
MEMORANDUM

Legislative Fiscal Office
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To: *Transportation and Economic Development Subcommittee*

From: *Susie Jordan, Legislative Fiscal Office*
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Date: April 19, 2013

Subject: *SB 582 relating to State Building Code*

SB 582 allows the Department of Consumer and Business Services (DCBS) to establish agreements for the provisions of administration and enforcement of state building codes in geographical regions of the state and allows adoption of the municipal fee schedules under those agreements without regard to existing fee schedules. The measure sets aside a wide number of procedural and financial administration statutes allowing the director of DCBS to make changes to the amount, collection and disbursement of fees and funds using these resources to provide for an undefined number of staff and supporting administrative infrastructure. The measure has an emergency clause and is effective on passage.

The measure, the original staff measure summary, preliminary Joint Committee on Ways and Means staff measure summary, revenue impact statement, and fiscal impact statement are available on the Oregon Legislative Information System (OLIS).

The measure previously had a work session in the Senate Rural Communities and Economic Development Committee On April 18. The Committee recommended the measure be approved.

Because the measure sets aside a number of statutes related to financial administration of funds, it appears to allow for the expenditure of funding in an extra-budgetary manner. The number and scope of agreements that might be made is unknown, the possible revenue and costs due to the agreements are unknown, and the changes and additions to fees allowed by the bill are unknown. The Fiscal Impact is indeterminate.

FISCAL IMPACT OF PROPOSED LEGISLATION

Measure: SB 582 - A

Seventy-Seventh Oregon Legislative Assembly – 2013 Regular Session
Legislative Fiscal Office

*Only Impacts on Original or Engrossed
Versions are Considered Official*

Prepared by: Matt Stayner
Reviewed by: Susie Jordan
Date: 4/19/13

Measure Description:

Adds to and modifies provisions of statutes related to the administration and enforcement of the state building code; allows for director of DCBS to establish agreements for provision of administration and enforcement of state building code in geographical regions; allows DCBS to adopt the municipal fee schedules under those agreements without regard to existing fee schedules; makes fees charged not subject to approval by the Department of Administrative Services; allows, with certain limitations, the establishment of staff and use of available resources deemed necessary for the fulfillment of obligations of agreements established under the provisions of the bill; allows for the establishment of rules and policies to support provisions of the measure; allows for appeal of a building official decision made on any matter under ORS chapter 455 and makes the decision of the appeal subject to judicial review.

Government Unit(s) Affected:

Department of Consumer and Business Services (DCBS)

Summary of Expenditure Impact:

Please see analysis

Local Government Mandate:

This bill does not affect local governments' service levels or shared revenues sufficient to trigger Section 15, Article XI of the Oregon Constitution.

Analysis:

The fiscal impact of the measure is indeterminate. The bill allows for a number of significant changes to the current operations of the Building Codes Division (BCD) of the Department of Consumer and Business Services (DCBS). Included in these changes is the ability to enter into agreements with municipalities for the administration and enforcement of state building codes. For the purpose of carrying out these agreements the measure sets aside a wide number of procedural and financial administration statutes allowing the director of DCBS to make changes to the amount, collection and disbursement of fees and funds, using these resources to provide for an undefined number of staff and supporting administrative infrastructure.

Although the measure appears to limit the use of resources to the legislatively approved limitations on expenditures and personnel, the setting aside of the statutes related to financial administration of funds may be construed to allow for the expenditure of funding in an extra-budgetary manner. The number and scope of these agreements is unknown, the possible revenue and costs due to the agreements are unknown, and the changes and additions to fees allowed by the bill are unknown. Therefore the fiscal impact is indeterminate.

Since the measure allows for significant changes to the establishment, collection, and use of fees as well as the use of resources for additional staffing, it is recommended that the measure be referred to the Joint Committee on Ways and Means.

