HOUSE BILL REPORT
EHB 1309

As Passed House:
May 2, 2017

Title: An act relating to removal of land from the current use property tax classification due to certain natural disasters.

Brief Description: Concerning removal of land from the current use property tax classification due to certain natural disasters.

Sponsors: Representatives Steele, Chapman, Kretz and Condotta.

Brief History:
Committee Activity:
Finance: 1/20/17, 3/3/17 [DP].
Floor Activity:
Passed House: 4/20/17, 95-1.
First Special Session
Floor Activity:
Passed House: 5/2/17, 91-1.

Brief Summary of Engrossed Bill

- Clarifies that property removed from current use valuation due to wildfire is not subject to additional tax and penalties.
- Establishes that property removed from the designated forestland program due to certain natural disasters is not subject to compensating tax.

HOUSE COMMITTEE ON FINANCE

Majority Report: Do pass. Signed by 10 members: Representatives Lytton, Chair; Nealey, Ranking Minority Member; Orcutt, Assistant Ranking Minority Member; Condotta, Dolan, Pollet, Springer, Stokesbary, Wilcox and Wylie.

Minority Report: Without recommendation. Signed by 1 member: Representative Frame, Vice Chair.

Staff: Richelle Geiger (786-7139).

Background:

All property is subject to a tax each year based on the highest and best use, unless a specific exemption is provided by law. The Washington Constitution authorizes qualifying agricultural, timber, and open space lands to be valued on the basis of their current use rather than fair market value. Two programs of current use valuation have been established, one program that includes open space lands, farm and agricultural lands, and timber lands and a second program for designated forestlands.

Taxes and interest apply when land is withdrawn or removed from the program if the use of the property changes, the owner requests withdrawal, or a sale of the property is made and the new owner does not sign a notice of intent to continue within the current use program or designated forestland program.

If property no longer qualifies for the current use program, then an additional tax, penalty, and interest are due. Additional tax is the difference between the fair market value and the current use value for each year, multiplied by that years levy rate, not to exceed seven years. Interest is calculated at 12 percent per year, the same as for delinquent property taxes. The penalty is 20 percent of the additional tax and interest. The penalty does not apply if the owner provides a two-year withdrawal notice. Property removed from current use classification due to a natural disaster such as a flood, windstorm, earthquake, and other calamity, rather than the landowner changing the use of the property, is exempt from additional tax, penalty, and interest.

If the property no longer qualifies for the designated forestland program, compensating tax is due. Compensating tax is the difference between the fair market value and the current designated forest land value, multiplied by the current levy rate and the number of years the land was in the program; not to exceed nine years, plus an amount using the same calculation for the current year, up to the date of removal. Interest and penalties do not apply on compensating tax when land is removed from the designated forestland program. There are no exemptions from compensating tax for property removed from the program due to natural disaster.

In 2013 the Legislature passed Engrossed Substitute Senate Bill (ESSB) 5882, which requires tax preference legislation enacted, expanded, or extended after August 1, 2013, to include a tax preference performance statement. Additionally, ESSB 5882 also establishes an automatic 10-year expiration date for new tax preference if an alternative expiration date is not provided in the new tax preference legislation. The 10-year expiration date does not apply to any existing tax preference that is amended to clarify an ambiguity or correct a technical inconsistency if the legislation explicitly indicates this intent.

Summary of Engrossed Bill:

Clarification is provided that property removed from current use classification due to wildfire is not subject to additional tax, penalty, and interest. An intent section explicitly indicates the intent of the legislation related to current use classification is to clarify an ambiguity in existing law and therefore is not subject to the 10-year expiration date for expanded tax preferences.

Land removed from the designated forestland program due to natural disaster such as a flood, windstorm, earthquake, or other such calamity is exempt from compensating tax. A tax preference performance statement directs the Joint Legislative Audit and Review Committee to review the revenue impact attributable to the compensating tax exemption provided in the act. The compensating tax exemption expires on January 1, 2028.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) This bill arises out of the devastating fires in eastern Washington. The impacted state and federal land is exempt from property tax, but the privately held forest land is not. The designated forest land program requires property owners to reseed every three years. Sometimes land is so scorched that it cannot be replanted and has to come out of the program.

This is a fairness issue. A few years ago, counties were allowed to collapse open space timber land into designated forest land. This forced property out of open space timber, and property owners lost their relief from penalties in the case of a natural disaster. This protection should be extended.

County assessors want to treat the impacted property the same and are in favor of this bill. There is very little fiscal impact to counties or the state. Counties do not budget for penalties.

There is some concern that the fiscal note is too high with an estimate of 100 impacted parcels each year. With two large fires over the course of two years, Okanogan County estimates a total of 100 impacted properties. The estimate that property values would increase by $10,000 per parcel also seems high, given the type of land this is.

Some technical amendments are needed.

(Opposed) None.

Persons Testifying: Representative Steele, prime sponsor; Monty Cobb, Washington Association of County Officials; and John Ehrenreich, Washington Forest Protection Association.

Persons Signed In To Testify But Not Testifying: None.