

Individual State Agency Fiscal Note

Bill Number: 1404 HB	Title: State building code council	Agency: 179-Department of Enterprise Services
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Part I: Estimates

No Fiscal Impact

Estimated Cash Receipts to:

NONE

Estimated Operating Expenditures from:

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	1.0	0.0	0.5	0.0	0.0
Account					
General Fund-State 001-1	396,000	200,000	596,000	200,000	200,000
Total \$	396,000	200,000	596,000	200,000	200,000

Estimated Capital Budget Impact:

NONE

The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.

Check applicable boxes and follow corresponding instructions:

- If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- Capital budget impact, complete Part IV.
- Requires new rule making, complete Part V.

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Part II: Narrative Explanation

II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

Significant provisions of the bill and any related workload or policy assumptions that have revenue or expenditure impact on the responding agency by section number.

Section 1 is a new section stating the legislature finds there is a need to add transparency and consistency to the State Building Code Council's (SBCC) decision-making process. The legislature finds that it is necessary to improve the regulatory process, eliminate conflicts of interest within the council, and provide more legislative oversight of council activities.

Section 2(5) amends RCW 19.27.031 and 2018 c 189 s 1 by removing an obsolete reference to RCW 19.27.170.

Section 2(7) amends RCW 19.27.031 and 2018 c 189 s 1 by adding a reference to the proposed sections 6 through 11 of this act.

Section 3 amends RCW 19.27.070 and 2018 c 207 s 3 by:

Section 3(1) updates language to the number of SBCC members and (g)increases the number of SBCC members from the private sector or professional organizations. The Department of Enterprise Services assumes that adding of another council member may increase the travel expense for the SBCC. DES assumes these day-to-day costs will be able to be covered with existing funding, however, travel assumptions for any bills passed during the 2023 legislative session may need to be reevaluated for a supplemental budget request for the 2024 session.

Section 3(2) removes the reference to the total number of council members.

Section 3(7) is a new section and adds a requirement for SBCC staff, Technical Advisory Group (TAG) members, and members of the SBCC to receive training on the rules of procedure used by the council and ethics in public service including, but not limited to, provisions of chapter 42.52 RCW. It is currently unknown who will provide this training or if there is a cost associated with it.

Section 3(8) is a new section that requires the Senate to confirm the SBCC Managing Director.

Section 3 (9) is a new section that prohibits registered lobbyists from serving as a council member.

Section 4 amends RCW 19.27.074 and 2018 c 207 s.

Sections 4 (1)(c) adds a reference to the new sections 6 through 11 pertaining to the SBCC policies and procedures for code adoption.

Section 4(2)(a) adds a reference to the new section 8 of this act.

Section 4(5)(a) adds a requirement for the standing committees and the technical advisory groups to comply with the Open Public Meeting Act (RCW 42.30). This has a fiscal impact to the Department of Enterprise Services (DES).

Section 5 amends RCW 19.27A.025 and 2019 c 285 s 17. Subsection (1) adds a reference to the newly proposed sections 6 through 11 of this act and subsection (2) adds a reference to the new section 8 of this act.

Section 6 adds a new section to RCW 19.27.

Section 6(1) states the SBCC's process to regularly review updated versions of the building codes enumerated in RCW 19.27.031 and the state energy code under RCW 19.27A.020 and the adoption of statewide and emergency amendments to

those codes shall be done in accordance with this section.

Section 6(2) states a petition for statewide or emergency amendment must be submitted in compliance with the format required by the SBCC.

Section 6(3) states that the SBCC or the director must remove from consideration any petition for statewide or emergency amendment any petition that (a) does not include all the requested information or does not have sufficient detail to be acted upon as of the deadline established by the building code council for submission of such petitions, or (b) requests a rule modification that exceeds the specific delegation of authority provided by the legislature. In performing its duties under this subsection (3)(b), the SBCC may not rely solely on the broad delegation of authority in RCW 19.27.074 or 19.27A.020.

Section 6(4) requires that once a petition is submitted and accepted as complete, a council member must agree to sponsor the code amendment for the amendment to move forward through the process. A statewide amendment may not be referred to a standing committee or TAG without a councilmember sponsor.

Section 6(5) states that once a councilmember sponsors a proposed statewide amendment, the proposed text of the rule change must be put in a written format consistent with the format required by the office of the code reviser for final rules and RCW 34.05.395.

