

HOUSE BILL REPORT

E2SHB 2493

As Amended by the Senate

Title: An act relating to current use valuation for land primarily used for commercial horticultural purposes.

Brief Description: Concerning current use valuation for land primarily used for commercial horticultural purposes.

Sponsors: House Committee on Finance (originally sponsored by Representatives Wilcox, Tharinger, Buys, Lytton, Vick, Orcutt, Reykdal, Springer and Haigh).

Brief History:

Committee Activity:

Agriculture & Natural Resources: 1/31/14, 2/5/14 [DPS];

Finance: 2/10/14, 2/11/14 [DP2S(w/o sub AGNR)].

Floor Activity:

Passed House: 2/17/14, 98-0.

Senate Amended.

Passed Senate: 3/7/14, 47-1.

Brief Summary of Engrossed Second Substitute Bill

- Defines farm and agricultural lands eligible for current use tax classification to include certain commercial horticultural lands.

HOUSE COMMITTEE ON AGRICULTURE & NATURAL RESOURCES

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 15 members: Representatives Blake, Chair; Lytton, Vice Chair; Buys, Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Chandler, Dunshee, Haigh, Hurst, Kretz, Orcutt, Pettigrew, Schmick, Stanford, Van De Wege and Warnick.

Staff: Jacob Lipson (786-7196).

HOUSE COMMITTEE ON FINANCE

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.

Majority Report: The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Agriculture & Natural Resources. Signed by 13 members: Representatives Carlyle, Chair; Tharinger, Vice Chair; Nealey, Ranking Minority Member; Orcutt, Assistant Ranking Minority Member; Condotta, Fitzgibbon, Hansen, Lytton, Pollet, Reykdal, Springer, Vick and Wilcox.

Staff: Jeffrey Mitchell (786-7139).

Background:

All property is subject to a property tax each year based on the property's highest and best use, unless a specific exemption is provided by law. The Washington State Constitution authorizes agricultural, timber, and open space lands to be valued on the basis of their current use rather than fair market value.

The Open Space Taxation Act (Act) allows for current use valuations of qualifying farm and agricultural land, which includes:

- parcels 20 acres and larger devoted primarily to agricultural production;
- parcels five to 20 acres that generate gross income from the sale of agricultural products \$200 or more per acre in three of each five-year period;
- parcels that are less than five acres that generate a gross income of at least \$1,500 per year in three of each five-year period; and
- lands whose use is compatible with agricultural purposes, so long as the compatible use lands do not exceed 20 percent of the land classified for farm and agricultural use, and the compatible use is necessary to the production, preparation or sale of an agricultural product.

In 2013 the Legislature passed Engrossed Substitute Senate Bill 5882, which established certain conditions on the creation of new tax preferences. A default expiration date of 10 years for new tax preferences is required, unless the legislation specifies an alternate date. All new tax preference legislation must include a tax preference performance or legislative intent statement. Legislation that clarifies or makes technical amendments to existing tax preferences is not subject to the tax preference performance or legislative intent statement requirements.

Summary of Engrossed Second Substitute Bill:

Land used primarily for commercial horticulture is included within the definition of the farm and agricultural land use classification. Commercial horticulture practices which qualify for farm and agricultural use classification include the indoor or outdoor growing of trees, fruits, vegetables, and other plants in containers.

Certain limitations are placed on commercial horticulture lands that can qualify for the farm and agricultural use classification:

- Parcels that are smaller than 20 acres must meet the same income qualifications that apply to other lands that are classified for farm and agricultural uses.
- Qualifying commercial horticulture lands may not exceed a reasonably necessary area.

- Lands smaller than 5 acres may not have more than 25 percent of the land open to the general public for on-site retail sales.

The inclusion of commercial horticulture within the definition of farm and agricultural land is declared to clarify an ambiguity in an existing tax preference, and to not require a performance statement or be subject to the default 10 year expiration date.

EFFECT OF SENATE AMENDMENT(S):

- Removes the requirement that commercial horticultural land not exceed a reasonably necessary area; and
- Requires that if more than 20 percent of a commercial horticultural land is covered by pavement, the paved area may not be classified for farm and agricultural land use unless the land is otherwise eligible for farm and agricultural use classification as an incidental use that is compatible with farm and agricultural use.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony (Agriculture & Natural Resources):

(In support) This bill addresses an emerging problem where some counties are throwing nursery owners out of the farm and agricultural land use classification. This bill ensures that nursery owners are treated in a more uniform way from county to county, and clarifies a commonly-held understanding of what the law currently says. Landowners who unexpectedly have their land use classification change are subject to a big tax increase. It is already hard to get into agriculture, and excluding nurseries from the farm land use classification would make it even harder for some people. This bill was written with extensive input from the Department of Revenue and is narrowly tailored so that only nurseries that are truly growing plants like other agricultural crops will be allowed under the current use tax classification. It does not make sense to exclude crops grown in containers from the farm use classification, especially since container-grown plants are responding to a market need and sell better than rooted nursery plants grown directly in the ground. This bill could use a few refinements to reduce confusion, which the Senate has already adopted in their companion bill.

(Opposed) None.

Staff Summary of Public Testimony (Finance):

(In support) In Pierce County, there has been an audit and they have withdrawn nurseries out of the Open Space Program who have potted plants. There is inconsistency between county assessors and treasurers as to whether growing in containers is considered agriculture. This impacts urban farms, large orchards, and professionals. Nurseries are the eighth largest

agricultural commodity in Washington. This bill will clarify legislation that would be helpful statewide. These nurseries hire local in and out of session, and follow nursery standards. There is a misunderstanding with laws between growers and assessors.

(Opposed) None.

Persons Testifying (Agriculture & Natural Resources): Representative Wilcox, prime sponsor; Heather Hanson, Washington State Nursery and Landscape Association; Ingrid Wachiller, Woodbrook Native Plant Nursery; Dave Schactler, Eatonville Nursery; Megan Pulkkinen, Washington State Nursery and Landscape Association; Mary Schactler, King-Pierce County Farm Bureau; and Evan Sheffels, Washington Farm Bureau.

Persons Testifying (Finance): Representative Wilcox, prime sponsor; Heather Hansen, Washington State Nursery Landscape Association; Ingrid Walchter, Woodbrook Nursery; Breanne Chavez, Washington State Nursery Landscape Association; Mary Schactler, King-Pierce County Farm Bureau; and Evan Sheffels, Washington Farm Bureau.

Persons Signed In To Testify But Not Testifying (Agriculture & Natural Resources): None.

Persons Signed In To Testify But Not Testifying (Finance): None.