FINAL BILL REPORT
ESSB 5253

C 318 L 11
Synopsis as Enacted

Brief Description: Concerning tax increment financing for landscape conservation and local infrastructure.

Sponsors: Senate Committee on Government Operations, Tribal Relations & Elections (originally sponsored by Senators White, Swecker, Nelson, Litzow and Harper).

Senate Committee on Government Operations, Tribal Relations & Elections
House Committee on Local Government
House Committee on Ways & Means

Background: The Growth Management Act (GMA) is the comprehensive land use planning framework for county and city governments in Washington. Enacted in 1990 and 1991, the GMA establishes numerous planning requirements for counties and cities 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. Twenty-nine of Washington's 39 counties, and the cities within those counties, are planning jurisdictions.

Public infrastructure funding is accomplished in a number of different ways in the state. The Legislature has, in recent years, examined a number of ways to increase investment in public infrastructure in the state. Tax increment financing is a method of redistributing increased tax revenues within a geographic area resulting from a public investment to pay for the bonds required to construct a project.

A number of tax increment financing programs have been created in the state: in 2001 the Legislature created the Community Revitalization Financing Program; in 2006 the Local Infrastructure Financing Tool Program was created by the Legislature; and in 2009 the Legislature created the Local Revitalization Financing Program.

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.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

In 2007 the Legislature directed the Department of Community, Trade, and Economic Development, now the Department of Commerce (Commerce), to fund a process to develop a regional TDR program that corresponds with the 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. In 2009 the Legislature directed Commerce to establish a regional TDR program to foster voluntary local government participation that will result in the transfer of development rights between jurisdictions in central Puget Sound counties and cities.

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.

Summary: An eligible county, defined as a county that borders Puget Sound, has 600,000 or more residents, and that has an established TDR program, must designate all agricultural and forest land of long-term commercial significance within its jurisdiction as sending areas under its TDR program. An eligible county must calculate the number of development rights from agricultural and forest land of long-term commercial significance that are eligible for transfer to receiving cities. The number of transferable development rights does not include certain development rights from agricultural and forest lands of long-term commercial significance that have been removed or extinguished through a conservation easement, mitigation, or a habitat restoration plan.

An eligible county may designate rural zoned lands as available for transfer to receiving cities if 50 percent or more of the agricultural and forest land of long-term commercial significance in the county has already been protected through a permanent conservation easement or is owned for conservation purposes. The portion of rural zoned lands available for transfer must not exceed 1500 development rights. Additionally, the rural zoned lands must be identified either:

- by the county as top conservation priorities because they meet certain criteria; or
- as highly important to the water quality of Puget Sound.

On or before September 1, 2011, each eligible county must report to the PSRC the total number of transferable development rights within the eligible county that may be available for allocation to receiving cities. The PSRC must allocate the total number of development rights among the receiving cities in consultation with eligible counties and based on certain factors. On or before March 1, 2012, the PSRC must report to each receiving city and to Commerce each receiving city's share of transferred development rights. A receiving city may, by interlocal agreement, transfer all or a portion of its transferred development rights to another receiving city. A receiving city is defined as any incorporated city within an eligible county that has a population plus employment of 22,500 or more.

A receiving city becomes a sponsoring city by:

- accepting all or a portion of its transferred development rights;
- adopting a development plan for infrastructure; and
- creating one or more local infrastructure project areas.

A development plan for infrastructure must:
- be developed in consultation with the Department of Transportation and the county where the local infrastructure project area to be created is located;
- be consistent with any TDR policies or development regulations adopted by the sponsoring city;
- specify the public improvements to be financed using local infrastructure project financing;
- estimate the number of transferred development rights that will be used within the local infrastructure project area; and
- estimate the cost of the public improvements.

Before creating a local infrastructure project area, a sponsoring city must (1) adopt TDR policies or implement development regulations, or (2) make a finding that it will either receive its transferred development rights in a local infrastructure project area or purchase its transferred development rights to be held in reserve by the sponsoring city and used in future development.

To create a local infrastructure project area, a sponsoring city must adopt an ordinance or resolution that describes the proposed public improvements and the boundaries of the local infrastructure project area. Before adopting an ordinance or resolution creating a local infrastructure project area, a sponsoring city must provide notice to the county assessor, county treasurer, and the county within the proposed local infrastructure project area and hold a public hearing on the proposed formation. A sponsoring city may adopt an element to its comprehensive plan and associated development regulations to apply within a local infrastructure project area.

The designation of a local infrastructure project area is subject to limitations, including, but not limited to:
- the area be contiguous tracts of land;
- the public improvements be financed with local infrastructure project financing;
- the area not contain more than 25 percent of the total assessed value of taxable property within the sponsoring city;
- there is no overlap of the boundaries of each local infrastructure project area; and
- all local infrastructure project areas created by the sponsoring city comprise an area in which the transferred development rights will be used.

The county and the sponsoring city must receive that portion of its regular property taxes produced by the rate of tax levied by or for the county and the city on the property tax allocation revenue base value for that local infrastructure project area. The sponsoring city must receive an additional portion of the regular property taxes levied by it and by or for the county and the city upon the property tax allocation revenue value within the local infrastructure project area. The portion of the tax receipts distributed to the sponsoring city may only be used to finance public improvement costs within the local infrastructure project area. Participating taxing districts must allow the use of all of their local property tax

allocation revenues for local infrastructure project financing. The property tax allocation terminates when local infrastructure project financing is no longer used for costs of public improvements or based on certain threshold levels.

The eligible counties, in collaboration with sponsoring cities, must provide a report to Commerce by March 1 of every other year that contains certain information.

Votes on Final Passage:

Senate	30	18	
House	62	35	(House amended)
Senate	29	19	(Senate concurred)

Effective: July 22, 2011.