

2 EHB 2168 - S AMD 254

3 By Senators Hargrove, Long and Costa

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5 Strike everything after the enacting clause and insert the
6 following:

7 "Sec. 1. RCW 72.05.020 and 1998 c 269 s 2 are each amended to read
8 as follows:

9 As used in this chapter, unless the context requires otherwise:

10 (1) "Catchment area" means the combination of a group of counties
11 or jurisdictions used in siting community facilities when the number of
12 qualifying offenders cannot economically support the placement of a
13 community facility or when a single county is unable to provide the
14 needed support.

15 (2) "Community facility" means a group care facility operated for
16 the care of juveniles committed to the department under RCW 13.40.185.
17 A county detention facility that houses juveniles committed to the
18 department under RCW 13.40.185 pursuant to a contract with the
19 department is not a community facility.

20 (~~(2)~~) (3) "Department" means the department of social and health
21 services.

22 (~~(3)~~) (4) "Equitable distribution" or "distribute equitably"
23 means siting or locating community facilities in a manner that will not
24 cause a disproportionate grouping of facilities in any single
25 geographic region, or in any community or neighborhood within a
26 jurisdiction.

27 (5) "Juvenile" means a person under the age of twenty-one who has
28 been sentenced to a term of confinement under the supervision of the
29 department under RCW 13.40.185.

30 (~~(4)~~) (6) "Service provider" means the entity that operates a
31 community facility.

32 NEW SECTION. Sec. 2. A new section is added to chapter 72.05 RCW
33 to read as follows:

34 (1) The department shall make reasonable efforts to distribute
35 community facilities equitably among the counties and work with the

1 counties in the normal county planning process to achieve equitable
2 distribution within each county, among the jurisdictions within the
3 county, and among the communities or neighborhoods within the
4 jurisdictions of the county, taking into account at least the
5 following:

6 (a) The locations of existing residential facilities owned,
7 operated by, or operated under contract with the department;

8 (b) The locations of other projected residential facilities owned,
9 operated by, or operated under contract with the department;

10 (c) The number of juvenile registered sex offenders classified as
11 level II or III or registered as homeless per thousand persons residing
12 in the jurisdiction;

13 (d) The number of juvenile violent offenders under parole or
14 probation per thousand persons residing in the jurisdiction; and

15 (e) The number of juvenile offenders sentenced or adjudicated in
16 the jurisdiction per thousand persons residing in the jurisdiction.

17 (2) To carry out the purposes of subsection (1) of this section,
18 the department shall, no later than January 1, 2002, develop a mapping
19 system to identify the locations of existing and projected facilities
20 identified in subsection (1) of this section. The department shall
21 also maintain a list of the number of offenders identified in
22 subsection (1) of this section and shall annually publish a report
23 including the map and offender rates for the counties and jurisdictions
24 of the state.

25 (3)(a) The department shall give great weight to the factors
26 identified in subsection (1) of this section in projecting and
27 proposing siting of new community facilities.

28 (b) In considering the projected placement or actual siting of a
29 community facility, the department shall use the information in the
30 most recent report published at the time that the facility is projected
31 or that the site is listed for consideration as a community facility
32 and the criteria adopted under subsection (4) of this section.

33 (4) The department shall adopt by rule facility criteria and shall
34 consult with local governments in such rule making.

35 (5) Prior to adopting a distribution of community facilities among
36 specific counties or catchment areas, the department shall consult with
37 the county legislative authorities of each county within the proposed
38 distribution. The department shall also hold at least one public

1 hearing within each such county or, if known, the affected part of the
2 county.

3 (6) Upon adoption of a distribution of community facilities under
4 this section, the office of financial management shall include such
5 facilities on the list of essential state public facilities maintained
6 under RCW 36.70A.200(2). The department shall promptly notify each
7 county included within such distribution.

