

# SENATE BILL REPORT

## SB 6504

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As of January 28, 2020

**Title:** An act relating to clarifying that facilities that are operated by a private entity in which persons are detained in custody under process of law pending the outcome of legal proceedings are not essential public facilities under the growth management act.

**Brief Description:** Clarifying that facilities that are operated by a private entity in which persons are detained in custody under process of law pending the outcome of legal proceedings are not essential public facilities under the growth management act.

**Sponsors:** Senators Darneille, Conway, Lovelett, Hasegawa, Nguyen and Wilson, C.

**Brief History:**

**Committee Activity:** Local Government: 1/28/20.

**Brief Summary of Bill**

- Defines essential public facilities to exclude certain facilities that are operated by a private entity in which persons are detained in custody under process of law pending the outcome of legal proceedings.

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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 Originally enacted in 1990 and 1991, the GMA establishes land use designation and environmental protection requirements for all Washington counties and cities.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.

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*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.*

Essential Public Facilities. Comprehensive plans must include a process for identifying and siting essential public facilities. The GMA specifies that essential public facilities include those that are typically difficult to site, such as airports, state education facilities, state or 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:** Facilities that are operated by a private entity in which persons are detained in custody under process of law pending the outcome of legal proceedings, but are not used for the primary purpose of punishment, correction, counseling, or rehabilitation following the conviction of a criminal offense, nor for the primary purpose of providing evaluation and treatment, forensic services, mental health services, or medical services are excluded from the definition of essential public facilities under the GMA.

This amended definition applies retroactively to land use actions imposed prior to January 1, 2018, as well as prospectively.

An emergency clause is included and the act takes effect immediately.

**Appropriation:** None.

**Fiscal Note:** Not requested.

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

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

**Staff Summary of Public Testimony:** PRO: The facility is located in the tide flats area of Tacoma, which has been once put forth as not being habitable for human beings. The facility was originally described as a temporary facility where people would be brought and transferred to other facilities. The facility has grown from 500 beds, and now has 1500 people housed at the facility. Public health issues have been pervasive and ongoing. The state has no oversight and no way to look at conditions of confinement. With regards to access to assistance, or things like quality of food, there is nothing Tacoma can do.

While this issue has been litigated, the Growth Management Hearings Board has said this is a question for the Legislature. There is historic precedence for the Legislature to clarify these types of issues. It is a question of legislative policy and the purpose of the bill is to ask the Legislature to look at this.

CON: Any bill that seeks to clarify authority should openly state what its purpose is and the use intended to be prohibited. The act makes no reference to the Northwest Detention Center or ICE processing facility in Tacoma. Rather, it has been described as a private detention facility. The language in the act is not clear and will invite additional litigation. The issue here is primarily political. The GMA has a structure in place for zoning facilities that are disfavored. If the ICE processing facility is taken out of essential public facility status, then

how is it regulated? The supposed argument is that you can ban the use, but the facility is serving a federal purpose, a governmental function.

**Persons Testifying:** PRO: Senator Jeannie Darneille, Prime Sponsor; Steve Victor, Deputy City Attorney, City of Tacoma.

CON: Joan Mell, III Branches Law, PLLC counsel for GEO.

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