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## Finance Committee

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### HB 1261

**Brief Description:** Providing tax relief for certain incidental uses on open space land.

**Sponsors:** Representatives Low, Berg, Peterson and Nance.

**Brief Summary of Bill**

- Adds agritourism activities to allowable uses on open space farm and agricultural land.
- Reduces the classification removal penalty calculation to four years of back taxes.
- Authorizes assessors to waive any back taxes, interest, or penalty for classification removal and allows county treasurers to refund any of those amounts paid by a taxpayer.

**Hearing Date:** 1/28/25

**Staff:** Kristina King (786-7190).

**Background:**

Property Tax.

All real and personal property is subject to a tax each year based on the highest and best use unless a specific exemption is provided by law. The annual growth of all regular property tax levy revenue is limited as follows:

- For jurisdictions with a population of less than 10,000, revenue growth is limited to 1 percent.
- For jurisdictions with a population of 10,000 or more, revenue growth is limited to the lesser of inflation or 1 percent plus the value of new construction.

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The state collects two regular property tax levies for common schools. The revenue growth limit applies to both levies. Participants in the senior citizens, individuals with disabilities, and qualifying veterans property tax exemption program receive a partial exemption from the original state levy and a full exemption from the additional state levy.

The Washington Constitution limits regular levies to a maximum of 1 percent of the property's value (\$10 per \$1,000 of assessed value). There are individual district rate maximums and aggregate rate maximums to keep the total tax rate for regular property taxes within the constitutional limit. For example:

- The state levy rate is limited to \$3.60 per \$1,000 of assessed value.
- County general levies are limited to \$1.80 per \$1,000 of assessed value.
- County road levies are limited to \$2.25 per \$1,000 of assessed value.
- City levies are limited to \$3.375 per \$1,000 of assessed value.

For property tax purposes, the state, counties, and cities are collectively referred to as senior taxing districts. Junior taxing districts—a term that includes fire, hospital, flood control zone, and most other special purpose districts—each have specific rate limits as well.

#### Current Use Classification.

Property meeting certain conditions may have property taxes determined on current use values rather than market values. There are four categories of lands that are classified and assessed on current use. Three categories are related to open spaces: open space lands, farm and agricultural lands, and timberlands. The remaining category is designated forestland.

There are various requirements the property owner must meet in order to qualify for the current use farm and agricultural land classification. There are size and income parameters as well as requirements that limit the way the land is used, the types of buildings built on the land, and the for-profit activities that are allowed to be conducted. In almost all cases, the land is required to be devoted primarily to agricultural uses or livestock production. The land may:

- have farm operator and employee housing built upon it;
- be used primarily for equestrian-related activities for which a charge is made, including stabling, training, riding, clinics, schooling, shows, or grazing for feed; or
- be primarily used for commercial horticultural purposes, including growing seedlings, trees, shrubs, vines, fruits, vegetables, flowers, herbs, and other plants in containers.

The current use farm and agricultural land classification, additionally, allows for the existence of:

- appurtenances necessary for production, preparation, or sale of agricultural products in conjunction with the lands producing such products; and
- incidental uses compatible with agricultural purposes, including wetland preservation, provided such use does not exceed 20 percent of the classified land.

The land remains in current use classification as long as it continues to be used for the purpose it was placed in the current use program. Land is removed from the program for the following reasons:

- written notice from the owner to remove all or a portion of the classified land;
- sale or transfer to an owner making all or a portion of the land exempt from property taxes, such as a sale to a governmental entity that is exempt from property taxes;
- sale or transfer to a new owner unless the owner signed a notice of continuance;
- an owner who fails to respond to a request from the assessor for information regarding use of the land;
- the granting authority denies an owner's request for reclassification;
- the assessor determines land no longer meets criteria; or
- the assessor discovers the land was classified in error.

When property is removed from current use classification, back taxes, plus interest, must be paid by the owner. For open space categories, back taxes, called additional tax, represent the tax benefit received over the most recent seven years plus interest and penalties. Additional tax becomes a lien on the property if not paid within 30 days after notification of it being due. Upon collection, the additional tax is distributed by the county treasurer in the same manner in which current taxes applicable to the subject land are distributed. The applicable interest and penalties are distributed to the county's current expense fund.

In instances when an assessor removes a property from the open space classification without voluntary withdrawal from the property owner, the owner may file an appeal of the removal to the county board of equalization in the county where the land is located. If the county board of equalization rules against the property owner, the owner may appeal the decision to the Board of Tax Appeals.

### **Summary of Bill:**

Agritourism activities, gravel pits, farm woodlots, produce stands, construction of small supporting structures, and minimal alternations to existing appurtenances on the land are allowable incidental uses on open space farm and agricultural land if the activities do not exceed 20 percent of the classified land.

Agritourism activities are any activity carried out on a farm whose primary use is agriculture and that allows members of the general public, for recreational, entertainment, or educational purposes, to view or enjoy rural activities. The agritourism activities must be incidental and compatible with the required growing and production of agriculture on classified farm and agricultural land. Activities include:

- farming;
- historic, cultural, and on-site educational programs;
- recreational farming programs that may include on-site hospitality services;
- guided and self-guided tours;
- petting zoos;
- farm festivals;
- corn mazes;
- harvest-your-own operations;

- hayrides;
- barn parties;
- horseback riding;
- fishing;
- camping; and
- celebratory gatherings and events, including birthday parties, graduation parties, and weddings.

The Department of Revenue is required to define what is integral to agritourism activities through rule making.

The additional tax penalty amount for classification removal is reduced to four years of back taxes. A county assessor is authorized to waive any back taxes, interest, or penalty for classification removal and allows a county treasurer to refund any of those amounts paid by a taxpayer.

**Appropriation:** None.

**Fiscal Note:** Available.

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