8 **Sec. 3.** RCW 72.05.400 and 1998 c 269 s 5 are each amended to read
9 as follows:

10 (1) Whenever the department operates, or the secretary enters a
11 contract to operate, a community facility, the community facility may
12 be operated only after the public notification and opportunities for
13 review and comment as required by this section.

14 (2) The secretary shall establish a process for early and
15 continuous public participation in establishing or relocating community
16 facilities. The process shall include, at a minimum, public meetings
17 in the local communities affected, as well as opportunities for written
18 and oral comments, in the following manner:

19 (a) If there are more than three sites initially selected as
20 potential locations and the selection process by the secretary or a
21 service provider reduces the number of possible sites for a community
22 facility to no fewer than three, the secretary or the chief operating
23 officer of the service provider shall notify the public of the possible
24 siting and hold at least two public hearings in each community where a
25 community facility may be sited at least forty-five days before a final
26 selection is made.

27 (b) When the secretary or service provider has determined the
28 community facility's location, the secretary or the chief operating
29 officer of the service provider shall hold at least one additional
30 public hearing in the community where the community facility will be
31 sited.

32 (c) When the secretary has entered negotiations with a service
33 provider and only one site is under consideration, then at least two
34 public hearings shall be held.

35 (d) To provide adequate notice of(()) and opportunity for
36 interested persons to comment on(()) a proposed location, the
37 secretary or the chief operating officer of the service provider shall

1 provide at least fourteen days' advance notice of the ~~((meeting to))~~
2 public hearings to at least the following:

3 (i) The affected counties, cities, and towns;

4 (ii) Local government planning agencies in the affected
5 communities;

6 (iii) All newspapers of general circulation in the ~~((community,))~~
7 local area and all radio stations and television stations generally
8 available to persons in the community~~((,))~~ where the potential site is
9 located;

10 (iv) Any school district, private school, or kindergarten in which
11 the community facility would be sited or whose boundary is within two
12 miles of a proposed community facility, institutions of higher
13 education, any library district ~~((in which the community facility would~~
14 be sited, local business or fraternal organizations that request
15 notification from the secretary or agency, and any person or property
16 owner within a one-half mile radius of the proposed community
17 facility)); and all other local government offices within a one-half
18 mile radius of the proposed site or sites;

19 (v) The local chamber of commerce, local economic development
20 agencies, and any other local organizations that request such
21 notification from the department; and

22 (vi) Written notification to all residents and property owners
23 within a one-half mile radius of the proposed site or sites.

24 (3) The notice required under subsection (2) of this section must
25 also inform the public that any interested person or entity, including
26 a local government entity, is invited to submit written comments
27 regarding a proposed location, including comments regarding whether the
28 site meets the equitable distribution and other statutory requirements
29 for the facility. Written comments must be submitted not later than
30 thirty days following the date notice is issued pursuant to subsection
31 (2) of this section.

32 (4) The department must consider the testimony received at the
33 public hearings and any written comments submitted before making a
34 final selection of the site for the location or relocation of a
35 community facility. The department shall issue a written analysis of
36 the final selection, including how the selection was consistent with
37 the requirements of section 2 of this act.

38 (5) Before initiating ~~((this))~~ the process in subsection (2) of
39 this section, the department shall contact local government planning

1 agencies in the communities containing the proposed community facility.
2 The department shall coordinate with local government agencies to
3 ensure that opportunities are provided for effective citizen input and
4 to reduce the duplication of notice and meetings.

5 ~~((+3))~~ (6) The secretary shall not issue a license to any service
6 provider until the service provider submits proof that the requirements
7 of this section have been met.

8 ~~((+4))~~ (7) This section shall apply only to community facilities
9 sited after September 1, 1998.

10 NEW SECTION. **Sec. 4.** A new section is added to chapter 72.05 RCW
11 to read as follows:

12 The department may use catchment areas in lieu of specific counties
13 when the number of qualifying offenders cannot economically support the
14 placement of a community facility or when a single county is unable to
15 provide the needed support.

