

SENATE BILL REPORT

E2SSB 5662

As Passed Senate, February 14, 2022

Title: An act relating to intergovernmental coordination to address transitioning persons encamped on state public rights-of-way to permanent housing solutions.

Brief Description: Concerning intergovernmental coordination to address transitioning persons encamped on state public rights-of-way to permanent housing solutions.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Kuderer, Trudeau, Hasegawa, Lovelett, Nguyen, Saldaña, Stanford and Wilson, C.; by request of Office of the Governor).

Brief History:

Committee Activity: Housing & Local Government: 1/13/22, 2/02/22 [DPS-WM, DNP, w/oRec].

Ways & Means: 2/05/22, 2/07/22 [DP2S, w/oRec].

Floor Activity: Passed Senate: 2/14/22, 36-12.

Brief Summary of Engrossed Second Substitute Bill

- Creates the Office of Intergovernmental Coordination on Public Right-of-Way Homeless Encampments (office) within the Department of Social and Health Services, with the goal of reducing the number of encamped persons on certain public rights-of-way through transition to a permanent housing solution.
- Requires the Department of Commerce to collaborate with the office to develop and implement a statewide effort to reduce the number of persons encamped on certain public rights-of-way, and to provide grants to local governments or nonprofit organizations to meet the individual needs of encamped persons and facilitate their transition to permanent housing.

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.

SENATE COMMITTEE ON HOUSING & LOCAL GOVERNMENT

Majority Report: That Substitute Senate Bill No. 5662 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Kuderer, Chair; Das, Vice Chair; Fortunato, Ranking Member; Cleveland, Lovelett, Salomon and Trudeau.

Minority Report: Do not pass.

Signed by Senators Sefzik, Warnick and Wilson, J.

Minority Report: That it be referred without recommendation.

Signed by Senator Gildon, Assistant Ranking Member.

Staff: Brandon Popovac (786-7465)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Second Substitute Senate Bill No. 5662 be substituted therefor, and the second substitute bill do pass.

Signed by Senators Rolfes, Chair; Frockt, Vice Chair, Capital; Schoesler, Assistant Ranking Member, Capital; Billig, Carlyle, Conway, Hasegawa, Hunt, Keiser, Mullet, Pedersen, Rivers, Van De Wege and Wellman.

Minority Report: That it be referred without recommendation.

Signed by Senators Robinson, Vice Chair, Operating & Revenue; Wilson, L., Ranking Member; Brown, Assistant Ranking Member, Operating; Honeyford, Ranking Minority Member, Capital; Braun, Dhingra, Gildon, Muzzall, Wagoner and Warnick.

Staff: Trevor Press (786-7446)

Background: Department of Social and Health Services. The Department of Social and Health Services (DSHS) was established in 1970 and created by merging the former Department of Health, Department of Public Assistance, Department of Institutions, Veterans' Rehabilitation Council, and Division of Vocational Rehabilitation of the Coordinating Council on Occupational Education. DSHS was intended to "integrate and coordinate all those activities involving the provision of care for individuals who, as a result of their economic, social, or health condition, require financial assistance, institutional care, rehabilitation, or other social and health services." DSHS also provides certain services to individuals with a disability, such as employment services, family counseling and support, health services and equipment, legal services, residential services and support, and transportation services. DSHS's Economic Services Administration administers a number of public assistance programs, including housing and essential needs services, medical care, cash grants, and food assistance.

Department of Commerce. The Department of Commerce (Commerce) administers the Housing Assistance Program and the Affordable Housing Program. Both of these programs, commonly referred to as the Housing Trust Fund (HTF), provide loans and grants to eligible organizations to provide housing for low-income and special-needs populations.

Commerce with the support of the Interagency Council on Homelessness, the Affordable Housing Advisory Board, and the State Advisory Council on Homelessness, is responsible for preparing and publishing a five-year homeless housing strategic plan with statewide goals and performance measures, and providing biennial progress reports to the Governor and the Legislature. Local jurisdictions must also have five-year plans substantially consistent with the state plan.

Commerce also manages a range of other homeless assistance, prevention, and housing programs. The Essential Needs and Housing Support Program, for example, provides rent assistance and essential needs to persons with a temporary disability who are homeless or at imminent documented risk of becoming homeless.

