HOUSE BILL REPORT
E2SHB 1570

As Amended by the Senate

Title: An act relating to expanding access to homeless housing and assistance.

Brief Description: Concerning access to homeless housing and assistance.

Sponsors: House Committee on Appropriations (originally sponsored by Representatives Macri, Robinson, McBride, Kagi, Sawyer, Tharinger, Doglio, Pollet, Ortiz-Self, Chapman, Cody, Jinkins, Bergquist, Hudgins, Peterson, Senn, Stonier, Riccelli, Frame, Gregerson, Dolan, Tarleton, Ormsby, Ryu, Fey, Fitzgibbon, Goodman, Slatter, Pettigrew, Kloba, Orwall, Appleton, Clibborn, Farrell and Stanford).

Brief History:

Committee Activity:

Community Development, Housing, & Tribal Affairs: 1/26/17, 2/16/17 [DPS];
Appropriations: 2/23/17, 2/24/17 [DPS(CDHT)], 1/17/18, 1/22/18 [DP2S].

First Special Session

Floor Activity:

Passed House: 5/25/17, 50-44.

Floor Activity:

Passed House: 2/7/18, 51-47.
Senate Amended.
Passed Senate: 2/28/18, 27-21.

Brief Summary of Engrossed Second Substitute Bill

- Makes the temporary $40 local homeless housing and assistance surcharge permanent.
- Allows counties to charge and retain an additional surcharge for homeless housing and assistance.
- Allows certain cities to impose an additional surcharge for homeless housing and assistance if the county in which the city is located does not elect to impose an additional surcharge.
- Allows additional homeless housing and assistance surcharges imposed by a county to be used to pay off general obligation bonds issued by the county for homeless housing and assistance.

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.

- Creates new and updated reporting requirements for state and local homeless housing programs.

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The second substitute bill be substituted therefor and the second substitute bill do pass. Signed by 18 members: Representatives Ormsby, Chair; Robinson, Vice Chair; Bergquist, Cody, Fitzgibbon, Hansen, Hudgins, Jinkins, Kagi, Lytton, Pettigrew, Pollet, Sawyer, Senn, Springer, Stanford, Sullivan and Tharinger.

Minority Report: Do not pass. Signed by 14 members: Representatives Chandler, Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Stokesbary, Assistant Ranking Minority Member; Buys, Caldier, Condotta, Graves, Haler, Manweller, Schmick, Taylor, Vick, Volz and Wilcox.

Minority Report: Without recommendation. Signed by 1 member: Representative Harris.

Staff: Meghan Morris (786-7119).

Background:

<u>The State Homeless Housing Program</u>.
The Homeless Housing and Assistance Act directs the Department of Commerce (Department) to develop a statewide homeless housing program. The Department must implement the program through a 10-year strategic plan with the goal of reducing homelessness by 50 percent in the state, and within each county by 2015. Local governments must also develop their own 10-year homeless housing plans in coordination with the statewide plan.

The Department's efforts include an annual homeless census to aid the Department and local governments in identifying homeless housing for individuals. The Department must also report biennially to the Governor and appropriate committees of the Legislature. This report is an assessment of the state's performance in furthering the goals of the state's 10-year homeless housing strategic plan, and the performance of each participating local government in creating and executing a local homeless housing plan. In 2017 the Department, in consultation with the Interagency Council on Homelessness, the Affordable Housing Advisory Board, and the State Advisory Council on Homelessness, was required to develop performance measures that address certain limitations in measuring the effectiveness of the homeless housing and assistance surcharge funds in supporting homeless programs. By July 1, 2018, the Department must implement at least three of these metrics to measure the impact of surcharge funding on reducing homelessness.

The Department manages a range of homeless assistance, prevention, and housing programs. The Department programs include:

- the Consolidated Homeless Grant Program, which provides grants for county governments and other designated entities for services including temporary rent assistance for households who are homeless or at risk of being homeless; and
- the Office of Homeless Youth Prevention and Protection Programs, which provides services for youth and young adults, including: (1) the Independent Youth Housing Program, which provides rental assistance and case management for eligible youth who have aged out of the state foster care system; (2) Street Youth Services, which fund outreach to street youth to connect them to shelters and services; (3) HOPE Beds, which provide voluntary and temporary residential placements for youths under age 18; and (4) Crisis Residential Centers, which are short-term, semi-secure and secure facilities for runaway youth and adolescents in conflict with their families.

