

**SENATE BILL 5248**

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**State of Washington                      52nd Legislature                      1991 Regular Session**

**By** Senators Sutherland, A. Smith, Madsen and Rasmussen.

Read first time January 24, 1991. Referred to Committee on Ways & Means.

1            AN ACT Relating to current use valuation for residential property;  
2 amending RCW 84.34.010, 84.34.020, 84.34.030, 84.34.037, 84.34.060,  
3 84.34.080, and 84.34.108; and providing a contingent effective date.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5            **Sec. 1.** RCW 84.34.010 and 1973 1st ex.s. c 212 s 1 are each  
6 amended to read as follows:

7            The legislature hereby declares that it is in the best interest of  
8 the state to maintain, preserve, conserve and otherwise continue in  
9 existence adequate open space lands for the production of food, fiber  
10 and forest crops, ~~((and))~~ to assure the use and enjoyment of natural  
11 resources and scenic beauty for the economic and social well-being of  
12 the state and its citizens, and to assure the affordability of  
13 residential property. The legislature further declares that assessment  
14 practices must be so designed as to permit the continued availability  
15 of open space lands and residential property for these purposes, and it

1 is the intent of this chapter so to provide. The legislature further  
2 declares its intent that farm and agricultural lands shall be valued on  
3 the basis of their value for use as authorized by section 11 of Article  
4 VII of the Constitution of the state of Washington.

5 **Sec. 2.** RCW 84.34.020 and 1988 c 253 s 3 are each amended to read  
6 as follows:

7 As used in this chapter, unless a different meaning is required by  
8 the context:

9 (1) "Open space land" means (a) any land area so designated by an  
10 official comprehensive land use plan adopted by any city or county and  
11 zoned accordingly or (b) any land area, the preservation of which in  
12 its present use would (i) conserve and enhance natural or scenic  
13 resources, or (ii) protect streams or water supply, (iii) promote  
14 conservation of soils, wetlands, beaches or tidal marshes, or (iv)  
15 enhance the value to the public of abutting or neighboring parks,  
16 forests, wildlife preserves, nature reservations or sanctuaries or  
17 other open space, or (v) enhance recreation opportunities, or (vi)  
18 preserve historic sites, or (vii) retain in its natural state tracts of  
19 land not less than five acres situated in an urban area and open to  
20 public use on such conditions as may be reasonably required by the  
21 legislative body granting the open space classification.

22 (2) "Farm and agricultural land" means either (a) land in any  
23 contiguous ownership of twenty or more acres (i) devoted primarily to  
24 the production of livestock or agricultural commodities for commercial  
25 purposes, or (ii) enrolled in the federal conservation reserve program  
26 or its successor administered by the United States department of  
27 agriculture; (b) any parcel of land five acres or more but less than  
28 twenty acres devoted primarily to agricultural uses, which has produced  
29 a gross income from agricultural uses equivalent to one hundred dollars

1 or more per acre per year for three of the five calendar years  
2 preceding the date of application for classification under this  
3 chapter; or (c) any parcel of land of less than five acres devoted  
4 primarily to agricultural uses which has produced a gross income of one  
5 thousand dollars or more per year for three of the five calendar years  
6 preceding the date of application for classification under this  
7 chapter. Agricultural lands shall also include farm woodlots of less  
8 than twenty and more than five acres and the land on which  
9 appurtenances necessary to the production, preparation or sale of the  
10 agricultural products exist in conjunction with the lands producing  
11 such products. Agricultural lands shall also include any parcel of land  
12 of one to five acres, which is not contiguous, but which otherwise  
13 constitutes an integral part of farming operations being conducted on  
14 land qualifying under this section as "farm and agricultural lands".

15 (3) "Timber land" means land in any contiguous ownership of five or  
16 more acres which is devoted primarily to the growth and harvest of  
17 forest crops and which is not classified as reforestation land pursuant  
18 to chapter 84.28 RCW. Timber land means the land only.

19 (4) "Current" or "currently" means as of the date on which property  
20 is to be listed and valued by the county assessor.

21 (5) "Owner" means the party or parties having the fee interest in  
22 land, except that where land is subject to real estate contract "owner"  
23 shall mean the contract vendee.

24 (6) "Contiguous" means land adjoining and touching other property  
25 held by the same ownership. Land divided by a public road, but  
26 otherwise an integral part of a farming operation, shall be considered  
27 contiguous.

