
SECOND SUBSTITUTE HOUSE BILL 1636

State of Washington

60th Legislature

2007 Regular Session

By House Committee on Appropriations (originally sponsored by Representatives Simpson, B. Sullivan, Dunshee, Upthegrove, McCoy, Dickerson, P. Sullivan, Morrell, Sells and Rolfes)

READ FIRST TIME 03/05/07.

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

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

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

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

1 or passive recreation. Also under this technique, the costs of
2 purchasing the recorded development restrictions are borne by the
3 developers who receive the building credit or bonus.

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

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

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

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

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

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

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

1 infrastructure and conservation. The department shall establish an
2 advisory committee of seven stakeholders with representatives of the
3 following interests:

4 (a) Two qualified nongovernmental organizations with expertise in
5 the transfer of development rights. At least one organization must
6 have a statewide expertise in growth management planning and in the
7 transfer of development rights and at least one organization must have
8 a local perspective on market-based conservation strategies and
9 transfer of development rights;

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

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

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

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

26 (a) Identify opportunities for cities, counties, and the state to
27 achieve significant benefits through using transfer of development
28 rights programs and the value in modifying criteria by which capital
29 budget funds are allocated, including but not limited to, existing
30 state grant programs to provide incentives for local governments to
31 implement transfer of development rights programs;

32 (b) Address challenges to the creation of an efficient and
33 transparent transfer of development rights market, including the
34 creation of a transfer of development rights bank, brokerage, or direct
35 buyer-seller exchange;

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

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

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

8 (f) Compare the uses of a regional transfer of development rights
9 program to other existing land conservation strategies to protect rural
10 and resource lands and implement the growth management act.

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

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

17 (2) By December 1, 2008, the department shall notify the governor
18 and the appropriate committees of the legislature of findings and
19 legislative recommendations to implement a regional transfer of
20 development rights program.

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

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