Section 6(6) requires the SBCC, the standing committees, and TAGs to have a process of consideration that allows people to understand what textual changes are being proposed and adopted during the consideration process. The same section further clarifies that modifications of the proposed rule text must be in writing, specify the legal authority for the amendment, and be available to all councilmembers and the members of the public before a vote is taken on the modification. It also clarifies that verbally negotiating amendments with text projected or posted on a screen during the meeting immediately prior to a vote does not satisfy this requirement.

Section 6 (7) requires the SBCC to adopt policies to ensure that the rule-making requirements in chapter 34.05 RCW are abided by during its rule-making process. This has fiscal impact to DES.

Section 7 adds a new section to RCW 19.27.

Section 7(1) requires the SBCC to supplement independent cost-benefit analysis, which is provided in a petition for statewide amendment with independent research if there is a concern that the provided information is not sufficient, it inaccurately represents the actual impacts or costs, or the assertions in the petition are questioned by experts with knowledge of the industry or circumstances. This has fiscal impact to DES.

Section 7(2) states that at least two weeks prior to the final adoption by SBCC of nonemergency changes to the Washington Administrative Code, SBCC must post on its website and make available for public comment the following documents: (a) the small business economic impact statement as required by chapter 19.85 RCW; (b) the cost-benefit analysis and supporting information as required by RCW 34.05; (c) any independent, third-party analysis performed in accordance with RCW 19.27.074(3)(b); (d) any supplemental cost estimate information and industry-specific information provided about the proposal; and (e) any findings, determinations or recommendations of the SBCC's economic impact work group, consultants, or employees.

Section 7(3)(a) states that SBCC member must be made aware if a person working in an industry subject to regulation under a proposed rule raises an economic or cost-related protest during consideration of a rule or provides cost or economic analysis that is different than provided by other sources.

Section 7(3)(b) states that a person that provides information in (a) of this subsection may request that the SBCC provide a substantive response to raised concerns, including an explanation of incorporated provisions in the proposed rule that address, mitigate, or reduce the expected cost or economic impacts of the proposed rule.

Section 7(4) states that the information required in this section should be available for review and vetted by SBCC members prior to the final vote adopting any rule modification. The economic and cost information is provided in advance so that the SBCC can take action to address, mitigate, or eliminate identified economic impacts.

Section 8 adds a new chapter to RCW 19.27.

Section 8(1) states that if the SBCC appoints a TAG to be consulted regarding proposed code changes authorized in RCW 19.27 and 19.27A, the process must be done in accordance with the provisions in this section. This has fiscal impact to DES.

Section 8(2) requires the SBCC to post the name of each TAG member, the industry or interest group the person represents, and a way to contact each person.

Section 8(3) states each TAG is subject to the same procedures and processes as the SBCC.

Section 8(4) states each TAG member must have training on the SBCC's procedure and ethics policies. This has fiscal impact to DES.

Section 8(5) specifies that any application for appointment to serve on a TAG must be approved or denied within 30 days of the council receiving the application.

Section 8(6) states that if a petition for a statewide amendment receives less than a majority vote by a TAG, the proposed amendment will be tabled from further consideration. Only a councilmember may make a motion before the full council to continue consideration of that statewide amendment.

Section 9 is a new section added to RCW 19.27 that requires the SBCC to identify the sources of information reviewed and relied upon in the course of adopting changes to the Washington Administrative Code and include such information in the official rule-making file. The SBCC must post the materials that the SBCC considered or relied upon during the process on its website and remain publicly available for at least one year after the effective date of any changed rule. It is unknown at this time if these files will significantly increase the data storage required for the SBCC website. This may have a fiscal impact to DES.

Section 10 is a new section to RCW 19.27. It states the SBCC must create a distribution list of state agency personnel to be notified by email of the compilation of proposed statewide amendments that constitutes the update of the building and energy codes. This section states who needs to be on the distribution list, what should be included in the notification, and when the notifications must be sent.

Section 11 adds a new section to RCW 19.27 requires the SBCC, after the changes to WAC 51 adopted during the triennial code adoption cycle have been filed with the code reviser's office, to submit a report to the legislature identifying provisions that generated conflict, and summarize the different perspectives brought before the SBCC related to the conflict, and how the SBCC addressed that conflict. The report must be submitted no later than the second Monday in January, following the date of filing the permanent rule with the code reviser's office. This has fiscal impact to DES.

Section 12 is a new section that clarifies that if any provision of this act is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

II. B - Cash receipts Impact

Cash receipts impact of the legislation on the responding agency with the cash receipts provisions identified by section number and when appropriate, the detail of the revenue sources. Description of the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explanation of how workload assumptions translate into estimates. Distinguished between one time and ongoing functions.

