

HOUSE BILL REPORT

SHB 1818

As Passed Legislature

Title: An act relating to exclusion of compensating tax when land is sold to a governmental entity intending to manage the land similarly to designated forestland or timberland.

Brief Description: Concerning the exclusion of compensating tax when land is sold to a governmental entity intending to manage the land similarly to designated forestland or timberland.

Sponsors: House Committee on Finance (originally sponsored by Representatives Tharinger and Chapman).

Brief History:

Committee Activity:

Finance: 3/23/23, 3/28/23 [DPS].

Floor Activity:

Passed House: 1/17/24, 97-0.

Passed Senate: 3/1/24, 49-0.

Passed Legislature.

Brief Summary of Substitute Bill

- Creates an exception to additional and compensating tax when there is a sale or transfer of designated forestland or timberland to a governmental entity.

HOUSE COMMITTEE ON FINANCE

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 12 members: Representatives Berg, Chair; Street, Vice Chair; Orcutt, Ranking Minority Member; Jacobsen, Assistant Ranking Minority Member; Barnard, Chopp, Ramel, Santos, Springer, Thai, Walen and Wylie.

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

Staff: Kristina King (786-7190).

Background:

Property Tax.

All real and personal property is subject to a tax each year based on the highest and best use, unless a specific exemption is provided by law.

Current Use Classification.

Property meeting certain conditions may have property taxes determined on current use values rather than market values. There are four categories of lands that are classified and assessed on current use. Three categories are covered in the open space law: open space lands, farm and agriculture lands, and timberlands. The remaining category is designated forestland in the timber tax law.

The land remains in current use classification if it continues to be used for the purpose it was placed in the current use program. Land is removed from the program for the following reasons:

- written notice from the owner to remove all or a portion of the classified land;
- sale or transfer to an owner making all or a portion of the land exempt from property taxes, such as a sale to a governmental entity that is exempt from property taxes;
- sale or transfer to a new owner unless the owner signed a notice of continuance;
- an owner who fails to respond to a request from the assessor for information regarding use of the land;
- the granting authority denies an owner's request for reclassification;
- the assessor determines land no longer meets criteria; or
- the assessor discovers the land was classified in error.

When property is removed from current use classification, back taxes, plus interest, must be paid by the landowner. For open space categories, back taxes, also called additional tax, represent the tax benefit received over the most recent seven years plus interest and penalties. For designated forestland, back taxes, also called compensating tax, are equal to the tax benefit in the most recent year multiplied by the number of years in the program (but not more than nine) plus compensating taxes on the land at forestland value up to the date of removal. Additionally, prorated taxes on the land at true and fair value from the date of removal to the end of the current tax year and any interest is also owed. Additional and compensating tax become a lien on the property if not paid within 30 days after notification of it being due. There are some exceptions to the requirement for payment of back taxes.

When land classified under either category is sold to a buyer subject to property tax (a private buyer) who intends to manage the land under its existing classification, the buyer is required to submit a notice of continuance and other paperwork, sometimes including a land management plan to the county assessor. Once approved, additional tax and compensating tax are not collected from the seller. If a seller sells or transfers land to a governmental

entity that is not subject to property tax, the seller is required to pay additional or compensating tax on the property due to the exclusion of governmental entities from the payment of property tax.

Summary of Substitute Bill:

This bill creates an exception to additional and compensating tax when there is a sale or transfer of designated forestland or timberland to a governmental entity. The governmental entity must manage the land consistent with the designated forestland or timberland program it was previously classified in, and the governmental entity must provide the county assessor with a timber management plan or a notice of intent to manage the land as designated forestland or open space as required by law. When the government entity sells or transfers the land, back taxes are due by the government owner unless the change in the use of the land, sale, or transfer falls under an exception in law.

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:

(In support) This bill has been worked on with stakeholders including constituents, cities, and counties. The city of Montesano manages timberland and uses the revenue they receive from the management of that timberland to fund infrastructure projects within the city. They attempted to purchase a piece of forestland from a private landowner and found that they would be subject to the compensating tax which resulted in it being a much better deal for that landowner to sell it to another private landowner who would be exempt from the compensating tax. This bill stipulates that if the government is buying the timberland and will continue to manage the land for timber purposes, they will not be subject to the compensating tax. If the government changes the use, then they are subject to the tax and the city, or the county will have to pay the tax. This is a good piece of legislation. This is a fairness issue and enables a city to find ways of providing non-tax revenue to provide services to the citizens in their jurisdiction.

The Department of Natural Resources (DNR) is in favor of this bill. The DNR manages over 2 million acres of land that generate over \$200 million in tax revenue each year. That revenue goes to county and city local services throughout the state. A previous problem has been the compensating tax, when trying to acquire the land. This is an area that the DNR is penalized and other private and some public entities are not. Currently, the DNR is working to acquire 640 acres of forestland from a private industrial landowner. The value of the land is \$925,000 and the compensating tax is being calculated at \$180,000. Annual

property tax on the parcel is \$700 a year. The DNR will be paying the equivalent of 250 years' worth of property tax just to purchase the land. One could regrow five rotations in that 250 years and generate tens of millions of dollars for the county and the beneficiary. Paying the compensating tax does not make the land purchase worth it, in this instance.

(Opposed) None.

(Other) The Confederated Tribes of the Colville reservation is 1.4 million acres in eastern Washington. There is a significant amount of timber on this land, some of it still unburned as it has been a horrendous fire season for the tribes over recent years. The Confederated Tribes of the Colville reservation has two comments on this bill. The first comment is regarding the interchanging use of governmental entity and governmental agency which is confusing and ask that this be fixed in a technical amendment to clean up that part of statute. The second comment is that this would be a very good opportunity to add federally recognized Indian tribes to the compensating tax exclusion if it is amenable to the sponsors of the bill.

Persons Testifying: (In support) Duane Emmons, Washington Department of Natural Resources; and Representative Ed Orcutt.

(Other) Michael Moran, Confederated Tribes of the Colville Reservation.

Persons Signed In To Testify But Not Testifying: None.