

Urban Agriculture A-Engrossed HB 2723

This bill did not go through the House Revenue Committee and we were not aware of the tax implications until later in the process. Representative Clem, Chair of the House Rural Communities Land use and Water Committee, did however accept many of our suggestions prior to passage and referral to the floor of the House. However, now that we have had time to gather together representatives from the various counties that actually work with farm use issues they have raised several minor additional concerns. I have listed those concerns and cautions below for your consideration. The Department is neutral on the policy of this bill as we only see our role as making recommendations to improve the effectiveness and efficiency of tax policy for tax administration. It is in that spirit that I offer these recommendations and comments.

- Clarify that on Page 1, Line 17 we are referring to the appraisal or valuation rather than the assessment of tax. Recommend the word “assessed” be changed to “valued”.
- Align the income reporting requirement with the assessment year as with other farm special assessments. The income reporting requirements are tied to the “assessment year” in existing law. Page 2, Line 30 – change “property tax year” to assessment year” so the income requirements line up with Page 1, Line 18 reference, all other farm income requirements, and taxpayer records.
- Clarify that the property can still become disqualified when no longer in the program but make the distinction that the potential additional taxes are canceled. Page 3, Lines 3 and 4 – delete “not” on line 3 and change “and” to “but” on line 4. The sentence would then read “(f) For purposes of this subsection, unimproved land is disqualified from special assessment but may not be assessed additional taxes solely because the land is no longer used for urban agricultural production outside the effective periods of agreements entered into under subsection (3) of this section.”
- Under 308A.709 add this as another example where additional taxes would otherwise be due as the result of a disqualification but are cancelled.
- Recognize that anyone in farm use currently for non EFU land subject to the 5 year claw back provision could exit that program, do urban farming under this bill and then exit that program and avoid the claw back that they would have paid.
- If property under this urban agriculture program transfers to a new owner, is that special assessment transferable? This is unclear.
- We think that having this program apply to tax lots or portions of tax lots under ¼ acre in size is more work than it’s worth. There should be a minimum ¼ acre requirement.
- Realize that as written this program only applies to unimproved land. Land that has improvements would not qualify. That includes land with a hoop house, heated greenhouses or any features that are considered improvements, even those associated with farming. That may not be the intent of the sponsors.
- Recognize that this program would apply to the growing and harvesting of marijuana.