
Environment & Energy Committee

ESSB 5946

Brief Description: Concerning the application of the state environmental policy act to temporary shelters and transitional encampments.

Sponsors: Senate Committee on Housing Stability & Affordability (originally sponsored by Senators Nguyen, Saldaña, Hasegawa, Das and Lovelett).

Brief Summary of Engrossed Substitute Bill

- Exempts permit actions to site certain temporary shelters or transitional encampments from the requirements of the State Environmental Policy Act.

Hearing Date: 3/25/19

Staff: Jacob Lipson (786-7196).

Background:

The State Environmental Policy Act.

The State Environmental Policy Act (SEPA) establishes a review process for state and local governments to identify environmental impacts that may result from governmental decisions, such as the issuance of permits or the adoption of land use plans. The SEPA environmental review process involves a project proponent or the lead agency completing an environmental checklist to identify and evaluate probable environmental impacts. If an initial review of the checklist and supporting documents results in a determination that the government decision has a probable significant adverse environmental impact (threshold determination), the proposal must undergo a more comprehensive environmental analysis in the form of an Environmental Impact Statement (EIS).

Under SEPA, a government agency is designated as the lead agency, and in that role is assigned responsibility for complying with SEPA's procedural requirements, including making a threshold determination and preparing the EIS when one is required.

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.

State Environmental Policy Act Exemptions.

Under SEPA laws and in SEPA rules adopted by the Department of Ecology (ECY), certain projects or activities are exempt from SEPA requirements.

SEPA laws:

- exempt specified actions undertaken during a state of emergency declared by the Governor, including emergency cloud seeding and the licensing-exempt weather modification and control activities undertaken during a water supply shortage or state of emergency related to a lack of precipitation; and
- require the ECY to adopt rules relating to actions exempt from SEPA in emergency situations.

SEPA rules:

- exempt certain minor new construction, including the construction or location of single-family residential projects and multifamily residential projects with less than four units.
- provide authority for cities, counties, and towns to increase the minor new construction exemption threshold to up to 30 single-family or 60 multifamily units in urban growth areas in counties fully planning under the Growth Management Act, or up to 20 single-family residential units and 25 multifamily units in other areas;
- exempt certain land use decisions, such as for an exempt project or certain rezones associated with exempt projects; and
- exempt emergency actions that must be undertaken to avoid an imminent threat to public health or safety, to prevent an imminent danger to public or private property, or to prevent an imminent threat of serious environmental degradation.

State of Emergency Declarations by Local Governments.

Political subdivisions of Washington have the authority to declare emergencies or disasters, which are events or sets of circumstances which demand immediate action to preserve public health, protect life, protect public property, or provide relief to any stricken community. Political subdivisions may enter into contracts and incur obligations necessary to combat disasters, protect health and safety, and may provide for emergency assistance without regard to time-consuming procedures and formalities prescribed by law, including budget law, the appropriation and expenditure of funds, public work provisions, and contracting requirements.

Additional, separate emergency management authorities are also provided to local governments under state law. Cities with a population of over 300,000 have authority to maintain an emergency fund from which to expend money, by an ordinance approved by two-thirds of council members, to meet obligations or expenses from happenings that could not have been anticipated, including fire, flood, and other specified events. Smaller cities and towns may also spend money, through the adoption of an ordinance approved by two-thirds of council members, on similar unanticipated happenings of an emergency. Counties may spend money upon the happening of an emergency upon a unanimous vote of county commissioners to adopt an emergency resolution.

At least three cities (Seattle, Olympia, and Tacoma) and one county (King) in Washington have issued determinations of an emergency related to persons experiencing homelessness within the past few years. Under a statutory authority that is distinct from the statutory authority which

authorizes local governments to declare an emergency, the Board of Health of at least one county (Thurston) has also declared homelessness to be a public health crisis.

Summary of Bill:

Certain permit actions to site temporary shelters or transitional encampments are exempt from compliance with the State Environmental Policy Act (SEPA). In order for the permit action to be exempt:

- the facility must be used for people experiencing homelessness;
- the facility must include no more than 200 beds, with a number of occupants based on one person per bed;
- the facility must be used on the site for no more than three years;
- the transitional encampment does not involve the erection of a new permanent structure;
- the local jurisdiction must have declared a state of emergency on homelessness;
- the facility must not allow the use of drugs or alcohol on premises, except for prescribed medicines; and
- the facility must not be located within 1,000 feet of a school or early learning facility unless the school or early learning facility or its controlling organization has approved the siting.

Temporary shelters are defined as uses sited in a new or existing structure or modular structure that provides temporary quarters for sleeping and shelter, and may include common food preparation, shower, or other facilities. Transitional encampments are defined as uses having tents, modular structures, vehicles, or similar shelters that provide temporary quarters for sleeping and shelter, including common food preparation, shower, or other commonly used facilities that are separate from the sleeping shelters.

Appropriation: None.

Fiscal Note: Preliminary fiscal note available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.