

SENATE BILL REPORT

2SHB 1636

As Reported By Senate Committee On:
Natural Resources, Ocean & Recreation, March 28, 2007
Ways & Means, April 2, 2007

Title: An act relating to the creation of a regional transfer of development rights program.

Brief Description: Creating a regional transfer of development rights program.

Sponsors: House Committee on Appropriations (originally sponsored by Representatives Simpson, B. Sullivan, Dunshee, Upthegrove, McCoy, Dickerson, P. Sullivan, Morrell, Sells and Rolfes).

Brief History: Passed House: 3/09/07, 95-2.

Committee Activity: Natural Resources, Ocean & Recreation: 3/22/07, 3/28/07 [DPA-WM].

Ways & Means: 4/02/07 [DPA(NROR)].

SENATE COMMITTEE ON NATURAL RESOURCES, OCEAN & RECREATION

Majority Report: Do pass as amended and be referred to Committee on Ways & Means.

Signed by Senators Jacobsen, Chair; Rockefeller, Vice Chair; Morton, Ranking Minority Member; Fraser, Hargrove, Poulsen, Spanel, Stevens and Swecker.

Staff: Kim Johnson (786-7346)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: Do pass as amended by Committee on Natural Resources, Ocean & Recreation.

Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Pridemore, Vice Chair, Operating Budget; Zarelli, Ranking Minority Member; Brandland, Carrell, Fairley, Hatfield, Hobbs, Honeyford, Keiser, Kohl-Welles, Oemig, Parlette, Rasmussen, Regala, Roach, Rockefeller, Schoesler and Tom.

Staff: Richard Ramsey (786-7412)

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

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

The basic principle of a TDR program is that landowners located in areas of a county where conservation of open land or timber 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 local jurisdictions in Washington are currently implementing TDR programs, with King County managing the largest program. In 2006, the Legislature provided \$250,000 for the Department of Community, Trade, and Economic Development (CTED) to implement two pilot projects related to TDR in cooperation with Snohomish and Pierce county legislative authorities.

Summary of Second Substitute Bill: Subject to amounts appropriated, CTED is required to fund a process to develop a regional TDR program. The program must encourage King, Pierce, Snohomish, and Kitsap counties, and the cities within these counties, to participate in the development and implementation of a regional framework to make TDR viable.

In the development of a regional TDR program, CTED is directed to work with the Puget Sound Regional Council (PSRC) and its growth management policy board. CTED is required to establish an advisory committee to assist in the development of a TDR marketplace. The committee must include the following: (1) two representatives of nongovernmental organizations with experience in TDR; (2) two representatives of the real estate and development industry; (3) a county representative; and, (4) two city representatives from different sized cities and geographic areas of the four county region.

CTED must submit findings and recommendations to the Governor and the appropriate committees of the Legislature according to the following schedule:

- By December 1, 2007, a progress report will be due on the creation of a regional TDR program, identification of other candidate TDR areas, and proposals to modify grant criteria for local governments.
- By December 1, 2008, a final progress report will be due on the creation of a regional TDR program along with strategies to implement the findings and recommendations identified in the final report.

The recommendations must address specific issues including: challenges to the creation of an efficient TDR market; identification of opportunities for cities, counties, and the state to achieve benefits by using TDR and whether the modification of criteria used to allocate capital budget funds would provide incentives for local governments to implement TDR; issues of certainty to buyers and sellers of development rights; the means for assuring that appropriate values are recognized and updated; and the identification of other regional areas where a TDR program should be encouraged.

EFFECT OF CHANGES MADE BY RECOMMENDED AMENDMENT(S) AS PASSED COMMITTEE (Natural Resources, Ocean & Recreation): The Puget Sound Regional Council is required to develop policies to discourage or prohibit the transfer of

development rights that would negatively impact the future economic viability of the sending area. CTED's report to the Legislature must also identify appropriate sending sites so as to protect future growth and economic development needs of the sending areas.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony (Natural Resources, Ocean & Recreation): PRO: This bill will provide a judicious and careful way to proceed with transfer of development rights programs on a regional basis. With a small amount of state funding, the Legislature has the chance to leverage the private marketplace for billions of dollars of conservation and to provide compensation and support to farmers, foresters, and rural land owners. A robust transfer of development rights programs is a valuable and creative tool to keep cities livable and to protect agricultural, forested, and rural lands. This legislation would provide a process to help identify what barriers there are to transfer of development rights so that there are willing buyers and sellers to support this land-use tool.

Persons Testifying (Natural Resources, Ocean & Recreation): PRO: Vicki Austin, Cascade Land Conservancy; Bonnie Bunning, Department of Natural Resources; Jeanette McKague, Washington Realtors.

Staff Summary of Public Testimony (Ways & Means): PRO: This bill will help create a vibrant market for the transfer of development rights to assist landowners and local governments and to achieve conservation objectives.

Persons Testifying (Ways & Means): PRO: Vicki Austin, Cascade Land Conservancy; Jeanette McKague, Washington Realtors.