AN ACT Relating to the creation of a regional transfer of development rights program; and adding a new chapter to Title 43 RCW.

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

NEW SECTION.  Sec. 1. The legislature finds that current concern over the rapid and increasing loss of rural, agricultural, and forested land has led to the exploration of creative approaches to preserving these important lands. The legislature finds also that the creation of a regional transfer of development rights marketplace will assist in slowing the conversion of these lands.

The legislature further finds that transferring development rights is a market-based technique that encourages the voluntary transfer of growth from places where a community would like to see less development, referred to as sending areas, to places where a community would like to see more development, referred to as receiving areas. Under this technique, permanent deed restrictions are placed on the sending area properties to ensure that the land will be used only for approved activities such as farming, forest management, conservation, or passive recreation. Also under this technique, the costs of
purchasing the recorded development restrictions are borne by the
developers who receive the building credit or bonus.

Accordingly, the legislature has determined that it is good public
policy to build upon existing transfer of development rights programs,
pilot projects, and private initiatives that foster effective use of
transferred development rights through the creation of a market-based
program that focuses on the central Puget Sound region.

NEW SECTION. Sec. 2. The definitions in this section apply
throughout this chapter unless the context clearly requires otherwise.
(1) "Department" means the department of community, trade, and
economic development.
(2) "Nongovernmental entities" includes nonprofit or membership
organizations with experience or expertise in transferring development
rights.
(3) "Transfer of development rights" includes methods for
protecting land from development by voluntarily removing the
development rights from a sending area and transferring them to a
receiving area for the purpose of increasing development density in the
receiving area.

NEW SECTION. Sec. 3. Subject to the availability of amounts
appropriated for this specific purpose, the department shall fund a
process to develop a regional transfer of development rights program
that comports with chapter 36.70A RCW that:
(1) Encourages King, Kitsap, Pierce, and Snohomish counties, and
the cities within these counties, to participate in the development and
implementation of regional frameworks and mechanisms that make transfer
of development rights programs viable and successful. The department
shall encourage and embrace the efforts in any of these counties or
cities to develop local transfer of development rights programs. In
fulfilling the requirements of this chapter, the department shall work
with the Puget Sound regional council and its growth management policy
board to develop a process that satisfies the requirements of this
chapter. The department shall also work with up to four interested and
qualified nongovernmental entities to develop a regional transfer of
development rights marketplace that includes, but is not limited to,
supporting strategies for financing infrastructure and conservation.
At least one of these selected entities must have a statewide perspective on the transfer of development rights and at least one entity must have a local perspective on the transfer of development rights. Additionally, in selecting the four entities, the department must attempt to balance industry perspectives with land conservation perspectives. Nongovernmental entities selected by the department must consult with counties and cities and must develop and present policy considerations to local governments; and

(2) Allows the department to utilize recommendations of the interested local governments, nongovernmental entities, and the Puget Sound regional council to develop recommendations and strategies for a regional transfer of development rights marketplace with supporting strategies for financing infrastructure and conservation that represents the consensus of the governmental and nongovernmental parties engaged in the process. However, if agreement between the parties cannot be reached, the department shall make recommendations to the legislature that seek to balance the needs and interests of the interested governmental and nongovernmental parties. Recommendations developed under this subsection must:

(a) Identify the specific areas where cities can achieve significant benefits through using transfer of development rights programs and the value in modifying existing state grant programs to provide incentives for local governments to adopt transfer of development rights programs;

(b) Address challenges to the creation of an efficient and transparent transfer of development rights market, including the creation of a transfer of development rights bank, brokerage, or direct buyer-seller exchange;

(c) Address issues of certainty to buyers and sellers of development rights that address long-term environmental benefits and perceived inequities in land values and permitting processes;

(d) Address the means for assuring that appropriate values are recognized and updated, as well as specifically addressing the need to maintain the quality of life in receiving neighborhoods and the protection of environmental values over time;

(e) Identify opportunities and challenges that, if resolved, would result in cities throughout the Puget Sound region participating in a transfer of development rights market; and
(f) Identify other regional areas where a transfer of development rights program should be encouraged.

NEW SECTION. Sec. 4. The department shall submit recommendations, findings, and legislative recommendations according to the following schedule:

(1) By December 1, 2007, the department shall submit a report to the governor and appropriate committees of the legislature on the progress of the regional transfer of development rights program. The report must also include identification of other candidate transfer of development areas and proposals to modify grant criteria for local governments;

(2) By December 1, 2008, the department shall submit a final report to the governor and the appropriate committees of the legislature on the progress of the regional transfer of development rights program; and

(3) By December 1, 2008, the department shall submit findings and legislative recommendations to the appropriate committees of the legislature to implement the recommendations and strategies identified in the final report.

NEW SECTION. Sec. 5. Sections 1 through 4 of this act constitute a new chapter in Title 43 RCW.

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