



## King County

# Metropolitan King County Council Budget and Fiscal Management Committee

### STAFF REPORT

<b>Agenda Item:</b>	11	<b>Name:</b>	Hiedi Popochock
<b>Proposed No.:</b>	2016-0484	<b>Date:</b>	October 25-27, 2016

### SUBJECT

An ORDINANCE to increase the Public Benefit Rating System application fee for eligible properties in King County.

### SUMMARY

The King County Council approved Ordinance 10511 in 1992, establishing King County's PBRs, intended to provide a property tax incentive to landowners to preserve open space land. The county's PBRs program offers an incentive to preserve open space on private property in King County by providing a tax reduction based on a point system for eligible properties.

Proposed Ordinance 2016-0484 would increase the King County Public Benefit Rating System application fee from \$480 to \$1,200. The Executive's 2017-2018 Proposed Budget estimates \$48,000 in new revenue would be collected annually due to the increased application fee for the PBRs program.

### BACKGROUND

#### **Public Benefit Rating System Legislative History**

The Open Space Taxation Act, enacted in 1970, allows property owners to have their open space, farm and agricultural, and timber lands valued at their current use rather than at their highest and best use. The Act states that it is in the best interest of the state to maintain, preserve, conserve, and otherwise continue in existence adequate open space lands for the production of food, fiber, and forest crops and to assure the use and enjoyment of natural resources and scenic beauty for the economic and social well-being of the state and its citizens.<sup>1</sup> The state legislature had approved Chapter 84.34 of the Revised Code of Washington (RCW), granting current use assessment provisions for lands held as open space, agriculture, or timber lands, and describing the county role in a Public Benefit Rating System (PBRs).

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<sup>1</sup> [http://dor.wa.gov/docs/pubs/prop\\_tax/openspace.pdf](http://dor.wa.gov/docs/pubs/prop_tax/openspace.pdf)

In 1992, the King County Council recognized the need to encourage landowners to preserve open space land in its natural condition, and to acknowledge the public benefit of such action. The Council approved Ordinance 10511 in 1992, establishing King County's PBRS, intended to provide a property tax incentive to landowners to preserve open space land.

The county's PBRS program offers an incentive to preserve open space on private property in King County by providing a tax reduction based on a point system for eligible properties.

### **Property Eligibility**

In order to be eligible for open space classification in the PBRS program, a property must contain one or more qualifying open space resources and must score at least five points on the point system.

### **Application Fee**

The current fee for the PBRS application is \$480.<sup>2</sup> The application fee for other jurisdictions varies based on a 2011 survey conducted by the Washington State Department of Revenue (**Attachment 4**). The fee ranges from \$30 in Asotin County up to \$4,535 in Cowlitz County. Pierce County's application fee is \$1,200 and Snohomish County's application fee is \$500.

### **Application Process**

Executive staff state that PBRS applications may take up to six months to process. The following steps are completed for each PBRS application:

1. Review of the PBRS application and property information;
2. Site visit is scheduled for resource/property analysis;
3. Review and approval of a forest stewardship, farm management, rural stewardship, or resource restoration plan, if required by PBRS category;
4. Present PBRS staff report/recommendation at a scheduled public hearing or if property is located in the unincorporated area, then this hearing is held before the King County Hearing Examiner. If the property is located in a city, two hearings would be held; one by the city and a separate hearing by a committee of the Council;
5. Affirmative action/approval required for enrollment in PBRS. If the property is located in the unincorporated area, then only King County Council's action on the Examiner's report is needed. If the property is located in a city, then affirmative action of three city council members and three county council committee members is needed – both the city and county must approve the application for enrollment to take place;
6. County Council approval (or city/committee approval) allows for the execution of an Open Space Taxation Agreement;

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<sup>2</sup> K.C.C 20.36.040

7. DNRP staff completes legal description and final administrative actions; and
8. Formal enrollment occurs once the signed Open Space Taxation Agreement is recorded by the King County Assessor.

### Point System of Eligible Properties

Each property that is applying for the open space classification will be evaluated by the Department of Natural Resources and Parks (DNRP) staff according to the point system listed below in Table 1.

**Table 1. PBRs Property Point System**

Five Points	Three Points	Various Points
<ul style="list-style-type: none"> <li>• Public recreation area</li> <li>• Aquifer protection area</li> <li>• Farm &amp; agriculture conservation land</li> <li>• Forest stewardship land</li> <li>• Historic landmark or archaeological site: designated site</li> <li>• Rural open space</li> <li>• Rural stewardship land</li> <li>• Scenic resource, viewpoint or view corridor</li> <li>• Significant plant or ecological site</li> <li>• Significant wildlife or salmonid habitat</li> <li>• Surface water quality buffer</li> <li>• Urban open space</li> <li>• Watershed protection area</li> <li>• Resource restoration</li> <li>• Unlimited public access</li> <li>• Limited public access because of resource sensitivity</li> </ul>	<ul style="list-style-type: none"> <li>• Buffer to public &amp; current use classified land</li> <li>• Historic landmark or archaeological site: buffer to designated site</li> <li>• Historic landmark or archaeological site: eligible site</li> <li>• Special animal site</li> <li>• Environmental education access</li> <li>• Seasonally limited public access</li> </ul>	<ul style="list-style-type: none"> <li>• Equestrian-pedestrian-bicycle trail linkage (35 points)</li> <li>• Easement &amp; access (35 points)</li> <li>• Conservation easement or historic preservation easement (15 points)</li> <li>• Active trail linkage (15 or 25 points)</li> <li>• Additional surface water quality buffer (3 or 5 points)</li> <li>• Contiguous parcels under separate ownership (minimal 2 points)</li> <li>• None or members only public access (0 points)</li> </ul>

