

HOUSE BILL REPORT

2SHB 2080

As Amended by the Senate

Title: An act relating to agricultural lands with long-term commercial significance for the production of food or other agricultural products.

Brief Description: Regulating classification of lands with long-term commercial significance.

Sponsors: By House Committee on Appropriations (originally sponsored by Representatives Parlette, Reams, Mulliken, Chandler and Boldt).

Brief History:

Committee Activity:

Government Reform & Land Use: 2/26/97, 3/5/97 [DPS];

Appropriations: 3/8/97 [DP2S(w/o sub GRLU)].

Floor Activity:

Passed House: 3/18/97, 98-0.

Senate Amended.

HOUSE COMMITTEE ON GOVERNMENT REFORM & LAND USE

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 7 members: Representatives Reams, Chairman; Cairnes, Vice Chairman; Sherstad, Vice Chairman; Bush; Mielke; Mulliken and Thompson.

Staff: Kimberly Klaiber (786-7156).

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Government Reform & Land Use. Signed by 29 members: Representatives Huff, Chairman; Alexander, Vice Chairman; Clements, Vice Chairman; Wensman, Vice Chairman; Doumit, Assistant Ranking Minority Member; Gombosky, Assistant Ranking Minority Member; Benson; Carlson; Chopp; Cody; Cooke; Crouse; Grant; Keiser; Kenney;

Kessler; Lambert; Linville; Lisk; Mastin; McMorris; Parlette; Poulsen; Regala; D. Schmidt; Sehlin; Sheahan; Talcott and Tokuda.

Minority Report: Without recommendation. Signed by 1 member: Representative H. Sommers, Ranking Minority Member.

Staff: Jeff Olsen (786-7157).

Background:

Current Use Programs

The Washington Constitution authorizes agricultural, timber, and open space lands to be valued on the basis of their current use rather than fair market value. Current use valuation reduces the taxable value against which taxing districts levy their taxes. Property meeting certain conditions may have property taxes determined on current use values rather than market values.

Two programs currently implement the constitutional exception to fair market value: the open space– program and the forest land– program. Five categories of lands may be classified or assessed on their current use: three categories fall under the open space law (open space lands, farm and agriculture lands), and the remaining two are classified and designated timberland.

Applications for open space or timberland are made to the county legislative authority, and applications for farm and agricultural land classification are made to the county assessor. If the open space or timberland is within an incorporated area, a joint committee of three members of the *county* legislative body and three members of the *city* legislative body act on the application.

Categories of Lands

For **open space land** classification, the land must fall into at least one of the following categories:

- any land area zoned for open space by a comprehensive land use plan adopted by a city or county legislative authority; or
- any land area in which the preservation in its present use would conserve and enhance natural or scenic resources, protect streams or water supply, promote conservation of soils, wetlands, beaches, or tidal marshes, enhance the value to the public of abutting or neighboring parks, forest, wildlife preserves, nature reservation or sanctuaries or other open space, enhance recreation opportunities, preserve historic sites, preserve visual quality along highway,

road, and street corridors or scenic vistas, or retain in its natural state one acre minimum tracts of land situated in an urban area and open to public use under conditions reasonably required by the granting authority; or

- any land meeting the definition of farm and agricultural conservation land,– which means either: (1) land previously classified under farm and agriculture classification that no longer meets the criteria and is reclassified under open space land; or (2) traditional farmland,– not classified, that has not been irrevocably devoted to a use inconsistent with agricultural uses and that has a high potential for returning to commercial agriculture.

For **farm and agricultural land** classification, the land must fit at least one of the following descriptions:

- a parcel that is 20 or more acres or multiple parcels of land that are contiguous and total 20 or more acres devoted primarily to the production of livestock or agricultural commodities for commercial purposes, or enrolled in a cropland retirement program administered by the U.S. Department of Agriculture; or
- a parcel that is at least five but less than 20 acres devoted primarily to agricultural uses equivalent to \$100 or more per acre per year for three of the five calendar years preceding the date of application for classification made prior to January 1, 1993, and on or after January 1, 1993, \$200 or more per acre per year for three of the five calendar years preceding the date of application for classification;
- a parcel that is less than five acres devoted primarily to agricultural uses which has produced a gross income of \$1,000 or more per year for three of the five calendar years preceding the date of application made prior to January 1, 1993, and on or after January 1, 1993, \$1,500 or more per year for three of the five calendar years preceding the date of application for classification.

Farm and agricultural land also includes incidental uses compatible with agricultural purposes if the use is 20 percent or less of the classified land; land on which appurtenances necessary for production, preparation, or sale of agricultural products exist in conjunction with the lands producing such products; any noncontiguous parcel one to five acres that is an integral part of the farming operations; or land where housing for employees and the principal place of residence of the farm operation or owner is located, provided the use of the housing is integral to the use of the classified land for agricultural purposes, and the classified parcel is 20 or more acres.

