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## Local Government Committee

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### HB 1469

**Brief Description:** Concerning landscape conservation and local infrastructure.

**Sponsors:** Representatives Springer, Rodne, Tharinger, Carlyle, Eddy, Dammeier, Liias, Fitzgibbon, Goodman, Zeiger, Upthegrove, Sullivan, Reykdal and Smith.

#### Brief Summary of Bill

- Authorizes qualifying cities to create Local Infrastructure Project Areas (LIPAs) within their boundaries and to finance public improvements in LIPAs through increased property tax receipts resulting from expanding the 1 percent revenue limit to include general value growth in the project area.
- Specifies that a qualifying city must reside within a county that borders Puget Sound, has 600,000 or more residents, and that has an established transfer of development rights program.
- Establishes numerous administrative, procedural, and reporting requirements related to LIPA creation and financing.

**Hearing Date:** 2/2/11

**Staff:** Ethan Moreno (786-7386).

#### **Background:**

##### Tax Increment Financing.

Traditional tax increment financing is a method of allocating a portion of property taxes to finance economic development in urban areas. Local governments that utilize tax increment financing typically issue bonds to finance public improvements. To repay its bondholders, the local government is permitted to draw upon regular property tax revenue collected from property owners inside a special district surrounding the site of the public improvements. Construction of public improvements tends to increase the market values of nearby properties. Increases in value can result in increased property taxes for each taxing district that includes property near the

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public improvement. Under tax increment financing, the local government making the improvement receives all of the resulting tax revenue increase. For example, if a city makes an improvement that raises nearby property values, the city receives all of the resulting increase in property taxes, rather than sharing that increase with state, county, and other local districts as would occur under normal property tax allocation practices.

### 2009 Local Revitalization Financing.

Legislation adopted in 2009 (*i.e.*, Second Substitute Senate Bill 5045, enacted as chapter 270, Laws of 2009) authorized participating local governments to create revitalization areas. These same local governments are permitted to use certain tax revenues that increase within the area to finance local public improvements. Under the 2009 legislation, the following sources of revenue were authorized to pay for bonds that may be issued to finance improvements:

- increased local sales and use tax revenues and property tax revenues generated from within the revitalization area, as well as additional funds from other local public sources; and
- a local sales and use tax that is credited against the state tax.

Funds from local public sources may pay for public improvement costs on a pay-as-you-go basis.

Public improvements or projects that may be financed through the tax increment program established in 2SSB 5045 include:

- street, road, bridge, and rail construction and maintenance;
- water and sewer system construction and improvements;
- park and ride facilities of a transit authority;
- park facilities, recreational areas, and environmental remediation;
- electric, gas, fiber, and other utility infrastructures.

The following are also authorized public improvement expenditures:

- providing environmental analysis, professional management, planning, and promotion within the revitalization area, including the management and promotion of retail trade activities in the revitalization area;
- providing maintenance and security for common or public areas in the revitalization area; or
- historic preservation activities.

Certain environmental analyses and maintenance and security actions may also be financed through the tax increment program established in the 2009 legislation.

### Property Tax Revenue Growth Limitations.

Regular property tax levies of local taxing districts are generally limited to an annual revenue growth rate of 1 percent plus increases resulting from new construction. This regular property tax revenue growth limit may be exceeded if authorized through a ballot proposition approved by the voters of the applicable taxing district.

### Transfer of Development Rights and Recent Legislative Activity.

A transfer of development rights (TDR) occurs when a qualifying land owner, through a permanent deed restriction, severs potential development rights from a property and transfers them to a recipient for use on a different property. In TDR transactions, transferred rights are generally shifted from sending areas with lower population densities to receiving areas with higher population densities. The monetary values associated with transferred rights constitute compensation to a land owner for development that may have otherwise occurred on the transferring property.

Programs for transferring development rights may be used to preserve natural and historic spaces, encourage infill, and for other purposes.

