

2SHB 1484 - S COMM AMD

By Committee on Natural Resources, Ocean & Recreation

ADOPTED AND ENGROSSED 04/17/2009

1 Strike everything after the enacting clause and insert the  
2 following:

3 "Sec. 1. RCW 76.09.040 and 2000 c 11 s 3 are each amended to read  
4 as follows:

5 (1) Where necessary to accomplish the purposes and policies stated  
6 in RCW 76.09.010, and to implement the provisions of this chapter, the  
7 board shall adopt forest practices rules pursuant to chapter 34.05 RCW  
8 and in accordance with the procedures enumerated in this section that:

9 (a) Establish minimum standards for forest practices;

10 (b) Provide procedures for the voluntary development of resource  
11 management plans which may be adopted as an alternative to the minimum  
12 standards in (a) of this subsection if the plan is consistent with the  
13 purposes and policies stated in RCW 76.09.010 and the plan meets or  
14 exceeds the objectives of the minimum standards;

15 (c) Set forth necessary administrative provisions;

16 (d) Establish procedures for the collection and administration of  
17 forest practice fees as set forth by this chapter; and

18 (e) Allow for the development of watershed analyses.

19 Forest practices rules pertaining to water quality protection shall  
20 be adopted by the board after reaching agreement with the director of  
21 the department of ecology or the director's designee on the board with  
22 respect thereto. All other forest practices rules shall be adopted by  
23 the board.

24 Forest practices rules shall be administered and enforced by either  
25 the department or the local governmental entity as provided in this  
26 chapter. Such rules shall be adopted and administered so as to give  
27 consideration to all purposes and policies set forth in RCW 76.09.010.

28 (2) The board shall prepare proposed forest practices rules. In  
29 addition to any forest practices rules relating to water quality

1 protection proposed by the board, the department of ecology may submit  
2 to the board proposed forest practices rules relating to water quality  
3 protection.

4 Prior to initiating the rule-making process, the proposed rules  
5 shall be submitted for review and comments to the department of fish  
6 and wildlife and to the counties of the state. After receipt of the  
7 proposed forest practices rules, the department of fish and wildlife  
8 and the counties of the state shall have thirty days in which to review  
9 and submit comments to the board, and to the department of ecology with  
10 respect to its proposed rules relating to water quality protection.  
11 After the expiration of such thirty day period the board and the  
12 department of ecology shall jointly hold one or more hearings on the  
13 proposed rules pursuant to chapter 34.05 RCW. At such hearing(s) any  
14 county may propose specific forest practices rules relating to problems  
15 existing within such county. The board may adopt and the department of  
16 ecology may approve such proposals if they find the proposals are  
17 consistent with the purposes and policies of this chapter.

18 (3) The board shall establish by rule a program for the acquisition  
19 of riparian open space (~~((program that includes acquisition of a fee~~  
20 ~~interest in, or at the landowner's option, a conservation easement on))~~  
21 and critical habitat for threatened or endangered species as designated  
22 by the board. Acquisition must be a conservation easement. Lands  
23 eligible for acquisition are forest lands within unconfined  
24 (~~(avulsing))~~ channel migration zones or forest lands containing  
25 critical habitat for threatened or endangered species as designated by  
26 the board. Once acquired, these lands may be held and managed by the  
27 department, transferred to another state agency, transferred to an  
28 appropriate local government agency, or transferred to a private  
29 nonprofit nature conservancy corporation, as defined in RCW 64.04.130,  
30 in fee or transfer of management obligation. The board shall adopt  
31 rules governing the acquisition by the state or donation to the state  
32 of such interest in lands including the right of refusal if the lands  
33 are subject to unacceptable liabilities. The rules shall include  
34 definitions of qualifying lands, priorities for acquisition, and  
35 provide for the opportunity to transfer such lands with limited  
36 warranties and with a description of boundaries that does not require  
37 full surveys where the cost of securing the surveys would be  
38 unreasonable in relation to the value of the lands conveyed. The rules

