

HOUSE BILL REPORT

SB 5120

As Reported by House Committee On:
Local Government & Housing
General Government Appropriations

Title: An act relating to agricultural structures.

Brief Description: Regarding agricultural structures.

Sponsors: Senators Fairley, McDermott and Holmquist.

Brief History:

Committee Activity:

Local Government & Housing: 3/23/09, 3/26/09 [DPA];

General Government Appropriations: 4/3/09 [DPA(APPG w/o LGH)].

**Brief Summary of Bill
(As Amended by House)**

- Amends the state building code (SBC) to specify that permitting and plan review fees for agricultural structures may only cover the costs of processing applications, inspecting and reviewing plans, preparing certain detailed environmental statements, and performing inspections necessary under the SBC.
- Requires the State Auditor to conduct a performance audit of the reasonableness of building and inspection fees imposed under the SBC.

HOUSE COMMITTEE ON LOCAL GOVERNMENT & HOUSING

Majority Report: Do pass as amended. Signed by 11 members: Representatives Simpson, Chair; Nelson, Vice Chair; Angel, Ranking Minority Member; Cox, Assistant Ranking Minority Member; Hinkle, Miloscia, Short, Springer, Upthegrove, White and Williams.

Staff: Ethan Moreno (786-7386)

Background:

State Building Code.

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.

The State Building Code Council is responsible for the adoption and maintenance of the various building, residential, fire, and other model codes that comprise the state building code (SBC). The SBC describes the powers and duties of fire code officials and building officials, and must be enforced by counties and cities. Subject to statutory limitations, counties and cities may amend the SBC as it applies within their jurisdiction.

Initiative 900.

As directed by Initiative 900 (I-900), a ballot measure adopted by voters in 2005, the State Auditor (Auditor) conducts independent, comprehensive performance audits of state and local government. I-900 also established an account that receives dedicated funding from portions of the state sales and use taxes. Moneys from this account are used to pay for the Auditor's costs of conducting the performance audits.

Development Fees - Limits and Authority.

With some exemptions, counties, cities, towns, and other municipal corporations are prohibited from imposing any tax, fee, or charge, either direct or indirect, on the development, subdivision, classification, or reclassification of land. This prohibition, however, does not disallow counties, cities, towns, or other municipal corporations from collecting reasonable fees for a permit or other governmental approval to cover the costs of processing applications, inspecting and reviewing plans, or preparing specific environmental review statements.

Summary of Amended Bill:

Permitting and plan review fees imposed under the SBC for agricultural structures may only cover the costs to counties, cities, towns, and other municipal corporations of processing applications, inspecting and reviewing plans, preparing certain detailed environmental statements, and performing inspections necessary under the SBC. "Agricultural structures" means structures that are designed and constructed to house farm implements, hay, grain, poultry, livestock, or other horticultural products. These structures may not be used for human habitation, or as a place of employment where agricultural products are processed, treated, or packaged, nor may they be places used by the public.

The Auditor, in accordance with provisions of I-900, must conduct a performance audit of the reasonableness of permitted building and inspection fees that are imposed by counties, cities, towns, and other municipal corporations under the SBC. In completing the audit, the Auditor must include guidance on determining allowable costs, and methodologies for allocating costs to specific projects. The Auditor, when developing written cost allocation guidance, must consider variances in the sizes of local government entities.

The Auditor, in completing the audit report, must establish and consult with a local government advisory committee that consists of members from county and city governments and other interested parties, as determined by the Auditor. A final audit report must be

provided by the Auditor to the appropriate committees of the House of Representatives and the Senate by December 1, 2009. Revenues from the performance audits account created by I-900 must be used to pay for the Auditor's costs of the audit.

Amended Bill Compared to Original Bill:

The amended bill makes the following changes to the original bill:

- removes amendatory provisions that limit permit fees on agricultural structures to the lower of the actual cost of administration or \$75;
- specifies that permitting and plan review fees under the SBC for agricultural structures may only cover the costs to counties, cities, towns, and other municipal corporations of processing applications, inspecting and reviewing plans, preparing specific environmental documents, and performing necessary inspections for building code provisions;
- requires the Auditor to conduct a performance audit on the reasonableness of permitted building and inspection fees that are imposed by counties, cities, towns, and other municipal corporations under the SBC;
- establishes a July 1, 2011, expiration date for the performance audit provisions; and
- adds intent language.

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 issues addressed in the bill have previously been before the committee. Permitting fees vary from county to county. Amendatory language that restates existing law and indicates that counties may only charge for direct permitting costs may not be helpful. Proponents of the bill are continuing to work on amendatory language proposals.

(Opposed) Counties have been working with legislators to find a solution to the permit fee issues raised in the bill. Some stakeholders allege that counties are charging permitting and inspection fees in excess of what is allowed. This allegation needs to be examined to determine whether it is accurate. Counties are working with proponents of the bill to develop amendatory language proposals.

Persons Testifying: (In support) Chris Cheney, Washington Dairy Federation and Washington Fryer Commission; and Jack Field, Washington Cattleman's Association.

(Opposed) Eric Johnson, Washington State Association of Counties.

Persons Signed In To Testify But Not Testifying: None.

HOUSE COMMITTEE ON GENERAL GOVERNMENT APPROPRIATIONS

Majority Report: Do pass as amended by Committee on General Government Appropriations and without amendment by Committee on Local Government & Housing. Signed by 14 members: Representatives Darneille, Chair; Takko, Vice Chair; McCune, Ranking Minority Member; Hinkle, Assistant Ranking Minority Member; Armstrong, Blake, Crouse, Dunshee, Hudgins, Kenney, Pedersen, Sells, Short and Williams.

Staff: Steve Smith (786-7178)

Summary of Recommendation of Committee On General Government Appropriations Compared to Recommendation of Committee On Local Government & Housing:

The General Government Appropriations Committee requires the State Auditor to conduct a performance audit on the reasonableness of permitted building and inspection fees that are imposed under the SBC by counties, rather than counties, cities, towns, and other municipal corporations; and in completing an audit report, to establish and consult with a county government advisory committee, rather than a local government advisory committee.

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 parties have reached agreement on this bill after two years of effort. The initial goal of the Senate sponsor was to promote exemption provisions for agricultural structures in Washington's building code. These exemptions are allowed under the international building code, and have been adopted in neighboring states, Canadian provinces, and some Washington counties. High permit fees have caused some agricultural production activities to move from Washington to Oregon. This bill will encourage jurisdictions to examine their local permit fees. Cities and agricultural stakeholders support an amendment to remove references to "cities" in the audit provisions of the bill. Our concerns about the original language of the bill have been resolved. The bill clarifies current law and creates a mechanism to address fees charged by jurisdictions.

(Opposed) None.

Persons Testifying: Josh Weiss, Washington State Association of Counties; and Chris Cheney, Washington Dairy Federation & Washington Fryer Commission.

Persons Signed In To Testify But Not Testifying: None.