

HOUSE BILL REPORT

ESSB 6525

As Reported by House Committee On:
Local Government

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

Brief Description: Concerning the state building code council.

Sponsors: Senate Committee on Government Operations & Security (originally sponsored by Senators Angel, Lias, Rolfes, Dammeier and Schoesler).

Brief History:

Committee Activity:

Local Government: 2/23/16, 2/24/16 [DPA].

**Brief Summary of Engrossed Substitute Bill
(As Amended by Committee)**

- 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

Majority Report: Do pass as amended. Signed by 5 members: Representatives Appleton, Chair; Gregerson, Vice Chair; Fitzgibbon, McBride and Peterson.

Minority Report: Do not pass. Signed by 4 members: Representatives Taylor, Ranking Minority Member; Griffey, Assistant Ranking Minority Member; Barkis and Pike.

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.

Staff: Michaela Murdock (786-7289).

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 (SBCA). Model codes and standards adopted in the SBCA include the International Building Code, the International Residential Code and the Uniform Plumbing Code and 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 SBCA. 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 SBCA 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 Amended 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.

The 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 or contract for services. Instead, the 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, including the policy and procedures, technical, and economic aspects; 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; long-term, reliable funding options; 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.

Amended Bill Compared to Engrossed Substitute Bill:

The bill as amended modifies the underlying bill in several ways. First, a temporary surcharge on building permits issued by each county, city, and town is added. The temporary surcharge is: (a) \$1 on each residential building permit issued by a county, city, or town; and (b) \$5.50 on each nonresidential building permit issued by a county, city, or town. The temporary surcharge expires July 1, 2018.

Next, authority of the State Building Code Council (Council) to contract for services is eliminated. Accordingly, under the bill, only the Department of Enterprise Services (DES) may now contract for services for the Council.

Finally, the Legislative Task Force on the Council's Administration and Operations (Task Force), created in the underlying bill, is modified in the following ways:

- The members of the Task Force are modified.
 1. For the four current members of the Council appointed to the Task Force, the bill as amended requires that one of the appointees represent local government and one represent labor interests, rather than requiring the two appointees to both represent local government.
 2. The number of members appointed to the Task Force who regularly work with the Council is reduced from six to four members and the members must be appointed by the President of the Senate and the Speaker of the House of Representatives, rather than by the Director of the DES as proposed in the underlying bill.
 3. One each of the four members who regularly work with the Council must represent local government, private sector interests, labor interests, and environmental interests.
- The issues that the Task Force must review and provide recommendations on are modified.
 1. The following issues are removed in the bill as amended: economic aspects, including fiscal impact on private and public sector construction; the current code cycle length; and the interests and industries represented on the Council.
 2. The following issues are added in the bill as amended: the building code development process length; economic aspects of the building code development process, including the public and private construction costs of review and adoption of the code; the size of the Council, and the Council's compliance with current statutes and requirements.
- A requirement that the Task Force submit its report to the Legislature electronically is eliminated.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Amended Bill: 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 State Building Code Council (Council) serves a very important purpose and has important duties. It has been frustrating working with the Council and discovering that there is a lack of clarity, accountability, transparency, and trust. The Council has not satisfied numerous responsibilities, including maintaining and providing financial information, minutes, and agendas; complying with the Council's bylaws and state statutes; and working effectively and transparently with the public. The lack of good process and procedures cannot continue, because it is tough to make effective government policy without good policy and procedures.

This bill does three basic, important things: (1) establishes the council in the Department of Enterprise Services (DES); (2) requires members appointed to the Council to represent a particular industry to continue representing that industry; and (3) creates a legislative task force to consider additional reforms. The DES works very well with volunteer services, and establishing the Council in the DES is good. Business leaders have worked with the Council for a number of years trying to fix some issues, but results have inconsistent. A legislative task force is really needed to provide some oversight, to look at the issues, and bring forward recommendations.

Unless someone is a regular participant in the code development process who is familiar with operations of the Council, the deficiencies in the Council's operations and administration hinder stakeholders from effectively advocating for their best interests. This needs to change and the bill is moving things in the right direction.

Now is the time to be reforming the building code development process. There is a lot of construction happening in this state now, particularly in downtown Seattle, adding greatly to the state's economy. In the construction industry, you can negotiate the cost of land and materials, but you cannot negotiate building codes. It is important to know what those costs are upfront. Accordingly, we need to adopt and maintain a building code process that works into the future.

An increase in the fee will not be supported until reforms occur. An increase in the fee is supported, as long as the money is put to good use, is spent on the Council, and ensures that information and technical research is properly distributed. The money will help the Council meet its obligations. An increase in the fees is fine as long as appropriate, needed reforms happen as well.

Both the House of Representatives and Senate versions of the bill are supported by stakeholders.

(Opposed) None.

Persons Testifying: Senator Angel, prime sponsor; Mike Ennis, Association of Washington Business; Jeanette McKague, Washington Association of Realtors; Tonia Sorrell-Neal,

Washington Association of Masonry Contractors/Masonry Institute of Washington; Bill Stauffacher, Building Industry Association of Washington; and Mark Gjurasic, Building Owners and Managers Association of King County.

Persons Signed In To Testify But Not Testifying: None.