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ENGROSSED SUBSTITUTE HOUSE BILL 2871

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State of Washington

55th Legislature

1998 Regular Session

By House Committee on Finance (originally sponsored by Representatives Parlette, Chandler, Wensman, Anderson, Reams, Clements, Romero, Linville, Gardner and Thompson)

Read first time 02/09/98. Referred to Committee on .

1 AN ACT Relating to current use valuation; amending RCW 84.34.070,  
2 84.34.020, 84.34.065, and 36.70B.230; reenacting and amending RCW  
3 84.40.030; adding a new section to chapter 36.70A RCW; adding a new  
4 chapter to Title 84 RCW; recodifying RCW 36.70B.230; and repealing RCW  
5 35.63.240, 35A.63.260, and 36.70.495.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 NEW SECTION. **Sec. 1.** This chapter creates a new system of  
8 classifying agricultural land for property tax purposes as agricultural  
9 land with long-term commercial significance where the true and fair  
10 value of the land is based upon its current use. This new current use  
11 valuation program applies to eligible land automatically and is in  
12 addition to the voluntary farm and agricultural land valuation program  
13 under chapter 84.34 RCW.

14 NEW SECTION. **Sec. 2.** (1) Land shall be classified as agricultural  
15 land with long-term commercial significance if: (a) The land is  
16 designated as agricultural land under RCW 36.70A.170(1) by a county,  
17 city, or town planning under RCW 36.70A.040; (b) the land is devoted  
18 primarily to agricultural uses specified under RCW 36.70A.030(2) and

1 not used for residential purposes, industrial purposes, or other  
2 commercial purposes; and (c) the county, city, or town has adopted its  
3 development regulations under RCW 36.70A.060 conserving agricultural  
4 land designated under RCW 36.70A.170(1).

5 (2) The assessor shall automatically classify or reclassify land  
6 meeting the requirements of this section based upon information  
7 submitted to the assessor by counties, cities, and towns under RCW  
8 36.70B.230 (as recodified by this act). The manifest error provisions  
9 of RCW 84.48.065 apply to the classification or reclassification of  
10 land as agricultural land with long-term commercial significance.

11 (3) The true and fair value of agricultural land with long-term  
12 commercial significance for property tax purposes shall be the current  
13 use value of the land determined in the same manner as the current use  
14 value of land classified as farm and agricultural land is determined  
15 under chapter 84.34 RCW.

16 (4) The owner of any land eligible for classification or  
17 reclassification as agricultural land with long-term commercial  
18 significance that is not so classified or reclassified by the assessor  
19 under subsection (2) of this section may submit a written request to  
20 the assessor requesting the land be classified or reclassified as  
21 agricultural land with long-term commercial significance together with  
22 proof that the land meets the requirements of this section. The  
23 assessor shall investigate the request and either deny or approve the  
24 request within thirty days of the date the request was received. The  
25 assessor shall give written notice of the denial or approval to the  
26 owner requesting the classification or reclassification. A denial may  
27 be appealed to the board of equalization of the county in which the  
28 property is located, in accordance with RCW 84.40.038, within thirty  
29 days of the date the notice of denial is mailed.

30 (5) Eligible land classified as farm and agricultural land under  
31 chapter 84.34 RCW shall be reclassified as agricultural land with  
32 long-term commercial significance. Land classified or designated as  
33 forest land under chapter 84.33 RCW shall not be classified as  
34 agricultural land with long-term commercial significance, even if it  
35 meets the requirements of this section. Land classified as open space  
36 land or timber land under RCW 84.34.020 (1) or (3) shall not be  
37 classified as agricultural land with long-term commercial significance,  
38 even if it meets the requirements of this section. However, the owner  
39 of open space farm and agricultural conservation land under RCW

1 84.34.020(1)(c) may submit an application requesting the land be  
2 reclassified as agricultural land with long-term commercial  
3 significance and the assessor shall so reclassify this land if it meets  
4 the requirements of this section.

