

SENATE BILL REPORT

E2SHB 1622

As Passed Senate, February 28, 2018

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

Brief Description: Concerning the state building code council.

Sponsors: House Committee on Appropriations (originally sponsored by Representatives Senn, Springer, Tharinger, Ormsby and Fey).

Brief History: Passed House: 2/08/18, 73-24.

Committee Activity: State Government, Tribal Relations & Elections: 2/16/18 [Insf. Sigs.-LGOV]; 2/21/18, 2/23/18 [DP-WM, w/oRec].

Ways & Means: 2/26/18 [DP, DNP, w/oRec].

Floor Activity:

Passed Senate: 2/28/18, 30-19.

Brief Summary of Bill

- Modifies the administrative processes of the State Building Code Council (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 specifies that the DES provides administrative support and the Council has rulemaking authority.
- Creates separate building permit fees for commercial building permits and residential building permits.
- Creates a new fee for licensing of registered architects and entities engaged in the practice of architecture.

SENATE COMMITTEE ON STATE GOVERNMENT, TRIBAL RELATIONS & ELECTIONS

Majority Report: Do pass and be referred to Committee on Ways & Means.
Signed by Senators Hunt, Chair; Kuderer, Vice Chair; Saldaña and Zeiger.

Minority Report: That it be referred without recommendation.

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.

Signed by Senator Miloscia, Ranking Member.

Staff: Alex Fairfortune (786-7416)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: Do pass.

Signed by Senators Rolfes, Chair; Frockt, Vice Chair; Billig, Carlyle, Conway, Darneille, Hasegawa, Hunt, Keiser, Mullet, Palumbo, Pedersen, Ranker and Van De Wege.

Minority Report: Do not pass.

Signed by Senator Honeyford, Assistant Ranking Member.

Minority Report: That it be referred without recommendation.

Signed by Senators Braun, Ranking Member; Bailey, Becker, Brown, Schoesler, Wagoner and Warnick.

Staff: Clint McCarthy (786-7319)

Background: The State Building Code Council. The 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;
- 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. 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, 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 adopted a process for the review of

proposed statewide amendments to the model codes and proposed local amendments to the model codes.

Building Permits. A fee of \$4.50 must be paid for each building permit issued by the county or city, plus an additional \$2 surcharge for each residential unit, except the first unit, in a building with more than one unit. All monies collected must be deposited into the State Building Code Council Account.

Significant Legislative Rules. An agency is required to make specified determinations and perform additional analysis during the rulemaking 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 the 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.

Licensing of Architects. Individuals engaged in the practice of architecture must register with the Director of the Department of Licensing (Director). The Director must grant a certificate of registration to all qualified applicants and may require payment of fees for issuance and renewal of a certificate of registration. Business entities engaged in the practice of architecture must register with the State Board of Architects (Board). The Director, with authorization from the Board, issues certificates of authorization to practice architecture to qualified business entities. The Director may require payment of fees for issuance and renewal of the certificates of authorization. All fees collected must be deposited into the Architects' License Account.

Summary of Bill: State Building Code Council. The Council is established in DES. Rulemaking authority is housed within the Council. DES, with advice and input from the Council, must hire staff, contract for services for the Council, and provide all administrative and information technology services required for the Council. DES must contract with an independent, third-party entity to perform economic analysis of code proposals. In addition, the Council must approve the proposed budget submitted by DES, and may approve contracts for services entered into by DES.

The member of the Council representing the general public must not be eligible for membership on the Council in any other capacity and may not have previously been nominated or appointed to the Council to represent any other group.

The seven members of the Council representing various areas of specialized fields must represent the private sector or professional organizations. Professional organizations is defined as an entity whose members are engaged in a particular lawful vocation, occupation,

or field of activity of a specialized nature, including associations, boards, educational institutions, and nonprofit organizations. Employment outside of the private sector is grounds for termination from the Council. The Governor is required to select appointees to represent private sector industries from a list of three nominations provided by trade associations representing the industry.

The Council must adopt a revised process for review of proposed statewide amendments to the Building Codes as enumerated in statute and proposed or enacted local amendments to those codes, by July 1, 2019.

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.

Building Permits. An applicant for a building permit must pay a \$6.50 fee for each residential building permit, and \$25 for each commercial building permit. A residential building permit is a building permit issued by a city or a county to construct, enlarge, alter, repair, move, demolish, or change the occupancy of any building containing only dwelling units used for independent living of one or more persons including permanent provisions for living, sleeping, eating, cooking, and sanitation, and structures accessory to dwelling units such as detached garages and storage buildings. A commercial building permit is a building permit issued by a city or a county to construct, enlarge, alter, repair, move, demolish, or change the occupancy of any building not covered by a residential building permit.

Significant Legislative Rules. The Council is added to the list of agencies required to adhere to additional statutory requirements for significant legislative rules.

Licensing of Architects. The Director must collect a new \$6.50 fee for each issuance and renewal of a certificate of registration for a registered architect and each issuance and renewal of a certificate of authorization for an entity engaged in the practice of architecture. This fee is in addition to other fees that may be collected by the Director. All monies collected from the new fee must be deposited into the Building Code Council Account.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: The bill contains several effective dates. Please refer to the bill.

Staff Summary of Public Testimony (State Government, Tribal Relations & Elections):
PRO: The State Building Code Council once had eight staff members, but due to inflation and other expenses the staff number decreased to four and then two. There has not been a fee increase since 1989, and the large majority of work is done by volunteers. We need a functioning building code council that provides unified codes at the state level through a robust process. The increase in fees will make sure that the Council can continue to work

robustly, and will support an independent economic analysis along with increased efforts to inform the public. An extensive stakeholder process over the last three years has brought everyone together, and everyone supports the fee increase.

Persons Testifying (State Government, Tribal Relations & Elections): PRO: Representative Tana Senn, Prime Sponsor; Kirsten Smith, American Association of Architects Washington Council; Doug Orth, Chairman, State Building Code Council; Jerry VanderWood, Associated General Contractors of Washington; Richard Brown, State Building Code; Amy Brackenbury, Washington Association of Building Officials; Mike Ennis, Association of Washington Business; Bill Stauffacher, Building Industry Association of Washington.

Persons Signed In To Testify But Not Testifying (State Government, Tribal Relations & Elections): No one.

Staff Summary of Public Testimony (Ways & Means): PRO: This bill makes the reforms we want at the price we want. The coding on the architecture licenses will take some time to change, which is why the fees begin October 2018. As part of a group of stakeholders, we urge the bill moving forward. We have spent over six years to make proper reforms to the building code council and there has always been an issue of funding.

Persons Testifying (Ways & Means): PRO: Bill Stauffacher, Building Industries Association of Washington; Mike Ennis, Association of Washington Business; Richard Brown, State Building Code Council Managing Director; Jeanette McKague, Washington Realtors.

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