

HOUSE BILL REPORT

E2SHB 1733

As Passed House:

March 13, 2007

Title: An act relating to essential state community justice facilities.

Brief Description: Modifying provisions relating to state community justice facilities.

Sponsors: By House Committee on Appropriations (originally sponsored by Representatives Conway, Kirby, Darneille and Chase).

Brief History:

Committee Activity:

Human Services: 2/8/07, 2/27/07 [DPS];

Appropriations: 3/3/07, 3/5/07 [DP2S(w/o sub HS)].

Floor Activity:

Passed House: 3/13/07, 75-21.

Brief Summary of Engrossed Second Substitute Bill

- Requires the development of biennial lists of counties and rural multi-county geographic areas in which juvenile facilities or adult work release facilities may be sited.
- Requires the Department of Social and Health Services and the Department of Corrections to make substantial efforts to provide for the equitable distribution of juvenile facilities or adult work release facilities when developing the lists
- Requires local governments to develop processes and development regulations necessary to provide for the siting of juvenile facilities and adult work release facilities, and imposes requirements on local governments relating to the siting process.
- Permits the state to preempt local government and site a juvenile or workrelease facility when the local government fails to site the facility.

HOUSE COMMITTEE ON HUMAN SERVICES

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 6 members: Representatives Dickerson, Chair; Roberts, Vice Chair; Walsh, Assistant Ranking Minority Member; Darneille, McCoy and O'Brien.

Minority Report: Do not pass. Signed by 2 members: Representatives Ahern, Ranking Minority Member and Bailey.

Staff: Sonja Hallum (786-7092).

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Human Services. Signed by 34 members: Representatives Sommers, Chair; Dunshee, Vice Chair; Alexander, Ranking Minority Member; Bailey, Assistant Ranking Minority Member; Haler, Assistant Ranking Minority Member; Anderson, Buri, Chandler, Cody, Conway, Darneille, Dunn, Ericks, Fromhold, Grant, Haigh, Hinkle, Hunt, Hunter, Kagi, Kenney, Kessler, Kretz, Linville, McDermott, McDonald, McIntire, Morrell, Pettigrew, Priest, Schual-Berke, Seaquist, P. Sullivan and Walsh.

Staff: Elisabeth Donner (786-7137).

Background:

I. Siting Juvenile Rehabilitation and Work Release Facilities

A. Juvenile Rehabilitation Facilities

The Department of Social and Health Services (DSHS), through its Juvenile Rehabilitation Administration (JRA), operates or contracts for community facilities or group homes for certain juveniles committed to the JRA as a result of a criminal offense. When siting such a facility, if more than three potential sites for the facility are identified, the DSHS or its contracting entity must hold at least two public hearings in each of the affected communities. Once a final site has been selected, at least one additional public hearing must be held. If the DSHS is under negotiations with a service provider and only one site is being considered, at least two public hearings must be held.

B. Work Release Facilities

The Department of Corrections (DOC) operates and contracts for work release facilities throughout the state. When siting such a facility, once potential sites are narrowed to three or less, the DOC or its contracting entity must conduct public hearings in the affected communities. Once a final site has been selected, at least one additional public hearing must be held.

II. Land-Use Planning and Conditional Use Permits

A. Land-Use Planning

Counties of a certain size (and cities within those counties) must plan under the Growth Management Act (GMA). Counties and cities not required to plan under the GMA may elect to plan under the GMA. Currently, 29 of 39 counties plan under the GMA. Counties and cities planning under the GMA must adopt comprehensive plans and development regulations. Counties are required to review their comprehensive plans. The date by which this review must be completed depends on the county.

The comprehensive plans of counties and cities planning under the GMA must include a process for siting essential public facilities. Essential public facilities are facilities that are typically difficult to site including state and local correctional facilities, mental health facilities, group homes, and secure community transition facilities. The Office of Financial Management (OFM) must maintain a list of essential public facilities that are required or are likely to be built within six years. No GMA comprehensive plan or development regulation may preclude the siting of an essential public facility.

B. Conditional Use Permits

Local governments have the authority to adopt and enforce ordinances relating to property development. As part of this authority, local governments issue permits for conditional uses, which are uses permitted in a specific zone only after review by the appropriate permitting authority and the imposition of permit conditions making the use compatible with other permitted uses in the zone.

