

**E2SHB 1208** - S AMD TO GO COMM AMD (S-2659.1/09) **294**  
By Senators Swecker, Fairley

ADOPTED 04/13/2009

1 On page 9, after line 29 of the amendment, 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."

**ADOPTED 04/13/2009**

1        On page 10, line 4 of the title amendment, after "82.45.090,"  
2        strike the remainder of the title and insert "84.69.030, 84.34.037, and  
3        84.34.041."

EFFECT:        A granting authority acting upon an application for classification of land in an incorporated area shall act upon the application in a meeting where members may be physically absent but participating through telephonic connection; or through separate affirmative acts by both the county and city legislative bodies where both bodies affirm the entirety of an application without modification or both bodies affirm an application with identical modifications.

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