

SENATE BILL REPORT

ESHB 2850

As Reported By Senate Committee On:
Agriculture & Rural Economic Development, February 21, 2006

Title: An act relating to eliminating tax, interest, and penalty provisions for land valued under the open space program.

Brief Description: Modifying interest and penalty provisions for land in the current use agricultural program.

Sponsors: House Committee on Finance (originally sponsored by Representatives Clements, Orcutt, Dunn, Armstrong and Newhouse).

Brief History: Passed House: 2/13/06, 98-0.

Committee Activity: Agriculture & Rural Economic Development: 2/20/06, 2/21/06 [DP-WM, DNP].

SENATE COMMITTEE ON AGRICULTURE & RURAL ECONOMIC DEVELOPMENT

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

Signed by Senators Rasmussen, Chair; Shin, Vice Chair; Schoesler, Ranking Minority Member; Delvin, Morton and Sheldon.

Minority Report: Do not pass.

Signed by Senator Jacobsen.

Staff: Bob Lee (786-7404)

Background: Property meeting certain conditions may have property taxes determined on current use values rather than market values. There are three categories of lands in the open space law that are assessed taxes on current use values: open space lands, farm and agriculture lands, and timber lands.

The land remains in open space classification as long as it continues to be used for the purpose it was placed in the open space program. Land is removed from the open space program at the request of the owner: by sale or transfer to an ownership making the land exempt from property tax; or by sale or transfer of the land to a new owner, unless the new owner signs a notice of classification continuance. The assessor may also remove land from the open space program if the land is no longer devoted to its open space purpose.

When property leaves open space classification, back taxes, interest, and a 20 percent penalty are paid. Back taxes represent the tax benefit received over the most recent seven years. Interest is the same as the rate charged for delinquent property taxes, 1 percent per month. The 20 percent penalty may be avoided if the property owner gives two years notice for withdrawal and the property has been in the program for at least eight years at the time of the notice. There are some exceptions to the payment of back taxes. For example, back taxes are

not required on the transfer of the land to a new owner and the new owner agrees to continue in the open space program.

Summary of Bill: Land owners that remove their land from the farm and agriculture current use program are subject to back taxes, interest, and penalties based on the period of time in the program as follows:

- (a) 30 years or more – 7 years back taxes but no interest or 20 percent penalty;
- (b) 20 to 29 years – 7 years back taxes and interest at 5 percent but no 20 percent penalty; or
- (c) 7 to 19 years – 7 years back taxes, interest at 8 percent, no 20 percent penalty if two year notice of withdrawal is given.

This treatment is available to land where the owner or the owner's spouse has maintained at least a 50 percent ownership interest in the land for the time period.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

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

Testimony For: The conditions that existed at the time the Open Spaces Taxation Act was enacted have changed. The 1 percent per month interest rate and the 20 percent penalty are excessive. This is of greatest concern where small owners have small tracts that are being surrounded by development and need a way out.

Testimony Against: There has been a significant loss of agricultural lands since 1997. A high percentage of agricultural lands are enrolled in the Open Spaces Program and more will be lost if the program is greatly modified. Providing a lower interest rate but continuing it into the future is sought.

Who Testified: PRO: Representative Clements; Dave Cook, Yakima County Assessor; Robert Carlton.

CON: Kaleen Cottingham, Futurewise; Julie Sexton, Washington Association of Counties.