

SENATE BILL REPORT

SB 5117

As of January 25, 2019

Title: An act relating to the siting of essential public facilities under the growth management act.

Brief Description: Concerning the siting of essential public facilities under the growth management act.

Sponsors: Senators Palumbo, Darneille, Mullet, Carlyle, Nguyen and Hunt.

Brief History:

Committee Activity: Local Government: 1/22/19.

<p style="text-align: center;">Brief Summary of Bill</p> <ul style="list-style-type: none">• Defines essential public facilities to exclude privately owned correctional or detention facilities.
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SENATE COMMITTEE ON LOCAL GOVERNMENT

Staff: Greg Vogel (786-7413)

Background: Growth Management Act. The Growth Management Act (GMA) is the comprehensive land-use planning framework for counties and cities in Washington. Originally enacted in 1990 and 1991, the GMA establishes land use designation and environmental protection requirements for all Washington counties and cities. The GMA also establishes a significantly wider array of planning duties for 28 counties, and the cities within those counties, that are obligated to satisfy all planning requirements of the GMA.

The GMA directs planning jurisdictions to adopt internally consistent comprehensive land-use plans that are generalized, coordinated land-use policy statements of the governing body. Comprehensive plans must address specified planning elements, each of which is a subset of a comprehensive plan. The implementation of comprehensive plans occurs through locally adopted development regulations.

Essential Public Facilities. Comprehensive plans must include a process for identifying and siting essential public facilities. The GMA specifies that essential public facilities include facilities that are typically difficult to site, such as airports, state education facilities, state or

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regional transportation facilities, regional transit authority facilities, state and local correctional facilities, solid waste facilities, and certain inpatient facilities, such as substance abuse facilities or group homes. Comprehensive plans and development regulations may not preclude the siting of essential public facilities.

Summary of Bill: Privately owned correctional or detention facilities are excluded from the definition of essential public facilities under the GMA.

Appropriation: None.

Fiscal Note: Not requested.

Creates Committee/Commission/Task Force that includes Legislative members: No.

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

Staff Summary of Public Testimony: CON: If the purpose of the bill is to target the Northwest Detention Center (NWDC), there are many reasons why this is bad policy, for instance, legislation around mental health. The Governor has proposed funding for mental health facilities by the private sector to relieve current issues in mental health. There is a definite need to partner with private entities for serving mental health.

HB 1547 in 2011 decided that NWDC was an appropriate center to co-locate DOC services to transfer illegal immigrants not appropriately placed in correctional facilities. There are courts, administrative offices, and other services provided onsite. In terms of advocacy, advocates in favor of citizenship and shorter stays in the facility support the work at NWDC. NWDC has the highest rate, 35 percent, of individuals achieving a successful rate of not being deported, if that is the goal.

Looking at the plain language of the measure, there is no definition for detention facility. This implicates every civil commitment that the state has the authority to impose, including detention services needed for behavioral health. In the tide flats, there are services provided for individuals coming out of federal prison. Outside of Spokane, there is a juvenile facility run by nonprofits.

Tacoma's 2018 regulations are also the subject of ongoing litigation. The Central Puget Sound Growth Management Hearings Board found that federal detention centers are not an essential public facility. GEO has appealed that decision. The hearing is set for April 26. Under Tacoma's regulations, the facility's status as a nonconforming use would put limits on the expansion of the facility. Under the GMA, there is supposed to be a process to identify and site these essential public facilities, including enhanced notice and public process. If the bill is adopted, local governments could choose to allow these uses without providing these enhanced notice procedures. For federal facilities, also, local governments may run into the issue of federal preemption.

Persons Testifying: CON: Joan Mell, III Branches Law; Heather Burgess, Phillips Burgess.

Persons Signed In To Testify But Not Testifying: No one.