

# SENATE BILL REPORT

## HB 2640

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As Passed Senate - Amended, March 4, 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:** Representatives Fey, Kirby, Doglio, Fitzgibbon, Orwall, Gregerson, Valdez, Peterson and Ryu.

**Brief History:** Passed House: 2/12/20, 85-12.

**Committee Activity:** Local Government: 2/20/20 [DPA, DNP].

**Floor Activity:**

Passed Senate - Amended: 3/04/20, 31-15.

### 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

**Majority Report:** Do pass as amended.

Signed by Senators Takko, Chair; Salomon, Vice Chair; Lovelett.

**Minority Report:** Do not pass.

Signed by Senators Short, Ranking Member; Honeyford.

**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 Originally enacted in 1990 and 1991, the GMA establishes land use designation and

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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.

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:** Unless a facility is expressly listed as an essential public facility, 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. This exclusion does not apply to secure community transition facilities, facilities detaining a person in a less restrictive alternative that satisfies the requirements of a conditional release, facilities detaining criminally insane persons, or facilities detaining persons with mental illness.

**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 on Bill as Amended by Committee:** PRO: This bill is about local control. Local governments should not be preempted in making local land use decisions. The bill does not prevent local governments wanting to provide zoning for these facilities. Tacoma's zoning decision would not allow further growth. The facility has grown three times and has a population around 1600. It is a well-crafted bill that deals with a specific circumstance. This is about a local jurisdiction going through a local process for zoning and nothing more than that.

The bill provides an essential legislative clarification of whether essential public facilities laws apply to private facilities that contract with the federal government. This is an area full of chemical processing and storage, and fuel refinery and fuel storage, not suitable for housing people.

Some state agencies asked that we include reference to statutes to clarify that this exclusion does not apply to certain facilities. If a facility is an essential public facility, then the community is required to find a location for the facility.

This would allow locals decide if they want to zone the facility. This bill is really about letting the city councils make the decision.

**Persons Testifying:** PRO: Representative Jake Fey, Prime Sponsor; Steve Victor, City of Tacoma, Deputy City Attorney; Briahna Murray, City of Tacoma.

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