

HOUSE BILL REPORT

HB 2368

As Reported by House Committee On:
Natural Resources, Ecology & Parks

Title: An act relating to the creation of a demonstration project to facilitate better the conservation of natural resource lands.

Brief Description: Authorizing development rights demonstration projects.

Sponsors: Representatives B. Sullivan, Jarrett and Morris.

Brief History:

Committee Activity:

Natural Resources, Ecology & Parks: 1/13/06, 1/19/06 [DPS].

Brief Summary of Substitute Bill

- Directs the Department of Community, Trade, and Economic Development to provide support and funding for two counties to host specific projects that demonstrate how a transfer of development rights program can be used to conserve natural resource and habitat lands.

HOUSE COMMITTEE ON NATURAL RESOURCES, ECOLOGY & PARKS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by Representatives B. Sullivan, Chair; Upthegrove, Vice Chair; Blake, Dickerson, Eickmeyer, Hunt and Kagi.

Minority Report: Do not pass. Signed by Representatives Buck, Ranking Minority Member; Kretz, Assistant Ranking Minority Member; Chandler and Orcutt.

Staff: Jason Callahan (786-7117).

Background:

Transfer of development rights (TDR) programs are a land use planning tool available to local governments in Washington. Transfer of development rights programs are considered by state law to be an "innovative land management technique" that may be included in a jurisdiction's comprehensive plan.

The basic principle of a TDR program is that landowners located in areas of a county where conservation of open land is preferred by the local jurisdiction may sell the property's development rights in exchange for a covenant against future development on the property.

The property selling the development credit is often referred to as the sending site. Landowners located in an area of the county where the local jurisdiction prefers to center development may then purchase the development credits from the sending site. The purchased credits may be used by the landowner for development that is denser than the underlying zoning would normally allow. The property purchasing the development credit is often referred to as the receiving site.

Some jurisdictions in Washington are implementing a TDR program, with King County managing the largest program. Counties that choose to implement a TDR program may designate forest or agricultural land located within an urban growth area as land of long-term commercial significance. Counties that do not have a TDR program may not make that claim of land within urban growth areas.

Summary of Substitute Bill:

The Department of Community, Trade, and Economic Development (Department), in consultation with the Department of Fish and Wildlife, is directed to provide initial funding and ongoing technical assistance and financial support for two counties to host TDR demonstration projects. Kittitas and Snohomish Counties must be given the first option to host the demonstration projects. Other counties may participate if Kittitas or Snohomish decline or if sufficient funding is available for additional demonstrations. All participating counties must be willing hosts and be able to manage, or delegate to cities, the direction and administration of the demonstration project.

The demonstration projects may be initiated in a county that does not have an existing TDR program or may be used to enhance an existing but underutilized county TDR program. The projects must demonstrate how a facilitated system of development credits trading can be used to shift development from natural resource and habitat lands to lands that are more suited for residential or commercial development. Demonstration project funding can be used by the host county for direct financial support to the county or for contracting with third-party organizations to facilitate the credits trading aspect of the project.

The Department must provide an initial report back to the Legislature by the end of 2006 and a final report no more than 36 months after the demonstration projects are initiated. The initial report must be a status update of the demonstration projects, and the final report must include suggestions for improving the demonstration projects and the tools available to counties for the operation of TDR programs.

Substitute Bill Compared to Original Bill:

The substitute bill adds definition to the term "natural resource lands," allows counties to delegate administration of the TDR program to cities, and removes the qualifier "valuable" from the description of natural resource lands.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of session in which bill is passed. However, the bill is null and void unless funded in the budget.

Testimony For: The option of a TDR program is a beneficial tool for a county to have in its land planning toolbox. This bill advances land planning options by expanding existing models that can spread statewide, benefitting many counties and helping make permanent a viable agricultural and natural resources economy.

Transfer of development rights programs can make agricultural land and land owned by small forest landowners viable for future generations by taking advantage of free market real estate transactions that have mutual benefit to both the sellers and buyers. Transfer of development rights programs are unique in that they can promote conservation without regulation. They operate only with willing sellers that decide when the price is right to sell. The government is not involved in establishing price, buying the credits, or requiring credits to be sold. Transfer of development rights programs are also not about land going into state ownership. Conversely, the programs ensure private ownership for future generations.

Two counties have already identified themselves as willing to venture into this new territory and the state should support their innovative vision. There are no identified stakeholders within the counties that have expressed a disinterest in the county moving forward with this option.

Paving a way towards a development credit market is consistent with the recommendations of the Governor's Biodiversity Council and the policies of the Forest Practices Board. Of the bird species at risk in Washington, many currently live on farms or forest parcels vulnerable to development. With the state's population growth as robust as it is, additional and creative tools are needed to help slow down the loss of non-developed land.

Testimony Against: Transfer of development rights programs take economically viable land off of the development books forever, and there is already a shortage of land available for development in Washington. The free market aspects of TDR programs never come to fruition because the small-scale developer has little use for the development credits. The credits can only be used for very large developments.

Most valuable natural resource lands are already locked up in state or federal ownership. In addition, the Growth Management Act provides safeguards to protect density levels in rural areas. Promoting TDR programs is unnecessary.

Persons Testifying: (In support) Aaron Reardon and John Koster, Snohomish County; David Bowen, Kittitas County; Michelle Connor, Ryan Dicks, and Tim Engstrom, Cascade Land Conservancy; Pat McElroy, Department of Natural Resources; Eric Johnson, Washington State Association of Counties; Steve Pozzanghera, Department of Fish and Wildlife; and Heath Packard, Audubon Society.

(In opposition) Timothy Harris, Building Industry Association of Washington.

Persons Signed In To Testify But Not Testifying: None.