1 shall provide for the management of the lands for ecological protection  
2 or fisheries enhancement. ~~((Because there are few, if any, comparable  
3 sales of forest land within unconfined avulsing channel migration  
4 zones, separate from the other lands or assets, these lands are likely  
5 to be extraordinarily difficult to appraise and the cost of a  
6 conventional appraisal often would be unreasonable in relation to the  
7 value of the land involved. Therefore, for the purposes of voluntary  
8 sales under this section, the legislature declares that these lands are  
9 presumed to have a value equal to: (a) The acreage in the sale  
10 multiplied by the average value of commercial forest land in the region  
11 under the land value tables used for property tax purposes under RCW  
12 84.33.120; plus (b) the cruised volume of any timber located within the  
13 channel migration multiplied by the appropriate quality code stumpage  
14 value for timber of the same species shown on the appropriate table  
15 used for timber harvest excise tax purposes under RCW 84.33.091. For  
16 purposes of this section, there shall be an eastside region and a  
17 westside region as defined in the forests and fish report as defined in  
18 RCW 76.09.020.))~~ For the purposes of conservation easements entered  
19 into under this section, the following apply: (a) For conveyances of  
20 a conservation easement in which the landowner conveys an interest in  
21 the trees only, the compensation must include the timber value  
22 component, as determined by the cruised volume of any timber located  
23 within the channel migration zone or critical habitat for threatened or  
24 endangered species as designated by the board, multiplied by the  
25 appropriate quality code stumpage value for timber of the same species  
26 shown on the appropriate table used for timber harvest excise tax  
27 purposes under RCW 84.33.091; (b) for conveyances of a conservation  
28 easement in which the landowner conveys interests in both land and  
29 trees, the compensation must include the timber value component in (a)  
30 of this subsection plus such portion of the land value component as  
31 determined just and equitable by the department. The land value  
32 component must be the acreage of qualifying channel migration zone or  
33 critical habitat for threatened or endangered species as determined by  
34 the board, to be conveyed, multiplied by the average per acre value of  
35 all commercial forest land in western Washington or the average for  
36 eastern Washington, whichever average is applicable to the qualifying  
37 lands. The department must determine the western and eastern

1 Washington averages based on the land value tables established by RCW  
2 84.33.140 and revised annually by the department of revenue.

3 (4) Subject to appropriations sufficient to cover the cost of such  
4 an acquisition program and the related costs of administering the  
5 program, the department (~~is directed to purchase a fee interest or, at~~  
6 ~~the owner's option,~~) must establish a conservation easement in land  
7 that an owner tenders for purchase; provided that such lands have been  
8 taxed as forest lands and are located within an unconfined (~~avulsing~~)  
9 channel migration zone or contain critical habitat for threatened or  
10 endangered species as designated by the board. Lands acquired under  
11 this section shall become riparian or habitat open space. These  
12 acquisitions shall not be deemed to trigger the compensating tax of  
13 chapters 84.33 and 84.34 RCW.

14 (5) Instead of offering to sell interests in qualifying lands,  
15 owners may elect to donate the interests to the state.

16 (6) Any acquired interest in qualifying lands by the state under  
17 this section shall be managed as riparian open space or critical  
18 habitat.

19 **Sec. 2.** RCW 84.33.140 and 2007 c 54 s 24 are each amended to read  
20 as follows:

21 (1) When land has been designated as forest land under RCW  
22 84.33.130, a notation of the designation shall be made each year upon  
23 the assessment and tax rolls. A copy of the notice of approval  
24 together with the legal description or assessor's parcel numbers for  
25 the land shall, at the expense of the applicant, be filed by the  
26 assessor in the same manner as deeds are recorded.

27 (2) In preparing the assessment roll as of January 1, 2002, for  
28 taxes payable in 2003 and each January 1st thereafter, the assessor  
29 shall list each parcel of designated forest land at a value with  
30 respect to the grade and class provided in this subsection and adjusted  
31 as provided in subsection (3) of this section. The assessor shall  
32 compute the assessed value of the land using the same assessment ratio  
33 applied generally in computing the assessed value of other property in  
34 the county. Values for the several grades of bare forest land shall be  
35 as follows:

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

32 (3) On or before December 31, 2001, the department shall adjust by  
33 rule under chapter 34.05 RCW, the forest land values contained in  
34 subsection (2) of this section in accordance with this subsection, and  
35 shall certify the adjusted values to the assessor who will use these

1 values in preparing the assessment roll as of January 1, 2002. For the  
2 adjustment to be made on or before December 31, 2001, for use in the  
3 2002 assessment year, the department shall:

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

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

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

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

23 (5) Land graded, assessed, and valued as forest land shall continue  
24 to be so graded, assessed, and valued until removal of designation by  
25 the assessor upon the occurrence of any of the following:

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

27 (b) Sale or transfer to an ownership making the land exempt from ad  
28 valorem taxation;

29 (c) Sale or transfer of all or a portion of the land to a new  
30 owner, unless the new owner has signed a notice of forest land  
31 designation continuance, except transfer to an owner who is an heir or  
32 devisee of a deceased owner, shall not, by itself, result in removal of  
33 designation. The signed notice of continuance shall be attached to the  
34 real estate excise tax affidavit provided for in RCW 82.45.150. The  
35 notice of continuance shall be on a form prepared by the department.  
36 If the notice of continuance is not signed by the new owner and  
37 attached to the real estate excise tax affidavit, all compensating  
38 taxes calculated under subsection (11) of this section shall become due