16 **Sec. 5.** RCW 72.65.010 and 1992 c 7 s 56 are each amended to read
17 as follows:

18 As used in this chapter, the following terms shall have the
19 following meanings:

20 (1) "Catchment area" means the combination of a group of counties
21 or jurisdictions used in siting community facilities when the number of
22 qualifying offenders cannot economically support the placement of a
23 community facility or when a single county is unable to provide the
24 needed support.

25 (2) "Department" ~~((shall))~~ means the department of corrections.

26 ~~((+2))~~ (3) "Equitable distribution" or "distribute equitably"
27 means siting or locating work release facilities in a manner that will
28 not cause a disproportionate grouping of facilities in any single
29 geographic region, or in any community or neighborhood within a
30 jurisdiction.

31 (4) "Prisoner" means a person either male or female, convicted of
32 a felony and sentenced by the superior court to a term of confinement
33 and treatment in a state correctional institution under the
34 jurisdiction of the department.

35 (5) "Secretary" ~~((shall))~~ means the secretary of corrections.

36 ~~((+3))~~ (6) "State correctional institutions" shall mean and
37 include all state adult correctional facilities established pursuant to

1 law under the jurisdiction of the department for the treatment of
2 convicted felons sentenced to a term of confinement.

3 ~~((4) "Prisoner" shall mean a person either male or female,~~
4 ~~convicted of a felony and sentenced by the superior court to a term of~~
5 ~~confinement and treatment in a state correctional institution under the~~
6 ~~jurisdiction of the department.~~

7 ~~(5))~~ (7) "Superintendent" (~~shall~~) means the superintendent of a
8 state correctional institution, camp or other facility now or hereafter
9 established under the jurisdiction of the department pursuant to law.

10 NEW SECTION. Sec. 6. A new section is added to chapter 72.65 RCW
11 to read as follows:

12 (1) The department shall make reasonable efforts to distribute work
13 release facilities equitably among the counties and work with the
14 counties in the normal county planning process to achieve equitable
15 distribution within each county, among the jurisdictions within the
16 county, and among the communities or neighborhoods within the
17 jurisdictions of the county, taking into account at least the
18 following:

19 (a) The locations of existing residential facilities owned,
20 operated by, or operated under contract with the department;

21 (b) The locations of other projected residential facilities owned,
22 operated by, or operated under contract with the department;

23 (c) The number of adult registered sex offenders classified as
24 level II or level III or registered as homeless per thousand persons
25 residing in the jurisdiction;

26 (d) The number of adult violent offenders under community custody,
27 community placement, community supervision, or parole per thousand
28 persons residing in the jurisdiction; and

29 (e) The number of adult offenders sentenced in the jurisdiction per
30 thousand persons residing in the jurisdiction.

31 (2) To carry out the purposes of subsection (1) of this section,
32 the department shall, no later than January 1, 2002, develop a mapping
33 system to identify the locations of existing and projected facilities
34 identified in subsection (1) of this section. The department shall
35 also maintain a list of the number of offenders identified in
36 subsection (1) of this section and shall annually publish a report
37 including the map and offender rates for the counties and jurisdictions
38 of the state.

1 (3)(a) The department shall give great weight to the factors
2 identified in subsection (1) of this section in projecting and
3 proposing siting of new work release facilities.

4 (b) In considering the projected placement or actual siting of a
5 work release facility, the department shall use the information in the
6 most recent report published at the time that the facility is projected
7 or that the site is listed for consideration as a work release facility
8 and the criteria adopted under subsection (4) of this section.

9 (4) The department shall adopt by rule facility criteria and shall
10 consult with local governments in such rule making.

11 (5) Prior to adopting a distribution of work release facilities
12 among specific counties or catchment areas, the department shall
13 consult with the county legislative authorities of each county within
14 the proposed distribution. The department shall also hold at least one
15 public hearing within each such county or, if known, the affected part
16 of the county.