PRELIMINARY STAFF MEASURE SUMMARY**CARRIER:**

Senate Committee on Rural Communities & Economic Development

REVENUE: No revenue impact (Proposed -3 amendment)**FISCAL: Fiscal statement issued (Proposed -3 amendment)****SUBSEQUENT REFERRAL TO: None (Request sub-referral to JWM)****Action:****Vote:****Yeas:****Nays:****Exc.:****Prepared By:** Racquel Rancier, Administrator**Meeting Dates:** 3/21, 4/4

WHAT THE MEASURE DOES: Directs Department of Consumer and Business Services (Department) to adopt rule that Department will charge same fees and hourly rate for services that were charged by county before assumption of services by Department if Department assumes administration and enforcement of county manufactured dwelling services, building inspection program or part of building inspection program when county abandons or is unable to administer programs due to budget constraints resulting from reduced or eliminated federal timber payments. Excludes fees from Department of Administrative Services approval. Subjects hourly or permit fees to surcharges at percentage rates authorized under ORS 455.120 and 455.220. Authorizes Department Director to use departmental employees to administer and enforce building program or, subject to certain requirements, hire building inspectors terminated by county.

ISSUES DISCUSSED:

- Application of urban building codes in rural areas and need for different codes
- Decision-making regarding conditions necessary for firefighters to access property and water supply
- Challenges to provide services in rural and remote parts of the state
- Partnership agreements as a means to combine and leverage resources
- Requirements for professional engineers to stamp and sign documents to help protect public safety
- Role of state and local building code programs

EFFECT OF COMMITTEE AMENDMENT: (Proposed -3 amendment) Replaces measure. Requires Director of Department of Consumer Business Services to give special consideration to needs of rural and remote regions when adopting state building code. Clarifies that building official to determine if structure meets building code standards, regarding fire and life safety with consideration for advice provided by State Fire Marshall or fire official. Authorizes DCBS employee to provide plans and specifications for structures exempt from engineering and architect statutes and metal or wood frame Use and Occupancy Classification Group U structures. Authorizes building official or inspector to provide plans and specifications for exempt structures. Allows DCBS, at request of affected municipalities, to enter into agreement, combine resources, and share fee revenue with local government for DCBS to assist local government to administer and enforce all or part of building inspection program for specified period or project. Authorizes Director to take action necessary to ensure efficient and responsive state building code system, including utilizing and hiring municipal or Department personnel and expending resources for purposes of carrying out administrative and enforcement duties according to agreement. Provides for use of moneys from surcharges to pay costs of administration or enforcement as provided by agreement. Allows Department to charge fee adopted by municipality when Department assumes administration and enforcement of a building inspection program surrendered or abandoned by municipality. Requires Department to consult with advisory boards at least annually and report annually to Legislative Assembly regarding Department activities and any projected need for increased resources. Allows applicant to appeal in writing to DCBS and then to appeal for judicial review, matters regarding administration and enforcement of ORS Chapter 455. Declares emergency, effective upon passage.

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This summary has not been adopted or officially endorsed by action of the committee.

Changes made from prior -1 amendment:

- Removes provisions allowing Director of DCBS to use discretion to establish, terminate, change, or limit specialty code application where provision is unclear, duplicative, inadequate, or unsuitable for type or location of structure. Removes provision to allow department to adopt alternative requirements such as approach and water supply adequacy.
- Replaces option for person to choose whether to go to state or local building services with ability for person to use appeals process through DCBS for alternative methods.
- Clarifies consent to enter into partnership agreements
- Removes provision allowing DCBS to advise on plan and alternative possibilities for plan to meet building codes and plan approval. Removes provision allowing DCBS consultation and advice on calculations, sizing, building plan or electronic requirements.

BACKGROUND: The Building Codes Division (BCD) of the Department of Consumer and Business Services provides code development, administration, inspection, plan review, licensing, and permit services to the construction industry. Staff located in five regions around the state partner with other state and local government entities to help facilitate local construction projects, and assist local governments with other services such as e-permitting, best practices, and dispute resolution. Local programs are required to submit a report every four years and apply for renewal every four years. When a local provider chooses or is unable to execute plan review or permit services, the BCD provides these services.

A Group U building includes agricultural buildings, aircraft hangars, barns, carports, fences more than 6 feet high, grain silos, greenhouses, livestock shelters, private garages, retaining walls, sheds, stables, tanks, and towers.