

ESHB 1956 - S COMM AMD

By Committee on Human Services & Corrections

ADOPTED 03/02/2010

1 Strike everything after the enacting clause and insert the  
2 following:

3 "NEW SECTION. **Sec. 1.** The legislature finds that there are many  
4 homeless persons in our state that are in need of shelter and other  
5 services that are not being provided by the state and local  
6 governments. The legislature also finds that in many communities,  
7 religious organizations play an important role in providing needed  
8 services to the homeless, including the provision of shelter upon  
9 property owned by the religious organization. By providing such  
10 shelter, the religious institutions in our communities perform a  
11 valuable public service that, for many, offers a temporary, stop-gap  
12 solution to the larger social problem of increasing numbers of homeless  
13 persons.

14 This act provides guidance to cities and counties in regulating  
15 homeless encampments within the community, but still leaves those  
16 entities with broad discretion to protect the health and safety of its  
17 citizens. It is the hope of this legislature that local governments  
18 and religious organizations can work together and utilize dispute  
19 resolution processes without the need for litigation.

20 NEW SECTION. **Sec. 2.** A new section is added to chapter 36.01 RCW  
21 to read as follows:

22 (1) A religious organization may host temporary encampments for the  
23 homeless on property owned or controlled by the religious organization  
24 whether within buildings located on the property or elsewhere on the  
25 property outside of buildings.

26 (2) A county may not enact an ordinance or regulation or take any  
27 other action that:

28 (a) Imposes conditions other than those necessary to protect public  
29 health and safety and that do not substantially burden the decisions or

1 actions of a religious organization regarding the location of housing  
2 or shelter for homeless persons on property owned by the religious  
3 organization;

4 (b) Requires a religious organization to obtain insurance  
5 pertaining to the liability of a municipality with respect to homeless  
6 persons housed on property owned by a religious organization or  
7 otherwise requires the religious organization to indemnify the  
8 municipality against such liability; or

9 (c) Imposes permit fees in excess of the actual costs associated  
10 with the review and approval of the required permit applications.

11 (3) For the purposes of this section, "religious organization"  
12 means the federally protected practice of a recognized religious  
13 assembly, school, or institution that owns or controls real property.

14 (4) An appointed or elected public official, public employee, or  
15 public agency as defined in RCW 4.24.470 is immune from civil liability  
16 for (a) damages arising from the permitting decisions for a temporary  
17 encampment for the homeless as provided in this section and (b) any  
18 conduct or unlawful activity that may occur as a result of the  
19 temporary encampment for the homeless as provided in this section.

20 NEW SECTION. **Sec. 3.** A new section is added to chapter 35.21 RCW  
21 to read as follows:

22 (1) A religious organization may host temporary encampments for the  
23 homeless on property owned or controlled by the religious organization  
24 whether within buildings located on the property or elsewhere on the  
25 property outside of buildings.

26 (2) A city or town may not enact an ordinance or regulation or take  
27 any other action that:

28 (a) Imposes conditions other than those necessary to protect public  
29 health and safety and that do not substantially burden the decisions or  
30 actions of a religious organization regarding the location of housing  
31 or shelter for homeless persons on property owned by the religious  
32 organization;

33 (b) Requires a religious organization to obtain insurance  
34 pertaining to the liability of a municipality with respect to homeless  
35 persons housed on property owned by a religious organization or  
36 otherwise requires the religious organization to indemnify the  
37 municipality against such liability; or

1 (c) Imposes permit fees in excess of the actual costs associated  
2 with the review and approval of the required permit applications.

3 (3) For the purposes of this section, "religious organization"  
4 means the federally protected practice of a recognized religious  
5 assembly, school, or institution that owns or controls real property.

6 (4) An appointed or elected public official, public employee, or  
7 public agency as defined in RCW 4.24.470 is immune from civil liability  
8 for (a) damages arising from the permitting decisions for a temporary  
9 encampment for the homeless as provided in this section and (b) any  
10 conduct or unlawful activity that may occur as a result of the  
11 temporary encampment for the homeless as provided in this section.

12 NEW SECTION. **Sec. 4.** A new section is added to chapter 35A.21 RCW  
13 to read as follows:

14 (1) A religious organization may host temporary encampments for the  
15 homeless on property owned or controlled by the religious organization  
16 whether within buildings located on the property or elsewhere on the  
17 property outside of buildings.

18 (2) A code city may not enact an ordinance or regulation or take  
19 any other action that:

20 (a) Imposes conditions other than those necessary to protect public  
21 health and safety and that do not substantially burden the decisions or  
22 actions of a religious organization regarding the location of housing  
23 or shelter for homeless persons on property owned by the religious  
24 organization;

25 (b) Requires a religious organization to obtain insurance  
26 pertaining to the liability of a municipality with respect to homeless  
27 persons housed on property owned by a religious organization or  
28 otherwise requires the religious organization to indemnify the  
29 municipality against such liability; or

30 (c) Imposes permit fees in excess of the actual costs associated  
31 with the review and approval of the required permit applications.

32 (3) For the purposes of this section, "religious organization"  
33 means the federally protected practice of a recognized religious  
34 assembly, school, or institution that owns or controls real property.

35 (4) An appointed or elected public official, public employee, or  
36 public agency as defined in RCW 4.24.470 is immune from civil liability  
37 for (a) damages arising from the permitting decisions for a temporary

1 encampment for the homeless as provided in this section and (b) any  
2 conduct or unlawful activity that may occur as a result of the  
3 temporary encampment for the homeless as provided in this section.

4 NEW SECTION. **Sec. 5.** Nothing in this act is intended to change  
5 applicable law or be interpreted to prohibit a county, city, town, or  
6 code city from applying zoning and land use regulations allowable under  
7 established law to real property owned by a religious organization,  
8 regardless of whether the property owned by the religious organization  
9 is used to provide shelter or housing to homeless persons.

10 NEW SECTION. **Sec. 6.** Nothing in this act supersedes a court  
11 ordered consent decree or other negotiated settlement between a public  
12 agency and religious organization entered into prior to July 1, 2010,  
13 for the purposes of establishing a temporary encampment for the  
14 homeless as provided in this act."

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15 On page 1, line 2 of the title, after "church;" strike the  
16 remainder of the title and insert "adding a new section to chapter  
17 36.01 RCW; adding a new section to chapter 35.21 RCW; adding a new  
18 section to chapter 35A.21 RCW; and creating new sections."

EFFECT: 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.

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