<u>The Homeless Housing and Assistance Surcharge</u>.
Both the state and local homeless housing programs receive funding from the homeless housing and assistance surcharge collected by each county auditor when a document is recorded. The surcharge is $40 per recorded document, but is scheduled to change back to $10 in 2019. The surcharge is applied in addition to any authorized surcharges, as well as any administrative fees collected by the county auditor. An additional homeless housing and assistance surcharge of $8 is also collected by each county auditor.

Both the state and the county receive a percentage of the money collected from each surcharge. For the $40 homeless housing and assistance surcharge, approximately 60 percent is distributed to the county, and approximately 40 percent to the state. The funds collected for the $40 local homeless housing and assistance surcharge are distributed as follows:
- 2 percent to the county for collection of the fee;
- 60 percent of the remainder to the county for its homeless housing program, up to 6 percent of which may be used for administering its homeless housing plan;
- 40 percent of the remainder to be deposited in the Home Security Fund (Fund), up to 12.5 percent of which may be used by the Department for managing the state homeless housing program, including the costs of creating the statewide homeless housing strategic plan, measuring performance, providing technical assistance to local governments, and managing the homeless housing grant program; of the remaining 87.5 percent of the 40 percent, at least 45 percent must be set aside for private rental housing payments; and
- the remainder of all funds go to the Department to be used to provide housing and shelter for homeless people and fund the homeless housing grant program.

"Private rental housing payments" means housing owned by a private landlord and does not include housing owned by a nonprofit housing entity or government entity.

The $40 homeless housing and assistance surcharge applies to most recorded documents. Certain documents are exempt, including documents recording a birth, marriage, divorce, or death, and documents recording a state, county, or city lien. As of October 2017, documents recording water-sewer district liens or satisfaction of liens for delinquent utility payments are also exempt from the $40 surcharge.

<u>Home Security Fund</u>.

The state's share of the $40 homeless housing and assistance surcharge is deposited into the Fund, along with funds from the additional $8 homeless housing and assistance surcharge. This Fund is an appropriated account and may be used only for homeless housing programs. The Office of Financial Management (OFM) oversees certain compliance regulations for the account. The Department uses the funds for multiple homeless housing programs.

Joint Legislative Audit and Review Committee.
The Joint Legislative Audit and Review Committee (JLARC) is comprised of an equal number of House and Senate members, Democrats and Republicans. The nonpartisan staff of the JLARC conduct performance audits, program evaluations, sunset reviews, and other analyses assigned by the Legislature and the Committee itself. In 2017 JLARC was required to complete a review on how homeless housing and assistance surcharges are expended to address homelessness, including a review of related performance measures and targets, by December 1, 2022.

United States Department of Housing and Urban Development Point-In-Time Count.
Every year the United States Department of Housing and Urban Development (HUD) requires communities across the nation to collect data on their homeless populations and to report the data to the HUD. The data collection process is referred to as the Point-In-Time (PIT) Count. The PIT Count is collected as a means to estimate the number of homeless individuals in the United States. Local planning bodies responsible for coordinating homeless efforts in a geographic area administer the PIT Count. The PIT Count results are reported in the HUD Annual Homeless Assessment Report. The most recent PIT Count took place on January 25, 2018.

Summary of Engrossed Second Substitute Bill:

The State and Local Homeless Housing Plans and Reporting Requirements.
The Department must make their subpopulation data collected for the annual homeless census consistent with the HUD's PIT requirements.

The state homeless housing strategic plan is changed from a 10-year strategic plan to a five-year strategic plan. The homeless housing strategic plan must be updated by July 1, 2019, and every five years thereafter. The Department must continue to coordinate with the Interagency Council on Homelessness, the Affordable Housing Advisory Board, and the State Advisory Council on Homelessness for the preparation and publishing of the five-year strategic plan. The Department must coordinate its five-year strategic plan with the Homeless Youth Prevention and Protection Advisory Committee. New criteria are added to what must be included in the five-year strategic plan, including performance measures and goals to reduce homelessness, an analysis of the services and programs being offered at the state and county level, identification of those representing best practices and outcomes, and new or innovative funding, program, or service strategies to pursue.

The local government homeless housing plans are changed from 10-year plans to five-year plans. The Department must create guidelines and provide relevant data to local governments by December 1, 2018, to assist with updating the five-year homeless housing plans that are due by December 1, 2019.

The Department must report biennially to the Legislature and appropriate committees on the state's performance in furthering the goals of the state's five-year, rather than 10-year, homeless housing strategic plan, and the performance of each participating local government in creating and executing a local homeless housing plan.

