

TDR Funding Opportunities

State Capital and Transportation Funding Programs and Local Options for Funding

TDR Policy Advisory Committee Discussion August 14, 2008

The regional TDR program legislative intent for central Puget Sound is: To slow the conversion of rural, agricultural and forested land through the creation of a regional transfer of development rights program. CTED and the advisory committee are tasked, in part, to:

Identify opportunities for cities, counties, and the state to achieve significant benefits through using transfer of development rights programs and the value in modifying criteria by which capital budget funds are allocated, including but not limited to, existing state grant programs to provide incentives for local governments to implement transfer of development rights programs....

Opportunities in existing state and regional programs¹

The state is currently looking at how to better allocate state infrastructure funding. Committee recommendations for any state infrastructure funding need to consider any recommendations from the Office of Financial Management regarding fund allocation. These recommendations are due to the Governor and Legislature in December 2008.

CTED Public Works Board

Construction Loan Program, Pre-Construction Loan Program, and Drinking Water State Revolving Fund

Opportunities:

- Loans can be used to fund infrastructure for growth – TDRs are designed, in part, to encourage growth in urban areas.
- Could tie funding to TDRs through bonus points for projects in designated receiving areas.
- Could tie funding to broader policy goals through bonus points for adopted programs, such as TDRs, that further those goals – Puget Sound recovery, Climate Change adaptation, etc. For example, if adoption of a TDR program meets goals in the Puget Sound Partnership’s action agenda,

¹ Ideas for opportunities are based on a panel presentation by funding program directors and subsequent Policy Advisory Committee discussion on July 17, 2008.

a jurisdiction could get additional points per the existing criteria in the statute.

- Bonus points for TDRs that conserve natural resource lands could be viewed as supporting program mission goals of environmental protection through conservation of natural resource lands and support for economic development in natural resource industries.

Challenges/limitations:

- Adding more criteria to a program that is seen by some as underfunded could be perceived as further diluting the program's mission to address critical public health and safety issues.
- The program primarily funds wastewater treatment plants. Even with added criteria, they don't much past the health and safety goals given the amount of funding available and the demand.
- Adding criteria may disadvantage certain jurisdictions unable to accommodate receiving areas and that may need health and safety improvements.
- Adding criteria may have limited impact for TDR's depending how many points are assigned. Recently criteria were added for urban forestry and one or two points out of 100 may be added.

Ecology Water Quality Program

Centennial Clean Water Fund (grants and loans) and Water Pollution Control Revolving Fund Program (loans)

Opportunities:

- Could add criteria for TDR programs where the applicant can demonstrate that redirection of development from the sending area will result in a reduction in water pollution and improved water quality protection. If TDRs can be tied to a water quality plan, such as a watershed or stormwater plan, they could further program goals.
- An applicant might be able to make the case now that they were addressing stormwater impacts under current program criteria. For example, if the Puget Sound Partnership were to identify forestland that needs to be conserved to control stormwater runoff, a project receiving TDRs from that forestland could make the claim that it was addressing stormwater issues. The applicant would need to demonstrate a direct water quality benefit.

Challenges/limitations: Adding more criteria to the program for TDRs could be perceived as diluting the program's mission to improve and protect the state's water quality.

Recreation and Conservation Office

Washington Wildlife and Recreation Program (grants)

Opportunities:

- The policies for the Washington Wildlife and Recreation Program could be revised to allow acquisition and sale of TDRs on a revolving basis.
- Local parks and habitat acquisition programs could be revised to provide preference in the grant evaluation process and/or to lower the match requirement if the park were within a TDR receiving area, or the conservation land within a TDR sending area.
- Farmland and conservation land grant program evaluation criteria could be revised to give preference to lands within or adjacent to TDR sending areas or to recognize preservation of land through TDR in a sending area as a match to a WWRP grant.

Challenges/limitations:

- Allowing the use of WWRP funds for TDRs would require a policy change found to be consistent with the program mission and approved by the Recreation and Conservation Funding Board. Also, a legal analysis would very likely lead to the conclusion that there is no way to do this with tax exempt bonds.
- The program is funded through legislative appropriation of federal tax-exempt bond revenues. Federal regulations prohibit benefit to private business, therefore any rights transferred through a WWRP project could not be used for private development.
- The state constitution prohibits “lending of the state’s credit,” therefore a revolving fund would have to be scrutinized to ensure it cannot be interpreted as a loan program.
- Reducing the minimum match would require a statutory change.
- Adding more criteria to a program that is highly competitive and seen by some as underfunded, could be perceived as further diluting the program’s mission and could discriminate against smaller jurisdictions, and/or those that do not have TDR programs.
- A key constituent of this program is the Washington Wildlife and Recreation Coalition.

Washington Transportation Improvement Board

Urban corridor program (grants):

Opportunity: Current Growth and Development Criteria for new or existing activity centers currently include increases in permitted employment center square

footage, and increases in permitted residential density. Additional points could be given for these two criteria where they are increased as a result of using TDRs. Further increases in density and intensity of development using TDRs could support program goals of growth and development by linking transportation funding with compact development.

Challenges/limitations: Principal problems with adding any of the policy objectives described below under TDR Opportunities to TIB's already long list of directives are, most importantly:

- TIB programs already have too many policy objectives ("criteria fatigue"), causing additions to the selection criteria to be only somewhat effective at achieving added goals.
- TIB revenue has been hard hit by skyrocketing gas prices and project costs have increased accordingly. For these reasons, the effectiveness of TIB programs is eroding and may not be a significant incentive as the number of funded projects wanes.
- TIB serves many areas of the state where TDRs may not play much of a role. Customer fairness then becomes an issue unless all jurisdictions have designated receiving areas.

Puget Sound Regional Council

Distribution of federal highway and transit funds (grants)

Opportunity: Give consideration to jurisdictions that have TDR programs and/or for projects in designated TDR receiving areas that are also designated centers in Vision 2040.

Challenges/limitations: Allocation to Vision 2040 designated centers would be consistent with the program purpose to improve the transportation system consistent with regional priorities and with the Policy Framework. Consequently, adding consideration for designated centers would probably not change the current allocation of funds.

Opportunities for Local Funding

Please see attached document entitled *Estimates of Revenues from Local Funding Opportunities* for a one-year forecast of what these options might generate in revenue for local governments. If these proposals were to move forward to the Legislature, the Department of Revenue would be required to do six-year forecasts.

1. Propose legislation to allow cities to collect a conservation futures tax (similar to the tax authorized for counties) to fund parks, open space and other public amenities (e.g., pedestrian-friendly amenities such as wider sidewalks, street trees, walking trails,

etc.). This option assumes cities would be allowed to collect a conservation futures levy of \$0.0625 per \$1,000 of assessed value.

2. Encourage counties to increase their locally adopted conservation futures levy to the statutory maximum rate with voter approval.

3. Allow a city or county to retain a portion of the state sales tax on construction for funding in designated TDR receiving areas. The funding may be used for infrastructure or other amenities to support increased density or intensity using TDRs under a locally adopted program.

4. Allow counties and cities to charge an additional quarter percent of the local Real Estate Excise Tax (REET) to fund infrastructure and amenities that support increased density or intensity using TDRs in a receiving area under a locally adopted program.