Legislation establishing TDR provisions has been adopted in recent sessions. In 2007 the Legislature directed the Department of Community, Trade, and Economic Development (now the Department of Commerce) to fund a process to develop a regional TDR program that comports with the Growth Management Act (GMA). The legislation specified that the TDR program must encourage King, Kitsap, Pierce, and Snohomish counties, and the cities within, to participate in the development and implementation of regional frameworks and mechanisms for TDR programs. Building upon the 2007 legislation, in 2009 the Legislature directed the Department of Commerce, subject to funding limitations, to establish a regional TDR program in central Puget Sound counties and cities. The regional program is intended to foster voluntary local government participation that will result in the transfer of development rights between jurisdictions.

#### Puget Sound Regional Council.

The Puget Sound Regional Council (PSRC) is an association of cities, towns, counties, ports, and state agencies that serves as a forum for developing policies and making decisions about regional growth and transportation issues in the four-county central Puget Sound region. Membership of the PSRC includes King, Kitsap, Pierce, and Snohomish counties, 72 cities and towns, four port districts, and transit agencies and tribes within the region. Two state agencies, the Department of Transportation and the Transportation Commission, are also members of the PSRC.

#### Growth Management Act.

The GMA is the comprehensive land use planning framework for county and city governments in Washington. Enacted in 1990 and 1991, the GMA establishes numerous requirements for local governments obligated by mandate or choice to fully plan under the GMA (planning jurisdictions) and a reduced number of directives for all other counties and cities. The Department of Commerce provides technical and financial assistance to jurisdictions that must satisfy obligations of the GMA.

The GMA directs planning jurisdictions to adopt internally consistent comprehensive land use plans that are generalized, coordinated land use policy statements of the governing body. Comprehensive plans must address specified planning elements, each of which is a subset of a comprehensive plan. Comprehensive plans may also include optional elements, items, or studies, pertaining to conservation, solar energy, recreation, or other topics selected by the jurisdiction. The implementation of comprehensive plans occurs through locally adopted development regulations.

The GMA requires all counties and cities to designate, where appropriate, agricultural and forest lands of long-term commercial significance. Planning jurisdictions must also adopt regulations to conserve these lands.

### **Summary of Bill:**

A process for establishing Local Infrastructure Project Areas (LIPAs) within qualifying cities and funding public improvements within these areas is established.

### Preliminary Actions by Eligible Counties - Designation, Calculation, and Reporting of Development Rights.

Prior to the establishment of a LIPA, an eligible county, a term defined to mean any county that borders Puget Sound, has 600,000 or more residents, and that has an established transfer of development rights (TDR) program, must designate all agricultural and forest land of long-term commercial significance within its jurisdiction as sending areas for conservation under its TDR program. An eligible county may also designate a portion of its rural zoned lands as sending areas for conservation under its TDR program if at least 50 percent of the total acreage of land classified as agricultural and forest land of long-term commercial significance within the county has been protected from development through permanent conservation easements or other conservation provisions. An eligible county must also, subject to specified requirements, calculate the number of development rights from these lands of long-term commercial significance that are eligible for transfer to receiving areas.

On or before September 1, 2011, each eligible county must report to the PSRC the total number of transferrable development rights from agricultural and forest land of long-term commercial significance and designated rural lands that may be available for allocation to receiving cities. For purposes of LIPA provisions, a "receiving city" is a city within an eligible county that has a population plus employment of 22,500 or more.

### Preliminary Actions by the Puget Sound Regional Council.

Following the receipt of development rights information from eligible counties, the PSRC must allocate these development rights among receiving cities. This process of distributing allocated shares of transferred rights must be determined in consultation with eligible counties and receiving cities, must be based on growth targets, and must comply with other requirements.

A city that accepts all or a portion of its allocated share of rights is eligible to become a "sponsoring city." A "sponsoring city" is a city that meets specified allocation requirements, adopts a plan for the development of infrastructure within one or more LIPA, and creates one or more LIPA.

