

# SENATE BILL REPORT

## SHB 2402

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As of February 26, 2010

**Title:** An act relating to a property tax exemption for property owned by a nonprofit organization and used for the purpose of a farmers market.

**Brief Description:** Concerning a property tax exemption for property owned by a nonprofit organization and used for the purpose of a farmers market.

**Sponsors:** House Committee on Finance (originally sponsored by Representatives White, Rolfes, Armstrong, Haler, Nelson, Roberts, Maxwell, Dickerson, Crouse, Jacks, Walsh, Wallace, Sells, Ormsby, Kenney, Williams, Blake, Chase, Morris, Campbell, Appleton, Carlyle, Conway, Bailey, Hope and Haigh).

**Brief History:** Passed House: 2/12/10, 97-0.

**Committee Activity:** Agriculture & Rural Economic Development: 2/22/10, 2/25/10 [DPA-WM].

Ways & Means: 2/27/10.

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### SENATE COMMITTEE ON AGRICULTURE & RURAL ECONOMIC DEVELOPMENT

**Majority Report:** Do pass as amended and be referred to Committee on Ways & Means.

Signed by Senators Hatfield, Chair; Ranker, Vice Chair; Schoesler, Ranking Minority Member; Becker, Haugen, Morton and Shin.

**Staff:** Sam Thompson (786-7413)

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### SENATE COMMITTEE ON WAYS & MEANS

**Staff:** Dianne Criswell (786-7433)

**Background:** All property in Washington is subject to property taxation unless specifically exempt. Exemptions are narrowly construed.

Public Assembly Halls or Meeting Places. Up to one acre of land owned by a nonprofit organization to operate a public assembly hall or meeting place is exempt from property taxation, as long as the property is used exclusively for public gatherings and is available for use by all organizations or persons.

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Generally, use for business activities nullifies this exemption. However, the exemption is not nullified by:

- collection of rent or donations, if funds are used for capital improvements, maintenance and operation, or exempt purposes;
- fund-raising activities conducted by a nonprofit organization;
- use for business activities for not more than 15 days annually, if income is used for capital improvements, maintenance and operation, or exempt purposes;
- in counties with fewer than 20,000 people (currently ten of 39 Washington counties), business use for dance lessons, art classes, or music lessons; and
- inadvertent nonexempt use, if not part of a pattern of use.

Churches. Churches and certain related structures, personal property, and church grounds up to five acres are exempt from property taxes. Loan or rental to a nonprofit entity or school for eleemosynary activity (charitable activity serving some social objective or advancing general welfare) does not nullify the exemption if rental income is reasonable and devoted solely to operation and maintenance of the property.

It is suggested that these exemptions should not be nullified by use by farmers markets.

**Summary of Bill (Recommended Amendments):** Public Assembly Halls or Meeting Places. Nonprofit organizations operating public assembly halls or meeting places may retain their exemption from property taxation if used by qualifying farmers markets for not more than 53 days each assessment year. Income from rental or use by qualifying farmers' markets must be used for capital improvements, maintenance and operation, or exempt purposes.

Churches. Church property loaned or rented to a nonprofit organization for use by a qualifying farmers market is exempt from property taxation. Use for this purpose may not occur more than 53 days each assessment year. Rental income must be reasonable and devoted solely to operation and maintenance of the property.

Qualifying Farmers Market. A qualifying farmers market is an entity that sponsors a regular assembly of vendors at a defined location for promoting sale of agricultural products grown or produced in Washington directly to the consumer and:

- at least five vendors are farmers selling their own agricultural products;
- total gross annual sales of farmer vendors exceeds total gross annual sales of processor or reseller vendors;
- total gross annual sales of farmer, processor, or reseller vendors exceeds total gross annual sales of other vendors;
- sale of imported items and secondhand items is prohibited; and
- no vendor is a franchisee.

Limited Term. The act applies to taxes levied for collection in 2011 through 2020. The exemptions expire on December 31, 2020.

**EFFECT OF CHANGES MADE BY AGRICULTURE & RURAL ECONOMIC DEVELOPMENT COMMITTEE (Recommended Amendments):** Language from SHB

2439 is added, providing that church property loaned or rented to a nonprofit organization for use by a qualifying farmers market is exempt from property taxation. Rental income must be reasonable and devoted solely to operation and maintenance of the property. This exemption mirrors the exemption in the underlying bill by: (1) referencing the same farmers market definition; and (2) providing that market activities may not occur more than 53 days each assessment year. Provisions are retained in the underlying bill specifying that the act: (1) applies to taxes levied for collection in 2011 through 2020; and (2) expires December 31, 2020.

**Appropriation:** None.

**Fiscal Note:** Available.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony on Substitute House Bill (Agriculture & Rural Economic Development):** PRO: There are over 100 farmers markets in Washington, tremendous community assets providing healthy Washington-grown produce, and often a fixture of communities. This measure (along with SHB 2439, concerning churches) addresses concerns regarding potential property tax liability for organizations operating on shoestring budgets. It provides important support for farmers markets, enabling some to stay in business and benefitting many Washington farmers.

**Persons Testifying (Agriculture & Rural Economic Development):** PRO: Representative White, prime sponsor; Holli Johnson, Washington State Grange; Steve Halstrom, Let Us Farm, LLC; Lisa Kenney, Jessica Kagele, Full Circle Farm; Jackie Aitchison, Washington State Farmers Market Association; Patrice Barrentine, WSDA.

**Staff Summary of Public Testimony (Ways & Means):**

**Persons Testifying (Ways & Means):**