

# SENATE BILL REPORT

## SB 5656

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As Reported By Senate Committee On:  
Natural Resources, Ocean & Recreation, February 19, 2007

**Title:** An act relating to the creation of a regional transfer of development rights program for the purpose of preserving forested, rural, and agricultural lands.

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

**Sponsors:** Senators Jacobsen, Kline, Rockefeller, Regala and Tom.

**Brief History:**

**Committee Activity:** Natural Resources, Ocean & Recreation: 1/29/07, 2/19/07 [DPS].

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### SENATE COMMITTEE ON NATURAL RESOURCES, OCEAN & RECREATION

**Majority Report:** That Substitute Senate Bill No. 5656 be substituted therefor, and the substitute bill do pass.

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

**Staff:** Kim Johnson (786-7346)

**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.

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

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pilot projects related to TDR in cooperation with Snohomish and Pierce county legislative authorities.

**Summary of 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 also required to work with up to four nongovernmental organizations (NGO) to develop a TDR marketplace. In selecting the entities, CTED must attempt to balance industry perspectives with land conservation perspectives.

In the development of its recommendations to the Governor and Legislature, CTED may use recommendations and strategies identified by consensus of the participating local governments, NGOs and the PSRC to create a regional TDR marketplace. If consensus cannot be reached between the governmental bodies and NGOs on the use of strategies for financing infrastructure and conservation, then CTED must make recommendations to the Legislature that seek to balance the needs and interests of parties.

The recommendations must address specific issues including: challenges to the creation of an efficient TDR market; 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.

CTED must submit a progress report by December 1, 2007, and a final report and legislative recommendations by December 1, 2008, to both the Legislature and the Governor.

**EFFECT OF CHANGES MADE BY RECOMMENDED SUBSTITUTE AS PASSED COMMITTEE (Natural Resources, Ocean & Recreation):** 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.

When developing the recommendations to the Legislature and Governor, CTED must also compare the uses of a regional TDR program to other existing land conservation strategies to protect rural and resource lands and implement the growth management act.

**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:** PRO: This bill will provide a judicious and careful way to proceed with transfer of development rights programs on a regional basis. A viable TDR program will help to create quality development in our communities, while preserving

the working land base and recreational lands that contribute greatly to our quality of life here in Washington. The initial work on TDRs has run its course, and it is time to work with the cities and counties to create more incentives for local governments to use this important tool. This bill will help to develop the receiving sites of the development rights in the urban areas, which is all that stands in the way of having a good TDR program in the Puget Sound region. A robust TDR program provides a win-win situation. The preservation of a working land base also preserves habitat which is something we really support.

OTHER: We support TDR programs as long as the program does not result in a net loss of affordable housing and does not become a state mandate.

**Persons Testifying:** PRO: Mike Lonergan, Puget Sound Regional Council; Richard Cole, Redmond City Council; Eric Johnson, Washington Association of Counties; Roberta Lewandowski, Futurewise; Ken Miller and Nina Carter, Audubon Washington; Jeanette McKague, Washington Realtors; Denise Tester and Dave Williams, Association of Washington Cities; Bill Clarke, Trust for Public Lands.

OTHER: Andrew Cook, Building Industry Association of Washington.