

HOUSE BILL REPORT

SHB 2841

As Amended by the Senate

Title: An act relating to the state building code council.

Brief Description: Concerning the state building code council.

Sponsors: House Committee on Local Government (originally sponsored by Representatives Senn and Buys).

Brief History:

Committee Activity:

Local Government: 2/2/16, 2/3/16 [DPS];

General Government & Information Technology: 2/5/16 [DPS(LG)].

Floor Activity:

Passed House: 2/16/16, 62-35.

Senate Amended.

Passed Senate: 3/3/16, 44-4.

Brief Summary of Substitute Bill

- Imposes a temporary surcharge, in addition to existing building permit fees of: (1) \$1 on residential building permits; and (2) \$5.50 on nonresidential building permits.
- Modifies requirements for members serving on the State Building Code Council (Council) who represent a specific industry in the private sector.
- Provides that the Council is established in the Department of Enterprise Services.
- Creates a 14-member Legislative Task Force on the Council's Administration and Operations (Task Force) for the purpose of reviewing specified issues, and requires a report to the Legislature of the Task Force's findings and recommendations by October 1, 2017.

HOUSE COMMITTEE ON LOCAL GOVERNMENT

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.

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 7 members: Representatives Appleton, Chair; Gregerson, Vice Chair; Griffey, Assistant Ranking Minority Member; Fitzgibbon, McBride, Peterson and Pike.

Minority Report: Do not pass. Signed by 2 members: Representatives Taylor, Ranking Minority Member; McCaslin.

Staff: Michaela Murdock (786-7289).

HOUSE COMMITTEE ON GENERAL GOVERNMENT & INFORMATION TECHNOLOGY

Majority Report: The substitute bill by Committee on Local Government be substituted therefor and the substitute bill do pass. Signed by 7 members: Representatives Hudgins, Chair; Kuderer, Vice Chair; MacEwen, Ranking Minority Member; Caldier, Assistant Ranking Minority Member; Johnson, Morris and Senn.

Staff: Meghan Morris (786-7119).

Background:

The State Building Code.

The State Building Code (SBC) establishes minimum performance standards and requirements for construction and construction materials in the state, consistent with accepted standards of engineering, fire, and life safety. The SBC comprises a number of model codes and standards, developed and published by international and national organizations, which are adopted by reference in the State Building Code Act (Act). Model codes and standards adopted in the Act include the International Building Code, the International Residential Code and the Uniform Plumbing Code Uniform Plumbing Code Standards.

The State Building Code Council.

The State Building Code Council (Council) is responsible for adopting, amending, and maintaining, as appropriate, the model codes and standards adopted by reference in the Act. Amendments to the model codes and standards adopted by the Council are codified in the Washington Administrative Code. The Council regularly reviews updated editions of each model code and standard every three years. The Council may employ permanent and temporary staff and contract for services.

The Council has 15 members appointed by the Governor who are or represent:

- elected members or executives of county legislative bodies;
- mayors or elected members of city legislative bodies;
- a local government building code enforcement official;
- a local government fire service official;
- general construction, specializing in commercial and industrial building construction;
- general construction, specializing in residential and multifamily building construction;

- the architectural design profession;
- the structural engineering profession;
- the mechanical engineering profession;
- the construction building trades;
- manufacturers, installers, or suppliers of building materials and components;
- a person with a physical disability who represents the disability community; and
- the general public.

At least six of the 15 members must reside in eastern Washington. Additionally, four legislative members (two each appointed by the Senate and the House of Representatives, one from each caucus) and an employee of the electrical division of the Department of Labor and Industries serve as ex officio, nonvoting members on the Council.

Each qualified member serves a three-year term. Members who represent a specific private sector industry must maintain sufficiently similar employment or circumstances throughout the term of office to remain qualified. Retirement or unemployment is not a cause for termination from the Council. If a member enters employment outside of the industry he or she represents, the member must be removed from the Council.

All meetings of the Council must be open to the public in accordance with the Open Public Meetings Act, and all actions of the Council in adopting or amending a code of statewide application must be taken in accordance with the Administrative Procedure Act. Decisions to adopt or amend a code of statewide application may not take effect before the end of the next regular legislative session in the next year.

Building Permit Fee.

The Act imposes a fee of \$4.50 on each building permit issued by a county, city, or town. An additional surcharge of \$2 for each residential unit, not including the first unit, is imposed on each building containing more than one residential unit. Counties, cities, and towns are charged with collecting building permit fees and remitting all moneys collected from the fee to the State Treasurer on a quarterly basis. Remitted funds are deposited into the Building Code Council Account for use by the Council, after appropriation, to perform the purposes of the Council.

