

04 - 0612

DEPARTMENT OF ADMINISTRATION

BUILDING CODES AND

STANDARDS DIVISION



LEGISLATIVE REPORT

NOVEMBER 30, 2004

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November 30, 2004

The Honorable Tim Pawlenty
Minnesota Governor
130 State Capitol
St. Paul, MN 55155

Mr. Patrick E. Flahaven
Secretary of the Senate
231 State Capitol
St. Paul, MN 55155

Mr. Edward A. Burdick
Chief Clerk of the House
211 State Capitol
St. Paul, MN 55155

Commissioner Peggy Ingison
Minnesota Department of Finance
400 Centennial Office Building
St. Paul, MN 55155

Dear Madam and Sirs:

Pursuant to Minnesota Statutes 16B.70 Subd. 3, the enclosed report on the state surcharge fee is submitted by the Department of Administration. This report covers the period from July 1, 2004, to June 30, 2005.

Sincerely,

A handwritten signature in black ink, appearing to read "Dana B. Badgerow". The signature is written in a cursive style and is positioned above the printed name and title.

Dana B. Badgerow
Commissioner

Enclosure

Office of the Commissioner
200 Administration Building, 50 Sherburne Avenue, Saint Paul, MN 55155
P: 651.296.1424 / F: 651.297.7909 / TTY: 651.297.4357

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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 Develop and adopt a minimum set of construction standards known as the state building code (SBC), which superceded the 200+ municipal codes in effect at that time.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.

The current forecasts predict a slight downturn in construction activity of approximately 3% in FY 05 and FY 06. With our fees based upon valuation, we believe inflation will maintain our revenues slightly above our expenditures in FY 05 and below our expenditures in FY 06.

RECOMMENDATION

The Department of Administration recommends the following options:

Option 1.

Discussions have occurred for several years involving the possibility of consolidation of all Minnesota building and construction codes and licensing activities which currently reside within five state agencies (Admin 'Building Code', Public Safety 'Fire Code', Health 'Plumbing', State Board of Electricity, and Labor & Industry 'Boilers'.)

The Governor's Drive to Excellence review and analysis effort is studying such a consolidation plan, under which rules, education, technology, bonding and licensing would be centralized to provide better and faster services to the construction industry. This "one stop shopping" concept would provide a single entry point or portal for those in the industry for all their building licensing and code requirements; would enable efficiencies in management and service delivery; would enable focused investments in new technology to speed service delivery and make it more user friendly; and would yield significant savings to all once consolidation is complete. However, since consolidation would require relocation, personnel realignment, technology rationalization investment, we would recommend that current levels of reserves be maintained for that purpose, which will ultimately benefit all users.

Option 2.

If the recommended consolidation does not occur in the next Biennium, the department recommends a 20% reduction in surcharge fees for FY 06 and FY 07. The fees would be monitored and reviewed to balance industry needs and costs to provide services requested.

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 FY05 Expenditures Projected

The BCSD office is divided into two segments as follows:

- Administrative Services (FY05 Budget \$3,791,431)
 - 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 (FY05 Budget \$2,625,569)
 - 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/Projections

The previous four years had shown a growth in construction activity. **The National Association of Home Builders forecasts a slight reduction of construction in FY 05 and FY 06.**

FY	Grants	Expenditures	Total	Revenue	Carry Forward
FY 2003 ⁽¹⁾	113,000	5,545,000	5,658,000	6,472,000	3,978,000
FY 2004 ⁽¹⁾	293,000	5,685,000	5,978,000	6,848,000	4,848,000
FY 2005 ⁽²⁾	248,000	6,169,000	6,417,000	6,800,000	5,231,000
FY 2006 ⁽²⁾	248,000	6,611,000	6,859,000	6,800,000 ⁽³⁾	5,172,000
FY 2007 ⁽²⁾	248,000	6,790,000	7,038,000	6,800,000 ⁽³⁾	4,934,000

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.

⁽¹⁾Actual

⁽²⁾Budgeted

⁽³⁾Projected revenue with no changes to surcharge law. See Appendix Table "A" for 10% and 20% surcharge reduction tables.

5. Projected Revenue Assumptions

Projections show a leveling off of revenues to the building codes special revenue account during FY05. It is expected that required expenditures and demand for services would outpace the incoming revenues during this time and by the end of FY 06.

6. Building Codes and Standards Division Summary

Economy

The overall economy relating to construction activity is projected to drop approximately 3% in FY 05 and FY 06. (National Association of Home Builders web site on October 7, 2004.)

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 Option

The carry forward account has grown due to an increase in construction activity that has been higher than national forecasts. The National Association of Home Builders forecast that we used to project our surcharge fees projected a leveling off for the entire country. Minnesota's activity was higher than projected.

We also projected 3% salary adjustments in FY 04 and FY 05 that were not approved.

Based on the above information, the Department of Administration recommends the following options:

Option 1.

Discussions have occurred for several years involving the possibility of consolidation of all Minnesota building and construction codes and licensing activities which currently reside within five state agencies (Admin 'Building Code', Public Safety 'Fire Code', Health 'Plumbing', State Board of Electricity, and Labor & Industry 'Boilers'.)

The Governor's Drive to Excellence review and analysis effort is studying such a consolidation plan, under which rules, education, technology, bonding and licensing would be centralized to provide better and faster services to the construction industry. This "one stop shopping" concept would provide a single entry point or portal for those in the industry for all their building licensing and code requirements; would enable efficiencies in management and service delivery; would enable focused investments in new technology to speed service delivery and make it more user friendly; and would yield significant savings to all once consolidation is complete. However, since consolidation would require relocation, personnel realignment, technology rationalization investment, we would recommend that current levels of reserves be maintained for that purpose, which will ultimately benefit all users.

Option 2.

If the recommended consolidation does not occur in the next Biennium, the department recommends a 20% reduction in surcharge fees for FY 06 and FY 07. The fees would be monitored and reviewed to balance industry needs and costs to provide services requested.

Appendix A
Surcharge Reduced 10% for FY 06/FY 07
Revenue Levels Off in FY 05, 06, and 07

FY	Expenditures	Grants	Total Expenditures	Staff	Total Revenue	Carry Forward
03	5,545,000	113,000	5,658,000	53.3	6,472,000	3,978,000
04	5,685,000	293,000	5,978,000	53.6	6,848,000	4,848,000
05	6,169,000	248,000	6,417,000	56.7	6,800,000*	5,231,000
06	6,611,000	248,000	6,859,000	58.4	6,300,000	4,672,000
07	6,790,000	248,000	7,038,000	58.4	6,300,000	3,934,000

*Total revenue includes surcharge fees and services fees. Surcharge revenue in FY 04 was \$4,947,000. 10% reduction is approximately \$500,000 per year.

SURCHARGE REDUCED 20% FOR FY 06/FY 07
REVENUE LEVELS OFF IN FY 05, 06 AND 07

FY	Expenditures	Grants	Total Expenditures	Staff	Total Revenue	Carry Forward
03	5,545,000	113,000	5,658,000	53.3	6,472,000	3,978,000
04	5,685,000	283,000	5,978,000	53.6	6,848,000	4,848,000
05	6,169,000	248,000	6,417,000	56.7	6,800,000	5,231,000
06	6,611,000	248,000	6,859,000	58.4	5,800,000	4,172,000
07	6,790,000	248,000	7,038,000	58.4	5,800,000	2,934,000*

*Surcharge fees or service fees would need to be increased to meet service needs in FY 08, 09.