
HOUSE BILL 1636

State of Washington 60th Legislature 2007 Regular Session

By Representatives Simpson, B. Sullivan, Dunshee, Upthegrove, McCoy, Dickerson, P. Sullivan, Morrell, Sells and Rolfes

Read first time 01/24/2007. Referred to Committee on Local Government.

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

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

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

10 The legislature further finds that transferring development rights
11 is a market-based technique that encourages the voluntary transfer of
12 growth from places where a community would like to see less
13 development, referred to as sending areas, to places where a community
14 would like to see more development, referred to as receiving areas.
15 Under this technique, permanent deed restrictions are placed on the
16 sending area properties to ensure that the land will be used only for
17 approved activities such as farming, forest management, conservation,
18 or passive recreation. Also under this technique, the costs of

1 purchasing the recorded development restrictions are borne by the
2 developers who receive the building credit or bonus.

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

8 NEW SECTION. **Sec. 2.** The definitions in this section apply
9 throughout this chapter unless the context clearly requires otherwise.

10 (1) "Department" means the department of community, trade, and
11 economic development.

12 (2) "Nongovernmental entities" includes nonprofit or membership
13 organizations with experience or expertise in transferring development
14 rights.

15 (3) "Transfer of development rights" includes methods for
16 protecting land from development by voluntarily removing the
17 development rights from a sending area and transferring them to a
18 receiving area for the purpose of increasing development density in the
19 receiving area.

20 NEW SECTION. **Sec. 3.** Subject to the availability of amounts
21 appropriated for this specific purpose, the department shall fund a
22 process to develop a regional transfer of development rights program
23 that comports with chapter 36.70A RCW that:

24 (1) Encourages King, Kitsap, Pierce, and Snohomish counties, and
25 the cities within these counties, to participate in the development and
26 implementation of regional frameworks and mechanisms that make transfer
27 of development rights programs viable and successful. The department
28 shall encourage and embrace the efforts in any of these counties or
29 cities to develop local transfer of development rights programs. In
30 fulfilling the requirements of this chapter, the department shall work
31 with the Puget Sound regional council and its growth management policy
32 board to develop a process that satisfies the requirements of this
33 chapter. The department shall also work with up to four interested and
34 qualified nongovernmental entities to develop a regional transfer of
35 development rights marketplace that includes, but is not limited to,
36 supporting strategies for financing infrastructure and conservation.

1 At least one of these selected entities must have a statewide
2 perspective on the transfer of development rights and at least one
3 entity must have a local perspective on the transfer of development
4 rights. Additionally, in selecting the four entities, the department
5 must attempt to balance industry perspectives with land conservation
6 perspectives. Nongovernmental entities selected by the department must
7 consult with counties and cities and must develop and present policy
8 considerations to local governments; and

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

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

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

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

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

36 (e) Identify opportunities and challenges that, if resolved, would
37 result in cities throughout the Puget Sound region participating in a
38 transfer of development rights market; and

1 (f) Identify other regional areas where a transfer of development
2 rights program should be encouraged.

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

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

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

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

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

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