

**SENATE BILL REPORT**

**ESSB 5481**

**AS PASSED SENATE, JANUARY 24, 1992**

**Brief Description:** Modifying open space classification provisions.

**SPONSORS:** Senate Committee on Agriculture & Water Resources (originally sponsored by Senators Sellar and McMullen)

**SENATE COMMITTEE ON AGRICULTURE & WATER RESOURCES**

**Majority Report:** That Substitute Senate Bill No. 5481 be substituted therefor, and the substitute bill do pass.

Signed by Senators Barr, Chairman; Anderson, Vice Chairman; Bailey, Conner, Gaspard, and Newhouse.

**Staff:** Bob Lee (786-7404)

**Hearing Dates:** February 14, 1991; February 26, 1991

**BACKGROUND:**

The Open Spaces Act provides a mechanism whereby land can be taxed according to its current use value rather than its highest and best value. There are three categories of land that are eligible for enrollment in the open space program: "timber land;" "agricultural land;" and "open space land." "Open space land" includes a variety of natural areas and historic sites.

Under the open space program, the landowner is required to apply to the county for enrollment of land. The land is enrolled for a minimum of ten years and cannot be converted to another use while in the program. The county assessor establishes the value of the property in two ways: the value under current use; and the value under highest and best use. The land is taxed on the current use value while it is enrolled in the program. If the land is removed from the program by the landowner, the county recaptures the tax reduction for the seven most recent years based upon the highest and best use value. The amount of tax recaptured is the difference between the taxes paid under the current use value and the amount that would have been collected under highest and best use valuation. In addition, an interest charge is levied on the amount of the tax that was deferred.

If the landowner wishing to remove the land from the program does not comply with the notice provisions in the act, or wishes to remove the property prior to the ten year minimum time period, an additional penalty of 20 percent is levied on the amount of recaptured taxes plus interest.

There are minimum gross dollar values that agricultural land must produce in order for small acreage to be eligible for enrollment in the program.

The county may require the landowner of "open space" land to grant the county an easement before enrolling the land into the program. There is a specific provision in current law that prohibits counties from requiring the granting of an easement as a condition for enrolling timber land into the current use valuation tax program.

Land can be transferred between timber and agricultural classifications but not between open space and other classifications without being subject to the tax recapture interest charge provisions.

**SUMMARY:**

The minimum dollar amount of gross income that small parcels of agricultural land must produce is increased. To enroll agricultural land that is more than five and less than 20 acres, the dollar amount is increased from \$100 to \$200 per acre per year. For parcels of agricultural land under five acres, the total income from the land parcel is increased from \$1000 to \$1500. The amount of land incidental to lawful commercial agricultural production that would be eligible to be included in the program as part of the farming operation is limited to 20 percent of the classified land.

The land upon which farm housing is sited is to be valued the same as the surrounding agricultural land if the housing is an integral part of the farming operation. When land is transferred to a governmental entity due to a loan default, the requirement of paying the compensating tax is removed if the governmental entity intends to resell the property and is to be continued in the same use.

A timber management plan must have been filed with the granting authority for timber lands to be enrolled in the program. The restriction that the granting authority may not require the granting of an easement for timber lands is removed.

A floor is established on the value of "open space" land to be no less than the value of land classified as agricultural land unless it is based on a public benefit rating system.

Land may be transferred into and from the "open space" category into or from either the agricultural and the timber category without being considered a change of use and thus not be subject to the tax recapture provisions.

If land that is enrolled in the program is sold to a new owner but the new owner chooses to not continue to have the land enrolled in the program, a 20 percent penalty could be assessed in addition to the present recapture of the tax difference for the seven most recent years plus the interest charge.

An eight member advisory committee is created for the Department of Revenue to recommend changes to rules to implement the program. Four members shall be assessors, two of which shall come from east of the Cascades. Four shall be members of the agricultural and forestry community, of which two shall be from the east of the Cascades. This committee shall meet at least annually.

Additional information is required for persons wishing to make application to enroll timber land into the current use program, including: date of acquisition; whether timber has been harvested and the owner's plan for restocking; whether there is a forest management plan; whether the land has been subdivided; and a summary of the past experience and current activity of the applicant in growing and harvesting timber. The application for enrollment of timber land into the program shall be made after a public hearing and after notice of the hearing has been published in the newspaper.

A list of factors that allows the granting authority to deny the application for enrollment of timber land includes failure to comply with the restocking, forest management, fire protection or disease control, and provisions of the Forest Practices Act. Also included is information as to whether the land abuts salt water. In addition, the granting authority may condition the application on the granting of an easement.

The granting or denial of an application to enroll land in the timber classification is reviewable only for arbitrary or capricious actions of the granting authority.

**Appropriation:** none

**Revenue:** none

**Fiscal Note:** none requested

**Effective Date:** January 1, 1992

**TESTIMONY FOR:**

The Open Spaces Act has not been systematically reviewed and updated since its enactment in 1973. Updating of the law is needed. Current law does not allow land enrolled under some classifications of open spaces to be transferred to other qualifying open space categories. Additional flexibility is needed to allow these transfers between categories.

**TESTIMONY AGAINST:** None

**TESTIFIED:** PRO: Tom Casey; Ben Gassaway, Clark County Assessor; Fred Saeger and Paul Dossett, County Officials