1 and payable by the seller or transferor at time of sale. The auditor  
2 shall not accept an instrument of conveyance regarding designated  
3 forest land for filing or recording unless the new owner has signed the  
4 notice of continuance or the compensating tax has been paid, as  
5 evidenced by the real estate excise tax stamp affixed thereto by the  
6 treasurer. The seller, transferor, or new owner may appeal the new  
7 assessed valuation calculated under subsection (11) of this section to  
8 the county board of equalization in accordance with the provisions of  
9 RCW 84.40.038. Jurisdiction is hereby conferred on the county board of  
10 equalization to hear these appeals;

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

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

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

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

34 (6) Land shall not be removed from designation if there is a  
35 governmental restriction that prohibits, in whole or in part, the owner  
36 from harvesting timber from the owner's designated forest land. If  
37 only a portion of the parcel is impacted by governmental restrictions  
38 of this nature, the restrictions cannot be used as a basis to remove

1 the remainder of the forest land from designation under this chapter.  
2 For the purposes of this section, "governmental restrictions" includes:  
3 (a) Any law, regulation, rule, ordinance, program, or other action  
4 adopted or taken by a federal, state, county, city, or other  
5 governmental entity; or (b) the land's zoning or its presence within an  
6 urban growth area designated under RCW 36.70A.110.

7 (7) The assessor shall have the option of requiring an owner of  
8 forest land to file a timber management plan with the assessor upon the  
9 occurrence of one of the following:

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

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

23 (9) Within thirty days after the removal of designation as forest  
24 land, the assessor shall notify the owner in writing, setting forth the  
25 reasons for the removal. The seller, transferor, or owner may appeal  
26 the removal to the county board of equalization in accordance with the  
27 provisions of RCW 84.40.038.

28 (10) Unless the removal is reversed on appeal a copy of the notice  
29 of removal with a notation of the action, if any, upon appeal, together  
30 with the legal description or assessor's parcel numbers for the land  
31 removed from designation shall, at the expense of the applicant, be  
32 filed by the assessor in the same manner as deeds are recorded and a  
33 notation of removal from designation shall immediately be made upon the  
34 assessment and tax rolls. The assessor shall revalue the land to be  
35 removed with reference to its true and fair value as of January 1st of  
36 the year of removal from designation. Both the assessed value before  
37 and after the removal of designation shall be listed. Taxes based on  
38 the value of the land as forest land shall be assessed and payable up



1 until the date of removal and taxes based on the true and fair value of  
2 the land shall be assessed and payable from the date of removal from  
3 designation.

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

21 (12) Compensating tax, together with applicable interest thereon,  
22 shall become a lien on the land which shall attach at the time the land  
23 is removed from designation as forest land and shall have priority to  
24 and shall be fully paid and satisfied before any recognizance,  
25 mortgage, judgment, debt, obligation, or responsibility to or with  
26 which the land may become charged or liable. The lien may be  
27 foreclosed upon expiration of the same period after delinquency and in  
28 the same manner provided by law for foreclosure of liens for delinquent  
29 real property taxes as provided in RCW 84.64.050. Any compensating tax  
30 unpaid on its due date shall thereupon become delinquent. From the  
31 date of delinquency until paid, interest shall be charged at the same  
32 rate applied by law to delinquent ad valorem property taxes.

33 (13) The compensating tax specified in subsection (11) of this  
34 section shall not be imposed if the removal of designation under  
35 subsection (5) of this section resulted solely from:

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

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

4 (c) A donation of fee title, development rights, or the right to  
5 harvest timber, to a government agency or organization qualified under  
6 RCW 84.34.210 and 64.04.130 for the purposes enumerated in those  
7 sections, or the sale or transfer of fee title to a governmental entity  
8 or a nonprofit nature conservancy corporation, as defined in RCW  
9 64.04.130, exclusively for the protection and conservation of lands  
10 recommended for state natural area preserve purposes by the natural  
11 heritage council and natural heritage plan as defined in chapter 79.70  
12 RCW or approved for state natural resources conservation area purposes  
13 as defined in chapter 79.71 RCW. At such time as the land is not used  
14 for the purposes enumerated, the compensating tax specified in  
15 subsection (11) of this section shall be imposed upon the current  
16 owner;

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

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

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

24 (g) The creation, sale, or transfer of a ~~((fee-interest-or-a))~~  
25 conservation easement ~~((for-the-riparian-open-space-program))~~ of  
26 private forest lands within unconfined channel migration zones or  
27 containing critical habitat for threatened or endangered species under  
28 RCW 76.09.040; or

29 (h) The sale or transfer of land within two years after the death  
30 of the owner of at least a fifty percent interest in the land if the  
31 land has been assessed and valued as classified forest land, designated  
32 as forest land under this chapter, or classified under chapter 84.34  
33 RCW continuously since 1993. The date of death shown on a death  
34 certificate is the date used for the purposes of this subsection  
35 (13)(h).