The current fee of \$4.50 on each building permit was adopted in 1989 when it was increased from \$1.50 (chapter 256, Laws of 1989, House Bill 1768).

The Department of Enterprise Services.

The Department of Enterprise Services (DES) is an executive branch agency vested with powers and duties set forth in statute and other laws, including the duty to provide products and services to support state agencies. The DES is also specifically required to provide administrative and clerical assistance to the Council.

Summary of Substitute Bill:

Building Permit Fee – Temporary Surcharge.

In addition to current building permit fees provided in statute, a temporary surcharge of: (1) \$1 is imposed on each residential building permit issued by a county, city, or town; and (2) \$5.50 is imposed on each nonresidential building permit issued by a county, city, or town. The temporary surcharge expires July 1, 2018.

Members of the State Building Code Council.

Statute is amended to specify that members of the State Building Code Council (Council) who represent the following industries, are representatives of the private sector:

- general construction, specializing in commercial and industrial building construction;
- general construction, specializing in residential and multifamily building construction;
- the architectural design profession;
- the structural engineering profession;
- the mechanical engineering profession;
- the construction building trades; and
- manufacturers, installers, or suppliers of building materials and components.

After the effective date of the bill, any member who represents a specific private sector industry must maintain sufficiently similar private sector employment or circumstances throughout the term of office to remain qualified. Any member appointed to represent a specific private sector industry who enters into employment outside of the industry or the private sector must be removed from the Council.

Department of Enterprise Services.

Instead of requiring the Department of Enterprise Services (DES) to provide administrative and clerical assistance to the Council, statute now specifies that the Council is established in the DES. Also, the Council may no longer employ its own permanent and temporary staff and contract for services. Instead, DES is authorized to employ permanent and temporary staff and to contract for services for the Council.

The Legislative Task Force on the Council's Administration and Operations.

A 14-member Legislative Task Force on the Council's Administration and Operations (Task Force) is established. Members of the Task Force include:

- four legislative members, two appointed by the President of Senate (President) and two appointed by the Speaker of the House of Representatives (Speaker);
- four current members of the Council (two who represent the private sector, one who represents local government, and one who represents labor interests), appointed by the President and the Speaker;
- four members who regularly work with the Council, one member each representing local government, private sector interests, labor interests, and environmental interests, appointed by the President and the Speaker; and
- one member from the DES and one member from the Department of Commerce energy program, appointed by the Director of the DES.

The Task Force must review and provide recommendations on specified issues, including: the current structure, operation, and resources of the Council; the building code development process and length; total resources necessary for an effective building code development process; public and private construction costs associated with review and adoption of the State Building Code; options for long-term, reliable funding for the Council; the powers, duties, and support services of the DES relevant to the Council; the Council's membership, composition, and size; and the Council's compliance with current statutes and requirements.

The Task Force must report its findings and recommendations to the appropriate committees of the Legislature by October 1, 2017, and the Task Force expires on October 1, 2017.

EFFECT OF SENATE AMENDMENT(S):

The Senate amendment makes numerous changes to the underlying bill. First, the Senate amendment eliminates the temporary surcharge imposed on building permits issued by each county or city proposed in the underlying bill.

Second, current members, in addition to members appointed after the effective date of the bill, are required: (a) to maintain sufficiently similar private sector employment or circumstances throughout the term of office; and (b) to be removed from the State Building Code Council (Council), if they enter into employment outside of the industry or private sector that they were appointed to represent. The underlying bill applied new requirements only to members appointed after the effective date of the bill.

Third, existing statutory authority of the Council to contract for services is retained in the Senate amendment, rather than eliminated as proposed in the underlying bill.

Fourth, the members appointed to the Legislative Task Force on the Council's Operations and Administration (Task Force) are modified:

- The total number of members on the Task Force is increased from 14 to 16 members.
- The President of the Senate and the Speaker of the House of Representatives must appoint four nonlegislative members (four current members of the Council), instead of eight nonlegislative members (four current members of the Council, plus four members who regularly work with the Council).
- The Director of the Department of Enterprise Services must appoint eight nonlegislative members (two state agency members, plus six members who regularly work with the Council), instead of two nonlegislative members (two state agency members).
- The number of Task Force members who regularly work with the Council is increased from four to six members, and two members each must represent local governments, private sector interests, and labor interests. In contrast, the underlying bill required the appointment of four members with one member each representing local government, private sector interests, labor interests, and environmental interests.
- The interests represented by the four members of the Task Force who are also current members of the Council are modified to require that two members represent the private sector and two members represent local government. In contrast, the underlying bill required that: two members represent the private sector; one member represent local government; and one member represent labor interests.

