
15 in computing the assessed value of other property in his or her county.  
16 Values for the several grades of bare forest land shall be as follows.

17	LAND	OPERABILITY	VALUES
18	GRADE	CLASS	PER ACRE
19			
20		1	\$141
21	1	2	136
22		3	131
23		4	95
24			
25		1	118
26	2	2	114
27		3	110
28		4	80
29			
30		1	93
31	3	2	90
32		3	87
33		4	66
34			

1		1	70
2	4	2	68
3		3	66
4		4	52
5	<hr/>		
6		1	51
7	5	2	48
8		3	46
9		4	31
10	<hr/>		
11		1	26
12	6	2	25
13		3	25
14		4	23
15	<hr/>		
16		1	12
17	7	2	12
18		3	11
19		4	11
20	<hr/>		
21	8		1
22	<hr/>		

23 (2) On or before December 31, 1981, the department shall adjust, by  
24 rule under chapter 34.05 RCW, the forest land values contained in  
25 subsection (1) of this section in accordance with this subsection, and  
26 shall certify these adjusted values to the county assessor for his or  
27 her use in preparing the assessment rolls as of January 1, 1982. For  
28 the adjustment to be made on or before December 31, 1981, for use in  
29 the 1982 assessment year, the department shall:

30 (a) Divide the aggregate value of all timber harvested within the  
31 state between July 1, 1976, and June 30, 1981, by the aggregate harvest  
32 volume for the same period, as determined from the harvester excise tax  
33 returns filed with the department under RCW 82.04.291 and 84.33.071;  
34 and

35 (b) Divide the aggregate value of all timber harvested within the  
36 state between July 1, 1975, and June 30, 1980, by the aggregate harvest  
37 volume for the same period, as determined from the harvester excise tax  
38 returns filed with the department under RCW 82.04.291 and 84.33.071;  
39 and

1 (c) Adjust the forest land values contained in subsection (1) of  
2 this section by a percentage equal to one-half of the percentage change  
3 in the average values of harvested timber reflected by comparing the  
4 resultant values calculated under (a) and (b) of this subsection.

5 For the adjustments to be made on or before December 31, 1982, and  
6 each succeeding year thereafter, the same procedure shall be followed  
7 as described in this subsection utilizing harvester excise tax returns  
8 filed under RCW 82.04.291 and this chapter except that this adjustment  
9 shall be made to the prior year's adjusted value, and the five-year  
10 periods for calculating average harvested timber values shall be  
11 successively one year more recent.

12 (3) In preparing the assessment roll for 1972 and each year  
13 thereafter, the assessor shall enter as the true and fair value of each  
14 parcel of forest land the appropriate grade value certified to him or  
15 her by the department of revenue, and he or she shall compute the  
16 assessed value of such land by using the same assessment ratio he or  
17 she applies generally in computing the assessed value of other property  
18 in his or her county. In preparing the assessment roll for 1975 and  
19 each year thereafter, the assessor shall assess and value as classified  
20 forest land all forest land that is not then designated pursuant to RCW  
21 84.33.120(4) or 84.33.130 and shall make a notation of such  
22 classification upon the assessment and tax rolls. On or before January  
23 15 of the first year in which such notation is made, the assessor shall  
24 mail notice by certified mail to the owner that such land has been  
25 classified as forest land and is subject to the compensating tax  
26 imposed by this section. If the owner desires not to have such land  
27 assessed and valued as classified forest land, he or she shall give the  
28 assessor written notice thereof on or before March 31 of such year and  
29 the assessor shall remove from the assessment and tax rolls the  
30 classification notation entered pursuant to this subsection, and shall  
31 thereafter assess and value such land in the manner provided by law  
32 other than this chapter 84.33 RCW.

33 (4) In any year commencing with 1972, an owner of land which is  
34 assessed and valued by the assessor other than pursuant to the  
35 procedures set forth in RCW 84.33.110 and this section, and which has,  
36 in the immediately preceding year, been assessed and valued by the  
37 assessor as forest land, may appeal to the county board of equalization  
38 by filing an application with the board in the manner prescribed in  
39 subsection (2) of RCW 84.33.130. The county board shall afford the

1 applicant an opportunity to be heard if the application so requests and  
2 shall act upon the application in the manner prescribed in subsection  
3 (3) of RCW 84.33.130.

4 (5) Land that has been assessed and valued as classified forest  
5 land as of any year commencing with 1975 assessment year or earlier  
6 shall continue to be so assessed and valued until removal of  
7 classification by the assessor only upon the occurrence of one of the  
8 following events:

9 (a) Receipt of notice from the owner to remove such land from  
10 classification as forest land;

11 (b) Sale or transfer to an ownership making such land exempt from  
12 ad valorem taxation, except for transactions qualifying for the  
13 exemptions specified under subsection (9) of this section;

14 (c) Determination by the assessor, after giving the owner written  
15 notice and an opportunity to be heard, that, because of actions taken  
16 by the owner, such land is no longer primarily devoted to and used for  
17 growing and harvesting timber. However, such a removal of designation  
18 shall not occur if a government agency or other entity qualified to be  
19 a recipient of such land under a transaction specified as exempt under  
20 subsection (9) of this section has manifested its intent in writing or  
21 by other official action to acquire an interest in such land by means  
22 of a transaction that qualifies for an exemption from compensating tax  
23 under subsection (9) of this section. The recipient shall provide  
24 reasonable evidence in writing of the intent to the assessor annually  
25 so long as the intent continues, or within sixty days of a request by  
26 the assessor, which request shall not be made more than once in a  
27 calendar year;

