

HOUSE BILL REPORT

ESHB 1956

As Passed Legislature

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

Brief Description: Authorizing religious organizations to host temporary encampments for homeless persons on property owned or controlled by a religious organization.

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

Brief History:

Committee Activity:

Local Government & Housing: 2/18/09, 2/19/09 [DPS].

Floor Activity:

Passed House: 3/3/09, 56-41.

Passed House: 2/10/10, 57-39.

Senate Amended.

Passed Senate: 3/2/10, 40-5.

House Concurred.

Passed House: 3/6/10, 57-38.

Passed Legislature.

Brief Summary of Engrossed Substitute Bill

- Grants broad authority to religious organizations to provide shelter or housing to homeless persons on property owned or controlled by such organizations.
- Prohibits local governments from enacting an ordinance or regulation that imposes conditions other than those necessary to protect the public health and safety and that do not substantially burden the decisions or actions of a religious organization with respect to the provision of homeless housing.
- Prohibits the imposition of permit fees in excess of the actual costs associated with the review and approval of the required permit applications for homeless housing encampments.

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.

- Provides immunity to local governments, public agencies, and specified public officials for damages arising from permitting decisions and activities occurring within homeless housing encampments.

HOUSE COMMITTEE ON LOCAL GOVERNMENT & HOUSING

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 7 members: Representatives Simpson, Chair; Nelson, Vice Chair; Miloscia, Springer, Upthegrove, White and Williams.

Minority Report: Do not pass. Signed by 4 members: Representatives Angel, Ranking Minority Member; Cox, Ericksen and Short.

Staff: Thamas Osborn (786-7129).

Background:

Constitutional Protection of the Right to the Free Exercise of Religion.

Both the Washington Constitution and the U.S. Constitution recognize that the free exercise of religion is a fundamental right and both extend broad protection to this right. Notably, the Washington courts have recognized that with respect to freedom of religion, the Washington Constitution "extends broader protection than the first amendment to the federal constitution." *First Covenant Church v. City of Seattle*, 120 Wn. 2d 203, 229-30 (1992).

Homeless Housing and Assistance Act.

In the prelude to the Homeless Housing and Assistance Act, the Legislature makes the following findings (RCW 43.185C.005):

"Despite laudable efforts by all levels of government, private individuals, nonprofit organizations, and charitable foundations to end homelessness, the number of homeless persons in Washington is unacceptably high. The state's homeless population, furthermore, includes a large number of families with children, youth, and employed persons. The Legislature finds that the fiscal and societal costs of homelessness are high for both the public and private sectors, and that ending homelessness should be a goal for state and local government.

The support and commitment of all sectors of the statewide community is critical to the chances of success in ending homelessness in Washington. While the provision of housing and housing-related services to the homeless should be administered at the local level to best address specific community needs, the Legislature also recognizes the need for the state to play a primary coordinating, supporting, and monitoring role."

Summary of Engrossed Substitute Bill:

A "religious organization" is authorized to host temporary encampments for the homeless on any real property owned or controlled by such organization. "Religious organization" is defined to mean the federally protected practice of a recognized religious assembly, school, or institution that owns or controls real property.

In regulating homeless housing encampments hosted by religious organizations, counties, cities, and towns, are prohibited from:

- enacting ordinances or regulations that impose conditions other than those necessary to protect the public health and safety and that do not substantially burden the decisions or actions of a religious organization with respect to the provision of homeless housing;
- imposing permit fees in excess of the actual costs associated with the review and approval of the required permit applications; or
- requiring a religious organization to obtain insurance pertaining to the liability of a municipality with respect to homeless persons housed on its property or otherwise requiring the organization to indemnify the municipality against such liability.

Local governments, public agencies, and specified public officials are granted immunity from civil liability for damages arising from permitting decisions and activities occurring within homeless encampments.

The act does not supersede current consent decrees or negotiated settlements entered into between a public agency and a religious organization prior to July 1, 2010, pertaining to temporary homeless encampments.

Appropriation: None.

Fiscal Note: Not requested.

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

Staff Summary of Public Testimony:

(In support) The bill is intended to resolve issues involving conflicts between municipalities and churches regarding providing shelter and assistance to the homeless. Homelessness is a very widespread and difficult problem, and state and local governments need all the help they can get in finding a solution. Churches have played a very valuable role in providing much needed help to the homeless. Providing shelter is one of the key things that churches have done and very often the only option a church has is to provide temporary shelter outdoors in the form of tent cities. Churches do not begin to have the amount of suitable indoor space necessary to accommodate the shelter needs of homeless families. Accordingly, they have had no choice but to provide shelter elsewhere on church property. Church sponsored tent cities are common and have not presented significant problems for the surrounding communities. Nevertheless, many municipalities, such as Lacey, have been hostile to such efforts by local churches and have enacted ordinances prohibiting outdoor shelters. These ordinances serve no useful purpose and present a barrier to church efforts to assist the poor.

The bill would provide churches with the legal authority they need in order to continue to sponsor homeless shelter programs.

(Opposed) This bill is heavy-handed and unnecessary since almost all of the problems between churches and municipalities regarding homeless shelter programs have been worked out informally. For example, after some negotiating the City of Lacey recently repealed its ordinance banning tent cities. The bill would preempt the good-faith efforts of local governments to find local solutions to homeless housing issues. Furthermore, court rulings have largely supported the efforts of churches to provide shelter, while at the same time recognizing that cities and towns have the authority to take the steps necessary to protect public health and safety. Laws such as this would be an impediment to community efforts to work out compromises. Also, the bill does not address the real issues and problems that arise as the result of tent cities.

Persons Testifying: (In support) Bill Kirlin-Hackett, Interfaith Taskforce for Homelessness; Lee Johnson, Panza; Randy Williams, Camp Quixote; Howard Ullery, Lacey Community Church; and Mark Dowdy, The United Churches.

(Opposed) Tammy Fellin, and Matt Segal, Association of Washington Cities; and Rashi Gupta, Washington Association of Counties.

Persons Signed In To Testify But Not Testifying: Bruce Thomas and Jamy Noesges, Share/Wheel's Tent City 4; Tim Ransom, Olympia Unitarian Universalist Congregation; Dennis W. Lone; and Richard Frank, Power Acorn.