

SENATE BILL REPORT

SB 5425

As of March 25, 2011

Title: An act relating to the authorization of a sustainable development alternative for managing residential development in rural areas using transferable development rights.

Brief Description: Authorizing rural conservation development demonstration projects.

Sponsors: Senators Hobbs, Shin, Harper and McAuliffe.

Brief History:

Committee Activity: Agriculture & Rural Economic Development: 2/01/11.

SENATE COMMITTEE ON AGRICULTURE & RURAL ECONOMIC DEVELOPMENT

Staff: Bob Lee (786-7404)

Background: Transferable development rights (TDRs) is a concept where lands in a receiving area and a sending area have both defined quantities of development units, and units may be transferred from the sending area to increase the density in the receiving area. The TDR mechanism is often considered as an alternative to a purchase of development right program that usually involve funds from foundations or public sources.

For those counties that plan under the Growth Management Act (GMA), areas are designated into categories including urban growth areas, rural areas, agricultural land of long-term commercial significance, and timber land of long-term commercial significance. There are provisions that differentiate between rural governmental services and urban governmental services. The act contains provisions for protection of critical areas which include wetlands, critical aquifer recharge areas, fish and wildlife habitat conservation areas, frequently flooded areas, and geologically hazardous areas.

It is proposed that counties that meet certain criteria be authorized to establish a rural conservation development demonstration project, utilize TDRs, and provide a multifaceted approach to growth management.

Summary of Bill: Counties in the Puget Sound basin with a population between 500,000 and 750,000 which plan under the GMA may designate one demonstration project. The demonstration project must be located in a rural area and be designed to co-exist with traditional rural land uses such as farming and forestry. A demonstration project meeting the

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requirements of this legislation and the comprehensive plan policies and development regulations of an authorizing county, constitute a permitted form of rural development under the GMA.

A demonstration project must be on least 750 contiguous acres and within three miles of a state or federal highway. The project is not allowed to be located on land designated by the county as agricultural, forest, or mineral lands of long-term commercial significance. The county may not simultaneously process a request to de-designate designated resource lands and a proposal for those lands to be considered for a demonstration project.

The project may include single-family, multifamily and accessory dwelling units. The average lot size for single-family detached housing units may not exceed 7000 square feet. Nonresidential development may be included if it is designed and sized to serve only the projected population of the demonstration project and the nearby rural residential population.

A county may authorize a demonstration project containing a total of up to 1600 residential dwelling units. Criteria is established to determine the base number of development units and for additional units not to exceed the total. To exceed the base number of units, the additional units are allowed only through the transfer of development rights. At least one-third of the units must originate from rural-zones property.

The authorizing county must identify the eligible sending sites which may include rural-zoned lands or lands designated as natural resource lands of long-term commercial significance. The receiving site is the demonstration project which must obtain the development right from the sending site in order to exceed its base.

Development rights for lands in the sending site must be extinguished by a conservation easement. The easement is held by a nonprofit organization, the county authorizing the demonstration project, or jointly by both entities. The easement must permanently restrict the development of the sending property, but must allow for typical rural and resource land uses including but not limited to agricultural and working forest lands. To monitor the enforcement of the conservation easements, a stewardship fund is established.

The demonstration project area must comply with all relevant development regulations including critical areas regulations and transportation concurrency requirements, but authority is provided to the county to approve through a development agreement standards particular to the demonstration project.

The demonstration project provides a perimeter buffer within its boundaries for the benefit of surrounding lands uses. The perimeter buffer must average 200 feet but may be no less than 100 feet.

Public services consistent with the rural governmental services provisions are provided. The county's development regulations or any development agreement authorizing a demonstration project addresses how new or improved infrastructure are provided. The development must comply with the county's transportation concurrency requirements to ensure that roads operate below adopted levels of service.

There are provisions that address water supply, wastewater treatment, storm water management, critical areas regulations, open spaces, green building and energy, native vegetation, design standards, notice on title, and environmental review requirements.

Community facility districts may be formed to serve land outside the designated urban growth areas but has been included within the boundaries of an approved demonstration project. Authority is provided for a community facilities district to finance expenses including transferable development rights.

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: The area is zoned one unit per five acres and there are vested rights in existence today. Developing the area as it is now zoned does not produce a desirable outcome in that area and will look like rural sprawl. This bill will provide the county and the developer a better tool. Instead of each dwelling having its own septic tank, the area would be served by its own wastewater system. With the development under the current plan, there would be no open spaces that would be accessible by the general public. This proposed bill would set land aside for public use. To increase the total number of units in the development would require the development rights to be purchased elsewhere in the county thus reducing the allowable development elsewhere. The county prosecutor's office told proponents that current law does not contain sufficient flexibility to do this type of development and that the proponents would need legislation. Purchasing development rights from designated agricultural and natural resource lands will keep development away from those more scenic areas.

CON: Increasing density in the rural area is not the answer to protecting its rural character. What is happening on the ground now is not right but this bill makes it worse. A better alternative would be to transfer the development rights to a urban growth area. Traffic would increase and the current roads can't handle it.

OTHER: The Department of Transportation has changes to suggest to the transportation provisions of the bill.

Persons Testifying: PRO: Dave Summers, Chair, Snohomish County Council; Dan Stonington, Cascade Land Conservancy; Brian Holzesaw, citizen.

CON: Ellen Hiatt Watson, 7 Lakes; April Putney, Futurewise.

OTHER: Elizabeth Robbins, Department of Transportation.