28 (d) Determination that a higher and better use exists for such land  
29 than growing and harvesting timber after giving the owner written  
30 notice and an opportunity to be heard;

31 (e) Sale or transfer of all or a portion of such land to a new  
32 owner, unless the new owner has signed a notice of forest land  
33 classification continuance(~~{,}~~), except transfer to an owner who is  
34 an heir or devisee of a deceased owner, shall not, by itself, result in  
35 removal of classification. The signed notice of continuance shall be  
36 attached to the real estate excise tax affidavit provided for in RCW  
37 ((82.45.120, as now or hereafter amended)) 82.45.150. The notice of  
38 continuance shall be on a form prepared by the department of revenue.  
39 If the notice of continuance is not signed by the new owner and

1 attached to the real estate excise tax affidavit, all compensating  
2 taxes calculated pursuant to subsection (7) of this section shall  
3 become due and payable by the seller or transferor at time of sale.  
4 The county auditor shall not accept an instrument of conveyance of  
5 classified forest land for filing or recording unless the new owner has  
6 signed the notice of continuance or the compensating tax has been paid.  
7 The seller, transferor, or new owner may appeal the new assessed  
8 valuation calculated under subsection (7) of this section to the county  
9 board of equalization. Jurisdiction is hereby conferred on the county  
10 board of equalization to hear these appeals.

11 The assessor shall remove classification pursuant to  
12 ~~((subsections))~~ (c) or (d) ~~((above))~~ of this subsection prior to  
13 September 30 of the year prior to the assessment year for which  
14 termination of classification is to be effective. Removal of  
15 classification as forest land upon occurrence of ~~((subsection))~~ (a),  
16 (b), (d), or (e) ~~((above))~~ of this subsection shall apply only to the  
17 land affected, and upon occurrence of ~~((subsection))~~ (c) of this  
18 subsection shall apply only to the actual area of land no longer  
19 primarily devoted to and used for growing and harvesting timber:  
20 PROVIDED, That any remaining classified forest land meets necessary  
21 definitions of forest land pursuant to RCW 84.33.100 ~~((as now or~~  
22 ~~hereafter amended))~~.

23 (6) Within thirty days after such removal of classification as  
24 forest land, the assessor shall notify the owner in writing setting  
25 forth the reasons for such removal. The owner of such land shall  
26 thereupon have the right to apply for designation of such land as  
27 forest land pursuant to subsection (4) of this section or RCW  
28 84.33.130. The seller, transferor, or owner may appeal such removal to  
29 the county board of equalization.

30 (7) Unless the owner successfully applies for designation of such  
31 land or unless the removal is reversed on appeal, notation of removal  
32 from classification shall immediately be made upon the assessment and  
33 tax rolls, and commencing on January 1 of the year following the year  
34 in which the assessor made such notation, such land shall be assessed  
35 on the same basis as real property is assessed generally in that  
36 county. Except as provided in subsections (5)(e) and (9) of this  
37 section and unless the assessor shall not have mailed notice of  
38 classification pursuant to subsection (3) of this section, a  
39 compensating tax shall be imposed which shall be due and payable to the

1 county treasurer thirty days after the owner is notified of the amount  
2 of the compensating tax. As soon as possible, the assessor shall  
3 compute the amount of such compensating tax and mail notice to the  
4 owner of the amount thereof and the date on which payment is due. The  
5 amount of such compensating tax shall be equal to(~~(a)~~) the  
6 difference, if any, between the amount of tax last levied on such land  
7 as forest land and an amount equal to the new assessed valuation of  
8 such land multiplied by the dollar rate of the last levy extended  
9 against such land, multiplied by (~~(b)~~) a number, in no event greater  
10 than ten, equal to the number of years, commencing with assessment year  
11 1975, for which such land was assessed and valued as forest land.

12 (8) Compensating tax, together with applicable interest thereon,  
13 shall become a lien on such land which shall attach at the time such  
14 land is removed from classification as forest land and shall have  
15 priority to and shall be fully paid and satisfied before any  
16 recognizance, mortgage, judgment, debt, obligation or responsibility to  
17 or with which such land may become charged or liable. Such lien may be  
18 foreclosed upon expiration of the same period after delinquency and in  
19 the same manner provided by law for foreclosure of liens for delinquent  
20 real property taxes as provided in RCW 84.64.050. Any compensating tax  
21 unpaid on its due date shall thereupon become delinquent. From the  
22 date of delinquency until paid, interest shall be charged at the same  
23 rate applied by law to delinquent ad valorem property taxes.

24 (9) The compensating tax specified in subsection (7) of this  
25 section shall not be imposed if the removal of classification as forest  
26 land pursuant to subsection (5) of this section resulted solely from:

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

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

32 (~~(c) ((A donation of development rights, or the right to harvest~~  
33 ~~timber, to))~~ Official action by an agency of the state of Washington or  
34 by the county or city within which the land is located that disallows  
35 the present use of such land;

36 (d) Acquisition of fee simple title or other interests enumerated  
37 in RCW 84.34.210 by a government agency; or

38 (e) Acquisition of fee simple title or other interests enumerated  
39 in RCW 84.34.210 by an organization qualified under RCW 84.34.210

1 ((and)) or 64.04.130 for the purposes enumerated in those sections or  
2 the sale or transfer of fee simple title to a governmental entity or  
3 nonprofit nature conservancy corporation, as defined in RCW 84.34.250  
4 or 64.04.130, exclusively for the protection and conservation of lands  
5 recommended for state natural area preserve purposes by the natural  
6 heritage council and natural heritage plan as defined in chapter 79.70  
7 RCW or for the protection and conservation of open space for the use  
8 and enjoyment of the general public: PROVIDED, That at such time as  
9 the land is not used for the purposes enumerated in RCW 84.34.210 or  
10 64.04.130, the compensating tax specified in subsection (7) of this  
11 section shall be imposed upon the then-current owner.