28 (7) "Residential property" means property primarily devoted to  
29 residential uses and shall include a single family dwelling unit  
30 whether such unit be separate or part of a multi-unit dwelling,

1 including the land on which such dwelling stands not to exceed five  
2 acres. The term shall also include a share ownership in a cooperative  
3 housing association, corporation, or partnership if the person claiming  
4 exemption can establish that his or her share represents the specific  
5 unit or portion of such structure in which he or she resides. The term  
6 shall also include a single family dwelling situated upon lands the fee  
7 of which is vested in the United States or any instrumentality thereof  
8 including an Indian tribe or in the state of Washington, and  
9 notwithstanding the provisions of RCW 84.04.080, 84.04.090 or  
10 84.40.250, such a residence shall be deemed real property.

11 **Sec. 3.** RCW 84.34.030 and 1989 c 378 s 10 are each amended to read  
12 as follows:

13 An owner of agricultural land desiring current use classification  
14 under (~~(subsection (2) of)~~) RCW 84.34.020(2) shall make application to  
15 the county assessor upon forms prepared by the state department of  
16 revenue and supplied by the county assessor. An owner of open space or  
17 timber land desiring current use classification under (~~(subsections (1)~~  
18 ~~and (3) of)~~) RCW 84.34.020 (1), (3), or (7) shall make application to  
19 the county legislative authority upon forms prepared by the state  
20 department of revenue and supplied by the county assessor. The  
21 application shall be accompanied by a reasonable processing fee if such  
22 processing fee is established by the city or county legislative  
23 authority. Said application shall require only such information  
24 reasonably necessary to properly classify an area of land under this  
25 chapter with a notarized verification of the truth thereof and shall  
26 include a statement that the applicant is aware of the potential tax  
27 liability involved when such land ceases to be designated as open  
28 space, residential, farm and agricultural, or timber land.  
29 Applications must be made during the calendar year preceding that in

1 which such classification is to begin. The assessor shall make  
2 necessary information, including copies of this chapter and applicable  
3 regulations, readily available to interested parties, and shall render  
4 reasonable assistance to such parties upon request.

5 **Sec. 4.** RCW 84.34.037 and 1985 c 393 s 1 are each amended to read  
6 as follows:

7 Applications for classification under RCW 84.34.020 (~~subsection~~)  
8 (1) (~~or~~), (3), or (7) shall be made to the county legislative  
9 authority. An application made for classification of land under RCW  
10 84.34.020 (~~subsection~~) (1)(b), (~~or~~) (3), or (7) which is in an area  
11 subject to a comprehensive plan shall be acted upon in the same manner  
12 in which an amendment to the comprehensive plan is processed.  
13 Application made for classification of land which is in an area not  
14 subject to a comprehensive plan shall be acted upon after a public  
15 hearing and after notice of the hearing shall have been given by one  
16 publication in a newspaper of general circulation in the area at least  
17 ten days before the hearing: PROVIDED, That applications for  
18 classification of land in an incorporated area shall be acted upon by  
19 a determining authority composed of three members of the county  
20 legislative body and three members of the city legislative body in  
21 which the land is located.

22 In determining whether an application made for classification under  
23 RCW 84.34.020(~~subsection~~) (1)(b)(~~or~~) or (3) should be approved or  
24 disapproved, the granting authority may take cognizance of the benefits  
25 to the general welfare of preserving the current use of the property  
26 which is the subject of application, and may consider whether or not  
27 preservation of current use of the land when balanced against the  
28 resulting revenue loss or tax shift from granting the application will  
29 (1) conserve or enhance natural, cultural, or scenic resources, (2)

1 protect streams, stream corridors, wetlands, natural shorelines and  
2 aquifers, (3) protect soil resources and unique or critical wildlife  
3 and native plant habitat, (4) promote conservation principles by  
4 example or by offering educational opportunities, (5) enhance the value  
5 of abutting or neighboring parks, forests, wildlife preserves, nature  
6 reservations, sanctuaries, or other open spaces, (6) enhance recreation  
7 opportunities, (7) preserve historic and archaeological sites, (8)  
8 affect any other factors relevant in weighing benefits to the general  
9 welfare of preserving the current use of the property: PROVIDED, That  
10 if a public benefit rating system is adopted under RCW 84.34.055, the  
11 county legislative authority shall rate property applying for  
12 classification under RCW 84.34.020(1)(b) according to the public  
13 benefit rating system in determining whether an application should be  
14 approved or disapproved, but when such a system is adopted, open space  
15 properties then classified under this chapter which do not qualify  
16 under the system shall not be removed from classification but may be  
17 rated according to the public benefit rating system(~~(:—PROVIDED~~  
18 ~~FURTHER, That)~~). In determining whether an application made for  
19 classification under RCW 84.34.020(7) should be approved or  
20 disapproved, the granting authority shall determine whether the  
21 property is residential property.

