

08 - 0974

Department of Labor and Industry
Construction Codes and Licensing Division
Building Permit Surcharge



Legislative Report

Nov. 30, 2008

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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 326B.101 to 326B.194, 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 §326.148, 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 326B.101 to 326B.194. 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 326B.101 to 326B.194 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

Governor Pawlenty's Reorganization Order No. 193 on May 16, 2005, and subsequent statutes by the 2007 Legislature 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. Effective beginning in fiscal-year 2008, fee revenues collected for funding CCLD activities have been consolidated into a division-wide, dedicated-revenue fund. The primary functions in DLI funded by the surcharge 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 manufactured- and modular-housing inspections and audits of plants and dealer lots.

Financial information

The 2007 Legislature created a new Construction Code Fund to consolidate all revenue and expenditures of CCLD. This fund consolidation was effective beginning in fiscal-year 2008. Other revenue collected by the fund includes: permit, plan review, inspection, license and bond filing fees for the five consolidated agencies. Operating expenses now include all costs of administering the CCLD beginning in fiscal-year 2008.

The surcharge fee schedule was originally established in 1971; it was adjusted in 1983 when surcharge fees for higher valuation buildings were lowered.

The following table summarizes the historical fiscal-year 2005 through 2008 surcharge fees and estimated fiscal-year 2009 through 2011 activity of the consolidated Construction Codes Fund.

Building Code/Construction Code Fund (in thousands)

Fiscal year	Surcharge revenue	Other revenue	Operating expenses	Grants	Transfers to general fund	Ending balance
2005	\$5,018	\$ 1,619	\$ 5,607	\$130		\$5,800
2006	\$5,184	\$ 2,115	\$ 6,608	\$149	\$2,000	\$4,342
2007	\$4,480	\$ 2,396	\$ 6,069	\$ 17		\$5,132
2008	\$3,765	\$22,042	\$23,117	\$ 85	\$1,627	\$9,171
2009	\$3,300	\$25,950	\$28,289	\$248	\$3,515	\$6,369
2010	\$3,300	\$24,275	\$29,216	\$248	\$1,515	\$2,965
2011	\$3,300	\$26,380	\$30,007	\$248	\$1,515	\$ 876

Assumptions

Recent years have shown a slowing in construction activity. The overall economy relating to construction is projected to continue struggling with tightening credit and a slowing economy. There are indications the overall housing market will be suppressed through 2009. Seasonally adjusted residential construction permits reported by the U.S. Department of

Commerce for the Midwest indicated a dropped of over 30 percent between October 2007 and October 2008. The National Association of Home Builders reports the lowest builder confidence in housing construction since creating an index to track builder confidence in 2003. McGraw-Hill Construction predicts commercial building will decline and institutional construction will flatten with a predicted total construction decline of 7 percent in 2009. DLI lowered its fiscal-year 2009 expected building permit surcharge revenues 12.4 percent below 2008 actual receipts. DLI believes a combination of over building, tightening credit markets, and an economic downturn will continue to slow building permit surcharge revenue through 2009.

- A reduction in construction activity does not necessarily reflect a reduction in DLI service demands or statutory service requirements. Many CCLD activities, 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 fluctuations in construction.
- An appropriate level of fee revenue carryover dollars, equal to three months of operating expense, is required to balance fluctuations in the construction economy and meet cash-flow needs.

Recommendation

DLI does not recommend any change to the surcharge fee at this time. The creation of the new Construction Code fund that encompasses all CCLD activities is providing the financial framework to better support the consolidated business functions. Experience operating under this new framework has provided some recommendations for fee adjustments for the 2010 through 2011 budget, but building permit surcharge adjustments are not included. DLI will continue to analyze fee revenues as market conditions change and more data from the new financial framework becomes available. Additional recommendations about DLI fee adjustments will be included in the 2011 through 2012 biennial budget.