12 (10) With respect to any land that has been designated prior to May  
13 6, 1974, pursuant to RCW 84.33.120(4) or 84.33.130, the assessor may,  
14 prior to January 1, 1975, on his or her own motion or pursuant to  
15 petition by the owner, change, without imposition of the compensating  
16 tax provided under RCW 84.33.140, the status of such designated land to  
17 classified forest land.

18 **Sec. 3.** RCW 84.33.140 and 1992 c 69 s 2 are each amended to read  
19 as follows:

20 (1) When land has been designated as forest land pursuant to RCW  
21 84.33.120(4) or 84.33.130, a notation of such designation shall be made  
22 each year upon the assessment and tax rolls, a copy of the notice of  
23 approval together with the legal description or assessor's tax lot  
24 numbers for such land shall, at the expense of the applicant, be filed  
25 by the assessor in the same manner as deeds are recorded, and such land  
26 shall be graded and valued pursuant to RCW 84.33.110 and 84.33.120  
27 until removal of such designation by the assessor upon occurrence of  
28 any of the following:

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

30 (b) Sale or transfer to an ownership making such land exempt from  
31 ad valorem taxation, except for transactions qualifying for the  
32 exemptions specified under subsection (5) of this section;

33 (c) Sale or transfer of all or a portion of such land to a new  
34 owner, unless the new owner has signed a notice of forest land  
35 designation continuance(~~{,}~~), except transfer to an owner who is an  
36 heir or devisee of a deceased owner, shall not, by itself, result in  
37 removal of classification. The signed notice of continuance shall be  
38 attached to the real estate excise tax affidavit provided for in RCW

1 ((82.45.120, as now or hereafter amended)) 82.45.150. The notice of  
2 continuance shall be on a form prepared by the department of revenue.  
3 If the notice of continuance is not signed by the new owner and  
4 attached to the real estate excise tax affidavit, all compensating  
5 taxes calculated pursuant to subsection (3) of this section shall  
6 become due and payable by the seller or transferor at time of sale.  
7 The county auditor shall not accept an instrument of conveyance of  
8 designated forest land for filing or recording unless the new owner has  
9 signed the notice of continuance or the compensating tax has been paid.  
10 The seller, transferor, or new owner may appeal the new assessed  
11 valuation calculated under subsection (3) of this section to the county  
12 board of equalization. Jurisdiction is hereby conferred on the county  
13 board of equalization to hear these appeals;

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

16 (i) Such land is no longer primarily devoted to and used for  
17 growing and harvesting timber((~~7~~)). However, such a removal of  
18 designation shall not occur if a government agency or other entity  
19 qualified to be a recipient of such land under a transaction specified  
20 as exempt under subsection (5) of this section has manifested its  
21 intent in writing or by other official action to acquire an interest in  
22 such land by means of a transaction that qualifies for an exemption  
23 from compensating tax under subsection (5) of this section. The  
24 recipient shall provide reasonable evidence in writing of the intent to  
25 the assessor annually so long as the intent continues, or within sixty  
26 days of a request by the assessor, which request shall not be made more  
27 than once in a calendar year;

28 (ii) Such owner has failed to comply with a final administrative or  
29 judicial order with respect to a violation of the restocking, forest  
30 management, fire protection, insect and disease control and forest  
31 debris provisions of Title 76 RCW or any applicable regulations  
32 thereunder((~~7~~)); or

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

35 Removal of designation upon occurrence of any of ((~~subsections~~)) (a)  
36 through (c) ((~~above~~)) of this subsection shall apply only to the land  
37 affected, and upon occurrence of ((~~subsection~~)) (d) of this subsection  
38 shall apply only to the actual area of land no longer primarily devoted  
39 to and used for growing and harvesting timber, without regard to other

1 land that may have been included in the same application and approval  
2 for designation: PROVIDED, That any remaining designated forest land  
3 meets necessary definitions of forest land pursuant to RCW 84.33.100  
4 (~~as now or hereafter amended~~)).

5 (2) Within thirty days after such removal of designation of forest  
6 land, the assessor shall notify the owner in writing, setting forth the  
7 reasons for such removal. The seller, transferor, or owner may appeal  
8 such removal to the county board of equalization.

9 (3) Unless the removal is reversed on appeal a copy of the notice  
10 of removal with notation of the action, if any, upon appeal, together  
11 with the legal description or assessor's tax lot numbers for the land  
12 removed from designation shall, at the expense of the applicant, be  
13 filed by the assessor in the same manner as deeds are recorded, and  
14 commencing on January 1 of the year following the year in which the  
15 assessor mailed such notice, such land shall be assessed on the same  
16 basis as real property is assessed generally in that county. Except as  
17 provided in subsection (5) of this section, a compensating tax shall be  
18 imposed which shall be due and payable to the county treasurer thirty  
19 days after the owner is notified of the amount of the compensating tax.  
20 As soon as possible, the assessor shall compute the amount of such  
21 compensating tax and mail notice to the owner of the amount thereof and  
22 the date on which payment is due. The amount of such compensating tax  
23 shall be equal to:

24 (a) The difference between the amount of tax last levied on such  
25 land as forest land and an amount equal to the new assessed valuation  
26 of such land multiplied by the dollar rate of the last levy extended  
27 against such land, multiplied by

28 (b) A number, in no event greater than ten, equal to the number of  
29 years for which such land was designated as forest land.

