

# SENATE BILL REPORT

## SB 6570

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As Reported By Senate Committee On:  
Land Use & Planning, February 5, 2004

**Title:** An act relating to local regulation of siting essential public facilities.

**Brief Description:** Clarifying authority for local regulation of siting essential public facilities.

**Sponsors:** Senators Shin, Schmidt, Berkey, Keiser and Fairley.

**Brief History:**

**Committee Activity:** Land Use & Planning: 2/5/04 [DPS, DNP].

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### SENATE COMMITTEE ON LAND USE & PLANNING

**Majority Report:** That Substitute Senate Bill No. 6570 be substituted therefor, and the substitute bill do pass.

Signed by Senators Mulliken, Chair; Morton and T. Sheldon.

**Minority Report:** Do not pass.

Signed by Senators Kline and Murray.

**Staff:** Andrea McNamara (786-7483)

**Background:** Under the terms of the Growth Management Act (GMA), local governments must include in their comprehensive plans a process for identifying and siting essential public facilities. The GMA also prohibits a comprehensive plan or development regulation from precluding the siting of essential public facilities.

In October, 2003, the Central Puget Sound Growth Management Hearings Board invalidated a Snohomish County ordinance governing the siting of essential public facilities. The board held that the provisions of the county's ordinance had the effect of precluding essential public facilities contrary to the prohibition in the GMA. It further held that when a state or regional entity decides to site a facility, the local "host" jurisdiction cannot apply any land use regulations that revisit certain issues such as the need for the facility, the facility's size or service area, or the location of the facility. It also held that the host jurisdiction could not apply a conditional use permit process in its essential public facilities siting procedures.

The hearings board has remanded the ordinance to Snohomish County with direction that legislative action be taken to bring the Snohomish County Code into compliance with the goals and requirements of the GMA.

**Summary of Substitute Bill:** The prohibition against a comprehensive plan or development regulation precluding the siting of essential public facilities does not prevent the plan or regulation from including any of the following: (1) reasonable decisional criteria relating to the location, size, or service area of the facility; (2) reasonable conditions and mitigating measures to address the local impacts of the facility; and (3) procedures for public hearings

and appeals provided that the regulation contains a reasonable, clear, and determinable date for conclusion of permit decisions by the city or county.

**Substitute Bill Compared to Original Bill:** The substitute deletes the intent section stating that the bill is clarifying existing law and therefore applies retroactively.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Testimony For:** The GMHB decision removed local authority to address critical issues of health and safety. Snohomish County is not trying to be obstructionist, but it has an obligation to consider and influence public health and safety issues that arise from essential public facilities projects. The conditional use process is appropriate for EPFs, since by their nature they are significantly different uses than a county would typically site.

**Testimony Against:** This bill would apply to all essential public facilities (EPFs), not just the Brightwater project. It could be used to interrupt or derail many EPF projects that are substantially underway but not completed, which could cost significant additional money and jeopardize hundreds of jobs. EPFs are, by definition, difficult to site and this bill would shift too much control to the people who want to oppose those projects.

**Testified:** PRO: Sen. Paull Shin, prime sponsor; John Koster, Chair of Snohomish County Council; CON: Pam Bissonette, King County Department of Natural Resources.

**Signed In/Did Not Testify:** Duane Bowman (pro); Genesee Adkins, 1000 Friends of WA (con); Eric Johnson, WA Public Ports Assn. (con); Leonard Bauer, CTED (concerns); Larry Stout, Realtors (con); Dan Sexton, WA State Assn. of Plumbers and Pipefitters (con).