Martin v. City of Boise (2018). In 2017, the 9th Circuit Court of Appeals heard arguments regarding a Boise, Idaho ordinance banning people from sleeping outdoors on public property. In 2019, the court held that any ordinance that imposes criminal sanctions against homeless individuals for sleeping outdoors on public property when no alternative shelter is available, and the enforcement of such ordinance, violates the 8th Amendment of the United States Constitution prohibiting cruel and unusual punishment. The ruling applies to nine Western states, including Washington State, and was denied review by the United States Supreme Court in December 2019. Some cities have taken steps in response to the court decision to address sleeping or camping on public property.

Homeless Encampments on Public Rights-of-Way. The 2021 omnibus transportation appropriations act directed the Department of Transportation (DOT) to address the risks to safety and public health associated with homeless encampments on DOT-owned rights-of-way, and to coordinate and work with local government officials and social service organizations that provide services and direct persons to housing alternatives not in the public rights-of-way. DOT was also directed to provide a semiannual report to the Legislature on the status of such efforts beginning October 2021. While the initial report summarizes current collaborative efforts and agreements between DOT and the cities of Vancouver, Wenatchee, Lacey, Olympia, and Spokane, DOT observes it is not equipped to resolve the underlying causes of homelessness, but represents only one leg of the stool of services needed to successfully re-house persons within such homeless encampments. DOT initially recommends that local partners should have funding to help provide access to housing and security, as well as healthcare, substance abuse treatment, and mental health services.

Other 2021 Transportation Appropriations Act provisos directed DOT to implement safety improvements and debris clean up on department-owned rights-of-way within the city of

Seattle at levels above those implemented as of January 1, 2019, and contract out or hire a crew dedicated solely to collecting and disposing of garbage, clearing debris or hazardous material, and implementing safety improvements where hazards exist to the traveling public, department employees, or people encamped upon department-owned rights-of-way. DOT was also directed to establish a partnership program with the city of Tacoma to address the safety and public health problems created by homeless encampments on the department's property along state highways within the city limits.

Summary of Engrossed Second Substitute Bill: The Office of Intergovernmental Coordination on Public Right-of-Way Homeless Encampments (office) is created within DSHS to coordinate across state agencies, through local governments, and with persons in unsanctioned encampments on public rights-of-way under the authority and control of the DOT, with the goal of reducing the number of encamped persons through transition to a permanent housing solution so that the encampment is closed with the site either restored to original conditions or preserved for future use. To reduce the number of persons encamped on DOT-controlled public rights-of-way (encamped persons) and before engaging with such persons, shelter or housing plans should be complete and the office must identify and prioritize resources across all levels of government and within the philanthropic community; a simultaneous approach of both resource identification and engagement is allowed to respond to incidents impacting public health and public and worker safety and access. The office must also establish regional coordination teams, regional outreach teams, and a data analysis team.

The regional coordination teams must, in coordination with and working through DOT regional offices and staff, collaborate with strategic partners to identify and prioritize resources to bring encamped persons into permanent housing, including traditional and non-traditional housing options, and to determine when shelter or housing resources are available and suitable to transition encamped persons. Encampments that present the greatest health and safety risk to encamped persons, the public, and workers on the right-of-way should be prioritized for engagement. Collaboration partners will provide regional knowledge and support to address specific and unique regional needs, and may include DOT, Commerce, the Health Care Authority, the Health Benefit Exchange, the Department of Health, the Department of Ecology, the Department of Veterans' Affairs, tribal authorities, counties and cities, persons with lived experience of homelessness, and private, non-profit agencies.

The regional outreach teams must, through engagement and collaboration with DOT regional offices and staff, support and engage with encamped persons, in a manner which is consistent with local homeless and housing plan efforts that result in transitioning encamped persons to permanent housing solutions. Except for emergencies concerning public health and public and worker safety and access, engagement with encamped persons must be based on the development of an intergovernmental plan for providing shelter or housing, with wraparound services as available to provide the best opportunity to transition encamped persons to permanent housing solutions. Such intergovernmental plans should maintain

cohesion among partners, families, and pets. Each regional outreach team must make every effort to connect encamped persons with health and social services through existing local or regional integrated client systems if available.

The data analysis team must perform the following functions:

- create a performance monitoring infrastructure, establish a baseline, and track outcomes for individuals experiencing homelessness in locales around encampments on DOT-controlled public rights-of-way, in coordination with homeless data systems such as the homeless client management information system;
- create and maintain a report for each encampment engaged that includes, at a minimum, the date, time, location, and summary of the engagement, as well as the number of encamped persons at the location, the number of encamped persons contacted, any services offered to such encamped persons, and any other relevant data, without revealing personally identifiable information of encamped persons;
- estimate the impact on client outcomes and services as well as estimate public program cost savings, where applicable; and
- provide an annual report to the Governor and appropriate legislative committees beginning December 1, 2023.

