

# HOUSE BILL REPORT

## HB 2244

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**As Reported by House Committee On:**  
Housing

**Title:** An act relating to homeless tent encampments.

**Brief Description:** Authorizing faith communities to host temporary homeless encampments subject to restrictions.

**Sponsors:** Representatives Miloscia, Ormsby and Santos.

**Brief History:**

**Committee Activity:**

Housing: 2/19/07, 2/21/07 [DPS].

### Brief Summary of Substitute Bill

- Mandates that counties, cities, and towns may not restrict religious organizations from hosting homeless tent encampments and establishes specific rules local jurisdictions must follow in regard to prospective or existing encampments.

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### HOUSE COMMITTEE ON HOUSING

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 4 members: Representatives Miloscia, Chair; Springer, Vice Chair; Kelley and Ormsby.

**Minority Report:** Do not pass. Signed by 2 members: Representatives Dunn, Ranking Minority Member and Schindler.

**Staff:** Robyn Dupuis (786-7166).

#### **Background:**

Over the last several years, some Washington cities and counties have established, or have entertained discussions about, ordinances providing regulations for the permitting of temporary encampments, including ordinances limiting the maximum number of days an encampment may remain in one location.

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*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.*

Religious organizations have responded in several instances with lawsuits claiming that such ordinances violate their constitutional and statutory rights under the state and federal Constitutions and the Religious Land Use and Institutionalized Persons Act (RLUIPA).

### **Religious Land Use and Institutionalized Persons Act**

General Rule: "No government shall impose or implement a land use regulation in a manner that imposes a substantial burden on the religious exercise of a person, including a religious assembly or institution, unless the government demonstrates that imposition of the burden on that person, assembly, or institution:

- (a) is in furtherance of a compelling governmental interest; and
- (b) is the least restrictive means of furthering that compelling governmental interest."

### **Statutory Permitting and Other Regulation Requirements**

There are statutory permitting requirements contained within the Growth Management Act (GMA), the Shoreline Management Act and the State Environmental Policy Act. However, although they provide general permitting standards and regulatory framework, specific permitting requirements and procedures are generally the domain of the local governments themselves.

There are no statutory caps on permit fees to be charged by local jurisdictions.

There are no statutory time limits within which a local government must respond to a permit application. However, within 28 days after receiving a project permit application, a local government planning under the GMA must provide to the applicant documentation that the application is complete or incomplete. If the application is incomplete the local government must state what information is required to complete the application.

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### **Summary of Substitute Bill:**

Counties, cities, and towns are prohibited from restricting religious organizations from hosting homeless temporary encampments.

Cities, counties and towns must abide by the following rules related to temporary encampments:

- Applicable permit fees for temporary encampments may not exceed \$500.
- Local jurisdictions must respond to temporary encampment permit applications submitted on behalf of religious organizations within 60 days.
- Local jurisdictions may not set time limits on temporary encampments for less than 90 days.
- Fines may only be levied in cases in which the religious organization hosting the temporary encampment has clearly endangered the health or safety of the community.

### **Substitute Bill Compared to Original Bill:**

The term "religious organization" replaces the term "faith community." Local jurisdictions are prohibited from fining a religious organization unless it has clearly endangered the health and safety of the community. Permit fees for temporary encampments are limited to \$500. Permit applications must receive a response within 60 days.

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**Appropriation:** None.

**Fiscal Note:** Not requested.

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

**Staff Summary of Public Testimony:**

(In support of original bill) This bill is about preserving religious freedom of expression. Many religious groups feel that it is a religious duty to care for the poor. Faith communities should be on the front-lines to serve the poor and should not be prevented or discouraged from carrying out their missions by local government interference. Religious freedom of expression is protected under the state and federal Constitutions yet cities continue to try and prevent religious expression by charging exorbitant permitting fees, fines and cumbersome requirements. The actions of cities are based on irrational fears of homeless people. If this bill were in place it would enable religious groups to spend their time caring for the poor, not fighting legal battles. Homeless tent encampment groups would continue to work with local governments in collaboration. People are already camping in the woods. Homeless tent encampments provide a safe, secure and supportive environment to help homeless people leave isolation, obtain services, find employment and move forward with their lives. Tent cities are an essential piece of short-term, emergency housing that is necessary as the state continues to address the larger issues of homelessness prevention and the availability of affordable housing.

(In support of original bill with suggestions) The bill should mandate that local governments establish, and communicate to interested parties, a clear process that religious groups should use in order to establish a tent camp on their property. The bill should also add that a local government cannot impose onerous restrictions and that any health and safety-related requirements should be limited to areas contained by the tent camp. Homeless individuals should not be restricted from entering and spending time within the broader community. The language applying this bill to religious supported tent encampments should be changed to apply to any non-profit organizations instead. Tents are not appropriate housing, the bill should read temporary housing.

(Concerns regarding original bill) The bill should include some sort of test of the precedent that a religious community must include ministering to the homeless as part of its mission. The bill should include language that allows a local government to close a homeless tent encampment if not in compliance with health and safety requirements.

(Opposed) None.

**Persons Testifying:** (In support of original bill) Representative Miloscia, prime sponsor; Reverend Sanford Brown, Church Council of Greater Seattle; Bill Kirlin-Hackett, Inter-Faith Task Force on Homelessness; Reverend Arthur Vaeni, Olympia Unitarian Universalist Congregation; Phil Owen and Ruth Shearer, Bread & Roses; Peggy Hotes, Jamie Noesges, and Leo Rhodes, Tent City 4; Scott Charles, Tent City 3; and Seth Dawson, Washington State Coalition for the Homeless.

(In support of original bill with suggestions) Father David Rogerson, St. Jude Catholic Church of Redmond; and Gary Smith.

(Concerns regarding original bill) Tammy Fellin, Association of Washington Cities; and Fred Jensen.

**Persons Signed In To Testify But Not Testifying:** None.