30 (4) Compensating tax, together with applicable interest thereon,  
31 shall become a lien on such land which shall attach at the time such  
32 land is removed from designation as forest land and shall have priority  
33 to and shall be fully paid and satisfied before any recognizance,  
34 mortgage, judgment, debt, obligation or responsibility to or with which  
35 such land may become charged or liable. Such lien may be foreclosed  
36 upon expiration of the same period after delinquency and in the same  
37 manner provided by law for foreclosure of liens for delinquent real  
38 property taxes as provided in RCW 84.64.050. Any compensating tax  
39 unpaid on its due date shall thereupon become delinquent. From the

1 date of delinquency until paid, interest shall be charged at the same  
2 rate applied by law to delinquent ad valorem property taxes.

3 (5) The compensating tax specified in subsection (3) of this  
4 section shall not be imposed if the removal of designation pursuant to  
5 subsection (1) of this section resulted solely from:

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

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

11 (c) ~~((A donation of development rights, or the right to harvest  
12 timber, to))~~ Official action by an agency of the state of Washington or  
13 by the county or city within which the land is located that disallows  
14 the present use of such land;

15 (d) Acquisition of fee simple title or other interests enumerated  
16 in RCW 84.34.210 by a government agency; or

17 (e) Acquisition of fee simple title or other interests enumerated  
18 in RCW 84.34.210 by an organization qualified under RCW 84.34.210  
19 ((and)) or 64.04.130 for the purposes enumerated in those sections or  
20 the sale or transfer of fee simple title to a governmental entity or  
21 nonprofit nature conservancy corporation, as defined in RCW 84.34.250  
22 or 64.04.130, exclusively for the protection and conservation of lands  
23 recommended for state natural area preserve purposes by the natural  
24 heritage council and natural heritage plan as defined in chapter 79.70  
25 RCW or for the protection and conservation of open space for the use  
26 and enjoyment of the general public: PROVIDED, That at such time as  
27 the land is not used for the purposes enumerated in RCW 84.34.210 or  
28 64.04.130, the compensating tax specified in subsection (3) of this  
29 section shall be imposed upon the then-current owner.

30 **Sec. 4.** RCW 84.34.108 and 1992 c 69 s 12 are each amended to read  
31 as follows:

32 (1) When land has once been classified under this chapter, a  
33 notation of such classification shall be made each year upon the  
34 assessment and tax rolls and such land shall be valued pursuant to RCW  
35 84.34.060 or 84.34.065 until removal of all or a portion of such  
36 classification by the assessor upon occurrence of any of the following:

37 (a) Receipt of notice from the owner to remove all or a portion of  
38 such classification;

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

6 (c) Sale or transfer of all or a portion of such land to a new  
7 owner, unless the new owner has signed a notice of classification  
8 continuance, except transfer to an owner who is an heir or devisee of  
9 a deceased owner shall not, by itself, result in removal of  
10 classification. The signed notice of continuance shall be attached to  
11 the real estate excise tax affidavit provided for in RCW ((82.45.120,  
12 ~~as now or hereafter amended~~) 82.45.150). The notice of continuance  
13 shall be on a form prepared by the department of revenue. If the notice  
14 of continuance is not signed by the new owner and attached to the real  
15 estate excise tax affidavit, all additional taxes calculated pursuant  
16 to subsection (3) of this section shall become due and payable by the  
17 seller or transferor at time of sale. The county auditor shall not  
18 accept an instrument of conveyance of classified land for filing or  
19 recording unless the new owner has signed the notice of continuance or  
20 the additional tax has been paid. The seller, transferor, or new owner  
21 may appeal the new assessed valuation calculated under subsection (3)  
22 of this section to the county board of equalization. Jurisdiction is  
23 hereby conferred on the county board of equalization to hear these  
24 appeals;

25 (d) Determination by the assessor, after giving the owner written  
26 notice and an opportunity to be heard, that all or a portion of such  
27 land no longer meets the criteria for classification under this  
28 chapter. The criteria for classification pursuant to this chapter  
29 continue to apply after classification has been granted.

30 The granting authority, upon request of an assessor, shall provide  
31 reasonable assistance to the assessor in making a determination whether  
32 such land continues to meet the qualifications of RCW 84.34.020 (1) or  
33 (3). The assistance shall be provided within thirty days of receipt of  
34 the request.

35 (2) Within thirty days after such removal of all or a portion of  
36 such land from current use classification, the assessor shall notify  
37 the owner in writing, setting forth the reasons for such removal. The  
38 seller, transferor, or owner may appeal such removal to the county  
39 board of equalization.

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

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

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

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

28 (4) Additional tax, applicable interest, and penalty, shall become  
29 a lien on such land which shall attach at the time such land is removed  
30 from classification under this chapter and shall have priority to and  
31 shall be fully paid and satisfied before any recognizance, mortgage,  
32 judgment, debt, obligation or responsibility to or with which such land  
33 may become charged or liable. Such lien may be foreclosed upon  
34 expiration of the same period after delinquency and in the same manner  
35 provided by law for foreclosure of liens for delinquent real property  
36 taxes as provided in RCW 84.64.050 (~~now or as hereafter amended~~).  
37 Any additional tax unpaid on its due date shall thereupon become  
38 delinquent. From the date of delinquency until paid, interest shall be

1 charged at the same rate applied by law to delinquent ad valorem  
2 property taxes.

