

2SHB 1636 - S COMM AMD

By Committee on Natural Resources, Ocean & Recreation

ADOPTED AS AMENDED 04/09/2007

1 Strike everything after the enacting clause and insert the  
2 following:

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

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

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

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

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

1 (2) "Nongovernmental entities" includes nonprofit or membership  
2 organizations with experience or expertise in transferring development  
3 rights.

4 (3) "Transfer of development rights" includes methods for  
5 protecting land from development by voluntarily removing the  
6 development rights from a sending area and transferring them to a  
7 receiving area for the purpose of increasing development density in the  
8 receiving area.

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

13 (1) Encourages King, Kitsap, Pierce, and Snohomish counties, and  
14 the cities within these counties, to participate in the development and  
15 implementation of regional frameworks and mechanisms that make transfer  
16 of development rights programs viable and successful. The department  
17 shall encourage and embrace the efforts in any of these counties or  
18 cities to develop local transfer of development rights programs. In  
19 fulfilling the requirements of this chapter, the department shall work  
20 with the Puget Sound regional council and its growth management policy  
21 board to develop a process that satisfies the requirements of this  
22 chapter. In the development of a process to create a regional transfer  
23 of development rights program, the Puget Sound regional council and its  
24 growth management policy board shall develop policies to discourage, or  
25 prohibit if necessary, the transfer of development rights from a  
26 sending area that would negatively impact the future economic viability  
27 of the sending area. The department shall also work with an advisory  
28 committee to develop a regional transfer of development rights  
29 marketplace that includes, but is not limited to, supporting strategies  
30 for financing infrastructure and conservation. The department shall  
31 establish an advisory committee of seven stakeholders with  
32 representatives of the following interests:

33 (a) Two qualified nongovernmental organizations with expertise in  
34 the transfer of development rights. At least one organization must  
35 have a statewide expertise in growth management planning and in the  
36 transfer of development rights and at least one organization must have

1 a local perspective on market-based conservation strategies and  
2 transfer of development rights;

3 (b) Two representatives from real estate and development;

4 (c) One representative with a county government perspective; and

5 (d) Two representatives from cities of different sizes and  
6 geographic areas within the four-county region; and

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

19 (a) Identify opportunities for cities, counties, and the state to  
20 achieve significant benefits through using transfer of development  
21 rights programs and the value in modifying criteria by which capital  
22 budget funds are allocated, including but not limited to, existing  
23 state grant programs to provide incentives for local governments to  
24 implement transfer of 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;

1 (f) Compare the uses of a regional transfer of development rights  
2 program to other existing land conservation strategies to protect rural  
3 and resource lands and implement the growth management act; and

4 (g) Identify appropriate sending areas so as to protect future  
5 growth and economic development needs of the sending areas.

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

9 (1) By December 1, 2007, the department shall notify the governor  
10 and the appropriate committees of the legislature of any recommended  
11 actions for advancing the purposes of this act.

12 (2) By December 1, 2008, the department shall notify the governor  
13 and the appropriate committees of the legislature of findings and  
14 legislative recommendations to implement a regional transfer of  
15 development rights program.

16 NEW SECTION. **Sec. 5.** Sections 1 through 3 of this act constitute  
17 a new chapter in Title 43 RCW."

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18 On page 1, line 2 of the title, after "program;" strike the  
19 remainder of the title and insert "adding a new chapter to Title 43  
20 RCW; and creating a new section."

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