By December 1 of each year, the Department must provide an update on the state's homeless housing five-year strategic plan and its activities for the prior fiscal year. The report must include: (1) an assessment of the current condition of homelessness; (2) the state's performance in meeting its strategic plan goals; (3) the results of the annual homeless PIT census; (4) a report on the state and local homeless document recording fee expenditure by county; and (5) the amount of federal, state, local, and private funds spent on homelessness assistance, categorized by funding source and major assistance types. The report must be posted on the Department's website.

Additionally, any local government receiving state funds for homeless assistance must provide an annual report on meeting the goals in its homeless housing plan, the current condition of homelessness in its jurisdiction, and any significant changes to the plan. The report must be posted on the local government's website.

The Department must also post to its website the local government's annual reports, along with information on local government's homeless spending from all sources by project during the prior state fiscal year. If a local government fails to report, or provides an inadequate report, the Department must take corrective action, including withholding state funding for homeless assistance until the report is remedied.

Document recording surcharge fund reporting and auditing requirements for local governments and the Department are changed to be reported on a fiscal year basis, instead of an annual year basis.

<u>The Local Homeless Housing and Assistance Surcharge</u>.
The $40 homeless housing and assistance document recording surcharge is made permanent. The definition for "private rental housing payments" is changed. "Private rental housing payments" means housing owned by a private landlord and includes housing owned by a nonprofit housing entity.

The exemption for documents recording a water-sewer district lien or satisfaction of a lien for delinquent utility payments is removed.

A county may charge and retain an additional surcharge of up to $50 to be used for the same purposes as the $40 homeless housing and assistance surcharge. A county must wait 90 days from the effective date of the decision to impose the additional fee before collecting any additional surcharge amount. If a county does not elect to impose an additional surcharge, a city with a population of more than 150,000, located in a county with a population of more than 800,000, but less than 1.5 million may charge an additional surcharge of up to $50 to be used for the same purposes as the $40 homeless housing and assistance surcharge. A city must wait six months from the effective date of the decision to impose the additional fee before collecting any additional surcharge amount. The county auditor may retain 2 percent of the any additional surcharges charged for a county or city for collection of the fees. A county auditor collecting a city's additional surcharge amounts must remit the remainder of the amount collected to the city, unless there is a demonstration of need made to the county by the county auditor to retain additional surcharge amounts for administrative purposes. Any additional amounts retained by a county auditor for administrative purposes, may not cause a reallocation of county surcharge amounts distributed to the city. A city must relinquish its authority to impose an additional surcharge, if the county in which it is located subsequently imposes an additional surcharge. The city must relinquish it authority within ninety days of the county's decision to impose the additional surcharge.

A county may use additional surcharge fees collected to pay off general obligation bonds issued by the county to carry out the same homeless housing and assistance purposes as the $40 homeless housing and assistance surcharge.

Home Security Fund.
Expenditures from the account must be made by the Director of the Department or the Director's designee. The OFM compliance provisions are removed, but the OFM must secure an independent expenditure review of state homeless assistance and housing surcharge funds received and deposited into the Fund on a biennial basis. The purpose of the expenditure review is to assess the consistency in achieving policy priorities within the private market rental housing segment for housing persons experiencing homelessness. The first biennial expenditure review is due February 1, 2020.

EFFECT OF SENATE AMENDMENT(S):

The Senate amendment:
- increases the $40 permanent homeless housing and assistance surcharge to $62;
- requires $10 of the $62 homeless housing and assistance surcharge to be distributed to counties, not subject to the existing distribution requirements, and to be used to implement local homeless housing programs and plans;
- eliminates provisions allowing counties and cities to charge and collect an additional homeless housing and assistance surcharge;
- modifies bonding provisions, allowing counties to use funds from the $62 homeless housing and assistance surcharge, rather than additional surcharges imposed by a county, to pay off general obligation bonds issued by the county for homeless housing and assistance;
- amends additional RCWs to reflect the modification of the state and local homeless housing plans from 10-year to 5-year plans; and
- makes technical changes to clarify that the Home Security Fund remains an appropriated account.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on February 25, 2018.

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 increase in homelessness since 2013 is due to three main drivers: sky-high rents; a severe shortage of affordable housing; and stagnant wage growth for low-income households. The homeless housing and assistance surcharge enacted in 2005 assists 98,000 people experiencing homelessness each year. The surcharge has helped decrease homelessness by almost 18 percent between 2006 and 2016, and makes up over half the available funding for homeless services statewide. These revenues have a huge impact in our communities and provide homelessness and housing services in every county in our state, including permanent supportive housing, domestic violence shelters, street outreach, emergency shelters, rental assistance, youth and young adult services, and more. State and local homelessness programs are delivering high quality, effective services that successfully move people into housing. This bill aims to empower local communities to continue addressing housing challenges. The document recording surcharge funds services that work, but there are simply not enough resources to meet the need. Homelessness is statewide and it is everyone's problem. There is a tremendous amount of work to do. We need all the resources possible and people need to work together for more services on the ground.