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

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

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

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

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

20 (e) Transfer of land to a church when such land would qualify for  
21 exemption pursuant to RCW 84.36.020;

22 (f) Acquisition of ~~((property))~~ fee simple title or other interests  
23 enumerated in RCW 84.34.210 by ~~((state agencies or agencies))~~ a  
24 government agency or an organization~~((s))~~ qualified under RCW 84.34.210  
25 and 64.04.130 for the purposes enumerated in those sections: PROVIDED,  
26 That at such time as these property interests are not used for the  
27 purposes enumerated in RCW 84.34.210 ~~((and))~~ or 64.04.130 the  
28 additional tax specified in subsection (3) of this section shall be  
29 imposed; or

30 (g) Removal of land classified as farm and agricultural land under  
31 RCW 84.34.020(2)(d).

32 **Sec. 5.** RCW 64.04.130 and 1987 c 341 s 1 are each amended to read  
33 as follows:

34 A development right, easement, covenant, restriction, or other  
35 right, or any interest less than the fee simple, to protect, preserve,  
36 maintain, improve, restore, limit the future use of, or conserve for  
37 open space purposes, any land or improvement on the land, whether the  
38 right or interest be appurtenant or in gross, may be held or acquired

1 by any state agency, federal agency, county, city, town, or  
2 metropolitan municipal corporation, nonprofit historic preservation  
3 corporation, or nonprofit nature conservancy corporation. Any such  
4 right or interest shall constitute and be classified as real property.  
5 All instruments for the conveyance thereof shall be substantially in  
6 the form required by law for the conveyance of any land or other real  
7 property.

8 As used in this section, "nonprofit nature conservancy corporation"  
9 means an organization which qualifies as being tax exempt under 26  
10 U.S.C. section 501(c)(3) (of the United States Internal Revenue Code of  
11 1954, as amended) as it existed on June 25, 1976, and which has as one  
12 of its principal purposes the conducting or facilitating of scientific  
13 research; the conserving of natural resources, including but not  
14 limited to biological resources, for the general public; or the  
15 conserving of natural areas or open spaces including but not limited to  
16 wildlife or plant habitat.

17 As used in this section, "nonprofit historic preservation  
18 corporation" means an organization which qualifies as being tax exempt  
19 under 26 U.S.C. section 501(c)(3) of the United States Internal Revenue  
20 Code of 1954, as amended, and which has as one of its principal  
21 purposes the conducting or facilitating of historic preservation  
22 activities within the state, including conservation or preservation of  
23 historic sites, districts, buildings, and artifacts.

24 **Sec. 6.** RCW 84.34.037 and 1992 c 69 s 6 are each amended to read  
25 as follows:

26 (1) Applications for classification or reclassification under RCW  
27 84.34.020(1) shall be made to the county legislative authority. An  
28 application made for classification or reclassification of land under  
29 RCW 84.34.020(1) (b) and (c) which is in an area subject to a  
30 comprehensive plan shall be acted upon in the same manner in which an  
31 amendment to the comprehensive plan is processed. Application made for  
32 classification of land which is in an area not subject to a  
33 comprehensive plan shall be acted upon after a public hearing and after  
34 notice of the hearing shall have been given by one publication in a  
35 newspaper of general circulation in the area at least ten days before  
36 the hearing(~~(:—PROVIDED, That)~~). For applications for classification  
37 of land in an incorporated area, the county legislative authority shall  
38 send a copy of the application for classification to the legislative

1 body of the city or town in which the land is located. The city or  
2 town legislative body shall issue a written recommendation to either  
3 grant or deny the application for classification to the county  
4 legislative authority. This written recommendation shall be issued no  
5 later than three months after the date the city or town legislative  
6 body received the application. The county legislative authority may  
7 either grant or deny the application in accordance with the written  
8 recommendation. If the county legislative authority does not agree  
9 with the recommendation, the application shall be referred to and acted  
10 upon by a granting authority composed of three members of the county  
11 legislative ((body)) authority and three members of the city or town  
12 legislative body in which the land is located.

13 (2) In determining whether an application made for classification  
14 or reclassification under RCW 84.34.020(1) (b) and (c) should be  
15 approved or disapproved, the granting authority may take cognizance of  
16 the benefits to the general welfare of preserving the current use of  
17 the property which is the subject of application, and shall consider:

18 (a) The resulting revenue loss or tax shift;

19 (b) Whether granting the application for land applying under RCW  
20 84.34.020(1)(b) will (i) conserve or enhance natural, cultural, or  
21 scenic resources, (ii) protect streams, stream corridors, wetlands,  
22 natural shorelines and aquifers, (iii) protect soil resources and  
23 unique or critical wildlife and native plant habitat, (iv) promote  
24 conservation principles by example or by offering educational  
25 opportunities, (v) enhance the value of abutting or neighboring parks,  
26 forests, wildlife preserves, nature reservations, sanctuaries, or other  
27 open spaces, (vi) enhance recreation opportunities, (vii) preserve  
28 historic and archaeological sites, (viii) preserve visual quality along  
29 highway, road, and street corridors or scenic vistas, (ix) affect any  
30 other factors relevant in weighing benefits to the general welfare of  
31 preserving the current use of the property; and

32 (c) Whether granting the application for land applying under RCW  
33 84.34.020(1)(c) will (i) either preserve land previously classified  
34 under RCW 84.34.020(2) or preserve land that is traditional farmland  
35 and not classified under chapter 84.33 or 84.34 RCW, (ii) preserve land  
36 with a potential for returning to commercial agriculture, and (iii)  
37 affect any other factors relevant in weighing benefits to the general  
38 welfare of preserving the current use of property.