22 The granting authority may approve the application with respect to  
23 only part of the land which is the subject of the application(~~(:—AND~~  
24 ~~PROVIDED FURTHER, That)~~). If any part of the application is denied,  
25 the applicant may withdraw the entire application(~~(:—AND PROVIDED~~  
26 FURTHER, That)). The granting authority in approving in part or whole  
27 an application for land classified pursuant to RCW 84.34.020 (1) or (3)  
28 may also require that certain conditions be met, including but not  
29 limited to the granting of easements(~~(:—AND PROVIDED FURTHER, That)~~).  
30 The granting or denial of the application for current use

1 classification is a legislative determination and shall be reviewable  
2 only for arbitrary and capricious actions. The granting authority may  
3 not require the granting of easements for land classified pursuant to  
4 RCW 84.34.020(3) or (7).

5 **Sec. 5.** RCW 84.34.060 and 1985 c 393 s 2 are each amended to read  
6 as follows:

7 In determining the true and fair value of open space land ~~((and))~~,  
8 timber land, ~~((which))~~ and residential property that has been  
9 classified as such under the provisions of this chapter, the assessor  
10 shall consider only the use to which such property and improvements is  
11 currently applied and shall not consider potential uses of such  
12 property. The assessor shall compute the assessed value of such  
13 property by using the same assessment ratio ~~((which he))~~ that the  
14 assessor applies generally in computing the assessed value of other  
15 property: PROVIDED, That the assessed valuation of open space land  
16 with no current use shall not be less than that which would result if  
17 it were to be assessed for agricultural uses, except that the assessed  
18 valuation of open space land with no current use may be valued based on  
19 the public benefit rating system adopted under RCW 84.34.055: PROVIDED  
20 FURTHER, That timber land shall be valued according to chapter 84.33  
21 RCW.

22 **Sec. 6.** RCW 84.34.080 and 1973 1st ex.s. c 212 s 9 are each  
23 amended to read as follows:

24 When land which has been classified under this chapter as open  
25 space land, farm and agricultural land, ~~((or))~~ timber land, or  
26 residential property is applied to some other use, except through  
27 compliance with RCW 84.34.070, or except as a result solely from any  
28 one of the conditions listed in RCW 84.34.108(5), the owner shall

1 within sixty days notify the county assessor of such change in use and  
2 additional real property tax shall be imposed upon such land in an  
3 amount equal to the sum of the following:

4 (1) The total amount of the additional tax due under RCW 84.34.108;  
5 plus

6 (2) A penalty amounting to twenty percent of the amount determined  
7 in subsection (1) of this section.

8 **Sec. 7.** RCW 84.34.108 and 1989 c 378 s 35 are each amended to read  
9 as follows:

10 (1) When land has once been classified under this chapter, a  
11 notation of such designation shall be made each year upon the  
12 assessment and tax rolls and such land shall be valued pursuant to RCW  
13 84.34.060 or 84.34.065 until removal of all or a portion of such  
14 designation by the assessor upon occurrence of any of the following:

15 (a) Receipt of notice from the owner to remove all or a portion of  
16 such designation;

17 (b) Sale or transfer to an ownership making all or a portion of  
18 such land exempt from ad valorem taxation;

19 (c) Sale or transfer of all or a portion of such land to a new  
20 owner, unless the new owner has signed a notice of classification  
21 continuance. The signed notice of continuance shall be attached to the  
22 real estate excise tax affidavit provided for in RCW 82.45.120, as now  
23 or hereafter amended. The notice of continuance shall be on a form  
24 prepared by the department of revenue. If the notice of continuance is  
25 not signed by the new owner and attached to the real estate excise tax  
26 affidavit, all additional taxes calculated pursuant to subsection (3)  
27 of this section shall become due and payable by the seller or  
28 transferor at time of sale. The county auditor shall not accept an  
29 instrument of conveyance of classified land for filing or recording

1 unless the new owner has signed the notice of continuance or the  
2 additional tax has been paid. The seller, transferor, or new owner may  
3 appeal the new assessed valuation calculated under subsection (3) of  
4 this section to the county board of equalization. Jurisdiction is  
5 hereby conferred on the county board of equalization to hear these  
6 appeals;

7 (d) Determination by the assessor, after giving the owner written  
8 notice and an opportunity to be heard, that all or a portion of such  
9 land is no longer primarily devoted to and used for the purposes under  
10 which it was granted classification.