Summary of Engrossed Second Substitute Bill:

I. Siting Juvenile Rehabilitation Administration and Work Release Facilities

A. Juvenile Rehabilitation Administration Facilities

The DSHS must provide a biennial list of counties and rural multi-county geographic areas in which the JRA facilities need to be sited to the OFM and the counties on the list. The DSHS must also provide the operational requirements for the facilities on the list. When preparing the list, the DSHS must make substantial efforts to provide for the equitable distribution of the facilities by giving great weight to the locations of existing JRA facilities, the number and proportion of juvenile offenders committed to the DSHS residing in the county or multi-county geographic area, and the number of juvenile registered level II and III sex offenders and juvenile sex offenders registered as homeless in the county.

"Equitable distribution" is defined as siting facilities in a manner that reasonably reflects the proportion of offenders sentenced from each county or multi-county geographic area, and, to the extent practicable, the proportion of such offenders residing in particular jurisdictions or communities within the counties or geographic areas. Equitable distribution is a policy goal and may not be the basis of any legal challenge to the siting, construction, occupancy, or operation of a JRA facility.

B. Work Release Facilities

The DOC must provide a biennial list of counties and rural multi-county geographic areas in which work release facilities need to be sited to the OFM and to the counties on the list. The DOC must also provide the operational requirements for the facilities on the list. When preparing the list, the DOC must make substantial efforts to provide for the equitable distribution of the facilities by giving great weight to the locations of existing work release facilities, the number and proportion of adult offenders committed to the DOC residing in the county or multi-county geographic area, and the number of registered adult level II and III sex offenders and adult sex offenders registered as homeless in the county.

"Equitable distribution" is defined as siting facilities in a manner that reasonably reflects the proportion of offenders sentenced from each county or multi-county geographic area, and, to the extent practicable, the proportion of such offenders residing in particular jurisdictions or communities within the counties or geographic areas. Equitable distribution is a policy goal and may not be the basis of any legal challenge to the siting, construction, occupancy, or operation of a work release facility.

II. Land-Use Planning and Conditional Use Permits

A. Land-Use Planning

Counties and cities planning under the GMA must establish a process for siting JRA and work release facilities within 12 months of receiving notice the county has been included on the list of potential sites for the facilities. Counties on the biennial list generated by the DSHS and the DOC must adopt development regulations that designate areas or zones that allow the siting of JRA and work release facilities.

A county or city siting a JRA or work release facility must:

- involve the DSHS (for JRA facilities) or the DOC (for work release facilities);
- give great weight to the same equitable distribution factors the DSHS and the DOC must use when developing the biennial list of counties; and
- ensure that the site selected is consistent with the operational requirements for the facilities.

B. Conditional Use Permits

As part of the permitting process for a JRA or work release facility, a county or city may not impose any requirements beyond the facility and operational requirements developed by the DSHS and the DOC for the facilities. Any conditional use permit or other development application process necessary to site a facility may not exceed 120 days in length and must include an appeal process. The DSHS and DOC must comply with all requirements under the substitute bill and submit a full and complete application for the permit.

C. Preemption

The state is allowed to preempt the county and site a work release facility or community facility for juvenile offenders if the county fails to establish a process for siting the facilities

within 12 months of receiving notice that the county has been included on the list of projected potential sites.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill contains an emergency clause and takes effect immediately.

Staff Summary of Public Testimony: (Human Services)

(In support) Pierce County has been a dumping ground for the state prison system, but it is not alone. Spokane has also gotten more than its fair share. This bill requires equitable distribution of facilities. It is unfair to have a few parts of the state have more offenders released into that area than other parts of the state. There is an enormous impact when you take the state's worst offenders and place them disproportionately in one area. This is true for not just prisons, but work release also.

(With concerns) The Association of Cities is concerned with equitable distribution. It makes sense to partner with the state to site these facilities. The process in the bill is not clear. We would like to see language that is more similar to that used in the statute siting secure transition facilities.

(Opposed) None.

Staff Summary of Public Testimony: (Appropriations)

None.

Persons Testifying: (Human Services) (In support) Representative Conway, prime sponsor; and Gerry Horn, Pierce County Prosecuting Attorneys Office.

(With concerns) Dave Williams, Association of Cities; and Jean Wessman, Washington Association of Counties.

Persons Testifying: (Appropriations) None.

Persons Signed In To Testify But Not Testifying: (Human Services) None.

Persons Signed In To Testify But Not Testifying: (Appropriations) None.