CERTIFICATION OF ENROLLMENT

**HOUSE BILL 2640**

66th Legislature

2020 Regular Session

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| Passed by the House March 9, 2020  Yeas 88 Nays 8  **Speaker of the House of Representatives**  Passed by the Senate March 4, 2020  Yeas 31 Nays 15  **President of the Senate** | CERTIFICATE  I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **HOUSE BILL 2640** as passed by the House of Representatives and the Senate on the dates hereon set forth.  Chief Clerk |
| Approved |  |
| **Governor of the State of Washington** | **Secretary of State**  **State of Washington** |

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**HOUSE BILL 2640**

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AS AMENDED BY THE SENATE

Passed Legislature - 2020 Regular Session

**State of Washington 66th Legislature 2020 Regular Session**

**By** Representatives Fey, Kirby, Doglio, Fitzgibbon, Orwall, Gregerson, Valdez, Peterson, and Ryu

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; amending RCW 36.70A.200; creating a new section; and declaring an emergency.

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

**Sec.**  RCW 36.70A.200 and 2013 c 275 s 5 are each amended to read as follows:

(1)(a) The comprehensive plan of each county and city that is planning under RCW 36.70A.040 shall include a process for identifying and siting essential public facilities. Essential public facilities include those facilities that are typically difficult to site, such as airports, state education facilities and state or regional transportation facilities as defined in RCW 47.06.140, regional transit authority facilities as defined in RCW 81.112.020, state and local correctional facilities, solid waste handling facilities, and inpatient facilities including substance abuse facilities, mental health facilities, group homes, and secure community transition facilities as defined in RCW 71.09.020.

(b) Unless a facility is expressly listed in (a) of this subsection, essential public facilities do not include 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 punishment, correction, counseling, or rehabilitation following the conviction of a criminal offense. Facilities included under this subsection (1)(b) shall not include facilities detaining persons under RCW 71.09.020 (6) or (15) or chapter 10.77 or 71.05 RCW.

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

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

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

(5) No local comprehensive plan or development regulation may preclude the siting of essential public facilities.

(6) No person may bring a cause of action for civil damages based on the good faith actions of any county or city to provide for the siting of secure community transition facilities in accordance with this section and with the requirements of chapter 12, Laws of 2001 2nd sp. sess. For purposes of this subsection, "person" includes, but is not limited to, any individual, agency as defined in RCW 42.17A.005, corporation, partnership, association, and limited liability entity.

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

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

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

(b) A consideration for grants or loans provided under RCW 43.17.250(3); or

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

NEW SECTION. **Sec.**  This act applies retroactively to land use actions imposed prior to January 1, 2018, as well as prospectively.

NEW SECTION. **Sec.**  This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

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