

FINAL BILL REPORT

SHB 1733

C 255 L 09
Synopsis as Enacted

Brief Description: Concerning the property tax current use valuation programs.

Sponsors: House Committee on Finance (originally sponsored by Representatives Goodman, Blake, Springer, Eddy, Dunshee, Rolfes and Kessler).

House Committee on Finance
Senate Committee on Ways & Means

Background:

Most property is valued or assessed at its true and fair, or highest and best, value for purposes of imposing property taxes. However, the state Constitution allows the Legislature to enact legislation assessing certain types of real property at its present or current use for purposes of imposing property taxes. Two programs of current use valuation have been established: one program for forest lands and a second program that includes open space lands, farm and agricultural lands, and timber lands.

Farm and agricultural lands must be devoted primarily to commercial agricultural purposes. To qualify for classification as farm and agricultural land, land of less than 20 acres must meet income tests for three of the previous five years. Farm parcels less than five acres must generate \$1,500 in farm gross income, and farm parcels of between five and 20 acres must generate \$200 per acre.

Department of Revenue (DOR) rules, adopted to administer the open space current use laws, require that the income be from commercial agricultural production in order to meet the income requirement. Commercial agricultural activities include: raising, harvesting, and selling lawful crops; feeding, breeding, managing, and selling of livestock, poultry, fur-bearing animals, or honey bees; dairying or selling of dairy products; animal husbandry, aquaculture, horticulture, participating in a government-funded crop reduction or acreage set-aside program, or intensive cultivation of Christmas trees or short-rotation hardwoods. Since 1971, the DOR has required that animals be fed, bred, managed, and sold in order for land to be used for a "commercial agricultural purpose."

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

A recent review by King County of its current use program discovered a number of parcels in the current use program that were engaged in equestrian activities. The property owners were told that these equestrian activities do not constitute commercial agricultural purposes.

Late in 2008, the DOR held public hearings and reviewed its administrative rule. On December 31, 2008, the DOR announced that it had amended its rule (WAC 458-30-200) on an emergency basis to broaden the scope of the rule. The rule change eliminated the requirement for breeding of animals, and included the "sale" of forage through the grazing of livestock, including equines. Under the emergency rule, if a horse boarding operation pastures or grazes the boarded horses, then the "sale" of the pasture forage constitutes the sale of an agricultural product.

When property is removed from current use classification, back taxes plus interest must be paid. For open space categories, back taxes represent the tax benefit received over the most recent seven years. For designated forest land, back taxes are equal to the tax benefit in the most recent year multiplied by the number of years in the program (but not more than nine). There are some exceptions to the requirement for payment of back taxes.

Summary:

Land used for equestrian activities such as stabling, training, riding, clinics, schooling, shows, or grazing for feed are eligible for current use valuation as farm and agricultural land.

Upon removal from a current use program owners are excused from paying the back taxes if the land was included in a current use program in error. This provision is available as long as the land owner did not contribute to the classification error through a false or misleading statement or other act or omission not in good faith.

Votes on Final Passage:

House	95	0
Senate	47	0

Effective: July 26, 2009