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## Local Government Committee

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### HB 1436

**Brief Description:** Concerning the state building code council.

**Sponsors:** Representatives Buys, Blake, Taylor, Springer, Short and Pike.

#### Brief Summary of Bill

- Requires two assessments of aspects of the work of the State Building Code Council (Council), culminating in two reports to the Legislature in 2018.
- Makes certain changes to the administrative processes of the Council, including requiring the Council to adhere to statutory requirements applicable to significant legislative rules.
- Establishes the Council in the Department of Enterprise Services (DES) and requires the DES, instead of the Council, to employ staff and contract for services for the Council, instead of the Council.

**Hearing Date:** 2/7/17

**Staff:** Desiree Omli (786-7383).

#### Background:

##### The State Building Code Council.

The State Building Code Council (Council) is responsible for adopting, maintaining, and amending the State Building Code (Building Code) and establishes statewide minimum performance standards and requirements for construction and construction materials, consistent with accepted standards of engineering, fire, and life safety.

The Council is made up of 15 members appointed by the Governor who represent specified entities as follows:

- two members from the county legislative body or elected executives;
- two members from the city legislative body or mayors;
- one member who is the local government building code enforcement official;

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- one member who is a local government fire service official;
- one member who is a person with a physical disability who must represent the disability community;
- one member from the general public; and
- seven members from various areas of specialty such as general construction, architectural design, structural engineering, mechanical engineering, construction building trades, and manufacturing or supplying of building materials.

A member who is appointed to represent a specific private sector industry must maintain sufficiently similar employment or circumstances throughout their term on the Council. Employment outside of the specific industry is grounds for termination from the Council.

The Council may employ permanent and temporary staff and contract for services. The Department of Enterprise Services (DES) provides administrative and clerical assistance to the Council.

#### The State Building Code.

The Building Code is comprised of model codes published by the International Code Council (ICC), including building, residential, and fire codes, adopted by reference in statute, as well as rules developed and adopted by the Council. The model codes typically set forth the industry standard. The Council also adopted a process for the review of proposed statewide amendments to the model codes and proposed local amendments to the model codes.

#### The State Energy Code.

The Council is required to follow statutory standards to adopt rules known as the State Energy Code (Energy Code), which is part of the Building Code. The Energy Code is designed to construct increasingly energy efficient homes and buildings, require new buildings to meet a certain level of energy efficiency, and allow space heating equipment efficiency to offset or substitute for building envelope thermal performance. The Council must consult with the DES prior to publishing the proposed rules.

#### Significant Legislative Rules.

Certain agencies are required to make specified determinations and perform additional analysis during the rule-making process when adopting any significant legislative rule. A “significant legislative rule” is a rule other than a procedural or interpretive rule that:

- adopts substantive provisions of law pursuant to delegated legislative authority, the violation of which is punishable by penalty or sanction;
- establishes, alters, or revokes any qualification or standard for the issuance, suspension, or revocation of a license or permit; or
- adopts a new, or makes significant amendments to, a policy or regulatory program.

An agency is not required to comply with the process for adopting significant legislative rules if the rule is adopting or incorporating by reference, without material change, federal statutes or regulations, state statutes, rules of other state agencies, Shoreline Master Programs, or national consensus codes that generally establish industry standards.

#### Building Code Permits and Vested Rights.

The vested rights doctrine was developed by courts under common law. An application to use property vests to the laws in effect upon submission of a sufficiently complete application for the requested property use. The Legislature codified the vested rights doctrine as it pertains to land use, property development, and construction permitting. Under the State Building Code Act, a valid and fully complete building permit application for a structure that is permitted under the zoning or other land use control ordinance in effect on the date of the application vests to the building permit ordinance and the zoning or other land use control ordinances in effect on the date of the application.

### **Summary of Bill:**

#### State Building Code Council.

The State Building Code Council (Council) is established in the Department of Enterprise Services (DES). The DES, instead of the Council, must hire permanent and temporary staff and contract for services for the Council. The seven members of the Council representing various specialized fields must be from private sector. Employment outside of the private sector is grounds for termination from the Council.

By July 1, 2018, the Council must adopt a revised process for review of proposed statewide amendments to the model codes and proposed or enacted local amendments to the model codes. In addition, for the Building Code and the Energy Code, the Council must create a procedure for the approval of any material, product, equipment, method of construction, design, or system that has been certified pursuant to the International Organization for Standardization/International Electrotechnical Commission standard number 17065 (IOS/IEC 17065).

#### The State Building Code – Significant Legislative Rules.

The Council is added to the list of agencies required to adhere to additional statutory requirements for significant legislative rules. In addition, a definition is added for “national consensus codes that generally establish industry standards” to include the building code published by the International Code Council (ICC). Therefore, when the Council adopts the codes published by the ICC, it does not need to adhere to statutory requirements for significant legislative rules. However, provisions specify that the Council is only exempt from the requirement to adhere to the significant legislative rule-making process when it does not make any modifications to ICC's published code.

#### Building Permits and Vested Rights.

Architectural and engineering designs in building permit applications vest with the codes and ordinances in effect on the date of the application. This applies through completion of construction.

#### Open Public Access Information Technology - Report.

The Council, in consultation with the Office of the Chief Information Officer, must assess the costs and benefits of the potential acquisition and implementation of open public access information technologies to enhance the Council's code adoption process. The Council must report to the Legislature by November 15, 2018.

#### Task Force.

A task force is established and made up of 12 members as follows:

- one member from each of the two largest caucuses of the Senate, appointed by the President of the Senate;
- one member from each of the two largest caucuses of the House, appointed by the speaker of the House;
- eight members representing various interests, appointed by the speaker of the House and the President of the Senate;
- one member from the DES and one member from the Department of Commerce Energy program, appointed by the Director of the DES.

The Office of Program Research and Senate Committee Services must provide staff support. By October 1, 2018, the taskforce must report and provide recommendations on:

- the current structure, operations, and resources of the Council;
- the building code development process;
- total resources necessary for an effective State Building Code development process;
- operations for long-term, reliable funding of the Council;
- the powers, duties, and support services of the DES;
- Council membership, composition, and size; and
- the Council's compliance with current statutes and requirements.

**Appropriation:** None.

**Fiscal Note:** Requested on February 2, 2017.

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