

SENATE
STATE OF MINNESOTA
NINETY-FIRST SESSION

S.F. No. 3816

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DATE	D-PG	OFFICIAL STATUS
03/02/2020	5115	Introduction and first reading
		Referred to Jobs and Economic Growth Finance and Policy
03/11/2020		Comm report: To pass as amended and re-refer to Local Government

- 1.1 A bill for an act
- 1.2 relating to the State Building Code; requiring rulemaking; establishing building
- 1.3 permit fees; creating whistleblower protections for independent contractors;
- 1.4 amending Minnesota Statutes 2018, sections 326B.106, subdivision 1; 326B.153,
- 1.5 subdivision 1; 462.353, subdivision 4; proposing coding for new law in Minnesota
- 1.6 Statutes, chapter 462.
- 1.7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:
- 1.8 Section 1. Minnesota Statutes 2018, section 326B.106, subdivision 1, is amended to read:
- 1.9 Subdivision 1. **Adoption of code.** (a) Subject to paragraphs (c) and (d) and sections
- 1.10 326B.101 to 326B.194, the commissioner shall by rule and in consultation with the
- 1.11 Construction Codes Advisory Council establish a code of standards for the construction,
- 1.12 reconstruction, alteration, and repair of buildings, governing matters of structural materials,
- 1.13 design and construction, fire protection, health, sanitation, and safety, including design and
- 1.14 construction standards regarding heat loss control, illumination, and climate control. The
- 1.15 code must also include duties and responsibilities for code administration, including
- 1.16 procedures for administrative action, penalties, and suspension and revocation of certification.
- 1.17 The code must conform insofar as practicable to model building codes generally accepted
- 1.18 and in use throughout the United States, including a code for building conservation. In the
- 1.19 preparation of the code, consideration must be given to the existing statewide specialty
- 1.20 codes presently in use in the state. Model codes with necessary modifications and statewide
- 1.21 specialty codes may be adopted by reference. The code must be based on the application
- 1.22 of scientific principles, approved tests, and professional judgment. To the extent possible,
- 1.23 the code must be adopted in terms of desired results instead of the means of achieving those
- 1.24 results, avoiding wherever possible the incorporation of specifications of particular methods

or materials. To that end the code must encourage the use of new methods and new materials. Except as otherwise provided in sections 326B.101 to 326B.194, the commissioner shall administer and enforce the provisions of those sections.

(b) The commissioner shall develop rules addressing the plan review fee assessed to similar buildings without significant modifications including provisions for use of building systems as specified in the industrial/modular program specified in section 326B.194. Additional plan review fees associated with similar plans must be based on costs commensurate with the direct and indirect costs of the service.

(c) Beginning with the 2018 edition of the model building codes and every six years thereafter, the commissioner shall review the new model building codes and adopt the model codes as amended for use in Minnesota, within two years of the published edition date. The commissioner may adopt amendments to the building codes prior to the adoption of the new building codes to advance construction methods, technology, or materials, or, where necessary to protect the health, safety, and welfare of the public, or to improve the efficiency or the use of a building.

(d) Notwithstanding paragraph (c), the commissioner shall act on each new model residential energy code and the new model commercial energy code in accordance with federal law for which the United States Department of Energy has issued an affirmative determination in compliance with United States Code, title 42, section 6833. The commissioner may adopt amendments prior to adoption of the new energy codes, as amended for use in Minnesota, to advance construction methods, technology, or materials, or, where necessary to protect the health, safety, and welfare of the public, or to improve the efficiency or use of a building.

(e) The commissioner shall adopt rules setting a schedule of building permit and inspection fees for new residential construction based on the square footage of a building rather than its valuation. Fees in this schedule may be tailored by geographic region, but must be based on the direct costs of providing the permit review and inspection services in that area.

Sec. 2. Minnesota Statutes 2018, section 326B.153, subdivision 1, is amended to read:

Subdivision 1. **Building permits.** (a) Fees for building permits submitted as required in section 326B.107 include the surcharge required by section 326B.148, as well as either:

(1) the fee as set forth in the fee schedule in paragraph (b) or as adopted by a municipality; and or

(2) ~~the surcharge required by section 326B.148~~ for new residential construction, the fee established by the commissioner under section 326B.106, subdivision 1, paragraph (e), and any rules adopted pursuant to that section.

(b) The total valuation and fee schedule is:

(1) \$1 to \$500, \$21;

(2) \$501 to \$2,000, \$21 for the first \$500 plus \$2.75 for each additional \$100 or fraction thereof, to and including \$2,000;

(3) \$2,001 to \$25,000, \$62.25 for the first \$2,000 plus \$12.50 for each additional \$1,000 or fraction thereof, to and including \$25,000;

(4) \$25,001 to \$50,000, \$349.75 for the first \$25,000 plus \$9 for each additional \$1,000 or fraction thereof, to and including \$50,000;

(5) \$50,001 to \$100,000, \$574.75 for the first \$50,000 plus \$6.25 for each additional \$1,000 or fraction thereof, to and including \$100,000;

(6) \$100,001 to \$500,000, \$887.25 for the first \$100,000 plus \$5 for each additional \$1,000 or fraction thereof, to and including \$500,000;

(7) \$500,001 to \$1,000,000, \$2,887.25 for the first \$500,000 plus \$4.25 for each additional \$1,000 or fraction thereof, to and including \$1,000,000; and

(8) \$1,000,001 and up, \$5,012.25 for the first \$1,000,000 plus \$2.75 for each additional \$1,000 or fraction thereof.

