

SENATE BILL REPORT

SB 5281

As Reported By Senate Committee On:
Government Operations & Elections, February 13, 2007

Title: An act relating to the interest rate calculation on property removed from current use classification.

Brief Description: Modifying the interest rate calculation on property removed from current use classification.

Sponsors: Senators Clements, Rasmussen, Schoesler, Honeyford and Roach.

Brief History:

Committee Activity: Government Operations & Elections: 2/12/07, 2/13/07 [DP-WM, w/oRec].

SENATE COMMITTEE ON GOVERNMENT OPERATIONS & ELECTIONS

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

Signed by Senators Fairley, Chair; Oemig, Vice Chair; Roach, Ranking Minority Member; Kline, Pridemore and Swecker.

Minority Report: That it be referred without recommendation.

Signed by Senator Benton.

Staff: Sharon Swanson (786-7447)

Background: The Legislature has declared that it is in the best interest of the state to maintain and preserve adequate open space lands for the production of food, fiber, and forest crops, as well as to ensure the continued preservation of the state's natural resources and scenic beauty. To this end, a statutory scheme was implemented to encourage the preservation of designated open space lands through the creation of a system of tax incentives. This tax incentive program also includes designated farm and agricultural land, as well as timber land, that meet statutory requirements.

Under this system of tax incentives, property meeting certain criteria may have property tax assessments determined on the basis of current "use values" rather than "market values." There are four categories of lands whose tax status may be classified and assessed based upon the current use concept: (1) open space lands; (2) farm and agriculture lands; (3) timber lands; and (4) designated forest land.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

As part of the process of implementing the tax incentives described above, a county government is authorized to direct its planning commission to create a "public benefit rating system" for tax assessment purposes.

Land that is removed from current use classification is revalued by the assessor of the county where the land is located. The land must be revalued with reference to its true and fair value on January 1 of the year of removal from classification. An additional tax, applicable interest, and penalty is imposed upon reclassification.

The amount of the additional tax is equal to the difference between the property tax paid on the open space land, farm and agricultural land, or timber land, and the amount of property tax otherwise due and payable for the seven years last past had the land not been so classified.

Currently, the amount of applicable interest is equal to the interest upon the amounts of the additional tax paid at the same rate charged on delinquent property taxes from the dates on which the additional tax could have been paid without penalty if the land had been assessed at a value other than that of current use.

Summary of Bill: The amount of applicable interest to be charged on the amount of additional tax imposed when land is removed from current use classification, must be equal to the average of the rate of inflation for each year used to calculate the total amount of additional tax.

Rate of inflation is defined as the percentage change in the implicit price deflator for personal consumption expenditures for the United States as published by the Bureau of Economic Analysis for the Federal Department of Commerce.

The Department of Revenue must publish the rate every year by rule by December 31.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

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

Staff Summary of Public Testimony: PRO: The tax incentives to encourage open space lands was created in the 1970's. Now that times have changed and the economic realities of property values has changed, it is time to remove the punitive 12 percent interest on taxes for people who have farmed for years and want to change the classification of their land. A person can pay their taxes on time every year but once they change the classification of their land they are billed for the past seven years of taxes, plus a penalty and both amounts are charged as delinquent, even though you are not delinquent in payments. This is the only tax that is based on what a person could have paid rather than what was actually paid in taxes. In addition, the tax is assessed as though it is past due from the date it is imposed. This tax is intended to be a disincentive to reclassification. A more effective disincentive to keep a farmer from reclassifying his property is a profitable living. There are some who will suggest that reducing the applicable interest on the tax will encourage people to swap out their land. In Yakima County, most commercial farmers have been in their profession for more than 25 years. It's a lifestyle decision. The tax creates windfall profits and treats people as though

they are delinquent in payment when in fact, they are not. In addition, this tax is not due at the time of sale, simply the time of reclassification so there may not be profits to cover this additional expense. This bill does not remove the interest rate. It simply moves the rate closer to a market rate rather than keeping it a fixed 12 percent per annum.

CON: Keeping the interest rate at 12 percent per annum is an effective disincentive to keep landowners from converting land from open space lands.

Persons Testifying: PRO: Senator Clements, prime sponsor; Julie Murray, Washington Association of Counties; Dave Cook, Yakima County Assessor.

CON: Kaleen Cottingham, Futurewise.