

SENATE BILL REPORT

E2SHB 2493

As Reported by Senate Committee On:
Agriculture, Water & Rural Economic Development, February 25, 2014
Ways & Means, March 3, 2014

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

Committee Activity: Agriculture, Water & Rural Economic Development: 2/25/14 [DPA-WM].

Ways & Means: 3/03/14 [DPA(AWRD)].

SENATE COMMITTEE ON AGRICULTURE, WATER & RURAL ECONOMIC DEVELOPMENT

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

Signed by Senators Hatfield, Chair; Honeyford, Ranking Member; Brown, Eide, Hobbs and Schoesler.

Staff: Diane Smith (786-7410)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: Do pass as amended by Committee on Agriculture, Water & Rural Economic Development.

Signed by Senators Hill, Chair; Baumgartner, Vice Chair; Honeyford, Capital Budget Chair; Hargrove, Ranking Member; Keiser, Assistant Ranking Member on the Capital Budget; Ranker, Assistant Ranking Member on the Operating Budget; Bailey, Becker, Billig, Braun, Conway, Dammeier, Fraser, Frockt, Hasegawa, Hatfield, Hewitt, Kohl-Welles, Padden, Parlette, Rivers, Schoesler and Tom.

Staff: Dean Carlson (786-7305)

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.

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 the following:

- parcels 20 acres and larger devoted primarily to agricultural production;
- parcels 5 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 5 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 established certain conditions on the creation of new tax preferences. A default expiration date of ten 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 Bill (Recommended Amendments): Land used primarily for commercial horticulture is included within the definition of the farm and agricultural land use classification. Commercial horticultural practices that qualify for farm and agricultural use classification include the indoor or outdoor growing of seedlings, trees, fruits, vegetables, and other plants in containers.

Certain limitations are placed on commercial horticultural 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.
- All paved area, if that paved area is more than 20 percent of the land used for growing plants in containers, is excluded from eligibility as farm and agricultural land. This limitation on eligibility does not affect the land's eligibility to qualify under the incidental use allowance.

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 ten-year expiration date.

EFFECT OF CHANGES MADE BY AGRICULTURE, WATER & RURAL ECONOMIC DEVELOPMENT COMMITTEE (Recommended Amendments): Adds an additional exclusion for all paved area, if that paved area is more than 20 percent of the land used for growing plants in containers, from eligibility as farm and agricultural land. This limitation on eligibility does not affect the land's eligibility to qualify under the incidental use allowance.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

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

Staff Summary of Public Testimony on Engrossed Second Substitute House Bill (Agriculture, Water & Rural Economic Development): PRO: Whatever version of this bill that is most effective at addressing the interests involved is fine. The bill was only ever intended to be a clarification that dirt in pots is to be treated like dirt in the ground for purposes of growing plants for commercial purposes. There never was an intention to create new farm and agricultural uses or to expand those that already exist. The House and Senate amendments are worked into logical sequence in the striking amendment. Those real farms propagating plants in pots for commercial purposes are treated the same as those ground-based businesses doing the same thing.

Persons Testifying (Agriculture, Water & Rural Economic Development): PRO: Representative Wilcox, prime sponsor; Evan Sheffels, WA Farm Bureau; Heather Hansen, WA State Nursery and Landscape Assn.

Staff Summary of Public Testimony on SB 6286 (Ways & Means): PRO: Nurseries have moved to grow more and more crops in containers. The bill clarifies that it is still farming and still agriculture land. Most nurseries have been in open space. My assessor sent me a letter that said that my land was no longer in the farm and agricultural classification. This is because I had plants in containers rather than in the land. Other nurseries did not get redefined. Our business has been in the open space agriculture. Now we are under the microscope determining how many plants we have on the land versus in the land. We are growing what is demanded of us by the industry. The WAC says that what we are doing is primarily livestock and agriculture. That is what we are doing. However, it is all in containers. That is the industry standard. It is not fair that we are not a nursery if we grow in containers, because we are a nursery.

Persons Testifying (Ways & Means): PRO: Ingrid Wachtler, Woodbrook Native Plant Nursery; Heather Hansen, WA State Nursery and Landscape Assn.; Mary Schactler, King-Pierce Farm Bureau; Dave Schactler, Eatonville Nursery.