

SENATE BILL REPORT

E2SHB 1733

As of April 9, 2007

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

Brief Description: Providing for the review of state community justice facilities.

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

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

Committee Activity: Government Operations & Elections: 3/22/07.

SENATE COMMITTEE ON GOVERNMENT OPERATIONS & ELECTIONS

Staff: Mac Nicholson (786-7445)

Background: 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 a community facility, DSHS must establish a process for early and continuous public participation, including public meetings, hearings, and opportunities for oral and written comments.

The Department of Corrections (DOC) operates and contracts for work release facilities throughout the state. When siting a work release facility, DOC must establish a process for early and continuous public participation, including public meetings and hearings in local communities, opportunities for oral and written comments, and wide dissemination of proposals and alternatives.

Counties and cities planning under the Growth Management Act (GMA) must, as part of their comprehensive plan, 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) is required to maintain a list of essential state public facilities that are required or likely to be built within the next six years. Comprehensive plans and development regulations cannot preclude the siting of essential public facilities.

Summary of Engrossed Second Substitute Bill: DSHS must prepare a list of counties and rural multi-county geographic areas in which community facilities need to be sited during the fiscal year starting July 1, 2007, and every biennium thereafter. In preparing the list, DSHS must make substantial efforts to provide for the equitable distribution of community facilities

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among counties by giving great weight to the locations of existing community facilities; the number and proportion of juvenile offenders committed to DSHS and residing in the county or rural 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.

DOC must prepare a biennial list of counties and rural multi-county geographic areas in which work release facilities need to be sited during the fiscal year starting July 1, 2007, and every biennium thereafter. In preparing the list, DOC must make substantial efforts to provide for the equitable distribution of work release facilities among counties by giving great weight to the locations of existing work release facilities; the number and proportion of adult offenders committed to DOC by the courts of the county or rural multi-county geographic area; and the number of adult registered 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 such counties or geographic areas. Equitable distribution is a policy goal, not a basis for any legal challenge to the siting, construction, occupancy, or operation of any facility anywhere in the state.

The lists prepared by DSHS and DOC must be transmitted to OFM and the counties on the list, along with the operational requirements for facilities on the list. Any county that is included on the DSHS or DOC list must allow the siting of each projected facility on the list within the county. When siting a facility, the county must involve DSHS or DOC as appropriate; provide for the equitable distribution of facilities; and ensure that locations identified are consistent with the operation requirements for the facility.

Counties identified on the DSHS or DOC lists that plan under the GMA must, in cooperation with cities located in the county, establish or amend the process for identifying and siting essential public facilities and amend or adopt development regulations to site a facility as required by the legislation.

Counties and cities cannot, as part of the permitting process for a facility, impose any requirements on DSHS or DOC beyond the facility and operation requirements developed by DSHS or DOC. Any conditional use permit, special use permit, or any other development application process necessary to site a facility may not exceed 120 days in length and must include an appeal process.

If cities or counties fail to establish a process for siting a facility within 12 months of notification, DOC or DSHS can preempt the county or city and site a facility.

Appropriation: None.

Fiscal Note: Requested on March 15, 2007.

Committee/Commission/Task Force Created: No.

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

Staff Summary of Public Testimony: PRO: This bill is extremely important for Pierce and Spokane Counties which have more than their share of these facilities. The problem is that when people are released from these facilities, they tend to stay in the area into which they are released. The bill tries to develop reasonable public policy to get us to equitable distribution. This is a balanced policy in a bill that has reached its time. It still needs to be perfected. Currently, state agencies place these facilities using a stealth policy. The bill provides cities and counties with an opportunity for their communities to participate in making the decisions about where these facilities are sited. While being in favor of the bill, there are concerns about Section 4(2) in that we don't know what that operational requirement is. There should be accountability standards for work release facilities wherever they are sited.

Persons Testifying: PRO: Representative Conway, prime sponsor; Eric Johnson, Washington Association of Counties; Dave Bugher, City of Lakewood.

Signed in, Unable to Testify & Submitted Written Testimony: Cindy Baij, citizen.