

# HOUSE BILL REPORT

## ESHB 2850

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**As Passed House:**  
February 13, 2006

**Title:** An act relating to eliminating tax, interest, and penalty provisions for land valued under the open space program.

**Brief Description:** Modifying interest and penalty provisions for land in the current use agricultural program.

**Sponsors:** By House Committee on Finance (originally sponsored by Representatives Clements, Orcutt, Dunn, Armstrong and Newhouse).

**Brief History:**

**Committee Activity:**

Finance: 1/27/06, 2/1/06 [DPS].

**Floor Activity:**

Passed House: 2/13/06, 98-0.

**Brief Summary of Engrossed Substitute Bill**

- Reduces interest charged on back taxes for land removed from the current use farm and agriculture program.

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### HOUSE COMMITTEE ON FINANCE

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives McIntire, Chair; Hunter, Vice Chair; Orcutt, Ranking Minority Member; Roach, Assistant Ranking Minority Member; Ahern, Condotta, Conway, Ericks, Hasegawa, Santos and Shabro.

**Staff:** Rick Peterson (786-7150).

**Background:**

Property meeting certain conditions may have property taxes determined on current use values rather than market values. There are three categories of lands in the open space law that are assessed taxes on current use values; open space lands; farm and agriculture lands; and timber lands.

The land remains in open space classification as long as it continues to be used for the purpose it was placed in the open space program. Land is removed from the open space program at the request of the owner; by sale or transfer to an ownership making the land exempt from

property tax; or by sale or transfer of the land to a new owner, unless the new owner signs a notice of classification continuance. The assessor may also remove land from the open space program if the land is no longer devoted to its open space purpose.

When property leaves open space classification, back taxes, interest, and a 20 percent penalty are paid. Back taxes represent the tax benefit received over the most recent seven years. Interest is the same as the rate charged for delinquent property taxes, 1 percent per month. The 20 percent penalty may be avoided if the property owner gives two years notice for withdrawal and the property has been in the program for at least eight years at the time of the notice. There are some exceptions to the payment of back taxes. For example, back taxes are not required on the transfer of the land to a new owner and the new owner agrees to continue in the open space program.

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**Summary of Engrossed Substitute Bill:**

Land owners that remove their land from the farm and agriculture current use program are subject to back taxes, interest, and penalties based on the period of time in the program as follows:

- (a) 30 years or more - 7 years back taxes but no interest or 20 percent penalty;
- (b) 20 to 29 years - 7 years back taxes and interest at 5 percent but no 20 percent penalty;
- or
- (c) 7 to 19 years - 7 years back taxes, interest at 8 percent, no 20 percent penalty if two year notice of withdrawal is given.

This treatment is available to land where the owner or the owner's spouse has maintained at least a 50 percent ownership interest in the land for the time period.

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**Appropriation:** None.

**Fiscal Note:** Requested on January 16, 2006.

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

**Testimony For:** (In support) The world has changed since the Open Space Act was adopted in 1970. Today if you have land and are forced to sell you have to pick up the back taxes for seven years, 12 percent interest per year, and a 20 percent penalty. These compensating taxes are punitive. These back taxes come to the state as a windfall. This is a difficult program to get into to. This is the only program where folks have to pay back the tax benefits. Other tax programs do not make taxpayers pay back taxes. Once the 10 year initial term is fulfilled then the owner should not have to pay these back taxes. When these properties leave the program they go back on the tax rolls at market value. This benefits everyone by lowering the tax rates. The back tax revenue is a windfall and outside the budget process.

(Concerns) The County Association is committed to helping the agriculture community but the fiscal side needs to be looked at.

**Testimony Against:** None.

**Persons Testifying:** (In support) Representative Clements, prime sponsor; Dave Cook, Yakima County Assessor; Robert Carlton, former Columbia County Assessor; Elbert Esparza, Washington Realtors; and Patrick Connor, Washington Farm Bureau.

(With concerns) Julie Sexton, Washington Association of Counties.

**Persons Signed In To Testify But Not Testifying:** None.