(c) Other inspections and fees are:

(1) inspections outside of normal business hours (minimum charge two hours), \$63.25 per hour;

(2) reinspection fees, \$63.25 per hour;

(3) inspections for which no fee is specifically indicated (minimum charge one-half hour), \$63.25 per hour; and

(4) additional plan review required by changes, additions, or revisions to approved plans (minimum charge one-half hour), \$63.25 per hour.

(d) If the actual hourly cost to the jurisdiction under paragraph (c) is greater than \$63.25, then the greater rate shall be paid. Hourly cost includes supervision, overhead, equipment, hourly wages, and fringe benefits of the employees involved.

4.1 Sec. 3. Minnesota Statutes 2018, section 462.353, subdivision 4, is amended to read:

4.2 Subd. 4. **Fees.** (a) A municipality may prescribe fees sufficient to defray the costs incurred
4.3 by it in reviewing, investigating, and administering an application for an amendment to an
4.4 official control established pursuant to sections 462.351 to 462.364 or an application for a
4.5 permit or other approval required under an official control established pursuant to those
4.6 sections. Except as provided in subdivision 4a, fees as prescribed must be by ordinance.
4.7 Fees must be fair, reasonable, and proportionate and have a nexus to the actual cost of the
4.8 service for which the fee is imposed.

4.9 (b) A municipality must adopt management and accounting procedures to ensure that
4.10 fees are maintained and used only for the purpose for which they are collected. Upon request,
4.11 a municipality must explain the basis of its fees.

4.12 (c) A municipality that charges a building permit or inspection fee for new residential
4.13 construction cannot charge a fee greater than the fees adopted by the commissioner of labor
4.14 and industry under section 326B.106, subdivision 1, paragraph (e), and any rules adopted
4.15 pursuant to that section.

4.16 (d) Except as provided in this paragraph, a fee ordinance or amendment to a fee ordinance
4.17 is effective January 1 after its adoption. A municipality may adopt a fee ordinance or an
4.18 amendment to a fee ordinance with an effective date other than the next January 1, but the
4.19 ordinance or amendment does not apply if an application for final approval has been
4.20 submitted to the municipality.

4.21 ~~(d)~~ (e) If a dispute arises over a specific fee imposed by a municipality related to a
4.22 specific application, the person aggrieved by the fee may appeal under section 462.361,
4.23 provided that the appeal must be brought within 60 days after approval of an application
4.24 under this section and deposit of the fee into escrow. A municipality must not condition the
4.25 approval of any proposed subdivision or development on an agreement to waive the right
4.26 to challenge the validity of a fee. An approved application may proceed as if the fee had
4.27 been paid, pending a decision on the appeal. This paragraph must not be construed to preclude
4.28 the municipality from conditioning approval of any proposed subdivision or development
4.29 on an agreement to waive a challenge to the cost associated with municipally installed
4.30 improvements of the type described in section 429.021.

5.1 Sec. 4. [462.366] DISCLOSURE OF INFORMATION BY INDEPENDENT
5.2 CONTRACTORS.

5.3 (a) A municipality shall not intentionally refuse to contract with, or threaten, penalize,
5.4 or otherwise discriminate regarding the compensation, terms, conditions, location, privileges,
5.5 or performance of a contract with an independent contractor performing services for hire
5.6 for the municipality because the independent contractor, in good faith, publicly reports a
5.7 willful or reckless violation, suspected violation, or planned violation of this chapter by the
5.8 municipality.

5.9 (b) For the purposes of this section, the terms defined in this paragraph have the meanings
5.10 given to them:

5.11 (1) "independent contractor" means an individual defined under section 181.723,
5.12 subdivision 4;

5.13 (2) "good faith" means conduct by an independent contractor that does not violate section
5.14 181.932, subdivision 3;

5.15 (3) "penalize" means conduct that might dissuade a reasonable independent contractor
5.16 from making or supporting a report; and

5.17 (4) "report" means a verbal, written, or electronic communication by an independent
5.18 contractor about an actual, suspected, or planned violation of this chapter by a municipality.

5.19 (c) In addition to any remedies otherwise provided by law, an independent contractor
5.20 injured by a violation of this section may bring a civil action to recover any and all damages
5.21 recoverable at law, together with costs and disbursements, including reasonable attorney
5.22 fees, and may receive such injunctive and other equitable relief as determined by the court.
5.23 If the district court determines that a violation of this section occurred, the court may order
5.24 any appropriate relief and, if appropriate, compensatory damages.