

# HOUSE BILL REPORT

## HB 1733

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**As Reported by House Committee On:**  
Finance

**Title:** An act relating to the property tax current use valuation programs.

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

**Sponsors:** Representatives Goodman, Blake, Springer, Eddy, Dunshee, Rolfes and Kessler.

**Brief History:**

**Committee Activity:**

Finance: 2/12/09, 3/2/09 [DPS].

**Brief Summary of Substitute Bill**

- Includes land used for equestrian activities such as stabling, training, riding, clinics, schooling, shows, and grazing for feed in the current use farm and agricultural land current use program.
- Excuses current use program owners from paying the back taxes upon removal from the current use program if the land was included in a current use program in error through no fault of the owner.

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### HOUSE COMMITTEE ON FINANCE

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Hunter, Chair; Hasegawa, Vice Chair; Orcutt, Ranking Minority Member; Parker, Assistant Ranking Minority Member; Condotta, Conway, Ericks, Santos and Springer.

**Staff:** Rick Peterson (786-7150)

**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

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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. For classified farm and agricultural land for which an application was made before January 1, 1993, and that has not been transferred to a new owner since January 1, 1993, farm parcels of less than five acres must generate \$1,000 in farm gross income, and farm parcels of between five and 20 acres must generate \$100 per acre. For other classified farm and agricultural land, 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.

The 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."

A recent review by King County of their 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.

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### **Summary of Substitute Bill:**

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.

**Substitute Bill Compared to Original Bill:**

The substitute bill removes the retroactive application of the bill back to January 1, 2008.

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**Appropriation:** None.

**Fiscal Note:** Available.

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

**Staff Summary of Public Testimony:**

(In support) These people thought they were compliant with the program at the time of enrollment. However, King County has since made a rule change and is now trying to collect back taxes. These properties have high values, so significant back taxes would be due and land could be lost to development if this bill does not pass. This bill gives those constituents, and others like them, a sense of security by adding new language to the statute, thereby providing uniformity across counties. It also protects people when an administrative rule change affects them. A major tenet of the Growth Management Act is the protection and perpetuation of open space. Removal from the program will place these properties in jeopardy and subject to development. Horses are a vital part of agricultural economy. The language that protects property owners that are removed from the program through no fault of their own is important for all of agriculture.

(With concerns) Assessors are concerned about how to value equestrian land, and the Legislature needs to be sure that this is what they want and need to think about whether this is going to achieve that.

(Opposed) None.

**Persons Testifying:** (In support) Representative Goodman, prime sponsor; Jim Halstrom, Citizen/Emerald Downs; and Dan Wood, Washington Farm Bureau.

(With concerns) Robert Carlton, Washington Association of County Officials.

**Persons Signed In To Testify But Not Testifying:** None.