36 (14) In a county with a population of more than ~~((one-million))~~ six  
37 hundred thousand inhabitants, the compensating tax specified in

1 subsection (11) of this section shall not be imposed if the removal of  
2 designation as forest land under subsection (5) of this section  
3 resulted solely from:

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

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

13 **Sec. 3.** RCW 84.34.108 and 2007 c 54 s 25 are each amended to read  
14 as follows:

15 (1) When land has once been classified under this chapter, a  
16 notation of the classification shall be made each year upon the  
17 assessment and tax rolls and the land shall be valued pursuant to RCW  
18 84.34.060 or 84.34.065 until removal of all or a portion of the  
19 classification by the assessor upon occurrence of any of the following:

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

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

27 (c) Sale or transfer of all or a portion of the land to a new  
28 owner, unless the new owner has signed a notice of classification  
29 continuance, except transfer to an owner who is an heir or devisee of  
30 a deceased owner shall not, by itself, result in removal of  
31 classification. The notice of continuance shall be on a form prepared  
32 by the department. If the notice of continuance is not signed by the  
33 new owner and attached to the real estate excise tax affidavit, all  
34 additional taxes calculated pursuant to subsection (4) of this section  
35 shall become due and payable by the seller or transferor at time of  
36 sale. The auditor shall not accept an instrument of conveyance  
37 regarding classified land for filing or recording unless the new owner

1 has signed the notice of continuance or the additional tax has been  
2 paid, as evidenced by the real estate excise tax stamp affixed thereto  
3 by the treasurer. The seller, transferor, or new owner may appeal the  
4 new assessed valuation calculated under subsection (4) of this section  
5 to the county board of equalization in accordance with the provisions  
6 of RCW 84.40.038. Jurisdiction is hereby conferred on the county board  
7 of equalization to hear these appeals;

8 (d) Determination by the assessor, after giving the owner written  
9 notice and an opportunity to be heard, that all or a portion of the  
10 land no longer meets the criteria for classification under this  
11 chapter. The criteria for classification pursuant to this chapter  
12 continue to apply after classification has been granted.

13 The granting authority, upon request of an assessor, shall provide  
14 reasonable assistance to the assessor in making a determination whether  
15 the land continues to meet the qualifications of RCW 84.34.020 (1) or  
16 (3). The assistance shall be provided within thirty days of receipt of  
17 the request.

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

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

21 (b) The creation, sale, or transfer of a fee interest or a  
22 conservation easement for the riparian open space program under RCW  
23 76.09.040.

24 (3) Within thirty days after such removal of all or a portion of  
25 the land from current use classification, the assessor shall notify the  
26 owner in writing, setting forth the reasons for the removal. The  
27 seller, transferor, or owner may appeal the removal to the county board  
28 of equalization in accordance with the provisions of RCW 84.40.038.

29 (4) Unless the removal is reversed on appeal, the assessor shall  
30 revalue the affected land with reference to its true and fair value on  
31 January 1st of the year of removal from classification. Both the  
32 assessed valuation before and after the removal of classification shall  
33 be listed and taxes shall be allocated according to that part of the  
34 year to which each assessed valuation applies. Except as provided in  
35 subsection (6) of this section, an additional tax, applicable interest,  
36 and penalty shall be imposed which shall be due and payable to the  
37 treasurer thirty days after the owner is notified of the amount of the  
38 additional tax. As soon as possible, the assessor shall compute the

1 amount of additional tax, applicable interest, and penalty and the  
2 treasurer shall mail notice to the owner of the amount thereof and the  
3 date on which payment is due. The amount of the additional tax,  
4 applicable interest, and penalty shall be determined as follows:

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

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

15 (c) The amount of the penalty shall be as provided in RCW  
16 84.34.080. The penalty shall not be imposed if the removal satisfies  
17 the conditions of RCW 84.34.070.

