

E2SHB 1208 - S AMD 268
By Senator Kastama

1 On page 10, after line 8, insert the following:

2 "Sec. 10. RCW 84.34.037 and 1992 c 69 s 6 are each amended to read
3 as follows:

4 (1) Applications for classification or reclassification under RCW
5 84.34.020(1) shall be made to the county legislative authority. An
6 application made for classification or reclassification of land under
7 RCW 84.34.020(1) (b) and (c) which is in an area subject to a
8 comprehensive plan shall be acted upon in the same manner in which an
9 amendment to the comprehensive plan is processed. Application made for
10 classification of land which is in an area not subject to a
11 comprehensive plan shall be acted upon after a public hearing and after
12 notice of the hearing shall have been given by one publication in a
13 newspaper of general circulation in the area at least ten days before
14 the hearing: PROVIDED, That applications for classification of land in
15 an incorporated area shall be acted upon by: (a) A granting authority
16 composed of three members of the county legislative body and three
17 members of the city legislative body in which the land is located in a
18 meeting where members may be physically absent but participating
19 through telephonic connection; or (b) separate affirmative acts by both
20 the county and city legislative bodies where both bodies affirm the
21 entirety of an application without modification or both bodies affirm
22 an application with identical modifications.

23 (2) In determining whether an application made for classification
24 or reclassification under RCW 84.34.020(1) (b) and (c) should be
25 approved or disapproved, the granting authority may take cognizance of
26 the benefits to the general welfare of preserving the current use of
27 the property which is the subject of application, and shall consider:

28 (a) The resulting revenue loss or tax shift;

29 (b) Whether granting the application for land applying under RCW
30 84.34.020(1)(b) will (i) conserve or enhance natural, cultural, or

1 scenic resources, (ii) protect streams, stream corridors, wetlands,
2 natural shorelines and aquifers, (iii) protect soil resources and
3 unique or critical wildlife and native plant habitat, (iv) promote
4 conservation principles by example or by offering educational
5 opportunities, (v) enhance the value of abutting or neighboring parks,
6 forests, wildlife preserves, nature reservations, sanctuaries, or other
7 open spaces, (vi) enhance recreation opportunities, (vii) preserve
8 historic and archaeological sites, (viii) preserve visual quality along
9 highway, road, and street corridors or scenic vistas, (ix) affect any
10 other factors relevant in weighing benefits to the general welfare of
11 preserving the current use of the property; and

12 (c) Whether granting the application for land applying under RCW
13 84.34.020(1)(c) will (i) either preserve land previously classified
14 under RCW 84.34.020(2) or preserve land that is traditional farmland
15 and not classified under chapter 84.33 or 84.34 RCW, (ii) preserve land
16 with a potential for returning to commercial agriculture, and (iii)
17 affect any other factors relevant in weighing benefits to the general
18 welfare of preserving the current use of property.

19 (3) If a public benefit rating system is adopted under RCW
20 84.34.055, the county legislative authority shall rate property for
21 which application for classification has been made under RCW
22 84.34.020(1) (b) and (c) according to the public benefit rating system
23 in determining whether an application should be approved or
24 disapproved, but when such a system is adopted, open space properties
25 then classified under this chapter which do not qualify under the
26 system shall not be removed from classification but may be rated
27 according to the public benefit rating system.

28 (4) The granting authority may approve the application with respect
29 to only part of the land which is the subject of the application. If
30 any part of the application is denied, the applicant may withdraw the
31 entire application. The granting authority in approving in part or
32 whole an application for land classified or reclassified pursuant to
33 RCW 84.34.020(1) may also require that certain conditions be met,
34 including but not limited to the granting of easements. As a condition
35 of granting open space classification, the legislative body may not
36 require public access on land classified under RCW 84.34.020(1)(b)(iii)
37 for the purpose of promoting conservation of wetlands.

1 (5) The granting or denial of the application for current use
2 classification or reclassification is a legislative determination and
3 shall be reviewable only for arbitrary and capricious actions.

4 **Sec. 11.** RCW 84.34.041 and 2002 c 315 s 2 are each amended to read
5 as follows:

6 An application for current use classification or reclassification
7 under RCW 84.34.020(3) shall be made to the county legislative
8 authority.

