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## Environment & Energy Committee

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### ESSB 5428

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

**Sponsors:** Senate Committee on Housing & Local Government (originally sponsored by Senators Nguyen, Darneille, Das, Kuderer, Lovelett, Nobles, Saldaña and Wellman).

<p style="text-align: center;"><b>Brief Summary of Engrossed Substitute Bill</b></p> <ul style="list-style-type: none"><li>• Exempts permit actions to site certain temporary shelters or transitional encampments from the requirements of the State Environmental Policy Act.</li></ul>
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**Hearing Date:** 2/17/22

**Staff:** Jacob Lipson (786-7196).

**Background:**

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).

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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 part of the legislation nor does it constitute a statement of legislative intent.*

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.

#### State Environmental Policy Act Exemptions.

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

#### State Environmental Policy Act 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 Ecology to adopt rules relating to actions exempt from SEPA in emergency situations.

#### State Environmental Policy Act 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 two counties (King and Jefferson) 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:**

Until August 1, 2032, permit actions to site a temporary shelter or transitional encampment are exempt from compliance SEPA review requirements if 13 conditions are met. 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. In order to be exempt from SEPA review requirements:

- the facility must be used for people experiencing homelessness, must include no more than 200 beds, must not require erecting a new permanent structure, and must be used on a site for no more than five years;
- the facility is located in a jurisdiction that has declared a state of emergency on homelessness;
- the facility operator establishes a community advisory committee that creates a process to accept and address community complaints;
- the jurisdiction must determine whether to allow drugs or alcohol by facility occupants based on an analysis of the needs and population served by the facility;
- the facility must comply with water quality regulations;
- the facility host or operator must have developed a disengagement plan for cleanup of the facility, a medical waste disposal plan for the facility, and a solid waste management plan for the facility; and
- the jurisdiction must require and make available employment, mental health, and drug counseling services at the facility.

If a facility is located within a quarter of a mile of another county, city, or town:

- written notice must be provided by the permit applicant or facility operator to the jurisdiction's mayor or executive prior to submitting a permit application; and
- the jurisdiction may identify a representative to serve on the community advisory committee created by the facility operator.

**Appropriation:** None.

**Fiscal Note:** Requested on February 10, 2022.

**Effective Date:** The bill contains an emergency clause and takes effect immediately.