II. C - Expenditures

Agency expenditures necessary to implement this legislation (or savings resulting from this legislation), with the provisions of the legislation that result in the expenditures (or savings) identified by section number. Description of the factual basis of the assumptions and the method by which the expenditure impact is derived. Explanation of how workload assumptions translate into cost estimates. Distinguished between one time and ongoing functions.

Sections 6(7), 8(1) and 11 would require changes to policies, procedures and bylaws. The combined fiscal impact of these changes is as follows:

The SBCC would need an ad-hoc committee or a workgroup for five meetings with five council members, five Executive Committee meetings with five council members, two special council meetings with eight council members, and two public hearings with two council members. Travel costs for an SBCC member to attend a meeting are as follows:

- Round-trip air travel \$527
- Per Diem \$311
- Rental car \$50
- Parking \$12
- Total \$900/day

Five ad-hoc committee or workgroup meetings multiplied by five council members equals \$22,500. Five Executive Committee meetings multiplied by five council members equals \$22,500. Two Special Council Meetings multiplied by eight council members equals \$14,400. Two public hearings meetings multiplied by two council members equals \$3,600. The total fiscal impact for travel costs for DES is estimated to be \$63,000.

Section 7 requires an independent cost-benefit analysis for 8 codes every 3 years. The fiscal impact is estimated to be \$400,000 per code cycle. The SBCC is actively working on the 2024 version to be effective 2026. The SBCC has contracted for independent cost analysis for 2 energy codes that cost \$200,000 each year for a total for \$400,000. Due to the energy codes being more complex, DES assumes that the remaining 8 codes that need new independent cost analysis would average to \$50,000 each. 8 codes multiplied by \$50,000 each, equates to \$400,000. The 8 codes would be reviewed over a two-year span during the code cycle review. \$400,000 divided by the two-year span equates to \$200,000 for each of the 2 years in the code cycle.

Section 9 requires the SBCC to post the materials that the SBCC considered or relied upon during the process on its website and remain publicly available for at least one year after the effective date of any changed rule. It is unknown at this time if these files will significantly increase the data storage required for the SBCC website and therefore increased costs. For purposes of this fiscal note, we assume no fiscal impact. However, a supplemental decision package might be needed in the future.

The SBCC anticipates additional support from the Attorney General's Office (ATG) to assist with the changes to policy and procedures. For purposes of this fiscal note, we assume no fiscal impact. However, a supplemental decision package might be needed in the future.

Updating policies, procedures, bylaws, trainings (Section 3(7)), WAC 51-04, and assisting the contractor in the creation of the independent cost benefit analysis, also impacts the administrative staff that supports the SBCC.

For purposes of this analysis, it is assumed that one Management Analyst 5 would be required for 1 year and the position would start July 1, 2023.

The impact to the administrative staff that supports the SBCC will be reevaluated at the end of the legislative session to determine the combined impact of legislation passed. A supplemental budget request to right size the staffing levels might be needed for the 2024 session.

Part III: Expenditure Detail

III. A - Operating Budget Expenditures

Account	Account Title	Type	FY 2024	FY 2025	2023-25	2025-27	2027-29
001-1	General Fund	State	396,000	200,000	596,000	200,000	200,000
Total \$			396,000	200,000	596,000	200,000	200,000

III. B - Expenditures by Object Or Purpose

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	1.0		0.5		
A-Salaries and Wages	91,500		91,500		
B-Employee Benefits	31,100		31,100		
C-Professional Service Contracts	200,000	200,000	400,000	200,000	200,000
E-Goods and Other Services	10,400		10,400		
G-Travel	63,000		63,000		
J-Capital Outlays					
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-					
Total \$	396,000	200,000	596,000	200,000	200,000

III. C - Operating FTE Detail: *List FTEs by classification and corresponding annual compensation. Totals need to agree with total FTEs in Part I and Part IIIA*

Job Classification	Salary	FY 2024	FY 2025	2023-25	2025-27	2027-29
Management Analyst 5	91,524	1.0		0.5		
Total FTEs		1.0		0.5		0.0

III. D - Expenditures By Program (optional)

NONE

Part IV: Capital Budget Impact

IV. A - Capital Budget Expenditures

NONE

IV. B - Expenditures by Object Or Purpose

NONE

IV. C - Capital Budget Breakout

Acquisition and construction costs not reflected elsewhere on the fiscal note and description of potential financing methods.

NONE

IV. D - Capital FTE Detail: *FTEs listed by classification and corresponding annual compensation. Totals agree with total FTEs in Part IVB.*

NONE

Part V: New Rule Making Required

Provisions of the bill that require the agency to adopt new administrative rules or repeal/revise existing rules.