18 (5) Additional tax, applicable interest, and penalty, shall become  
19 a lien on the land which shall attach at the time the land is removed  
20 from classification under this chapter and shall have priority to and  
21 shall be fully paid and satisfied before any recognizance, mortgage,  
22 judgment, debt, obligation or responsibility to or with which the land  
23 may become charged or liable. This lien may be foreclosed upon  
24 expiration of the same period after delinquency and in the same manner  
25 provided by law for foreclosure of liens for delinquent real property  
26 taxes as provided in RCW 84.64.050. Any additional tax unpaid on its  
27 due date shall thereupon become delinquent. From the date of  
28 delinquency until paid, interest shall be charged at the same rate  
29 applied by law to delinquent ad valorem property taxes.

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

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

36 (b)(i) A taking through the exercise of the power of eminent  
37 domain, or (ii) sale or transfer to an entity having the power of

1 eminent domain in anticipation of the exercise of such power, said  
2 entity having manifested its intent in writing or by other official  
3 action;

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

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

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

12 (f) Acquisition of property interests by state agencies or agencies  
13 or organizations qualified under RCW 84.34.210 and 64.04.130 for the  
14 purposes enumerated in those sections. At such time as these property  
15 interests are not used for the purposes enumerated in RCW 84.34.210 and  
16 64.04.130 the additional tax specified in subsection (4) of this  
17 section shall be imposed;

18 (g) Removal of land classified as farm and agricultural land under  
19 RCW 84.34.020(2)(e);

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

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

25 (j) The creation, sale, or transfer of a ~~((fee-interest-or-a))~~  
26 conservation easement ~~((for-the-riparian-open-space-program))~~ of  
27 private forest lands within unconfined channel migration zones or  
28 containing critical habitat for threatened or endangered species under  
29 RCW 76.09.040; or

30 (k) The sale or transfer of land within two years after the death  
31 of the owner of at least a fifty percent interest in the land if the  
32 land has been assessed and valued as classified forest land, designated  
33 as forest land under chapter 84.33 RCW, or classified under this  
34 chapter continuously since 1993. The date of death shown on a death  
35 certificate is the date used for the purposes of this subsection  
36 (6)(k).

1       **Sec. 4.** RCW 84.33.145 and 2001 c 249 s 4 are each amended to read  
2 as follows:

3       (1) If no later than thirty days after removal of designation the  
4 owner applies for classification under RCW 84.34.020 (1), (2), or (3),  
5 then the designated forest land shall not be considered removed from  
6 designation for purposes of the compensating tax under RCW 84.33.140  
7 until the application for current use classification under chapter  
8 84.34 RCW is denied or the property is removed from classification  
9 under RCW 84.34.108. Upon removal of classification under RCW  
10 84.34.108, the amount of compensating tax due under this chapter shall  
11 be equal to:

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

17       (b) A number equal to:

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

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

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

31       (3) In a county with a population of more than (~~one million~~) six  
32 hundred thousand inhabitants, no amount of compensating tax is due  
33 under this section if the removal from classification under RCW  
34 84.34.108 results from a transfer of property described in RCW  
35 84.34.108(6).

36       **Sec. 5.** RCW 76.09.020 and 2003 c 311 s 3 are each amended to read  
37 as follows:

1 The definitions in this section apply throughout this chapter  
2 unless the context clearly requires otherwise.

3 (1) "Adaptive management" means reliance on scientific methods to  
4 test the results of actions taken so that the management and related  
5 policy can be changed promptly and appropriately.

6 (2) "Appeals board" means the forest practices appeals board  
7 created by RCW 76.09.210.

8 (3) "Aquatic resources" includes water quality, salmon, other  
9 species of the vertebrate classes Cephalaspidomorphi and Osteichthyes  
10 identified in the forests and fish report, the Columbia torrent  
11 salamander (*Rhyacotriton kezeri*), the Cascade torrent salamander  
12 (*Rhyacotriton cascadae*), the Olympic torrent salamander (*Rhyacotriton*  
13 *olympian*), the Dunn's salamander (*Plethodon dunni*), the Van Dyke's  
14 salamander (*Plethodon vandyke*), the tailed frog (*Ascaphus truei*), and  
15 their respective habitats.

16 (4) "Commissioner" means the commissioner of public lands.

17 (5) "Contiguous" means land adjoining or touching by common corner  
18 or otherwise. Land having common ownership divided by a road or other  
19 right-of-way shall be considered contiguous.

20 (6) "Conversion to a use other than commercial timber operation"  
21 means a bona fide conversion to an active use which is incompatible  
22 with timber growing and as may be defined by forest practices rules.

23 (7) "Department" means the department of natural resources.

24 (8) "Fish passage barrier" means any artificial instream structure  
25 that impedes the free passage of fish.