11 (2) Within thirty days after such removal of all or a portion of  
12 such land from current use classification, the assessor shall notify  
13 the owner in writing, setting forth the reasons for such removal. The  
14 seller, transferor, or owner may appeal such removal to the county  
15 board of equalization.

16 (3) Unless the removal is reversed on appeal, the assessor shall  
17 revalue the affected land with reference to full market value on the  
18 date of removal from classification. Both the assessed valuation  
19 before and after the removal of classification shall be listed and  
20 taxes shall be allocated according to that part of the year to which  
21 each assessed valuation applies. Except as provided in subsection (5)  
22 of this section, an additional tax shall be imposed which shall be due  
23 and payable to the county treasurer thirty days after the owner is  
24 notified of the amount of the additional tax. As soon as possible, the  
25 assessor shall compute the amount of such an additional tax and the  
26 treasurer shall mail notice to the owner of the amount thereof and the  
27 date on which payment is due. The amount of such additional tax shall  
28 be equal to:

29 (a) The difference between the property tax paid as "open space  
30 land", "farm and agricultural land", ~~((or))~~ "timber land", or

1 "residential property" and the amount of property tax otherwise due and  
2 payable for the seven years last past had the land not been so  
3 classified; plus

4 (b) Interest upon the amounts of such additional tax paid at the  
5 same statutory rate charged on delinquent property taxes from the dates  
6 on which such additional tax could have been paid without penalty if  
7 the land had been assessed at a value without regard to this chapter.

8 (4) Additional tax, together with applicable interest thereon,  
9 shall become a lien on such land which shall attach at the time such  
10 land is removed from current use classification under this chapter and  
11 shall have priority to and shall be fully paid and satisfied before any  
12 recognizance, mortgage, judgment, debt, obligation or responsibility to  
13 or with which such land may become charged or liable. Such lien may be  
14 foreclosed upon expiration of the same period after delinquency and in  
15 the same manner provided by law for foreclosure of liens for delinquent  
16 real property taxes as provided in RCW 84.64.050 now or as hereafter  
17 amended. Any additional tax unpaid on its due date shall thereupon  
18 become delinquent. From the date of delinquency until paid, interest  
19 shall be charged at the same rate applied by law to delinquent ad  
20 valorem property taxes.

21 (5) The additional tax specified in subsection (3) of this section  
22 shall not be imposed if the removal of designation pursuant to  
23 subsection (1) of this section resulted solely from:

24 (a) Transfer to a government entity in exchange for other land  
25 located within the state of Washington;

26 (b) A taking through the exercise of the power of eminent domain,  
27 or sale or transfer to an entity having the power of eminent domain in  
28 anticipation of the exercise of such power;

29 (c) Sale or transfer of land within two years after the death of  
30 the owner of at least a fifty percent interest in such land;

1 (d) A natural disaster such as a flood, windstorm, earthquake, or  
2 other such calamity rather than by virtue of the act of the landowner  
3 changing the use of such property;

4 (e) Official action by an agency of the state of Washington or by  
5 the county or city within which the land is located which disallows the  
6 present use of such land;

7 (f) Transfer to a church and such land would qualify for property  
8 tax exemption pursuant to RCW 84.36.020; or

9 (g) Acquisition of property interests by state agencies or agencies  
10 or organizations qualified under RCW 84.34.210 and 64.04.130 for the  
11 purposes enumerated in those sections: PROVIDED, That at such time as  
12 these property interests are not used for the purposes enumerated in  
13 RCW 84.34.210 and 64.04.130 the additional tax specified in subsection  
14 (3) of this section shall be imposed.

15 NEW SECTION. **Sec. 8.** This act shall take effect if the  
16 proposed amendment to Article VII, section 11 of the state Constitution  
17 authorizing current use valuation for property devoted to residential  
18 uses is validly submitted to and is approved and ratified by the voters  
19 at the next general election. If the proposed amendment is not so  
20 approved and ratified, this act is void in its entirety.