### Tax Reduction Determination

The total points awarded for a PBRs applicant could result in a reduction between 50 to 90 percent in the land assessed value for the portion of the property enrolled. According to the King County Code<sup>3</sup>, the public benefit rating system for open space land bases the level of assessed fair market value reduction on the total number of awarded points. The market value reduction establishes the current use value. This current use value will be expressed as a percentage of market value based on the public benefit rating of the property and the valuation schedule below in Table 2.

<sup>3</sup> K.C.C. 20.36.160 - Assessed valuation schedule-public benefit rating system for open space land

**Table 2. Tax Reduction Benefit based on PBRs Point System**

<b>Public Benefit Rating</b>	<b>Tax Reduction</b>	<b>Current Use Value</b>
0 – 4 points	0%	100% of market value
5 – 10 points	50%	50% of market value
11 – 15 points	60%	40% of market value
16 – 20 points	70%	30% of market value
21 – 34 points	80%	20% of market value
35 – 52 points	90%	10% of market value

### **PBRs Application History**

According to Executive staff, the number of PBRs applications has decreased significantly over the past two years. Table 3 below illustrates the number of applications received in the past 8.5 years. Executive staff also state that historically, rate increases have had no measurable impacts on the number of applicants.

**Table 3. 2008-2016 PBRs Applicant History**

<b>Year Applied</b>	<b># of Applicants</b>	<b>New</b>	<b>(% of total)</b>	<b>Reclassification<sup>4</sup></b>
2016 (as of 6/7)	18	2	11%	16
2015	33	12	36%	21
2014	61	23	38%	38
2013	55	30	55%	25
2012	41	27	66%	14
2011	63	42	67%	21
2010	59	41	69%	18
2009	71	40	56%	31
2008	142	76	54%	66

### **PBRs Program Compliance**

Executive staff indicates that the PBRs staff communicates with property owners throughout the application process and enrollment in the program to ensure applicants understand the requirements and implications of enrolling. Prior to application, PBRs staff provides information to help property owners determine if they are a good fit for the program. During the evaluation process, PBRs staff communicates regularly with property owners to provide them with detailed information on the requirements of enrollment. Applicants are provided with copies of the Staff Recommendation, Hearing Examiner's Report, Notice of Ordinance, and then sign an Open Space Taxation Agreement, which is signed by the Chair of the Council and recorded on their deed.

Executive staff also states that PBRs staff have a goal of reviewing the enrollment of 200 properties annually. PBRs staff completes regular reviews of aerial maps, and

<sup>4</sup> Applicants may wish to "reclassify" their properties from or to open space land. There are three current use classifications: open space land, timber land and farm and agricultural land.

conduct site visits when needed or when an enrolled property is sold. Over the last few years, according to Executive staff, approximately 50 to 100 properties that are enrolled in the program have been sold per year. At the point of the sale of the property, the King County Assessor's Office notifies PBRs staff, who then communicates with the new property owner to make sure they understand the requirements of the PBRs program. Approximately 90 to 95 percent of properties that transfer through a sale remain enrolled in the PBRs program.

### **Proposed Ordinance 2016-0484**

The proposed ordinance would increase the PBRs application fee from \$480 to \$1,200, which would represent a 150 percent fee increase. The Executive's 2017-2018 Proposed Budget estimates \$48,000 in new revenue would be collected annually due to the increased application fee for the PBRs program. Executive staff indicates that the \$48,000 of new revenue was projected by utilizing the assumption that applications will decrease from 50 applications to 40 applications annually in the 2017-2018 biennium.

Executive staff also states that the additional revenue would potentially be utilized for hiring a term-limited temporary (TLT) employee in 2017 or 2018 in order to assist in processing PBRs applications.

### **ANALYSIS**

The proposed ordinance would increase the PBRs application fee from \$480 to \$1,200, which would represent a 150 percent fee increase. It would generate \$48,000 which would accrue to the general fund.

***In Week 2 of the Physical Environment Panel discussion, Councilmembers asked about creating a sliding scale based on income for PBRs application fees.***

The Prosecuting Attorney's Office legal counsel did not find any significant legal barriers to proceeding with the creation of an income-based sliding scale for the PBRs application fees, so long as it is supported by an articulated policy justification.

### **ATTACHMENTS**

1. Proposed Ordinance 2016-0484
2. Transmittal Letter
3. Fiscal Note
4. 2011 PBRs Application Fee Survey

### **INVITED**

1. Dwight Dively, Budget Director, Office of Performance, Strategy and Budget