9 (1) The application shall be made upon forms prepared by the
10 department of revenue and supplied by the granting authority and shall
11 include the following elements that constitute a timber management
12 plan:

13 (a) A legal description of, or assessor's parcel numbers for, all
14 land the applicant desires to be classified as timber land;

15 (b) The date or dates of acquisition of the land;

16 (c) A brief description of the timber on the land, or if the timber
17 has been harvested, the owner's plan for restocking;

18 (d) Whether there is a forest management plan for the land;

19 (e) If so, the nature and extent of implementation of the plan;

20 (f) Whether the land is used for grazing;

21 (g) Whether the land has been subdivided or a plat filed with
22 respect to the land;

23 (h) Whether the land and the applicant are in compliance with the
24 restocking, forest management, fire protection, insect and disease
25 control, weed control, and forest debris provisions of Title 76 RCW or
26 applicable rules under Title 76 RCW;

27 (i) Whether the land is subject to forest fire protection
28 assessments pursuant to RCW 76.04.610;

29 (j) Whether the land is subject to a lease, option, or other right
30 that permits it to be used for a purpose other than growing and
31 harvesting timber;

32 (k) A summary of the past experience and activity of the applicant
33 in growing and harvesting timber;

34 (l) A summary of current and continuing activity of the applicant
35 in growing and harvesting timber;

36 (m) A statement that the applicant is aware of the potential tax

1 liability involved when the land ceases to be classified as timber
2 land.

3 (2) An application made for classification of land under RCW
4 84.34.020(3) shall be acted upon after a public hearing and after
5 notice of the hearing is given by one publication in a newspaper of
6 general circulation in the area at least ten days before the hearing.
7 Application for classification of land in an incorporated area shall be
8 acted upon by: (a) A granting authority composed of three members of
9 the county legislative body and three members of the city legislative
10 body in which the land is located in a meeting where members may be
11 physically absent but participating through telephonic connection; or
12 (b) separate affirmative acts by both the county and city legislative
13 bodies where both bodies affirm the entirety of an application without
14 modification or both bodies affirm an application with identical
15 modifications.

16 (3) The granting authority shall act upon the application with due
17 regard to all relevant evidence and without any one or more items of
18 evidence necessarily being determinative, except that the application
19 may be denied for one of the following reasons, without regard to other
20 items:

21 (a) The land does not contain a stand of timber as defined in
22 chapter 76.09 RCW and applicable rules, except this reason shall not
23 alone be sufficient to deny the application (i) if the land has been
24 recently harvested or supports a growth of brush or noncommercial type
25 timber, and the application includes a plan for restocking within three
26 years or the longer period necessitated by unavailability of seed or
27 seedlings, or (ii) if only isolated areas within the land do not meet
28 minimum standards due to rock outcroppings, swamps, unproductive soil,
29 or other natural conditions;

30 (b) The applicant, with respect to the land, has failed to comply
31 with a final administrative or judicial order with respect to a
32 violation of the restocking, forest management, fire protection, insect
33 and disease control, weed control, and forest debris provisions of
34 Title 76 RCW or applicable rules under Title 76 RCW;

35 (c) The land abuts a body of salt water and lies between the line
36 of ordinary high tide and a line paralleling the ordinary high tide
37 line and two hundred feet horizontally landward from the high tide
38 line.

1 (4) The timber management plan must be filed with the county
2 legislative authority either: (a) When an application for
3 classification under this chapter is submitted; (b) when a sale or
4 transfer of timber land occurs and a notice of continuance is signed;
5 or (c) within sixty days of the date the application for
6 reclassification under this chapter or from designated forest land is
7 received. The application for reclassification shall be accepted, but
8 shall not be processed until the timber management plan is received.
9 If the timber management plan is not received within sixty days of the
10 date the application for reclassification is received, the application
11 for reclassification shall be denied.

12 If circumstances require it, the county assessor may allow in
13 writing an extension of time for submitting a timber management plan
14 when an application for classification or reclassification or notice of
15 continuance is filed. When the assessor approves an extension of time
16 for filing the timber management plan, the county legislative authority
17 may delay processing an application until the timber management plan is
18 received. If the timber management plan is not received by the date
19 set by the assessor, the application or the notice of continuance shall
20 be denied.

21 The granting authority may approve the application with respect to
22 only part of the land that is described in the application, and if any
23 part of the application is denied, the applicant may withdraw the
24 entire application. The granting authority, in approving in part or
25 whole an application for land classified pursuant to RCW 84.34.020(3),
26 may also require that certain conditions be met.

27 Granting or denial of an application for current use classification
28 is a legislative determination and shall be reviewable only for
29 arbitrary and capricious actions. The granting authority may not
30 require the granting of easements for land classified pursuant to RCW
31 84.34.020(3).

32 The granting authority shall approve or disapprove an application
33 made under this section within six months following the date the
34 application is received."

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By Senator

1 On page 1, line 3 of the title, after "82.45.090," strike the
2 remainder of the title and insert "84.69.030, 84.34.037, and
3 84.34.041."

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