26 (9) "Forest land" means all land which is capable of supporting a  
27 merchantable stand of timber and is not being actively used for a use  
28 which is incompatible with timber growing. Forest land does not  
29 include agricultural land that is or was enrolled in the conservation  
30 reserve enhancement program by contract if such agricultural land was  
31 historically used for agricultural purposes and the landowner intends  
32 to continue to use the land for agricultural purposes in the future.  
33 As it applies to the operation of the road maintenance and abandonment  
34 plan element of the forest practices rules on small forest landowners,  
35 the term "forest land" excludes:

36 (a) Residential home sites, which may include up to five acres; and

37 (b) Cropfields, orchards, vineyards, pastures, feedlots, fish pens,



1 and the land on which appurtenances necessary to the production,  
2 preparation, or sale of crops, fruit, dairy products, fish, and  
3 livestock exist.

4 (10) "Forest landowner" means any person in actual control of  
5 forest land, whether such control is based either on legal or equitable  
6 title, or on any other interest entitling the holder to sell or  
7 otherwise dispose of any or all of the timber on such land in any  
8 manner. However, any lessee or other person in possession of forest  
9 land without legal or equitable title to such land shall be excluded  
10 from the definition of "forest landowner" unless such lessee or other  
11 person has the right to sell or otherwise dispose of any or all of the  
12 timber located on such forest land.

13 (11) "Forest practice" means any activity conducted on or directly  
14 pertaining to forest land and relating to growing, harvesting, or  
15 processing timber, including but not limited to:

- 16 (a) Road and trail construction;
- 17 (b) Harvesting, final and intermediate;
- 18 (c) Precommercial thinning;
- 19 (d) Reforestation;
- 20 (e) Fertilization;
- 21 (f) Prevention and suppression of diseases and insects;
- 22 (g) Salvage of trees; and
- 23 (h) Brush control.

24 "Forest practice" shall not include preparatory work such as tree  
25 marking, surveying and road flagging, and removal or harvesting of  
26 incidental vegetation from forest lands such as berries, ferns,  
27 greenery, mistletoe, herbs, mushrooms, and other products which cannot  
28 normally be expected to result in damage to forest soils, timber, or  
29 public resources.

30 (12) "Forest practices rules" means any rules adopted pursuant to  
31 RCW 76.09.040.

32 (13) "Forest road," as it applies to the operation of the road  
33 maintenance and abandonment plan element of the forest practices rules  
34 on small forest landowners, means a road or road segment that crosses  
35 land that meets the definition of forest land, but excludes residential  
36 access roads.

37 (14) "Forest trees" does not include hardwood trees cultivated by  
38 agricultural methods in growing cycles shorter than fifteen years if

1 the trees were planted on land that was not in forest use immediately  
2 before the trees were planted and before the land was prepared for  
3 planting the trees. "Forest trees" includes Christmas trees, but does  
4 not include Christmas trees that are cultivated by agricultural  
5 methods, as that term is defined in RCW 84.33.035.

6 (15) "Forests and fish report" means the forests and fish report to  
7 the board dated April 29, 1999.

8 (16) "Application" means the application required pursuant to RCW  
9 76.09.050.

10 (17) "Operator" means any person engaging in forest practices  
11 except an employee with wages as his or her sole compensation.

12 (18) "Person" means any individual, partnership, private, public,  
13 or municipal corporation, county, the department or other state or  
14 local governmental entity, or association of individuals of whatever  
15 nature.

16 (19) "Public resources" means water, fish and wildlife, and in  
17 addition shall mean capital improvements of the state or its political  
18 subdivisions.

19 (20) "Small forest landowner" has the same meaning as defined in  
20 RCW 76.09.450.

21 (21) "Timber" means forest trees, standing or down, of a commercial  
22 species, including Christmas trees. However, "timber" does not include  
23 Christmas trees that are cultivated by agricultural methods, as that  
24 term is defined in RCW 84.33.035.

25 (22) "Timber owner" means any person having all or any part of the  
26 legal interest in timber. Where such timber is subject to a contract  
27 of sale, "timber owner" shall mean the contract purchaser.

28 (23) "Board" means the forest practices board created in RCW  
29 76.09.030.

30 (24) "Unconfined (~~avulsing~~) channel migration zone" means the  
31 area within which the active channel of an unconfined (~~avulsing~~)  
32 stream is prone to move and where the movement would result in a  
33 potential near-term loss of riparian forest adjacent to the stream.  
34 Sizeable islands with productive timber may exist within the zone.

