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**SUBSTITUTE SENATE BILL 5656**

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**State of Washington**

**60th Legislature**

**2007 Regular Session**

**By** Senate Committee on Natural Resources, Ocean & Recreation  
(originally sponsored by Senators Jacobsen, Kline, Rockefeller,  
Regala and Tom)

READ FIRST TIME 02/21/07.

1       AN ACT Relating to the creation of a regional transfer of  
2 development rights program for the purpose of preserving forested,  
3 rural, and agricultural lands; adding a new chapter to Title 43 RCW;  
4 and creating a new section.

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

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

12       The legislature further finds that transferring development rights  
13 is a market-based technique that encourages the voluntary transfer of  
14 growth from places where a community would like to see less  
15 development, referred to as sending areas, to places where a community  
16 would like to see more development, referred to as receiving areas.  
17 Under this technique, permanent deed restrictions are placed on the  
18 sending area properties to ensure that the land will be used only for  
19 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: (a) Two qualified nongovernmental organizations  
4 with expertise in the transfer of development rights. At least one of  
5 the selected nongovernmental organizations must have statewide  
6 expertise in both growth management planning and the transfer of  
7 development rights. At least one entity must have a local perspective  
8 on market-based conservation strategies and transfer of development  
9 rights; (b) two representatives from the real estate and development  
10 industry; (c) one representative with a county government perspective;  
11 and (d) two representatives from cities of different sizes and  
12 geographic areas within the four-county region; and

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

24 (a) Identify opportunities for cities to achieve significant  
25 benefits through using transfer of development rights programs and the  
26 value in modifying existing state grant programs to provide incentives  
27 for local governments to adopt transfer of development rights programs;

28 (b) Address challenges to the creation of an efficient and  
29 transparent transfer of development rights market, including the  
30 creation of a transfer of development rights bank, brokerage, or direct  
31 buyer-seller exchange;

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

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

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

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

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

10 (1) By December 1, 2007, the department shall submit a report to  
11 the governor and appropriate committees of the legislature on the  
12 progress of the regional transfer of development rights program. The  
13 report must also include identification of other candidate transfer of  
14 development areas and proposals to modify grant criteria for local  
15 governments;

16 (2) By December 1, 2008, the department shall submit a final report  
17 to the governor and the appropriate committees of the legislature on  
18 the progress of the regional transfer of development rights program;  
19 and

20 (3) By December 1, 2008, the department shall submit findings and  
21 legislative recommendations, including draft legislation if needed to  
22 implement the recommendations and strategies identified in the final  
23 report, to the appropriate committees of the legislature.

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

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