1 (3) If a public benefit rating system is adopted under RCW  
2 84.34.055, the county legislative authority shall rate property for  
3 which application for classification has been made under RCW  
4 84.34.020(1) (b) and (c) according to the public benefit rating system  
5 in determining whether an application should be approved or  
6 disapproved, but when such a system is adopted, open space properties  
7 then classified under this chapter which do not qualify under the  
8 system shall not be removed from classification but may be rated  
9 according to the public benefit rating system.

10 (4) The granting authority may approve the application with respect  
11 to only part of the land which is the subject of the application. If  
12 any part of the application is denied, the applicant may withdraw the  
13 entire application. The granting authority in approving in part or  
14 whole an application for land classified or reclassified pursuant to  
15 RCW 84.34.020(1) may also require that certain conditions be met,  
16 including but not limited to the granting of easements. As a condition  
17 of granting open space classification, the legislative body may not  
18 require public access on land classified under RCW 84.34.020(1)(b)(iii)  
19 for the purpose of promoting conservation of wetlands.

20 (5) The granting or denial of the application for current use  
21 classification or reclassification is a legislative determination and  
22 shall be reviewable only for arbitrary and capricious actions.

23 **Sec. 7.** RCW 84.34.070 and 1992 c 69 s 10 are each amended to read  
24 as follows:

25 (1) When land has once been classified under this chapter, it shall  
26 remain under such classification and shall not be applied to other use  
27 except as provided by subsection (2) of this section for at least ten  
28 years from the date of classification and shall continue under such  
29 classification until and unless withdrawn from classification after  
30 notice of request for withdrawal shall be made by the owner. During  
31 any year after eight years of the initial ten-year classification  
32 period have elapsed, notice of request for withdrawal of all or a  
33 portion of the land may be given by the owner to the assessor or  
34 assessors of the county or counties in which such land is situated. In  
35 the event that a portion of a parcel is removed from classification,  
36 the remaining portion must meet the same requirements as did the entire  
37 parcel when such land was originally granted classification pursuant to  
38 this chapter unless the remaining parcel has different income criteria.

1 Within seven days the assessor shall transmit one copy of such notice  
2 to the legislative body which originally approved the application. The  
3 assessor or assessors, as the case may be, shall, when two assessment  
4 years have elapsed following the date of receipt of such notice,  
5 withdraw such land from such classification and the land shall be  
6 subject to the additional tax and applicable interest due under RCW  
7 84.34.108. Agreement to tax according to use shall not be considered  
8 to be a contract and can be abrogated at any time by the legislature in  
9 which event no additional tax or penalty shall be imposed.

10 (2) The following reclassifications are not considered withdrawals  
11 or removals and are not subject to additional tax under RCW 84.34.108:

12 (a) Reclassification between lands under RCW 84.34.020 (2) and (3);

13 (b) Reclassification of land classified under RCW 84.34.020 (2) or  
14 (3) or chapter 84.33 RCW to open space land under RCW 84.34.020(1);

15 (c) Reclassification of land classified under RCW 84.34.020 (2) or  
16 (3) to forest land classified under chapter 84.33 RCW; (~~and~~)

17 (d) Reclassification of land classified as open space land under  
18 RCW 84.34.020(1)(c) and reclassified to farm and agricultural land  
19 under RCW 84.34.020(2) if the land had been previously classified as  
20 farm and agricultural land under RCW 84.34.020(2) or if the land is  
21 permanently protected by conservation easement so that it may not be  
22 developed for a use other than agricultural; and

23 (e) Transfer of land classified as open space, farm and  
24 agricultural land, or timber land under RCW 84.34.020 (1), (2), or (3)  
25 to a governmental agency if the governmental agency acquires the land  
26 for open space protection purposes as set forth in RCW 84.34.020(1).  
27 If the government agency subsequently converts the use of the land from  
28 park usage or the appropriate current use classification to other uses,  
29 the governmental agency making the conversion shall be responsible for  
30 paying the additional tax and applicable interest due under RCW  
31 84.34.108 calculated at the time of sale.

32 (3) Applications for reclassification shall be subject to  
33 applicable provisions of RCW 84.34.037, 84.34.035, 84.34.041, and  
34 chapter 84.33 RCW.

35 (4) The income criteria for land classified under RCW 84.34.020(2)  
36 (b) and (c) may be deferred for land being reclassified from land  
37 classified under RCW 84.34.020 (1)(c) or (3), or chapter 84.33 RCW into  
38 RCW 84.34.020(2) (b) or (c) for a period of up to five years from the  
39 date of reclassification.



1 in its natural state tracts of land not less than one acre situated in  
2 an urban area and open to public use on such conditions as may be  
3 reasonably required by the legislative body granting the open space  
4 classification, or (c) any land meeting the definition of farm and  
5 agricultural conservation land under subsection (8) of this section.  
6 As a condition of granting open space classification, the legislative  
7 body may not require public access on land classified under (b)(iii) of  
8 this subsection for the purpose of promoting conservation of wetlands.