35 (25) "Unconfined (~~avulsing~~) stream" means generally fifth order  
36 or larger waters that experience abrupt shifts in channel location,  
37 creating a complex floodplain characterized by extensive gravel bars,  
38 disturbance species of vegetation of variable age, numerous side

1 channels, wall-based channels, oxbow lakes, and wetland complexes.  
2 Many of these streams have dikes and levees that may temporarily or  
3 permanently restrict channel movement.

4 NEW SECTION. **Sec. 6.** (1) The legislature finds that the revenue  
5 generated from state forest lands is a vital component of the operating  
6 budget in many rural counties. The dependence on a natural resource-  
7 based economy is especially underscored in counties with lower  
8 population levels and large holdings of public land. The high cost of  
9 compliance with the federal endangered species act on state forest  
10 lands within these smaller counties is disproportionately burdensome  
11 when compared to their total county budgets.

12 (2) The intent of this act is to provide sustainable revenue to  
13 smaller counties that are heavily dependent on state forest land  
14 revenues while promoting long-term protection, conservation, and  
15 recovery of marbled murrelets and northern spotted owls. This act  
16 provides the necessary tools for the state to maintain long-term  
17 working forests by replacing state forest lands with endangered  
18 species-based harvest encumbrances with productive, working forest  
19 lands.

20 **Sec. 7.** RCW 79.22.060 and 2003 c 334 s 221 are each amended to  
21 read as follows:

22 (1) With the approval of the board, the department may directly  
23 transfer or dispose of state forest lands without public auction, if  
24 ~~((such))~~ the lands:

25 (a) Consist of ten contiguous acres or less(~~(, or~~));

26 (b) Have a value of twenty-five thousand dollars or less; or

27 (c) Are located in a county with a population of twenty-five  
28 thousand or less and are encumbered with timber harvest deferrals,  
29 associated with wildlife species listed under the federal endangered  
30 species act, greater than thirty years in length. ((Such))

31 (2) Disposal under this section may only occur in the following  
32 circumstances:

33 (a) Transfers in lieu of condemnation; ~~((and))~~

34 (b) Transfers to resolve trespass and property ownership disputes;  
35 or

1        (c) In counties with a population of twenty-five thousand or less,  
2 transfers to public agencies.

3        ~~((+2))~~ (3) Real property to be transferred or disposed of under  
4 this section shall be transferred or disposed of only after appraisal  
5 and for at least fair market value, and only if ~~((such))~~ the  
6 transaction is in the best interest of the state or affected trust.  
7 Valuable materials attached to lands transferred to public agencies  
8 under subsection (2)(c) of this section must be appraised at the fair  
9 market value without consideration of management or regulatory  
10 encumbrances associated with wildlife species listed under the federal  
11 endangered species act.

12        ~~((+3))~~ (4) The proceeds from real property transferred or disposed  
13 of under this section shall be deposited into the park land trust  
14 revolving fund and be solely used to buy replacement land within the  
15 same county as the property transferred or disposed. In counties with  
16 a population of twenty-five thousand or less, the portion of the  
17 proceeds associated with valuable materials on the transferred land  
18 must be distributed as provided in RCW 79.64.110.

19        **Sec. 8.** RCW 79.64.110 and 2007 c 503 s 1 are each amended to read  
20 as follows:

21        Any moneys derived from the lease of state forest lands or from the  
22 sale of valuable materials, oils, gases, coal, minerals, or fossils  
23 from those lands, or the appraised value of these resources when  
24 transferred to a public agency under RCW 79.22.060, must be distributed  
25 as follows:

26        (1) State forest lands acquired through RCW 79.22.040 or by  
27 exchange for lands acquired through RCW 79.22.040:

28        (a) The expense incurred by the state for administration,  
29 reforestation, and protection, not to exceed twenty-five percent, which  
30 rate of percentage shall be determined by the board, must be returned  
31 to the forest development account in the state general fund.

32        (b) Any balance remaining must be paid to the county in which the  
33 land is located to be paid, distributed, and prorated, except as  
34 otherwise provided in this section, to the various funds in the same  
35 manner as general taxes are paid and distributed during the year of  
36 payment.

1 (c) Any balance remaining, paid to a county with a population of  
2 less than sixteen thousand, must first be applied to the reduction of  
3 any indebtedness existing in the current expense fund of the county  
4 during the year of payment.

5 (d) With regard to moneys remaining under this subsection (1),  
6 within seven working days of receipt of these moneys, the department  
7 shall certify to the state treasurer the amounts to be distributed to  
8 the counties. The state treasurer shall distribute funds to the  
9 counties four times per month, with no more than ten days between each  
10 payment date.

11 (2) State forest lands acquired through RCW 79.22.010 or by  
12 exchange for lands acquired through RCW 79.22.010, except as provided  
13 in RCW 79.64.120:

14 (a) Fifty percent shall be placed in the forest development  
15 account.