17 (6) Upon adoption of a distribution of work release facilities
18 under this section, the office of financial management shall include
19 such facilities on the list of essential state public facilities
20 maintained under RCW 36.70A.200(2). The department shall promptly
21 notify each county included within such distribution..

22 **Sec. 7.** RCW 72.65.220 and 1997 c 348 s 1 are each amended to read
23 as follows:

24 (1) The department or a private or public entity under contract
25 with the department may establish or relocate for the operation of a
26 work release or other community-based facility only after ((public
27 notifications and local public meetings have been completed consistent
28 with)) meeting the requirements of this section.

29 (2) The department and other state agencies responsible for siting
30 department-owned, operated, or contracted facilities shall establish a
31 process for early and continuous public participation in establishing
32 or relocating work release or other community-based facilities. This
33 process shall include public meetings in the local communities
34 affected, opportunities for written and oral comments, and wide
35 dissemination of proposals and alternatives, including at least the
36 following:

37 (a) When the department or a private or public entity under
38 contract with the department has selected three or fewer sites for

1 final consideration of a department-owned, operated, or contracted work
2 release or other community-based facility, the department or
3 contracting organization shall make public notification and conduct at
4 least two public hearings in each of the local communities (~~of the~~
5 ~~final three or fewer proposed sites~~) where such a facility may be
6 sited at least forty-five days before a final selection is made. An
7 additional public hearing after public notification shall also be
8 conducted in the local community selected as the final proposed site.

9 ~~(b) ((Notifications required under this section shall be provided~~
10 ~~to))~~ To provide adequate notice of and opportunity for interested
11 persons to comment on a proposed location, the department or
12 contracting entity shall provide at least fourteen days' advance notice
13 of the public hearings to at least the following:

14 (i) The affected counties, cities, and towns;

15 (ii) Local government planning agencies in the affected
16 communities;

17 (iii) All newspapers of general circulation in the local area and
18 all ((local)) radio stations((,)) and television stations((, and cable
19 networks)) generally available to persons in the community where the
20 potential site is located;

21 ~~((iii))~~ (iv) Appropriate school districts, private schools,
22 kindergartens, institutions of higher education, city and county
23 libraries, and all other local government offices within a one-half
24 mile radius of the proposed site or sites;

25 ~~((iii))~~ (v) The local chamber of commerce, local economic
26 development agencies, and any other local organizations that request
27 such notification from the department; and

28 ~~((iv) In writing))~~ (vi) Written notification to all residents
29 ((and/or)) and property owners within a one-half mile radius of the
30 proposed site or sites.

31 (3) The notice required under subsection (2) of this section must
32 also inform the public that any interested person or entity, including
33 a local government entity, is invited to submit written comments
34 regarding a proposed location, including comments regarding whether the
35 site meets the equitable distribution and other statutory requirements
36 for the facility. Written comments must be submitted not later than
37 thirty days following the date notice is issued pursuant to subsection
38 (2) of this section.

1 (4) The department must consider the testimony received at the
2 public hearings and any written comments submitted before making a
3 final selection of the site for the location or relocation of a work
4 release facility. The department shall issue a written analysis of the
5 final selection, including how the selection was consistent with the
6 requirements of section 6 of this act.

7 (5) When the department contracts for the operation of a work
8 release or other community-based facility that is not owned or operated
9 by the department, the department shall require as part of its contract
10 that the contracting entity comply with all the public notification and
11 public hearing requirements as provided in this section for each
12 located and relocated work release or other community-based facility.

13 NEW SECTION. Sec. 8. A new section is added to chapter 72.65 RCW
14 to read as follows:

15 The department may use catchment areas in lieu of specific counties
16 when the number of qualifying offenders cannot economically support the
17 placement of a work release facility or when a single county is unable
18 to provide the needed support.

