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**HOUSE BILL 2640**

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**State of Washington**

**66th Legislature**

**2020 Regular Session**

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

Read first time 01/16/20. Referred to Committee on Environment & Energy.

1 AN ACT Relating to clarifying that facilities that are operated  
2 by a private entity in which persons are detained in custody under  
3 process of law pending the outcome of legal proceedings are not  
4 essential public facilities under the growth management act; amending  
5 RCW 36.70A.200; creating a new section; and declaring an emergency.

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

7 **Sec. 1.** RCW 36.70A.200 and 2013 c 275 s 5 are each amended to  
8 read as follows:

9 (1) The comprehensive plan of each county and city that is  
10 planning under RCW 36.70A.040 shall include a process for identifying  
11 and siting essential public facilities. Essential public facilities  
12 include those facilities that are typically difficult to site, such  
13 as airports, state education facilities and state or regional  
14 transportation facilities as defined in RCW 47.06.140, regional  
15 transit authority facilities as defined in RCW 81.112.020, state and  
16 local correctional facilities, solid waste handling facilities, and  
17 inpatient facilities including substance abuse facilities, mental  
18 health facilities, group homes, and secure community transition  
19 facilities as defined in RCW 71.09.020. Essential public facilities  
20 do not include facilities that are operated by a private entity in  
21 which persons are detained in custody under process of law pending

1 the outcome of legal proceedings but are not used for the primary  
2 purpose of punishment, correction, counseling, or rehabilitation  
3 following the conviction of a criminal offense, nor for the primary  
4 purpose of providing evaluation and treatment, forensic services,  
5 mental health services, or medical services.

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

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

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

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

25 (6) No person may bring a cause of action for civil damages based  
26 on the good faith actions of any county or city to provide for the  
27 siting of secure community transition facilities in accordance with  
28 this section and with the requirements of chapter 12, Laws of 2001  
29 2nd sp. sess. For purposes of this subsection, "person" includes, but  
30 is not limited to, any individual, agency as defined in RCW  
31 42.17A.005, corporation, partnership, association, and limited  
32 liability entity.

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

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

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

39 (b) A consideration for grants or loans provided under RCW  
40 43.17.250(3); or

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

3 NEW SECTION. **Sec. 2.** This act applies retroactively to land use  
4 actions imposed prior to January 1, 2018, as well as prospectively.

5 NEW SECTION. **Sec. 3.** This act is necessary for the immediate  
6 preservation of the public peace, health, or safety, or support of  
7 the state government and its existing public institutions, and takes  
8 effect immediately.

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