9 (2) "Farm and agricultural land" means either (a) any parcel of  
10 land that is twenty or more acres or multiple parcels of land that are  
11 contiguous and total twenty or more acres (i) devoted primarily to the  
12 production of livestock or agricultural commodities for commercial  
13 purposes, (ii) enrolled in the federal conservation reserve program or  
14 its successor administered by the United States department of  
15 agriculture, or (iii) other similar commercial activities as may be  
16 established by rule (~~following consultation with the advisory~~  
17 ~~committee established in section 19 of this act~~); (b) any parcel of  
18 land that is five acres or more but less than twenty acres devoted  
19 primarily to agricultural uses, which has produced a gross income from  
20 agricultural uses equivalent to, as of January 1, 1993, (i) one hundred  
21 dollars or more per acre per year for three of the five calendar years  
22 preceding the date of application for classification under this chapter  
23 for all parcels of land that are classified under this subsection or  
24 all parcels of land for which an application for classification under  
25 this subsection is made with the granting authority prior to January 1,  
26 1993, and (ii) on or after January 1, 1993, two hundred dollars or more  
27 per acre per year for three of the five calendar years preceding the  
28 date of application for classification under this chapter; (c) any  
29 parcel of land of less than five acres devoted primarily to  
30 agricultural uses which has produced a gross income as of January 1,  
31 1993, of (i) one thousand dollars or more per year for three of the  
32 five calendar years preceding the date of application for  
33 classification under this chapter for all parcels of land that are  
34 classified under this subsection or all parcels of land for which an  
35 application for classification under this subsection is made with the  
36 granting authority prior to January 1, 1993, and (ii) on or after  
37 January 1, 1993, fifteen hundred dollars or more per year for three of  
38 the five calendar years preceding the date of application for  
39 classification under this chapter. Parcels of land described in (b)(i)

1 and (c)(i) of this subsection shall, upon any transfer of the property  
2 excluding a transfer to a surviving spouse, be subject to the limits of  
3 (b)(ii) and (c)(ii) of this subsection. Agricultural lands shall also  
4 include such incidental uses as are compatible with agricultural  
5 purposes, including wetlands preservation, provided such incidental use  
6 does not exceed twenty percent of the classified land and the land on  
7 which appurtenances necessary to the production, preparation, or sale  
8 of the agricultural products exist in conjunction with the lands  
9 producing such products. Agricultural lands shall also include any  
10 parcel of land of one to five acres, which is not contiguous, but which  
11 otherwise constitutes an integral part of farming operations being  
12 conducted on land qualifying under this section as "farm and  
13 agricultural lands"; or (d) the land on which housing for employees and  
14 the principal place of residence of the farm operator or owner of land  
15 classified pursuant to (a) of this subsection is sited if: The housing  
16 or residence is on or contiguous to the classified parcel; and the use  
17 of the housing or the residence is integral to the use of the  
18 classified land for agricultural purposes.

19 (3) "Timber land" means any parcel of land that is five or more  
20 acres or multiple parcels of land that are contiguous and total five or  
21 more acres which is or are devoted primarily to the growth and harvest  
22 of forest crops for commercial purposes. A timber management plan  
23 shall be filed with the county legislative authority at the time (a) an  
24 application is made for classification as timber land pursuant to this  
25 chapter or (b) when a sale or transfer of timber land occurs and a  
26 notice of classification continuance is signed. Timber land means the  
27 land only.

28 (4) "Current" or "currently" means as of the date on which property  
29 is to be listed and valued by the assessor.

30 (5) "Owner" means the party or parties having the fee interest in  
31 land, except that where land is subject to real estate contract "owner"  
32 shall mean the contract vendee.

33 (6) "Contiguous" means land adjoining and touching other property  
34 held by the same ownership. Land divided by a public road, but  
35 otherwise an integral part of a farming operation, shall be considered  
36 contiguous.

37 (7) "Granting authority" means the appropriate agency or official  
38 who acts on an application for classification of land pursuant to this  
39 chapter.

1 (8) "Farm and agricultural conservation land" means either:

2 (a) Land that was previously classified under subsection (2) of  
3 this section, that no longer meets the criteria of subsection (2) of  
4 this section, and that is reclassified under subsection (1) of this  
5 section; or

6 (b) Land that is traditional farmland that is not classified under  
7 chapter 84.33 or 84.34 RCW, that has not been irrevocably devoted to a  
8 use inconsistent with agricultural uses, and that has a high potential  
9 for returning to commercial agriculture.

10 **Sec. 11.** RCW 84.34.230 and 1994 c 301 s 33 are each amended to  
11 read as follows:

12 (1) For the purpose of acquiring conservation futures as well as  
13 other rights and interests in real property pursuant to RCW 84.34.210  
14 and 84.34.220 and maintenance and stewardship of open space pursuant to  
15 subsection (2) of this section, a county may levy an amount not to  
16 exceed six and one-quarter cents per thousand dollars of assessed  
17 valuation against the assessed valuation of all taxable property within  
18 the county, which levy shall be in addition to that authorized by RCW  
19 84.52.043.

20 (2) The county may use up to one cent of the amount levied under  
21 subsection (1) of this section solely for the purpose of funding  
22 maintenance and stewardship of open space purchased with conservation  
23 futures funds, whether owned in fee simple or less than fee simple.

24 (3) The county may use up to one cent of the amount levied under  
25 subsection (1) of this section solely to fund capital improvements of  
26 property purchased under RCW 84.34.210 and 84.34.220 for the purpose of  
27 enhancing or displaying the conservation values of the site.

28 (4) No less than five cents of the conservation futures levy  
29 authorized under this section shall be used for purposes allowed in  
30 subsection (1) of this section.

31 (5) For the application of subsections (2) and (3) of this section,  
32 open space purchased with conservation futures funds shall mean: (a)  
33 lands, land interests, or other land rights acquired in land pursuant  
34 to RCW 84.34.200, whether in fee simple, or less than fee simple, where  
35 funds from the conservation futures program constitute at least twenty-  
36 five percent of the acquisition cost, or (b) any gift of land that is  
37 used as a contribution in acquisitions using conservation futures  
38 funds.

