

SENATE BILL REPORT

ESHB 1956

As Reported by Senate Committee On:
Human Services & Corrections, February 25, 2010

Title: An act relating to the housing of homeless persons on property owned or controlled by a church.

Brief Description: Authorizing churches to host temporary encampments for homeless persons on property owned or controlled by a church.

Sponsors: House Committee on Local Government & Housing (originally sponsored by Representatives Williams, Chase, Ormsby, Darneille, Van De Wege, Dickerson and Simpson).

Brief History: Passed House: 3/03/09, 56-41; 2/10/10, 57-39.

Committee Activity: Human Services & Corrections: 3/20/09, 2/18/10, 2/25/10 [DPA].

SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

Majority Report: Do pass as amended.

Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens, Ranking Minority Member; Brandland, Carrell, Kauffman and McAuliffe.

Staff: Shani Bauer (786-7468)

Background: Currently, temporary encampments for the homeless on any real property owned or controlled by a church are governed by local governments through local ordinances. This has resulted in some disagreements about whether a church can provide for temporary encampments for the homeless on property owned or controlled by the church.

Summary of Bill (Recommended Amendments): Religious organizations are authorized to host temporary encampments for the homeless on any real property owned or controlled by the religious organization.

With respect to the efforts of a religious organization to provide housing or shelter to homeless persons, counties, cities, and towns are prohibited from:

- imposing conditions other than those necessary to protect public health and safety and that do not substantially burden the decisions or actions of the religious organization regarding the location of housing or shelter for the homeless;

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

- requiring a religious organization to obtain insurance pertaining to the liability of a municipality with respect to homeless persons housed on property owned by the religious organization or otherwise requiring the religious organization to indemnify the municipality against such liability; or
- imposing permit fees in excess of the actual costs associated with the review and approval of the required permit applications.

Religious organization is defined to mean the federally protected practice of a recognized religious assembly, school, or institution that owns or controls real property. Local governments are immune from civil liability for damages arising from the permitting decisions for a temporary encampment or any conduct or unlawful activity that may occur as a result of a temporary encampment.

This act does not supersede a court ordered consent decree or other negotiated settlement between a public agency and religious institution entered into prior to July 1, 2010.

EFFECT OF CHANGES MADE BY HUMAN SERVICES & CORRECTIONS COMMITTEE (Recommended Amendments): Intent language is added to urge local governments and religious organizations to utilize dispute resolution processes without litigation. A local government is prohibited from enacting an ordinance or regulation that imposes conditions other than those necessary to protect the public health and safety or imposing permit fees in excess of the actual costs. The definition of church is removed and replaced with a definition for religious organization. Local government is given immunity for damages arising from permitting decisions or homeless encampments. Language is added to clarify that the act does not supersede current consent decrees or negotiated settlements.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Engrossed Substitute House Bill: PRO: Congregations of Washington State should not need this bill. When church seeks to help the homeless, a process ensues which too often ends up in the courts. Once in courts, churches obtain the right to practice their faith, but it costs everyone dearly in legal fees. Cities often charge onerous permit fees. Reasonable ordinances can be crafted that provide freedom of religion while protecting public health and safety. These temporary encampments provide a safe place for people to stay who have nowhere else to go. Local regulations are putting obstacles in the path of churches helping people to get back on their feet.

CON: The counties support all efforts to provide assistance to the homeless but are concerned about issues of public safety and health. The current language is vague and would lead to further litigation. Federal law has limitations on local government authority to

regulate government encampments. We believe the additional language won't further the goal of providing housing and will cause further litigation.

AWC is opposed to this bill but not opposed to tent cities. Seventeen cities have been a home to tent cities and have been supportive of efforts to end homelessness. Currently established caselaw sets out guidelines of what type of regulations you can put on tent cities. This law will lead to litigation and does not provide clear guidelines for cities to follow.

Cities are not hostile to church encampments and have worked hard to listen to all points of view and look at the issues prior to coming up with regulations that reflect their duty to protect public health and safety.

Persons Testifying: PRO: Seth Dawson, WA State Coalition for the Homeless; Reverend Bill Kirlin-Hackett, Interfaith Task Force on Homelessness; Joe Ingram, Homeless Outreach.

CON: Rashi Gupta, WA State Association of Counties; Candice Bock, Associated WA Cities; Karen Morris, Bellevue Neighborhood Crime Watch.