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SENATE BILL 5656

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State of Washington

60th Legislature

2007 Regular Session

By Senators Jacobsen, Kline, Rockefeller, Regala and Tom

Read first time 01/26/2007. Referred to Committee on Natural Resources, Ocean & Recreation.

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; and adding a new chapter to Title 43  
4 RCW.

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 up to four interested and  
35 qualified nongovernmental entities to develop a regional transfer of  
36 development rights marketplace that includes, but is not limited to,

1 supporting strategies for financing infrastructure and conservation.  
2 At least one of these selected entities must have a statewide  
3 perspective on the transfer of development rights and at least one  
4 entity must have a local perspective on the transfer of development  
5 rights. Additionally, in selecting the four entities, the department  
6 must attempt to balance industry perspectives with land conservation  
7 perspectives. Nongovernmental entities selected by the department must  
8 consult with counties and cities and must develop and present policy  
9 considerations to local governments; and

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

21 (a) Identify the specific areas where cities can achieve  
22 significant benefits through using transfer of development rights  
23 programs and the value in modifying existing state grant programs to  
24 provide incentives for local governments to adopt transfer of  
25 development rights programs;

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

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

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

37 (e) Identify opportunities and challenges that, if resolved, would

1 result in cities throughout the Puget Sound region participating in a  
2 transfer of development rights market; and

3 (f) Identify other regional areas where a transfer of development  
4 rights program should be encouraged.

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

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

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

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

22 NEW SECTION. **Sec. 5.** Sections 1 through 4 of this act constitute  
23 a new chapter in Title 43 RCW.

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