5 NEW SECTION. **Sec. 3.** (1) The classification or reclassification  
6 of land as agricultural land with long-term commercial significance  
7 shall be removed if either: (a) The county, city, or town removes the  
8 designation of the land under RCW 36.70A.170(1); or (b) the use of the  
9 land changes to a use not permitted for designation as agricultural  
10 land with long-term commercial significance.

11 Land removed from classification as agricultural land with long-  
12 term commercial significance shall be valued at its true and fair value  
13 under RCW 84.40.030 unless it is reclassified under another current use  
14 valuation program under chapter 84.33 or 84.34 RCW.

15 (2) Land classified as agricultural land with long-term commercial  
16 significance that was not reclassified to that status from farm and  
17 agricultural land or open space farm and agricultural conservation land  
18 under chapter 84.34 RCW is not subject to any additional tax, penalty,  
19 and interest if removed from classification as agricultural land with  
20 long-term commercial significance.

21 (3) However, land classified as agricultural land with long-term  
22 commercial significance that was reclassified to that status from farm  
23 and agricultural land or open space farm and agricultural conservation  
24 land under chapter 84.34 RCW is subject to additional tax, penalty, and  
25 interest, if the land is removed from classification as agricultural  
26 land with long-term commercial significance as follows:

27 (a) The additional tax, penalty, and interest shall be calculated  
28 in the same manner as set forth under RCW 84.34.108 and 84.34.080 for  
29 removing land from classification as farm and agricultural land or open  
30 space farm and agricultural conservation land under chapter 84.34 RCW,  
31 except for each year the land remains classified as agricultural land  
32 with long-term commercial significance one year of the additional tax,  
33 penalty, and interest shall be abated. Additional tax, penalty, and  
34 interest shall not be imposed if the reclassified land remains  
35 classified as agricultural land with long-term commercial significance  
36 for at least seven years.

37 (b) Additional tax, penalty, and interest under this subsection is  
38 not due if the land is reclassified as farm and agricultural land or

1 open space farm and agricultural conservation land under chapter 84.34  
2 RCW immediately upon being removed from classification as agricultural  
3 land with long-term commercial significance.

4 NEW SECTION. **Sec. 4.** The provisions of RCW 84.34.300 through  
5 84.34.380, relating to exemptions from special benefit assessments,  
6 apply to agricultural land with long-term commercial significance.

7 NEW SECTION. **Sec. 5.** The department shall adopt rules consistent  
8 with this chapter as are necessary or desirable to permit the effective  
9 administration of this chapter.

10 **Sec. 6.** RCW 84.34.070 and 1992 c 69 s 10 are each amended to read  
11 as follows:

12 (1) When land has once been classified under this chapter, it shall  
13 remain under such classification and shall not be applied to other use  
14 except as provided by subsection (2) of this section for at least ten  
15 years from the date of classification and shall continue under such  
16 classification until and unless withdrawn from classification after  
17 notice of request for withdrawal shall be made by the owner. During  
18 any year after eight years of the initial ten-year classification  
19 period have elapsed, notice of request for withdrawal of all or a  
20 portion of the land may be given by the owner to the assessor or  
21 assessors of the county or counties in which such land is situated. In  
22 the event that a portion of a parcel is removed from classification,  
23 the remaining portion must meet the same requirements as did the entire  
24 parcel when such land was originally granted classification pursuant to  
25 this chapter unless the remaining parcel has different income criteria.  
26 Within seven days the assessor shall transmit one copy of such notice  
27 to the legislative body which originally approved the application. The  
28 assessor or assessors, as the case may be, shall, when two assessment  
29 years have elapsed following the date of receipt of such notice,  
30 withdraw such land from such classification and the land shall be  
31 subject to the additional tax and applicable interest due under RCW  
32 84.34.108. Agreement to tax according to use shall not be considered  
33 to be a contract and can be abrogated at any time by the legislature in  
34 which event no additional tax or penalty shall be imposed.

