

# SENATE BILL REPORT

## SB 5252

---

As of February 5, 2017

**Title:** An act relating to measuring the effectiveness of document recording fee surcharge funds that support homeless programs.

**Brief Description:** Addressing the effectiveness of document recording fee surcharge funds that support homeless programs.

**Sponsors:** Senators Angel and Wilson.

**Brief History:**

**Committee Activity:** Human Services, Mental Health & Housing: 2/01/17.

**Brief Summary of Bill**

- Requires that the Department of Commerce (Commerce) develop performance measures regarding the effectiveness of the document recording surcharge funds in supporting homeless programs.
- Requires that Commerce reports its findings and recommendations to the Legislature by December 1, 2017.
- Directs the Joint Legislative and Audit Review Committee to review how surcharge fees are expended and report its findings to the Legislature by December 1, 2022 and update its review every 5 years thereafter.

---

### SENATE COMMITTEE ON HUMAN SERVICES, MENTAL HEALTH & HOUSING

**Staff:** Alison Mendiola (786-7444)

**Background:** Duties and Authority of County Auditors. The county auditor is responsible for the recording of specified documents required by law to be maintained as part of the public record kept by a county. The documents that must be recorded by a county auditor include judgments, liens, deeds, mortgages, and many other categories of documents pertaining to property ownership and real estate transactions. State law specifies requirements that must be met by an auditor when exercising their recording duties, including the collection of specified fees when a document is recorded.

---

*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.*

These fees include the following three document recording surcharges totaling \$58 that are used to fund programs that provide affordable housing for low-income persons and housing assistance for the homeless:

1. an Affordable Housing for All surcharge of \$10 (RCW 36.22.178);
2. a surcharge for local homeless housing and assistance of \$40 (RCW 36.22.179); and
3. an additional surcharge for local homeless housing and assistance of \$8 (RCW 36.22.1791).

Each of the three document recording surcharges include a portion which is provided to counties and a portion which is provided for state administered housing and homeless programs. The state's portion of the first of the surcharges is deposited into the Affordable Housing for All Account. The state's portion of the remaining two surcharges is deposited into the Home Security Fund.

Homeless Housing and Assistant Act and Document Recording Surcharge Fees. In 2005, the Legislature enacted the Homeless Housing and Assistance Act which directs Commerce to develop a statewide homeless housing program. Commerce 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 develop their own 10-year homeless housing plans in coordination with the statewide plan.

Both the state and county homeless housing programs receive funding through a local homeless housing and assistance surcharge collected by each county auditor when a document is recorded. In 2014, the Legislature directed that 45 percent of state portion of surcharge funds authorized under RCW 36.22.179 be used for payment to private landlords for homeless housing.

Surcharge funds retained by local governments may be used for the acquisition, construction, or rehabilitation of housing projects or units; building operation and maintenance costs; rental assistance vouchers; operating costs for emergency shelters; and for other types of activities to directly accomplish the goals of their local homeless housing plan.

Surcharge funds retained by the state may be used to provide housing and shelter for homeless people including, but not limited to: grants to operate, repair, and staff shelters; grants to operate transitional housing; partial payments for rental assistance; consolidated emergency assistance; overnight youth shelters; grants and vouchers designated for victims of human trafficking and their families; emergency shelter assistance; and fund the homeless housing grant program. Commerce established three grant programs to provide surcharge-funded grants to local government agencies including; the Consolidated Homeless Grant; the Office of Homeless Youth; and the Housing Trust Fund Operations and Maintenance Grant program.

Point in Time Count. The Homeless Housing and Assistance Act requires that each county in Washington State conduct an annual point in time (PIT) count of sheltered and unsheltered homeless persons. This census is conducted in accordance with the requirements of the U.S. Department of Housing and Urban Development (HUD). The 2016 PIT count reported 20,844 homeless people in Washington. The 2017 PIT took place on January 26, 2017.

Audit of Surcharge Funds. In 2014, the Legislature required the Office of Financial Management to contract for an independent performance audit of the use of the document recording surcharges provided in RCW 36.22.178, 36.22.179, and 36.22.1791. The performance audit was due December 1, 2016. The audit entitled Washington's Homeless Housing and Assistance Program was conducted by TAP International and released on December 5, 2016. The performance audit was designed to answer the following two questions:

1. Are document recording surcharge fees used effectively by recipients to reduce homelessness?
2. How well is Commerce meeting its statutory requirement under the Homeless Housing and Assistance Act, including reporting on the use of surcharge funding in reducing homelessness?

The audit found that Commerce and local governments will have spent close to \$140 million in surcharge funds from the start of the 2011-2103 biennium to the end of the 2015-2017 biennium to help develop and implement programs, prepare local homelessness plans, and provide housing and other supportive services to those who are homeless or at risk of becoming homeless.

The audit resulted in a number of recommendations, including:

- due to the limitations of the annual point in time count, requiring the state's Interagency Council on Homelessness and the State Advisory Council on Homelessness to work with Commerce and the Affordable Housing Advisory Board to develop and present recommendations to the Legislature to replace the single metric of decreasing the point in time count with at least three metrics designed to measure the success of the state's homeless programs; and
- recommending that Commerce increases the effectiveness of the annual homeless report to the Legislature by developing a process to ensure consistent presentation, analysis and explanation in the report, including year-to-year comparisons, highlights of program successes and challenges and information that builds support with the Legislature and other stakeholders for recommended strategy and operational changes.

**Summary of Bill:** Commerce is to work in consultation with the Interagency Council on Homelessness, the Affordable Housing Advisory Board, and the State Advisory Council on Homelessness to develop performance measures that address the limitations of the annual point-in-time count on measuring the effectiveness of the document recording fee surcharge funds in supporting homeless programs.

Commerce must report its findings and recommendations regarding the new performance measures to the Legislature by December 1, 2017.

Commerce must implement at least three performance metrics, in addition to the point-in-time measurement, that measure the impact of surcharge funding on reducing homelessness by July 1, 2018.

The Joint Legislative and Audit Review Committee (JLARC) must review how the surcharge fees are expended to address homelessness, including a review of the related program

performance measures and targets. JLARC must report its review findings by December 1, 2022, and update the review every five years thereafter.

**Appropriation:** None.

**Fiscal Note:** Available.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony:** PRO: In 2014 legislation passed into law requiring an audit of the surcharge funds. The audit report provides a number of legislative recommendations, which are reflected in this bill. The purpose of these changes is lay out a good process and procedures to understand how these funds are being spent. The Legislature will be considering other bills addressing the surcharge fees so it's important to implement these changes now; there is support for such accountability measures.

OTHER: Commerce supports the findings of the audit and has been working to implement the changes recommended—some of which were already in the pipeline. Benchmarks will be included in upcoming performance contracts. We also need to address the removal of the funding cliff—the Homeless and Housing Act surcharge is currently \$40 and reverts to \$10 per recorded document in 2019.

**Persons Testifying:** PRO: Senator Jan Angel, Prime Sponsor; Carl Schroeder, Association of Washington Cities; Nick Federici, Washington Low Income Housing Alliance.

OTHER: Tedd Kelleher, Dept. of Commerce.

**Persons Signed In To Testify But Not Testifying:** No one.