
HOUSE BILL 1906

State of Washington

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2003 Regular Session

By Representatives Ahern, Cox, Benson, Gombosky, Chase, Sullivan, Boldt, Schoesler, Schindler and Crouse

Read first time 02/14/2003. Referred to Committee on Criminal Justice & Corrections.

1 AN ACT Relating to siting of secure community transition
2 facilities; amending RCW 71.09.342; creating a new section; and
3 declaring an emergency.

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

5 **Sec. 1.** RCW 71.09.342 and 2002 c 68 s 9 are each amended to read
6 as follows:

7 (1) After October 1, 2002, notwithstanding RCW 36.70A.103 or any
8 other law, this section preempts and supersedes local plans,
9 development regulations, permitting requirements, inspection
10 requirements, and all other laws as necessary to enable the department
11 to site, construct, renovate, occupy, and operate secure community
12 transition facilities within the borders of the following:

13 (a) Any county that had five or more persons civilly committed from
14 that county, or detained at the special commitment center under a
15 pending civil commitment petition from that county where a finding of
16 probable cause has been made, on April 1, 2001, if the department
17 determines that the county has not met the requirements of RCW
18 36.70A.200 with respect to secure community transition facilities.

1 This subsection does not apply to the county in which the secure
2 community transition facility authorized under RCW 71.09.250(1) is
3 located; and

4 (b) Any city located within a county listed in (a) of this
5 subsection that the department determines has not met the requirements
6 of RCW 36.70A.200 with respect to secure community transition
7 facilities.

8 (2) The department's determination under subsection (1)(a) or (b)
9 of this section is final and is not subject to appeal under chapter
10 34.05 or 36.70A RCW.

11 (3) When siting a facility in a county or city that has been
12 preempted under this section, the department shall consider the policy
13 guidelines established under RCW ((71.09.275)) 71.09.285 and 71.09.290
14 and shall hold the hearings required in RCW 71.09.315.

15 (4) Nothing in this section prohibits the department from:

16 (a) Siting a secure community transition facility in a city or
17 county that has complied with the requirements of RCW 36.70A.200 with
18 respect to secure community transition facilities, including a city
19 that is located within a county that has been preempted. If the
20 department sites a secure community transition facility in such a city
21 or county, the department shall use the process established by the city
22 or county for siting such facilities; or

23 (b) Consulting with a city or county that has been preempted under
24 this section regarding the siting of a secure community transition
25 facility.

26 (5)(a) A preempted city or county may propose public safety
27 measures specific to any finalist site to the department. The measures
28 must be consistent with the location of the facility at that finalist
29 site. The proposal must be made in writing by the date of:

30 (i) The second hearing under RCW 71.09.315(2)(a) when there are
31 three finalist sites; or

32 (ii) The first hearing under RCW 71.09.315(2)(b) when there is only
33 one site under consideration.

34 (b) The department shall respond to the city or county in writing
35 within fifteen business days of receiving the proposed measures. The
36 response shall address all proposed measures.

37 (c) If the city or county finds that the department's response is
38 inadequate, the city or county may notify the department in writing

1 within fifteen business days of the specific items which it finds
2 inadequate. If the city or county does not notify the department of a
3 finding that the response is inadequate within fifteen business days,
4 the department's response shall be final.

5 (d) If the city or county notifies the department that it finds the
6 response inadequate and the department does not revise its response to
7 the satisfaction of the city or county within seven business days, the
8 city or county may petition the governor to designate a person with law
9 enforcement expertise to review the response under RCW 34.05.479.

10 (e) The governor's designee shall hear a petition filed under this
11 subsection and shall make a determination within thirty days of hearing
12 the petition. The governor's designee shall consider the department's
13 response, and the effectiveness and cost of the proposed measures, in
14 relation to the purposes of this chapter. The determination by the
15 governor's designee shall be final and may not be the basis for any
16 cause of action in civil court.

17 (f) The city or county shall bear the cost of the petition to the
18 governor's designee. If the city or county prevails on all issues, the
19 department shall reimburse the city or county costs incurred, as
20 provided under chapter 34.05 RCW.

21 (g) Neither the department's consideration and response to public
22 safety conditions proposed by a city or county nor the decision of the
23 governor's designee shall affect the preemption under this section or
24 the department's authority to site, construct, renovate, occupy, and
25 operate the secure community transition facility at that finalist site
26 or at any finalist site.

27 (6) Until June 30, 2009, the secretary shall site, construct,
28 occupy, and operate a secure community transition facility sited under
29 this section in an environmentally responsible manner that is
30 consistent with the substantive objectives of chapter 43.21C RCW, and
31 shall consult with the department of ecology as appropriate in carrying
32 out the planning, construction, and operations of the facility. The
33 secretary shall make a threshold determination of whether a secure
34 community transition facility sited under this section would have a
35 probable significant, adverse environmental impact. If the secretary
36 determines that the secure community transition facility has such an
37 impact, the secretary shall prepare an environmental impact statement
38 that meets the requirements of RCW 43.21C.030 and 43.21C.031 and the

1 rules promulgated by the department of ecology relating to such
2 statements. Nothing in this subsection shall be the basis for any
3 civil cause of action or administrative appeal.

4 (7) In no case may a secure community transition facility be sited
5 within a county in which a state correctional institution as defined in
6 RCW 9.94.049 is located.

7 (8) This section does not apply to the secure community transition
8 facility established pursuant to RCW 71.09.250(1).

9 NEW SECTION. Sec. 2. The provisions of this act are retroactive
10 and apply to all sites and possible sites for secure community
11 transition facilities selected on, before, or after the effective date
12 of this act except for the facility sited under RCW 71.09.250(1).

13 NEW SECTION. Sec. 3. This act is necessary for the immediate
14 preservation of the public peace, health, or safety, or support of the
15 state government and its existing public institutions, and takes effect
16 immediately.

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