### Preliminary Actions by a Sponsoring City.

The creation of a LIPA must be accomplished through an ordinance or resolution of the sponsoring city that describes the area boundaries and the proposed public improvements to be financed in the LIPA. "Public improvements" are defined to include specified infrastructure

improvements, expenditures for facilities and improvements that support affordable housing, expenditures for maintenance and security for common areas, and expenditures on historic preservation activities.

Before adopting an ordinance or resolution creating a LIPA, a sponsoring city must comply with numerous provisions, including adopting a plan for the development of public infrastructure within one or more LIPAs that meets enumerated requirements and is developed in consultation with the city, county, or port district where the LIPA to be created is located. The sponsoring city also must:

- satisfy notice and public hearing requirements; and
- adopt TDR policies or implement development regulations meeting specified requirements, or make a finding that the city will either receive its portion of rights within one or more LIPA or purchase its portion if it is unable to receive them.

Adopted TDR policies or implemented development regulations must meet specified requirements, including:

- complying with the GMA;
- designating a receiving area or areas for transferred rights;
- adopting incentives, including streamlined permitting and environmental review strategies, for developers purchasing transferable development rights;
- establishing an exchange rate, also in accordance with suggested provisions, for transferred rights; and
- requiring that the sale of a transferable development right from agricultural or forest land of long-term commercial significance or designated rural zoned land be evidenced by its permanent removal from the sending site.

A sponsoring city must designate all agricultural and forest land of long-term commercial significance and qualifying rural zoned lands within the eligible counties as available sending areas.

#### Financing LIPAs and Modified Revenue Limitations.

Provisions for the financing of LIPAs through property taxes are established. Following certification by the sponsoring city to the county treasurer, county, and applicable port district that a LIPA has been created and other requirements have been satisfied, the county treasurer must distribute the property tax allocation imposed by the city, the county, and the port district (if the district has territory within the LIPA) to the sponsoring city. These distributions of property tax receipts must cease on the earlier of:

- the date when the LIPA financing provisions are no longer used for the cost of public improvements; or
- a final termination date that is determined according to a formula that considers issued building permits and acquired transferable development rights for a LIPA.

A distribution of property tax receipts under LIPA provisions may not exceed a term of 25 years.

Provisions generally limiting annual property tax revenue increases to 1 percent are modified to allow an increase beyond the limit for increases in assessed value within a LIPA.

### Limitations on LIPAs.

Geographic and other limitations for LIPAs are specified. For example, the territory within a LIPA must be contiguous tracts, lots, pieces, or parcels, and the LIPAs, at their time of creation, may not comprise an area containing more than 25 percent of the total assessed value of taxable property within the sponsoring city. Additionally, public improvements to be financed with LIPA financing must be located in the LIPA.

### Transferred Rights - Eligibility Provisions.

Only development rights from agricultural and forest land of long-term commercial significance within the eligible counties, and qualifying rural-zoned lands with the eligible counties, may be transferred to a city for use in a LIPA.

### Reports and Rule-Making - PSRC, Participating Jurisdictions, and the Department of Commerce.

The PSRC, in collaboration with eligible counties, must develop quantitative and qualitative performance measures for monitoring the landscape conservation and local infrastructure program established in the legislation. The performance measures must address specified provisions.

The Department of Commerce (Department) must require eligible counties and sponsoring cities to report on the performance measures biannually. The Department must also compile the city and county data and post this information on the agency's web site. Other reporting requirements for the Department are specified.

The Department is authorized to adopt any rules it considers necessary for the administration of the LIPA provisions.

### Growth Management Act.

The list of optional comprehensive plan elements that may be adopted under the GMA is expanded to expressly authorize a receiving city (a city within an eligible county that has a population plus employment of 22,500 or more) to adopt a comprehensive plan element and associated development regulations that apply within a LIPA in which transferable development rights from a sending area may be used.

**Appropriation:** None.

**Fiscal Note:** Preliminary fiscal note available.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.