35 (2) The following reclassifications are not considered withdrawals  
36 or removals and are not subject to additional tax under RCW 84.34.108:

1 (a) Reclassification between lands under RCW 84.34.020 (2) and (3);  
2 (b) Reclassification of land classified under RCW 84.34.020 (2) or  
3 (3) or chapter 84.33 RCW to open space land under RCW 84.34.020(1);

4 (c) Reclassification of land classified under RCW 84.34.020 (2) or  
5 (3) to forest land classified under chapter 84.33 RCW; (~~and~~)

6 (d) Reclassification of farm and agricultural land classified under  
7 RCW 84.34.020(2), or open space farm and agricultural conservation land  
8 classified under RCW 84.34.020(1)(c), to agricultural land of long-term  
9 commercial significance under section 2 of this act; and

10 (e) Reclassification of land classified as open space land under  
11 RCW 84.34.020(1)(c) and reclassified to farm and agricultural land  
12 under RCW 84.34.020(2) if the land had been previously classified as  
13 farm and agricultural land under RCW 84.34.020(2).

14 (3) Applications for reclassification shall be subject to  
15 applicable provisions of RCW 84.34.037, 84.34.035, 84.34.041, and  
16 chapter 84.33 RCW.

17 (4) The income criteria for land classified under RCW 84.34.020(2)  
18 (b) and (c) may be deferred for land being reclassified from land  
19 classified under RCW 84.34.020 (1)(c) or (3), or chapter 84.33 RCW into  
20 RCW 84.34.020(2) (b) or (c) for a period of up to five years from the  
21 date of reclassification.

22 **Sec. 7.** RCW 84.34.020 and 1997 c 429 s 31 are each amended to read  
23 as follows:

24 As used in this chapter, unless a different meaning is required by  
25 the context:

26 (1) "Open space land" means (a) any land area so designated by an  
27 official comprehensive land use plan adopted by any city or county and  
28 zoned accordingly, or (b) any land area, the preservation of which in  
29 its present use would (i) conserve and enhance natural or scenic  
30 resources, or (ii) protect streams or water supply, or (iii) promote  
31 conservation of soils, wetlands, beaches or tidal marshes, or (iv)  
32 enhance the value to the public of abutting or neighboring parks,  
33 forests, wildlife preserves, nature reservations or sanctuaries or  
34 other open space, or (v) enhance recreation opportunities, or (vi)  
35 preserve historic sites, or (vii) preserve visual quality along  
36 highway, road, and street corridors or scenic vistas, or (viii) retain  
37 in its natural state tracts of land not less than one acre situated in  
38 an urban area and open to public use on such conditions as may be

1 reasonably required by the legislative body granting the open space  
2 classification, or (c) any land meeting the definition of farm and  
3 agricultural conservation land under subsection (8) of this section.  
4 As a condition of granting open space classification, the legislative  
5 body may not require public access on land classified under (b)(iii) of  
6 this subsection for the purpose of promoting conservation of wetlands.

7 (2) "Farm and agricultural land" means:

8 (a) Any parcel of land that is twenty or more acres or multiple  
9 parcels of land that are contiguous and total twenty or more acres:

10 (i) Devoted primarily to the production of livestock or  
11 agricultural commodities for commercial purposes;

12 (ii) Enrolled in the federal conservation reserve program or its  
13 successor administered by the United States department of agriculture;  
14 or

15 (iii) Other similar commercial activities as may be established by  
16 rule;

17 (b) Any parcel of land that is five acres or more but less than  
18 twenty acres devoted primarily to agricultural uses, which has produced  
19 a gross income from agricultural uses equivalent to, as of January 1,  
20 1993:

21 (i) One hundred dollars or more per acre per year for three of the  
22 five calendar years preceding the date of application for  
23 classification under this chapter for all parcels of land that are  
24 classified under this subsection or all parcels of land for which an  
25 application for classification under this subsection is made with the  
26 granting authority prior to January 1, 1993; and

27 (ii) On or after January 1, 1993, two hundred dollars or more per  
28 acre per year for three of the five calendar years preceding the date  
29 of application for classification under this chapter;