1       **Sec. 12.** RCW 36.70A.160 and 1992 c 227 s 1 are each amended to  
2 read as follows:

3       Each county and city that is required or chooses to prepare a  
4 comprehensive land use plan under RCW 36.70A.040 shall identify open  
5 space corridors within and between urban growth areas. They shall  
6 include lands useful for recreation, wildlife habitat, trails, and  
7 connection of critical areas as defined in RCW 36.70A.030.  
8 Identification of a corridor under this section by a county or city  
9 shall not restrict the use or management of lands within the corridor  
10 for agricultural or forest purposes. Restrictions on the use or  
11 management of such lands for agricultural or forest purposes imposed  
12 after identification solely to maintain or enhance the value of such  
13 lands as a corridor may occur only if the county or city or a nonprofit  
14 conservancy corporation or association acquires sufficient interest to  
15 prevent development of the lands or to control the resource development  
16 of the lands. The requirement for acquisition of sufficient interest  
17 does not include those corridors regulated by the interstate commerce  
18 commission, under provisions of 16 U.S.C. Sec. 1247(d), 16 U.S.C. Sec.  
19 1248, or 43 U.S.C. Sec. 912. Nothing in this section shall be  
20 interpreted to alter the authority of the state, or a county or city,  
21 to regulate land use activities.

22       The city or county may acquire by donation or purchase the fee  
23 simple or lesser interests in these open space corridors using funds  
24 authorized by RCW 84.34.230(1) or other sources.

25       **Sec. 13.** RCW 84.34.240 and 1971 ex.s. c 243 s 5 are each amended  
26 to read as follows:

27       Any board of county commissioners may establish by resolution a  
28 special fund which may be termed a conservation futures fund to which  
29 it may credit all taxes levied pursuant to RCW 84.34.230. Amounts  
30 placed in this fund may be used solely for the purposes of: Acquiring  
31 rights and interests in real property pursuant to the terms of RCW  
32 84.34.210 and 84.34.220; funding maintenance and stewardship of open  
33 space property pursuant to RCW 84.34.230(2); and capital improvement of  
34 conservation futures property pursuant to RCW 84.34.230(3). Nothing in  
35 this section shall be construed as limiting in any manner methods and  
36 funds otherwise available to a county for financing the acquisition of  
37 such rights and interests in real property.



1 A multicounty park and recreation service area shall be governed as  
2 provided in an interlocal agreement adopted pursuant to chapter 39.34  
3 RCW.

4 **Sec. 15.** RCW 28A.150.250 and 1990 c 33 s 107 are each amended to  
5 read as follows:

6 From those funds made available by the legislature for the current  
7 use of the common schools, the superintendent of public instruction  
8 shall distribute annually as provided in RCW 28A.510.250 to each school  
9 district of the state operating a program approved by the state board  
10 of education an amount which, when combined with an appropriate portion  
11 of such locally available revenues, other than receipts from federal  
12 forest revenues distributed to school districts pursuant to RCW  
13 28A.520.010 and 28A.520.020, as the superintendent of public  
14 instruction may deem appropriate for consideration in computing state  
15 equalization support, excluding excess property tax levies and  
16 revenues, capital improvements, or other goods and services transferred  
17 to a school district pursuant to RCW 36.68.400, will constitute a basic  
18 education allocation in dollars for each annual average full time  
19 equivalent student enrolled, based upon one full school year of one  
20 hundred eighty days, except that for kindergartens one full school year  
21 shall be one hundred eighty half days of instruction, or the equivalent  
22 as provided in RCW 28A.150.220.

23 Basic education shall be considered to be fully funded by those  
24 amounts of dollars appropriated by the legislature pursuant to RCW  
25 28A.150.250 and 28A.150.260 to fund those program requirements  
26 identified in RCW 28A.150.220 in accordance with the formula and ratios  
27 provided in RCW 28A.150.260 and those amounts of dollars appropriated  
28 by the legislature to fund the salary requirements of RCW 28A.150.100  
29 and 28A.150.410.

30 Operation of a program approved by the state board of education,  
31 for the purposes of this section, shall include a finding that the  
32 ratio of students per classroom teacher in grades kindergarten through  
33 three is not greater than the ratio of students per classroom teacher  
34 in grades four and above for such district: PROVIDED, That for the  
35 purposes of this section, "classroom teacher" shall be defined as an  
36 instructional employee possessing at least a provisional certificate,  
37 but not necessarily employed as a certificated employee, whose primary  
38 duty is the daily educational instruction of students: PROVIDED

1 FURTHER, That the state board of education shall adopt rules and  
2 regulations to insure compliance with the student/teacher ratio  
3 provisions of this section, and such rules and regulations shall allow  
4 for exemptions for those special programs and/or school districts which  
5 may be deemed unable to practicably meet the student/teacher ratio  
6 requirements of this section by virtue of a small number of students.

7 If a school district's basic education program fails to meet the  
8 basic education requirements enumerated in RCW 28A.150.250,  
9 28A.150.260, and 28A.150.220, the state board of education shall  
10 require the superintendent of public instruction to withhold state  
11 funds in whole or in part for the basic education allocation until  
12 program compliance is assured: PROVIDED, That the state board of  
13 education may waive this requirement in the event of substantial lack  
14 of classroom space.

15 **PART V - MISCELLANEOUS**

16 NEW SECTION. **Sec. 16.** Part headings as used in this act  
17 constitute no part of the law.

18 NEW SECTION. **Sec. 17.** If any provision of this act or its  
19 application to any person or circumstance is held invalid, the  
20 remainder of the act or the application of the provision to other  
21 persons or circumstances is not affected.

22 NEW SECTION. **Sec. 18.** This act is necessary for the immediate  
23 preservation of the public peace, health, or safety, or support of the  
24 state government and its existing public institutions, and shall take  
25 effect immediately.

--- END ---