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SENATE BILL 6570

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State of Washington                      58th Legislature                      2004 Regular Session

By Senators Shin, Schmidt, Berkey, Keiser and Fairley

Read first time 01/23/2004.      Referred to Committee on Land Use & Planning.

1            AN ACT Relating to local regulation of siting essential public  
2 facilities; amending RCW 36.70A.200; and creating a new section.

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

4            NEW SECTION.    **Sec. 1.** The legislature intends by section 2 of this  
5 act to clarify existing law on the siting of essential public  
6 facilities and therefore section 2 of this act applies retroactively to  
7 city or county plans or development regulations adopted prior to the  
8 effective date of this act.

9            **Sec. 2.** RCW 36.70A.200 and 2002 c 68 s 2 are each amended to read  
10 as follows:

11            (1) The comprehensive plan of each county and city that is planning  
12 under RCW 36.70A.040 shall include a process for identifying and siting  
13 essential public facilities. Essential public facilities include those  
14 facilities that are typically difficult to site, such as airports,  
15 state education facilities and state or regional transportation  
16 facilities as defined in RCW 47.06.140, state and local correctional  
17 facilities, solid waste handling facilities, and in-patient facilities

1 including substance abuse facilities, mental health facilities, group  
2 homes, and secure community transition facilities as defined in RCW  
3 71.09.020.

4 (2) Each county and city planning under RCW 36.70A.040 shall, not  
5 later than September 1, 2002, establish a process, or amend its  
6 existing process, for identifying and siting essential public  
7 facilities and adopt or amend its development regulations as necessary  
8 to provide for the siting of secure community transition facilities  
9 consistent with statutory requirements applicable to these facilities.

10 (3) Any city or county not planning under RCW 36.70A.040 shall, not  
11 later than September 1, 2002, establish a process for siting secure  
12 community transition facilities and adopt or amend its development  
13 regulations as necessary to provide for the siting of such facilities  
14 consistent with statutory requirements applicable to these facilities.

15 (4) The office of financial management shall maintain a list of  
16 those essential state public facilities that are required or likely to  
17 be built within the next six years. The office of financial management  
18 may at any time add facilities to the list.

19 (5) No (~~local~~) county or city may adopt a comprehensive plan or  
20 development regulation (~~may~~) that precludes the siting of essential  
21 public facilities, except that this limitation shall not prevent a  
22 county or city from establishing in a plan or regulation:

23 (a) A permitting process for proposals for essential public  
24 facilities that contains a reasonable and specific timeline for  
25 issuance of a permit decision;

26 (b) Reasonable decision criteria relating to the siting, operation,  
27 and expansion of essential public facilities; and

28 (c) A process for imposing reasonable conditions and mitigating  
29 measures addressing the impacts of essential public facilities.

30 (6) No person may bring a cause of action for civil damages based  
31 on the good faith actions of any county or city to provide for the  
32 siting of secure community transition facilities in accordance with  
33 this section and with the requirements of chapter 12, Laws of 2001 2nd  
34 sp. sess. For purposes of this subsection, "person" includes, but is  
35 not limited to, any individual, agency as defined in RCW 42.17.020,  
36 corporation, partnership, association, and limited liability entity.

37 (7) Counties or cities siting facilities pursuant to subsection (2)  
38 or (3) of this section shall comply with RCW 71.09.341.

1           (8) The failure of a county or city to act by the deadlines  
2 established in subsections (2) and (3) of this section is not:

3           (a) A condition that would disqualify the county or city for  
4 grants, loans, or pledges under RCW 43.155.070 or 70.146.070;

5           (b) A consideration for grants or loans provided under RCW  
6 43.17.250(2); or

7           (c) A basis for any petition under RCW 36.70A.280 or for any  
8 private cause of action.

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