30 (c) Any parcel of land of less than five acres devoted primarily to  
31 agricultural uses which has produced a gross income as of January 1,  
32 1993, of:

33 (i) One thousand dollars or more per year for three of the five  
34 calendar years preceding the date of application for classification  
35 under this chapter for all parcels of land that are classified under  
36 this subsection or all parcels of land for which an application for  
37 classification under this subsection is made with the granting  
38 authority prior to January 1, 1993; and

1 (ii) On or after January 1, 1993, fifteen hundred dollars or more  
2 per year for three of the five calendar years preceding the date of  
3 application for classification under this chapter.

4 Parcels of land described in (b)(i) and (c)(i) of this subsection  
5 shall, upon any transfer of the property excluding a transfer to a  
6 surviving spouse, be subject to the limits of (b)(ii) and (c)(ii) of  
7 this subsection.

8 Agricultural lands shall also include such incidental uses as are  
9 compatible with agricultural purposes, including wetlands preservation,  
10 provided such incidental use does not exceed twenty percent of the  
11 classified land and the land on which appurtenances necessary to the  
12 production, preparation, or sale of the agricultural products exist in  
13 conjunction with the lands producing such products. Agricultural lands  
14 shall also include any parcel of land of one to five acres, which is  
15 not contiguous, but which otherwise constitutes an integral part of  
16 farming operations being conducted on land qualifying under this  
17 section as "farm and agricultural lands"; or

18 (d) The land on which housing for employees and the principal place  
19 of residence of the farm operator or owner of land classified pursuant  
20 to (a) of this subsection is sited if: The housing or residence is on  
21 or contiguous to the classified parcel; and the use of the housing or  
22 the residence is integral to the use of the classified land for  
23 agricultural purposes((;

24 ~~(e) Any parcel of land designated as agricultural land under RCW~~  
25 ~~36.70A.170; or~~

26 ~~(f) Any parcel of land not within an urban growth area zoned as~~  
27 ~~agricultural land under a comprehensive plan adopted under chapter~~  
28 ~~36.70A RCW)).~~

29 (3) "Timber land" means any parcel of land that is five or more  
30 acres or multiple parcels of land that are contiguous and total five or  
31 more acres which is or are devoted primarily to the growth and harvest  
32 of forest crops for commercial purposes. A timber management plan  
33 shall be filed with the county legislative authority at the time (a) an  
34 application is made for classification as timber land pursuant to this  
35 chapter or (b) when a sale or transfer of timber land occurs and a  
36 notice of classification continuance is signed. Timber land means the  
37 land only.

38 (4) "Current" or "currently" means as of the date on which property  
39 is to be listed and valued by the assessor.

1 (5) "Owner" means the party or parties having the fee interest in  
2 land, except that where land is subject to real estate contract "owner"  
3 shall mean the contract vendee.

4 (6) "Contiguous" means land adjoining and touching other property  
5 held by the same ownership. Land divided by a public road, but  
6 otherwise an integral part of a farming operation, shall be considered  
7 contiguous.

8 (7) "Granting authority" means the appropriate agency or official  
9 who acts on an application for classification of land pursuant to this  
10 chapter.

11 (8) "Farm and agricultural conservation land" means either:

12 (a) Land that was previously classified under subsection (2) of  
13 this section, that no longer meets the criteria of subsection (2) of  
14 this section, and that is reclassified under subsection (1) of this  
15 section; or

16 (b) Land that is traditional farmland that is not classified under  
17 chapter 84.33 or 84.34 RCW, that has not been irrevocably devoted to a  
18 use inconsistent with agricultural uses, and that has a high potential  
19 for returning to commercial agriculture.