Land may be classified **timberland** if the parcel of land is five or more acres (or multiple parcels of land that are contiguous and total five or more acres) is devoted

primarily to the growth and harvest of forest crops for commercial purposes. Land that has no higher and better use than growing and harvesting timber may be classified as forest land by the county assessor.

Changing Designation

The land remains in current use classification as long as it continues to be used for the purpose it was placed in the current use program. Land is removed from open space or timberland classification under any one of the following circumstances:

- the owner requests its removal;
- a property sale or transfer occurs making the land exempt from property tax;
- the land is transferred or sold to a new owner, unless the new owner signs a notice of classification continuance; or
- the assessor removes the land from the program if the land is no longer devoted to its open space purpose.

Penalty for Changing Designation

When property is removed from open space or timberland current use classification, the owner must pay back taxes plus interest. For open space categories, back taxes equal the tax benefit received over the most recent seven years. For classified and designated forest land, back taxes equal the tax benefit in the most recent year times the number of years in the program (but not more than 10).

There are some exceptions to the requirement for the payment of back taxes. For example, back taxes are not required on the transfer of the land to an entity using the power of eminent domain or in anticipation of the exercise of that power.

The back tax exceptions are slightly different for the open space program and the forest land program. For example, an exception is allowed under the open space program if government action no longer permits the present use of the property. The forest land program does not have this exception.

In the open space program, an exception to paying back taxes is allowed for a sale or transfer to a governmental entity or nonprofit historic preservation or non-profit nature conservancy corporation for the purpose of conserving open space land. However, in the forest land category the similar exception is much more restrictive. The forest land exception is restricted to a sale or transfer of land to a governmental entity or nonprofit nature conservancy corporation for conservation purposes, but the land must be recommended for state natural area preserve purposes by the Natural Heritage Council.

Transfers without payment of back taxes can be made *between* all categories of current use valuation *except* for transfers out of open space. However, land classified as farm and agricultural conservation land within open space may be transferred to the farm and agricultural land category.

Summary of Bill: A new classification of land as agricultural land with long-term commercial significance is created. To be eligible for the new classification, the lands must already be designated agricultural under the Growth Management Act and must meet other conditions.

The valuation of agricultural lands with long-term commercial significance equals either: (1) the true and fair value of farm and agricultural land; or (2) one-half of the property's true and fair value, whichever is lower.

If classification of agricultural land as agricultural land with long-term commercial significance is withdrawn, no back taxes, penalties, or interest is paid.

EFFECT OF SENATE AMENDMENT(S): The Senate striking amendment results in the following:

- (1) Removes exemption for reclassifications of agricultural lands of long-term commercial significance from back tax payment. That is to say, a property owner whose land is reclassified must pay back taxes representing the difference between the tax rates for the different agricultural classifications.
- (2) Provides that if local government removes the land from agricultural lands of long-term commercial significance designation or if the use changes to non-permitted use, the owner is exempt from taxes, interest and penalties. That is to say, if a landowner seeks to have his or her land removed from long-term commercial significance classification or if his or her land is removed by the county from long-term commercial significance classification, back taxes, interest, and penalties must be paid.
- (3) The Senate removed the null and void clause added in the Appropriations Committee.

Appropriation: None.

Fiscal Note: Requested on March 3, 1997.

Effective Date Ninety days after adjournment of session in which bill is passed. However, the bill is null and void unless funded in the budget.

Testimony For: (Government Reform & Land Use) This additional classification offers the counties another good tool for enforcing the Growth Management Act because landowners who are told what to do with their property are rewarded. Allowing voluntary designation is a good approach to land classification. This new category reflects a lower level of service allowed by agricultural designation. Right now, agricultural interests are subsidizing development.

(Appropriations) This bill only applies to counties that have completed comprehensive plans under the Growth Management Act. Agricultural land of long-term commercial use is a different type of farm and agricultural land. Under the Growth Management Act, farmers have no choice regarding how their land is classified. This bill allows farmers to have a choice. Landowners should not be penalized when a county changes the zoning.

Testimony Against: (Government Reform & Land Use) Some people would consider this downzoning.– There are problems relating to the lack of penalty for removing land from this classification. There could be unforeseen consequences of allowing this alternative classification with a much lower valuation rate and no penalty for removal, and these could hurt agriculture generally.

(Appropriations) None.

Testified: (Government Reform & Land Use) Representative Parlette, prime sponsor (pro); Laura Mrachek and Gordon Cougson, Chelan County Planning Commission (pro); Michael H. Harrison, Chelan County Board of Adjusters (pro); Fred Saeger, Washington Association of County Officials (con); and Mike Ryherd, 1000 Friends of Washington (concerns).

(Appropriations) Representative Parlette, prime sponsor; and Mike Ryherd, 1000 Friends of Washington.