

03 - 0463

**DEPARTMENT OF ADMINISTRATION**

**BUILDING CODES AND**

**STANDARDS DIVISION**



**LEGISLATIVE REPORT**

**NOVEMBER 30, 2003**

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# Executive Summary

## HISTORY

The Building Codes and Standards Division (BCSD) was first established by the state legislature (M.S. 16B.59-.76) July 1, 1972, with support of the construction industry, to:

1. Develop and adopt a minimum set of construction standards known as the state building code (SBC), which superceded the 200+ municipal codes in effect at that time. These standards include:
  - Rules developed through the APA process.
  - Administrative services assistance to municipalities.
  - Educational programs to code officials, design professionals, and contractors.
  - Consumer complaint handling.
2. Be responsible for plan review and inspections of state owned buildings, schools, hospitals, nursing homes, correctional facilities, elevators, and manufactured structures.

## FUNDING

The BCSD is funded by two means of user fees:

1. A **surcharge fee** (16B.70) that is charged on every permit issued by jurisdictions administering the state building code. These fees have not been raised since inception in 1971 and were actually lowered in 1983.
2. Specific **permit and inspection fees** (16B.61) (16B.748) for state owned buildings, schools, hospitals, nursing homes, correctional facilities, elevators, and manufactured structures. These fees have not been raised since 1990.

**Through the fees noted above, the building code special revenue account is funded by building owners and the construction industry for services provided.** The account is used to fund administrative and field services. Administrative services include training programs for the construction industry and code officials, builders, design professionals, and grants for code development, research and education. Field services include plan reviews and inspections.

The construction industry experienced a major upswing during the past five years, and revenue exceeded expenses, resulting in money being carried forward each year. In FY 2001 and FY 2002 the legislature transferred \$2 million in each year to the general fund from the building code special revenue account.

Currently, however, a leveling off of the economy and construction revenue projections has resulted in a shortfall between projected revenues and expected expenditures. The remaining carry forward dollars in the building codes special revenue account will be needed to supplement this shortfall and for the BCSD to sustain the statutory established services to the payers of these user fees.

**RECOMMENDATION**

The Department of Administration recommends that the surcharge paid by the construction industry be maintained at its current level (M.S. 16B.70), and that carry forward dollars in the account be used to supplement any shortfalls in funding for the BCSD activities required by the state legislature and supported by the industry. Maintaining the current fee levels, in conjunction with the use of remaining carry forward dollars, should allow for the expenditure of limited funds for research needed to update the state's current energy code, and protect against possible fee increases until FY06.

## 1. Report Requirement

This report is submitted pursuant to M.S. 16B.70, Subd 3.

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.

## 2. History of Building Codes & Standards Division (BCSD) and State Building Code (SBC)

- Builders, contractors, design professionals and building officials worked with the legislature to establish the state building code in the 1971 legislature to:
  - Streamline construction regulation in the state by reducing 200+ municipal codes to one state code.
  - Obtain uniformity and consistency of construction regulations in Minnesota.
  - Establish the Building Codes and Standards Division (BCSD) office to develop state building code through rules process.
- Legislature established state surcharge fees to fund BCSD office to develop and maintain state building code. BCSD account has changed from:
  - General fund 1971 - 76
  - Dedicated fund with rebates 1977 - 90
  - General fund 1991 - 94
  - Special revenue fund 1995 to present.

## 3. BCSD Responsibilities and FY04 Expenditures Projected

The BCSD office is divided into two segments as follows:

- Administrative Services (FY04 Budget \$3,044,000)
  - Develop and maintain state building code, which includes building, mechanical, accessibility, energy, elevator, and manufactured housing, codes,
  - Building official certification and recertification,
  - Education and training programs for building officials, design professionals and contractors to maintain consistency and uniformity of code administration;
  - Investigations of improper, inconsistent code administration and consumer complaints,

- Rule adoption to update state building code to latest national model standards and construction technology.
- Field Services (FY04 Budget \$3,633,000)
  - Plan review and inspections of public buildings (state owned and school district buildings) and state licensed facilities (hospitals, nursing homes, and correctional facilities),
  - Elevator, escalator and wheelchair lift inspections,
  - Manufactured and modular housing inspections and audits of plants and dealer lots.

#### 4. Revenue History

The previous four years had shown a growth in construction activity. **The National Association of Home Builders forecasts steady levels of construction in FY 04 and FY 05.**

		REVENUE			
FY	Expenditures	Surcharges	Plan/Permit Fees	Total	Carry Forward
FY 2000	3,984,000	3,920,000	1,526,000	5,446,000	5,222,000
FY 2001	6,619,000 <sup>(1)</sup>	4,505,000	1,931,000	6,436,000	5,128,000
FY 2002	7,694,000 <sup>(2)</sup>	3,598,000	1,821,000	5,419,000	2,853,000
FY 2003	6,716,000 <sup>(3)</sup>	4,340,000	2,032,000	6,372,000	2,509,000 <sup>(4)</sup>

\*Information used in this table is taken from the MAPS system on July 2003.

- (1) Includes \$2 million transfer to the General Fund.
- (2) Includes \$2 million transfer to the General Fund.
- (3) Includes grants for research and education of \$116,000 in FY 03.
- (4) For cash flow purposes we need to maintain 1.2 Million for operating expenses based on federal guidelines.

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

#### 5. Projected Revenue Assumptions

Projections show a leveling off of revenues to the building codes special revenue account during the FY04-05 biennium. It is expected that required expenditures and demand for services would outpace the incoming revenues during this time and that by the end of FY 05 the carry forward account will be depleted.

## 6. Building Codes and Standards Division Summary

### Economy

The overall economy relating to construction activity is projected to level off in FY 04 and FY 05. (National Association of Home Builders web-site on November 19, 2003.)

### Concerns

A minor reduction in construction activity does not reflect in a reduction in service demands or statutory service requirements.

### Consequences

If the BCSD cannot maintain staff levels to match industry demands, service reductions could result.

These reductions could mean

-Longer timelines for:

- plan reviews
- inspections
- plant audits

-Reductions in:

- investigations
- education seminars
- uniform code administration and application of the Minnesota State Building Code.

-Delays in:

- adoption of latest national model codes and standards.
- Future research grants for updating of codes and standards.

## **7. Surcharge Recommendation**

The Department of Administration recommends maintaining the current surcharge fee schedule for FY 05.

The surcharge table in MS 16B.70 has worked well even with reduced fees for higher cost projects. If construction activity continues at its current pace, fee increases in the 2005 legislative session would be needed to maintain services. Use of carry forward dollars for grants pursuant to MS 16B.70 will be limited due to the necessary use of carry forward dollars to maintain current operating services.

## APPENDIX A

### Revenue Levels Off in 04, 05, 06

FY	Expenditures	Staff	Revenue Levels Off	Projected Grants	Carry Forward
02	5,694,000	49	5,419,000		2,853,000
03	6,716,000	55	6,372,000	116,000	2,509,000
04	6,988,000	55	6,300,000	311,000	1,821,000
05	6,992,000	55	6,300,000	215,000	1,129,000
06	7,143,000	55	6,300,000	163,000	286,000

The division would need fee increases in 05 legislative session to maintain services.