Proposed Second Substitute House Bill 1570 aims to do four basic things:

1. The bill eliminates the 2023 sunset on the revenue stream. If that cut goes into effect, it could cause an additional 34,000 people to become homeless in the first two years alone. For context, last year's PIT count identified 21,112 experiencing homelessness on that one night. The sunset on the document recording fee would more than double that count. Bipartisan work last session extended the sunset by a few years, but these funds are used to help formerly homeless people obtain and retain stable housing. The best practice is not to provide short-term interventions like emergency shelters, but to help people stabilize their housing, particularly for the disabled population. Furthermore, eliminating the sunset will help nonprofits count on future revenues.
2. The bill provides a local option for communities if they want to increase local support for housing interventions. As housing costs increase, many communities are crying out for more resources to address the growing problem. County control allows local support of nonprofits already enacting effective housing programs. Granting county councils the option to increase the fee by up to an additional $50 means counties have greater control to charge the amount that feels appropriate to meet the needs of their constituents.
3. The bill changes some reporting requirements so we are collecting better data and are able to analyze what interventions are working best, and re-collaborate interventions based on that analysis.
4. Lastly, the bill works to reconcile bills that passed last year that dealt with performance measures. The intent is to keep improvements from last year, while continuing to make improvements. The bill eliminates a new exception inserted last year for special purpose utility district liens. This exemption makes no sense and creates administrative burdens for local auditors, all while reducing homelessness services by over 1.3 million per biennium.

The 30 rural counties in Washington receive about $25 million per year from the recording fee. This is the main source, if not the only source, of funding for homelessness services. In 2016 according to the HUD's Annual Homeless Assessment Report to Congress, Washington has the fourth largest rural homeless population and chronically homeless rural population. Rural Washington is third in homelessness for both unaccompanied youth and children and veterans populations compared to rural regions of other states. For perspective, King County did not crack the top 5 for youth or veterans homelessness measures in relation to peer urban regions. Okanogan County lost 500 homes to wildfires last year, and is facing a housing crisis like the rest of the state. In 2017 an Okanogan community action council utilized $10,000 in document recording fee surcharges to serve 43 low-income households. Of these 43 households, 23 households, many with kids, were in imminent danger of losing housing; and 18 households were literally homeless, living on the streets or in places not meant for human habitation. Due to intensive case management including goal setting, referrals, and follow-up, of the 43 households, 12 received an increase in income, 10 attended life-skills classes, and 21 remained in stable housing after six months without additional support. With cash strapped communities being asked to create 10-year plans to address homelessness, but under repeated threat of losing 60 percent of their funding to carry out these plans, it's time to increase the availability and predictability of the proven resource the document recording fee provides.

From a real estate perspective, the document recording fee is not a burden to homebuyers. Most people are happy to pay a modest fee knowing they can help with housing needs when they have the means to purchase a home in an expensive state. Lack of affordable housing is an essential driver in homelessness, and the recording fee is one tool we can use to equalize the impact of real estate activity and allow all residents the chance to live in a safe, affordable, and healthy home. In Washington, where the median home price is $309,000, the current $40 recording fee accounts for a little more than 0.5 percent of the estimated fees buyers usually pay at purchase. With a $90 fee, which is the maximum fee allowed under the bill, this would still only be 1 percent of the typical fees paid. Comparing that to common settlement fees for homebuyers, there is a $90 to $105 charge for tax services and flood certification fees; a $75 to $200 fee to be part of a property manager's homeowners association; a $175 fee for a notary; and these are just examples. In the midst of the thousands of dollars people are spending to buy a home, this is really a drop in the bucket.

(Opposed) None.

(Other) This is a workable solution for county auditors. The optional city fee is not possible to implement, which this bill recognizes. County auditors could accommodate the option for an up to $50 surcharge increase, but it would be better to have a flat statewide increase for consistency. An across the board increase would also be easier for submitters to understand.

Persons Testifying: (In support) Representative Macri, prime sponsor; Michele Thomas, Washington Low Income Housing Alliance; Tonya Hennen, Windemere Real Estate; Doug Levy, Cities of Everett, Kent, Renton, Redmond, Puyallup, Issaquah, Lake Stevens and Fife; Jeff DeLuca, Washington State Community Action Partnership; and Phil Owen.

(Other) Jill Munns and Kasey Kaul, Pierce County.

Persons Signed In To Testify But Not Testifying: None.