19 **Sec. 9.** RCW 36.70A.200 and 1998 c 171 s 3 are each amended to read
20 as follows:

21 (1) The comprehensive plan of each county and city that is planning
22 under this chapter shall include a process for identifying and siting
23 essential public facilities. Essential public facilities include those
24 facilities that are typically difficult to site, such as airports,
25 state education facilities and state or regional transportation
26 facilities as defined in RCW 47.06.140, state and local correctional
27 facilities including community facilities sited under chapter 72.05 RCW
28 and work release facilities sited under chapter 72.65 RCW, solid waste
29 handling facilities, and in-patient facilities including substance
30 abuse facilities, mental health facilities, and group homes.

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

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

1 NEW SECTION. **Sec. 10.** A new section is added to chapter 36.70A
2 RCW to read as follows:

3 (1) When a county is notified by the department of corrections or
4 the department of social and health services of a potential
5 distribution under section 2 or 6 of this act, the county shall provide
6 timely notice to any potentially impacted cities in the county.

7 (2) Each county that plans under this chapter and that receives
8 notice under section 2 or 6 of this act regarding the inclusion of the
9 county within the distribution of proposed siting of community or work
10 release facilities shall if necessary take action to revise the
11 countywide planning policies adopted under RCW 36.70A.210 to address
12 the siting of such facilities. The county must include all cities in
13 such review and must solicit the participation of the department of
14 social and health services regarding policies applicable to community
15 facilities and the department of corrections regarding policies
16 applicable to work release facilities. The county and cities within
17 the county shall develop policies that address the distribution of such
18 facilities within the county and criteria for the siting of such
19 facilities. The policies shall be consistent with the criteria under
20 sections 2 and 6 of this act, as well as the reports and criteria
21 adopted by rules under sections 2 and 6 of this act.

22 (3) Each county and city identified in the countywide planning
23 policies developed under subsection (2) of this section for projected
24 siting within such county or city of community or work release
25 facilities shall implement such policies through any necessary
26 revisions to its comprehensive plan and development regulations. The
27 provisions of the comprehensive plan and development regulations shall
28 be consistent with the criteria under sections 2 and 6 of this act, as
29 well as the reports and criteria adopted by rule under sections 2 and
30 6 of this act. Any amendments may be combined with the next scheduled
31 adoption of revisions, but in any event not later than the date
32 provided for comprehensive review and revision of plans pursuant to RCW
33 36.70A.130(1).

34 (4) Nothing in this section precludes a local government from
35 requiring that a special use permit or a conditional use permit be
36 obtained to site a community facility or a work release facility. The
37 local government shall establish timelines for processing any required
38 permits that are no longer than those established for other comparable
39 project permits under RCW 36.70B.080.

1 NEW SECTION. **Sec. 11.** If any provision of this act or its
2 application to any person or circumstance is held invalid, the
3 remainder of the act or the application of the provision to other
4 persons or circumstances is not affected.

5 NEW SECTION. **Sec. 12.** This act is necessary for the immediate
6 preservation of the public peace, health, or safety, or support of the
7 state government and its existing public institutions, and takes effect
8 immediately.

9 NEW SECTION. **Sec. 13.** If specific funding for the purposes of
10 this act, referencing this act by bill or chapter number, is not
11 provided by June 30, 2001, in the omnibus appropriations act, this act
12 is null and void."

13 **EHB 2168** - S AMD 254
14 By Senators Hargrove, Long and Costa

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16 On page 1, line 1 of the title, after "facilities;" strike the
17 remainder of the title and insert "amending RCW 72.05.020, 72.05.400,
18 72.65.010, 72.65.220, and 36.70A.200; adding new sections to chapter
19 72.05 RCW; adding new sections to chapter 72.65 RCW; adding a new
20 section to chapter 36.70A RCW; creating a new section; and declaring an
21 emergency."

EFFECT: Makes technical and clarifying amendments and clarifies
how the departments must work within the existing essential public
facilities process to achieve equitable distribution among counties and
within counties.

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