Commerce must collaborate with the office to develop and implement a statewide effort to reduce the number of encamped persons by transitioning them to permanent housing solutions. Commerce must use any funds appropriated for this purpose to provide grants to local governments or nonprofit organizations to meet the individual needs of encamped persons and facilitate their transition to permanent housing.

The office is subject to review and termination under the Sunset Act, which includes a Joint Legislative Audit and Review Committee (JLARC) program and fiscal review and performance measure requirements, as of July 1, 2027.

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 on Original Bill (Housing & Local Government):

The committee recommended a different version of the bill than what was heard. PRO: The state has a serious homelessness crisis where one person outside is one too many. The state lacks a coordinated response for unsheltered Washingtonians and this bill begins a conversation on building a collaborative approach from all sectors to provide housing stability to those most vulnerable. More than 10,000 experience homelessness due to various causes with many ending up in parks and other rights- of- way. Serious injury or

death can occur on these public rights-of-way. The new response program should complement capital investments in rapid housing acquisition. Fife is in support of an "it takes a village" response strategy as one-fifth of Fife is comprised of public rights-of-way with 500 persons currently camping in such rights-of-way. Olympia has had difficulty in coordinating with state in responding to homelessness on rights-of-way, but has recently entered into an interlocal agreement to address encampments for clean-up purposes. The bill will create the infrastructure desperately needed. Cities desire increased coordination and collaboration with and increased role from the state.

OTHER: The bill needs to focus on and ensure better outcomes, with collaboration efforts ensuring that unsheltered homeless are not moved, especially where there is no risk of harm. It is also important to ensure that DSHS has capacity to coordinate and engage with stakeholders when necessary. Recent reports claim a success rate with the unsheltered population is 20 percent, leaving 80 percent of those likely to remain unsheltered. There are remaining concerns around how regional teams will work on the ground and the need to add persons from the trans community and persons with lived experience to the response teams. Encampment sweeps are not a solution to addressing homelessness as they are traumatic to the impacted homeless community. Pairing of funding with coordination of services and permanent housing solutions is appreciated. Ambiguities in the bill need to be addressed by a separate stakeholder process.

Persons Testifying (Housing & Local Government): PRO: Senator Patty Kuderer, Prime Sponsor; Jim Baumgart, Office of the Governor; Dontae Payne, City of Olympia Councilmember; Carl Schroeder, Association of Washington Cities; Doug Levy, Fife City Councilmember.

OTHER: Sara Robbins, Seattle/King County Coalition on Homelessness; Maureen Howard, Tacoma Pierce County Coalition to End Homelessness; Nick Federici, Washington Low Income Housing Alliance.

Persons Signed In To Testify But Not Testifying (Housing & Local Government): No one.

Staff Summary of Public Testimony on First Substitute (Ways & Means): *The committee recommended a different version of the bill than what was heard.* PRO: Collaboration is critical to address encampments in rights of way. Individuals need more services than small cities can provide. The amendment is to focus this bill to be not about sweeps but instead to focus on permanent supportive housing. The issue of providing permanent supportive housing is not shared equally. Investments in permanent supportive housing help to decrease homelessness.

CON: We are opposed to any legislation that encourages encampment sweeps. Shelter services are limited and deeply limited options. The only thing this bill will do is harm our unhoused neighbors. This bill does not address the complicated implementation challenges.

We do not have the units to help transition the people addressed in this bill to housing. We would like to propose an amendment to focus the bill on individuals living in the most dangerous areas.

OTHER: We need to end homelessness. Affordable housing is the solution when it comes to homelessness. The state has failed to invest in affordable housing at the levels needed. The housing crisis demands urgent action. In practice, the bill could increase use of the correctional system to criminalize being in the right of way without a place to go. We encourage further amendments and conversation on this bill.

Persons Testifying (Ways & Means): PRO: Doug Levy, Outcomes By Levy, LLC - City of Fife; Paula Sardinias, WA Build-Back Black Alliance (WBBA).

CON: Camille Gix, Real Change; Melanie Smith, Seattle/King County Coalition on Homelessness.

OTHER: Michele Thomas, Washington Low Income Housing Alliance; Breanne Schuster, American Civil Liberties Union of Washington.

Persons Signed In To Testify But Not Testifying (Ways & Means): No one.