20 **Sec. 8.** RCW 84.34.065 and 1997 c 429 s 33 are each amended to read  
21 as follows:

22 The true and fair value of farm and agricultural land, including  
23 land classified under section 2 of this act, shall be determined by  
24 consideration of the earning or productive capacity of comparable lands  
25 from crops grown most typically in the area averaged over not less than  
26 five years, capitalized at indicative rates. The earning or productive  
27 capacity of farm and agricultural lands shall be the "net cash rental",  
28 capitalized at a "rate of interest" charged on long term loans secured  
29 by a mortgage on farm or agricultural land plus a component for  
30 property taxes. The current use value of land under RCW  
31 84.34.020(2)(d) shall be established as: The prior year's average  
32 value of open space farm and agricultural land used in the county plus  
33 the value of land improvements such as septic, water, and power used to  
34 serve the residence. This shall not be interpreted to require the  
35 assessor to list improvements to the land with the value of the land.

36 ~~((In valuing any tract or parcel of real property designated and~~  
37 ~~zoned under a comprehensive plan adopted under chapter 36.70A RCW as~~  
38 ~~agricultural, forest, or open space land, the appraisal shall not be~~



1 ~~based on similar sales of parcels that have been converted to~~  
2 ~~nonagricultural, nonforest, or nonopen space uses within five years~~  
3 ~~after the sale.))~~

4 For the purposes of the above computation:

5 (1) The term "net cash rental" shall mean the average rental paid  
6 on an annual basis, in cash, for the land being appraised and other  
7 farm and agricultural land of similar quality and similarly situated  
8 that is available for lease for a period of at least three years to any  
9 reliable person without unreasonable restrictions on its use for  
10 production of agricultural crops. There shall be allowed as a  
11 deduction from the rental received or computed any costs of crop  
12 production charged against the landlord if the costs are such as are  
13 customarily paid by a landlord. If "net cash rental" data is not  
14 available, the earning or productive capacity of farm and agricultural  
15 lands shall be determined by the cash value of typical or usual crops  
16 grown on land of similar quality and similarly situated averaged over  
17 not less than five years. Standard costs of production shall be  
18 allowed as a deduction from the cash value of the crops.

19 The current "net cash rental" or "earning capacity" shall be  
20 determined by the assessor with the advice of the advisory committee as  
21 provided in RCW 84.34.145, and through a continuing internal study,  
22 assisted by studies of the department of revenue. This net cash rental  
23 figure as it applies to any farm and agricultural land may be  
24 challenged before the same boards or authorities as would be the case  
25 with regard to assessed values on general property.

26 (2) The term "rate of interest" shall mean the rate of interest  
27 charged by the farm credit administration and other large financial  
28 institutions regularly making loans secured by farm and agricultural  
29 lands through mortgages or similar legal instruments, averaged over the  
30 immediate past five years.

31 The "rate of interest" shall be determined annually by a rule  
32 adopted by the department of revenue and such rule shall be published  
33 in the state register not later than January 1 of each year for use in  
34 that assessment year. The department of revenue determination may be  
35 appealed to the state board of tax appeals within thirty days after the  
36 date of publication by any owner of farm or agricultural land or the  
37 assessor of any county containing farm and agricultural land.

38 (3) The "component for property taxes" shall be a figure obtained  
39 by dividing the assessed value of all property in the county into the

1 property taxes levied within the county in the year preceding the  
2 assessment and multiplying the quotient obtained by one hundred.

3 **Sec. 9.** RCW 84.40.030 and 1997 c 429 s 34 (Referendum Bill No.  
4 47), 1997 c 134 s 1, and 1997 c 3 s 104 are each reenacted and amended  
5 to read as follows:

6 All personal property shall be valued at one hundred percent of its  
7 true and fair value in money and assessed on the same basis unless  
8 specifically provided otherwise by law.

9 All real property shall be appraised at one hundred percent of its  
10 true and fair value in money and assessed as provided in RCW 84.40.0305  
11 unless specifically provided otherwise by law.

12 Taxable leasehold estates shall be valued at such price as they  
13 would bring at a fair, voluntary sale for cash without any deductions  
14 for any indebtedness owed including rentals to be paid.

