

SENATE BILL REPORT

ESSB 5424

As Passed Senate, February 5, 2010

Title: An act relating to interest rate and penalty provisions in the current use program.

Brief Description: Concerning interest rate and penalty provisions in the current use program.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Parlette and Sheldon).

Brief History:

Committee Activity: Ways & Means: 2/04/09, 2/24/09 [DPS].

Passed Senate: 3/12/09, 48-0; 2/05/10, 43-5.

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Substitute Senate Bill No. 5424 be substituted therefor, and the substitute bill do pass.

Signed by Senators Prentice, Chair; Tom, Vice Chair, Operating Budget; Zarelli, Ranking Minority Member; Brandland, Fairley, Hewitt, Hobbs, Honeyford, Keiser, Kline, Kohl-Welles, McDermott, Murray, Oemig, Parlette, Pflug, Pridemore, Rockefeller and Schoesler.

Staff: Dianne Criswell (786-7433)

Background: Most property is valued or assessed at its true and fair, or highest and best, value for purposes of imposing property taxes. However, article 7, section 11 of the State Constitution allows the Legislature to enact legislation assessing certain types of real property at its present or current use for purposes of imposing property taxes. Two programs of current use valuation have been established: one program for forest lands and a second current use program which includes open space lands, farm and agricultural lands, and timber lands. Properties in current use categories may be valued for tax purposes according to the current use, not the highest and best use value.

Land classified under the current use programs must remain under the program for at least ten years following initial classification. If the use of the property changes, the owner requests withdrawal, or a sale of the property is made and the new owner does not sign a notice of intent to continue within the current use program, then the land is withdrawn or removed from the program and additional tax, interest, and penalty apply.

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.

Additional tax is calculated for the prior seven-year period, based on the difference between the current use valuation during the seven-year period and the market value. Interest is calculated at 12 percent per year, the same as for delinquent property taxes. The penalty is 20 percent of the additional tax and interest. An owner may appeal the removal of classification to the county board of equalization. Unless reversed upon appeal, the land is revalued to market value as of January 1 of the year of removal.

If the owner wishes to withdraw the land from current use after the initial ten years, that person must notify the assessor two years prior to having the land withdrawn. The withdrawal then triggers the requirement to pay additional tax and interest as described above, but no penalty is imposed.

An exception to the requirement to pay additional tax, interest, and penalties is provided for a number of circumstances. These include:

- an exchange of land with a government;
- a taking through the exercise of eminent domain;
- when use is changed by natural disaster;
- a land use restriction which prevents the current use;
- transfer of land to a church if the land qualifies for the property tax exemption for churches;
- acquisition of property for the purposes of the conservation futures program;
- removal of a farm residence or farm worker housing from current use;
- the removal of land from classification after enactment of a property tax exemption would apply;
- the creation, sale, or transfer of riparian easements or fee interest or conservation easement for the riparian open space program; and
- the sale or transfer of land within two years after the death of the owner of at least 50 percent interest if the property has been in current use since 1993.

Interest on delinquent property taxes and on the additional tax for properties in the current use is different than the rate for delinquent excise taxes, which is the federal short-term rate, plus two percentage points.

Summary of Engrossed Substitute Bill: After the initial ten-years, property owners may withdraw their properties from classification and no longer must provide two years' advance notice of withdrawal.

The interest rate on the additional tax is reduced from 12 percent to the rate provided for property tax refunds in RCW 84.69.100 (coupon issue yield of the average bill rate for 26 week treasury bills).

Further, the interest will not compound over the seven years of the additional tax; rather, it will be applied to the total amount of additional tax.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: For taxes levied for collection in 2010 and thereafter.

Staff Summary of Public Testimony: PRO: There have been meetings in the sponsor's legislative district, as well as interim hearings on the property tax, where changes to improve the current use program were discussed. There have been constituent concerns about the provisions of the program which penalize people who withdraw their property from current use classifications. This bill strikes a balance between providing incentives to keep properties in the Open Space Act programs while remaining fair to the property taxpayers. Removing the interest entirely would be good for property taxpayers in these current use classifications. The 12 percent punitive interest rate is a remnant of the 1970s when these programs were first created, which was before the Growth Management Act. The interest on additional tax can be a third of the total tax bill; that punitive rate implies that the taxpayers have been avoiding the tax, which is not the case. Also, the interest and penalties are a windfall for counties. Assessors are vigilant when they allow properties to enter and remain in the current use programs. Nevertheless, the "hold harmless" provision is a good way to ensure fairness when assessors need to correct errors. This bill is fair; it retains the tax incentives and integrity of the current use programs.

Persons Testifying: PRO: Senator Parlette, prime sponsor; Patricia Costello, Thurston County Assessor; Dianne Dorey, Lewis County Assessor; Bruce Walker, Pacific County Assessor; Robert Carlton, Washington Association of County Officials.