

07 - 0215

Department of Labor and Industry

Construction Codes and Licensing Division

Building Permit Surcharge



Legislative Report

Nov. 30, 2006

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Building permit surcharge.

The building permit surcharge was established in 1971 by Minnesota Statutes §16B.70, Subd. 1, which states:

Subd. 1. **Computation.** To defray the costs of administering sections 16B.59 to 16B.76, a surcharge is imposed on all permits issued by municipalities in connection with the construction of or addition or alteration to buildings and equipment or appurtenances after June 30, 1971. The commissioner may use any surplus in surcharge receipts to award grants for code research and development and education.

Report requirement

This report is submitted pursuant to Minnesota Statutes §16B.70, Subd. 3, which states:

Subd. 3. [REVENUE TO EQUAL COSTS.] Revenue received from the surcharge imposed in subdivision 1 should approximately equal the cost, including the overhead cost, of administering sections 16B.59 to 16B.75. By November 30 each year, the commissioner must report to the commissioner of finance and to the legislature on changes in the surcharge imposed in subdivision 1 needed to comply with this policy. In making this report, the commissioner must assume that the services associated with administering sections 16B.59 to 16B.75 will continue to be provided at the same level provided during the fiscal year in which the report is made.

Construction Codes and Licensing Division

On May 16, 2005, Governor Pawlenty's Reorganization Order No. 193 consolidated code regulation entities of five agencies into the Department of Labor and Industry (DLI). These five entities include the Board of Electricity, Building Codes and Standards Division from the Department of Administration, Plumbing and Engineering from the Department of Health, Code Administration and Inspection Services from the Department of Labor and Industry, and Residential Contractor and Remodelers from the Department of Commerce. These activities were all consolidated into a new Construction Codes and Licensing Division (CCLD) within DLI. The functions in DLI that are funded by the surcharge have not changed and are:

- to develop and maintain state building code, which includes building, mechanical, accessibility, energy, elevator and manufactured-housing codes;
- to provide building official certification and recertification;
- to provide education and training programs for building officials, design professionals and contractors to maintain consistency and uniformity of code administration;
- to conduct investigations of improper, inconsistent code administration and consumer complaints;

- to adopt rules to update state building code to the most recent national model standards and construction technology;
- to issue grants for code development, research and education;
- to review plans and conduct inspections of public buildings (state-owned and school district buildings) and state-licensed facilities (hospitals, nursing homes and correctional facilities);
- to conduct elevator, escalator and wheelchair lift inspections; and
- to conduct manufactured- and modular-housing inspections and audits of plants and dealer lots.

Financial information

The Building Code Special Revenue fund is financed primarily by a surcharge (M.S. §16B.70) that is collected on permits issued by jurisdictions administering the state building code. Other revenues collected include permit, plan review and inspection fees, license and bond filing fees, and seminar registrations.

The surcharge fee schedule was originally established in 1971; it was adjusted in 1983 when surcharge fees for higher valuation buildings were lowered. Plan review and inspection fees for public buildings and state-licensed facilities have not increased since 1990, and are lower than the fee schedules of most local jurisdictions.

The following table summarizes the historical fiscal-year 2003 through 2006 and estimated fiscal-year 2007 through 2009 activity of the fund.

Building Code Special Revenue (in thousands)

Fiscal year	Surcharge revenue	Other revenue	Total revenue	Operating expenses	Grants	Ending balance
2003	\$4,881	\$1,590	\$6,471	\$5,518	\$113	\$4,005
2004	\$5,266	\$1,581	\$6,847	\$5,685	\$267	\$4,900
2005	\$5,018	\$1,619	\$6,637	\$5,607	\$130	\$5,800 ¹
2006	\$5,184	\$2,115	\$7,299	\$6,608	\$149	\$4,342
2007	\$5,184	\$2,039	\$7,223	\$7,878	\$248	\$3,439
2008	\$5,184	\$2,039	\$7,223	\$7,859	\$248	\$2,555
2009	\$5,184	\$2,039	\$7,223	\$7,725	\$248	\$1,805

¹\$2 million of fiscal-year 2005 ending balance transferred to the General fund in fiscal-year 2006.

Assumptions

- Recent quarters have shown a slowing in construction activity; however, the overall economy relating to construction activity is projected to level off. There are indications the overall housing market has cooled off. New housing starts are projected by the National Association of Home Builders October 2006 report to drop

approximately 20 percent in the last quarter of 2006, with declines of 5.9 and 3.7 in the first quarters of 2007. Growth is projected for the last half of 2007 through 2008. DLI believes this reduction in residential activity will be offset by the increases in the valuation of projects, thus, a slight decrease in activity is not expected to reduce surcharge revenue substantially.

- A reduction in construction activity does not necessarily reflect a reduction in service demands or statutory service requirements. Many activities of the division, such as maintaining up-to-date code standards for the construction industry, investigation of improper administration of the code, training and education about the codes, certification and recertification of code officials and code research, are not affected by minor fluctuations in construction.
- With the passage of the state bonding bills in the 2005 and 2006 Legislative sessions, plan review activity of state-owned facilities is expected to increase other revenue.
- An appropriate level of carryover dollars, equal to three months of operating expense, is required to balance minor fluctuations in the construction economy and meet cash-flow needs.

Recommendation

DLI does not recommend any change to the surcharge fee at this time. DLI is proposing the creation of a new Construction Code fund to encompass all activities of CCLD. Once adopted, this will provide the financial framework to better support the consolidated business functions. Experience operating under this new framework will provide DLI with information needed to provide recommendations about fee adjustments to the Legislature as part of DLI's budget for the 2010 through 2011 biennium.