16 (b) Fifty percent shall be prorated and distributed to the state  
17 general fund, to be dedicated for the benefit of the public schools,  
18 and the county in which the land is located according to the relative  
19 proportions of tax levies of all taxing districts in the county. The  
20 portion to be distributed to the state general fund shall be based on  
21 the regular school levy rate under RCW 84.52.065 and the levy rate for  
22 any maintenance and operation special school levies. With regard to  
23 the portion to be distributed to the counties, the department shall  
24 certify to the state treasurer the amounts to be distributed within  
25 seven working days of receipt of the money. The state treasurer shall  
26 distribute funds to the counties four times per month, with no more  
27 than ten days between each payment date. The money distributed to the  
28 county must be paid, distributed, and prorated to the various other  
29 funds in the same manner as general taxes are paid and distributed  
30 during the year of payment.

31 (3) A school district may transfer amounts deposited in its debt  
32 service fund pursuant to this section into its capital projects fund as  
33 authorized in RCW 28A.320.330.

34 **Sec. 9.** RCW 43.30.385 and 2004 c 103 s 1 are each amended to read  
35 as follows:

36 (1) The park land trust revolving fund is to be utilized by the  
37 department for the purpose of acquiring real property, including all

1 reasonable costs associated with these acquisitions, as a replacement  
2 for the property transferred to the state parks and recreation  
3 commission, as directed by the legislature in order to maintain the  
4 land base of the affected trusts or under RCW 79.22.060 and to receive  
5 voluntary contributions for the purpose of operating and maintaining  
6 public use and recreation facilities, including trails, managed by the  
7 department. Proceeds from transfers of real property to the state  
8 parks and recreation commission or other proceeds identified from  
9 transfers of real property as directed by the legislature shall be  
10 deposited in this fund. Disbursement from the park land trust  
11 revolving fund to acquire replacement property and for operating and  
12 maintaining public use and recreation facilities shall be on the  
13 authorization of the department. The proceeds from real property  
14 transferred or disposed under RCW 79.22.060 must be solely used to  
15 purchase replacement forest land, that must be actively managed as a  
16 working forest, within the same county as the property transferred or  
17 disposed. In order to maintain an effective expenditure and revenue  
18 control, the park land trust revolving fund is subject in all respects  
19 to chapter 43.88 RCW, but no appropriation is required to permit  
20 expenditures and payment of obligations from the fund.

21 (2) The department is authorized to solicit and receive voluntary  
22 contributions for the purpose of operating and maintaining public use  
23 and recreation facilities, including trails, managed by the department.  
24 The department may seek voluntary contributions from individuals and  
25 organizations for this purpose. Voluntary contributions will be  
26 deposited into the park land trust revolving fund and used solely for  
27 the purpose of public use and recreation facilities operations and  
28 maintenance. Voluntary contributions are not considered a fee for use  
29 of these facilities.

30 NEW SECTION. Sec. 10. (1) By October 31, 2010, the department of  
31 natural resources shall prepare a report to the appropriate committees  
32 of the legislature detailing the procedure and timeline, and estimating  
33 the costs, of full implementation of the intent of this act.

34 (2) The report required by this section must include a recommended  
35 process to transfer state forest lands encumbered by long-term  
36 endangered species-based harvest deferrals, associated with wildlife

1 species listed under the federal endangered species act, through the  
2 trust land transfer program into a natural resource conservation area  
3 status. This element of the report must assume the following:

4 (a) Encumbered property would be transferred at a specified  
5 biennial rate designed to provide sustainable revenue to the impacted  
6 counties;

7 (b) The value of the land and timber would be bifurcated, with the  
8 timber value being distributed to the county as timber revenue, and the  
9 land value being utilized to purchase replacement working forest land  
10 within the affected county and placed in the appropriate trust  
11 designation; and

12 (c) The land and timber value of the parcels identified for  
13 transfer will be appraised at full market value, without consideration  
14 of the devaluing effect of harvest encumbrances associated with  
15 wildlife species listed under the federal endangered species act.

16 (3) This section expires June 30, 2011."

**2SHB 1484** - S COMM AMD

By Committee on Natural Resources, Ocean & Recreation

**ADOPTED AND ENGROSSED 04/17/2009**

17 On page 1, line 1 of the title, after "space;" strike the remainder  
18 of the title and insert "amending RCW 76.09.040, 84.33.140, 84.34.108,  
19 84.33.145, 76.09.020, 79.22.060, 79.64.110, and 43.30.385; creating new  
20 sections; and providing an expiration date."

--- END ---