Fifth, the issues that the Task Force must review and provide recommendations on are modified:

- eliminates the following issues for review: the building code length; economic aspects of the building code development process and length, including the public and private construction costs of review and adoption of the State Building Code; size of the Council; and the Council's compliance with current statutes and requirements; and
- adds the following issues for review: economic aspects, including fiscal impact on private and public sector construction; the current code cycle length; and regarding the Council's composition, the interests and industries represented.

Sixth, the Task Force is required to submit its report to the Legislature electronically. Finally, The Senate amendment makes technical changes.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony (Local Government):

(In support) The last year that the building permit fee, which funds the State Building Code Council (Council), was increased was 1989. A lot has changed since then, and it is time to revisit this amount. The Council's budget is approximately \$500,000 per year and the budget is entirely supported by the building permit fee. The Council receives no other support from the government, and actually pays the state, for example, for the use of facilities, rent, and IT services. The current building permit fee is \$4.50, and the increases of \$1 and \$5.50 to the residential and nonresidential permits are minimal. The Legislative Task Force on the Council's Administration and Operations (Task Force) will look at whether additional reforms are necessary, and whether a permanent fee increase is warranted.

Unless this bill passes and the fee increases, the Council is in danger of having to close its doors. The Council is down to three staff and it has been denied an inflationary increase. Industry has many complaints about the Council process; however, the code development process is very complex and resources are needed to effectively manage the process. The agency has been starving for resources. This fee increase will help the Council do its work.

There is broad support for this bill. The Council has been seeking a fee increase for many years, while industry has been seeking reforms for many years. This bill represents a good compromise. Legislators and advocates from a broad range of industries – building, manufacturers, environment, labor, and realtors – have worked together and reached agreement to temporarily raise the fee in order to keep the Council functioning. At the same time, the Task Force will look at the operations of the Council to make sure it is running as smoothly as possible.

Support of the bill is not a criticism of the Council, because the Council is working hard to do the state's business. However, there are many moving parts in the code development and adoption process with multiple meetings and special meetings, different levels of training and participation for volunteers and members, and compliance with various rules – all of which make it an extremely complicated and challenging process for both members of the Council and participants. There needs to be consistency in the process so that participants know what to expect and how to effectively participate.

Since 2009 the Council has had a lot of ups and downs. The Council has made a lot of changes in response to suggestions from the business community, but it has not resolved everything. The code process has a few bumps, and we hope to reach agreement on some issues during the coming year and come back next year with other agreed-upon changes. Establishing the Council in the Department of Enterprise Services is a step in the right direction and will help the process be more consistent and will ensure accountability.

Adopting and maintaining the right kind of codes to keep construction costs reasonable makes economic sense. There is a lot of commercial and residential construction going on in Washington right now. For example, in Seattle there are about 52 cranes, and all of those buildings need a building code. The Council is also responsible for implementing the Americans with Disabilities Act. Additionally, strong codes and standards are the most cost-efficient way to achieve our energy efficiency and carbon reduction goals.

(Opposed) None.

Staff Summary of Public Testimony (General Government & Information Technology):

(In support) House Bill 2841 brings together all stakeholders with bipartisan support. Multiple people signed in to support the bill representing a wide range of industries such as labor, real estate, environment, local government, and the Building Industry Association of Washington. People have really come together on this bill. The State Building Code Council (SBCC) is important and provides health and safety for our built environment.

House Bill 2841 has a temporary fee increase in exchange for a task force to look at the SBCC and how it operates to address some efficiencies.

(Opposed) None.

Persons Testifying (Local Government): Representative Senn, prime sponsor; Mark Gjurasic, Building Owners and Managers Association; David DeWitte, State Building Code Council; Tonia Sorrell-Neal, Masonry Institute of Washington; Mike Ennis, Association of Washington Business; Jeanette McKague, Washington Association of Realtors; Dean Bault, State Building Code Council; JJ McCoy, NW Energy Coalition; and Jan Himebaugh, Building Industry Association of Washington.

Persons Testifying (General Government & Information Technology): JJ McCoy, NW Energy Coalition.

Persons Signed In To Testify But Not Testifying (Local Government): None.

Persons Signed In To Testify But Not Testifying (General Government & Information Technology): None.