15 The true and fair value of real property for taxation purposes  
16 (including property upon which there is a coal or other mine, or stone  
17 or other quarry) shall be based upon the following criteria:

18 (1) Any sales of the property being appraised or similar properties  
19 with respect to sales made within the past five years. The appraisal  
20 shall be consistent with the comprehensive land use plan, development  
21 regulations under chapter 36.70A RCW, zoning, and any other  
22 governmental policies or practices in effect at the time of appraisal  
23 that affect the use of property, as well as physical and environmental  
24 influences. An assessment may not be determined by a method that  
25 assumes a land usage not permitted, for that property being appraised,  
26 under existing zoning or land use planning ordinances or statutes. The  
27 appraisal shall also take into account: (a) In the use of sales by  
28 real estate contract as similar sales, the extent, if any, to which the  
29 stated selling price has been increased by reason of the down payment,  
30 interest rate, or other financing terms; and (b) the extent to which  
31 the sale of a similar property actually represents the general  
32 effective market demand for property of such type, in the geographical  
33 area in which such property is located. Sales involving deed releases  
34 or similar seller-developer financing arrangements shall not be used as  
35 sales of similar property.

36 (2) In addition to sales as defined in subsection (1) of this  
37 section, consideration may be given to cost, cost less depreciation,  
38 reconstruction cost less depreciation, or capitalization of income that

1 would be derived from prudent use of the property. In the case of  
2 property of a complex nature, or being used under terms of a franchise  
3 from a public agency, or operating as a public utility, or property not  
4 having a record of sale within five years and not having a significant  
5 number of sales of similar property in the general area, the provisions  
6 of this subsection (~~((2))~~) shall be the dominant factors in valuation.  
7 When provisions of this subsection (~~((2))~~) are relied upon for  
8 establishing values the property owner shall be advised upon request of  
9 the factors used in arriving at such value.

10 (3) In valuing any tract or parcel of real property, the true and  
11 fair value of the land, exclusive of structures thereon shall be  
12 determined; also the true and fair value of structures thereon, but the  
13 appraised valuation shall not exceed the true and fair value of the  
14 total property as it exists. In valuing agricultural land, growing  
15 crops shall be excluded.

16 (~~((4) In valuing any tract or parcel of real property designated  
17 and zoned under a comprehensive plan adopted under chapter 36.70A RCW  
18 as agricultural, forest, or open space land, the appraisal shall not be  
19 based on similar sales of parcels that have been converted to  
20 nonagricultural, nonforest, or nonopen space uses within five years  
21 after the sale.))~~)

22 **Sec. 10.** RCW 36.70B.230 and 1996 c 254 s 6 are each amended to  
23 read as follows:

24 By July 31, (~~(1997, a local government)~~) 1998, every county or city  
25 planning under RCW 36.70A.040 shall provide to the county assessor a  
26 copy of (~~(the local government's)~~) its comprehensive plan and  
27 development regulations in effect on July 1st of that year and shall  
28 thereafter provide any amendments to the plan and regulations that were  
29 adopted before July 31st of each following year. The plans and  
30 regulations provided to the assessor must include the agricultural land  
31 designated under RCW 36.70A.170 and the regulations adopted under RCW  
32 36.70A.060 conserving the designated land.

33 A county or city that initially plans under RCW 36.70A.040 after  
34 the effective date of this section shall provide a copy of its  
35 comprehensive plan and development regulations to the county assessor  
36 by July 31st of the year immediately following the year the county or  
37 city initially became subject to RCW 36.70A.040.

1        NEW SECTION.    **Sec. 11.**    The following acts or parts of acts are  
2 each repealed:

3            (1) RCW 35.63.240 and 1996 c 254 s 3;

4            (2) RCW 35A.63.260 and 1996 c 254 s 4; and

5            (3) RCW 36.70.495 and 1996 c 254 s 5.

6        NEW SECTION.    **Sec. 12.**    RCW 36.70B.230, as amended by this act, is  
7 recodified as a new section in chapter 36.70A RCW.

8        NEW SECTION.    **Sec. 13.**    Sections 1 through 5 of this act constitute  
9 a new chapter in Title 84 RCW.

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