
Wisconsin Legislative Council

MINUTES



STUDY COMMITTEE ON THE COMMERCIAL BUILDING PERMITTING PROCESS Room 300 Northeast, State Capitol Madison, WI September 28, 2022 10:30 a.m. – 3:10 p.m.

CALL TO ORDER AND ROLL CALL

Chair Stroebel called the meeting to order and determined that a quorum was present.

COMMITTEE MEMBERS PRESENT: Sen. Duey Stroebel, Chair; Rep. Rob Summerfield, Vice Chair; Reps. Samba Baldeh and Sue Conley; and Public Members Robert Brandherm, Melissa Destree, Frank Gorham, Doug Hoerth, Mark Piotrowicz, and Robert Procter.

COMMITTEE MEMBERS EXCUSED: Public Members Steve Klessig, Cory Scheidler, and Peter Tomasi.

COUNCIL STAFF PRESENT: Anna Henning, Principal Attorney; and Ethan Lauer, Senior Staff Attorney.

APPROVAL OF THE MINUTES OF THE AUGUST 24, 2022 MEETING

Representative Conley moved to approve the minutes of the study committee's August 24, 2022 meeting. The motion was seconded by Mr. Brandherm and passed by unanimous consent.

DESCRIPTION OF DISTRIBUTED MATERIALS

Ms. Henning briefly described documents that had been distributed to committee members in advance of the meeting, including Memo No. 2, *Options for Committee Discussion* (September 21, 2022) (“the options memo”), preliminary bill drafts reflecting four of the memo’s options, and Memo No. 3, *Information Relating to Plan Review for Health Care Facilities* (September 21, 2022). Ms. Henning also noted that a memorandum from the Department of Safety and Professional Services (DSPS) had been placed at members’ seats, and that this document contained responses to various questions that the committee had raised during its previous meetings.

DISCUSSION OF COMMITTEE ASSIGNMENT

Chair Stroebel and Legislative Council staff facilitated a discussion of the committee’s assignment, using the options memo as a guide. Prior to committee discussion of each preliminary bill draft, Ms. Henning and Mr. Lauer summarized each bill draft.

LRB-6532/P2, Relating to Procedures for Reviewing Commercial Building Plans

Chair Stroebel invited the committee to begin its discussion with LRB-6532/P2, relating to procedures for reviewing commercial building plans. The committee generally approved of the approach taken by the bill draft of allowing a plan review applicant the option of either reserving a future plan review appointment or requesting the next available appointment. However, the committee requested modifications to the bill draft regarding the forfeiture of a fee for an applicant who cancels a future appointment within six weeks of the appointment. First, the committee asked that the “grace period” be shortened from six weeks to a lesser amount of time. After discussion, it settled on 20 business days. Second, committee members expressed reservations with no refund for every cancellation after the end of the grace period, especially for larger projects where the fee can be as high as \$20,000. After some discussion of imposing an across-the-board refund of 50 percent of the fee, perhaps combined with a minimum fee forfeiture of \$500, committee members generally agreed to merely cap the fee forfeiture at no more than \$5,000. Third, the committee asked that the same refund scheme apply also to an applicant who had opted to request the next available appointment rather than a future appointment.

In a related discussion, committee members questioned whether the Department of Safety and Professional Services (DPS) should charge a fee for a preliminary meeting, as provided in the bill draft. Although some committee members opposed a fee altogether, the committee reached general agreement that there should be no fee for the first 15 minutes of the preliminary meeting and a reasonable hourly fee, to be determined by DPS based on agency costs, for any amount of time beyond 15 minutes.

During the course of its discussion of the next bill draft, below, the committee requested two additions to the instant bill draft. These additions relate to identical prior projects and priority review of plumbing plans. These additions to LRB-6532/P2 are explained more fully in the narrative of committee discussion on LRB-6533/P1.

Finally, the committee discussed whether several miscellaneous modifications to DPS’s plan review procedures should be addressed in the bill draft. Members suggested that those issues may be better addressed through internal practice changes, rather than through legislation. Legislative Council staff suggested that Chair Stroebel and Vice Chair Summerfield could send a letter to DPS on the committee’s behalf to address a few of the internal administrative improvements that committee members had raised at this and prior meetings. Specifically, committee members asked that the letter include the following recommendations: elimination of the credit card fee as a separate charge when a commercial plan is submitted for review; inclusion of a tracking number in all correspondence between DPS and an applicant; minimization of avoidable errors and omissions in plan review submissions by publicizing common issues; distribution of a periodic newsletter informing stakeholders of recent notable commercial building code interpretations; and more expeditious communication between DPS and delegated local governments regarding division of responsibility for review of plumbing plans.

Following discussion by the committee, Chair Stroebel asked the Legislative Council staff to prepare the modifications to LRB-6532/P2 raised by committee members for consideration at the committee’s next meeting. He also indicated that a draft letter would be prepared, as described above, for consideration at the committee’s next meeting.

LRB-6533/P1, Relating to Expedited Review of Certain Commercial Building Plans and Exemptions From Examination of Plumbing Plans

The committee next discussed LRB-6533/P1, relating to expedited review of certain commercial building plans and exemptions from examination of plumbing plans. Committee members

overwhelmingly desired faster review of the three types of plans addressed by the bill draft: (1) plans that are identical or nearly identical to previously approved plans; (2) plans for interior build outs within existing buildings; and (3) plans for plumbing systems involving between 16 and 25 fixtures. The committee, however, could not reach agreement on the approach taken by the bill draft of creating a new expedited process within DSPS for the review the first two items. It also could not reach agreement on creating a plan review exemption for the third item as provided in the bill draft. Therefore, the committee reached general agreement to table LRB-6533/P1.

Instead, the committee requested that LRB-6532/P2, discussed above, be modified in order to address the first and third items as follows. On identical plans, the committee asked that LRB-6532/P2 be modified so that an applicant could, when submitting plans, identify for DSPS any similar prior projects, with the hope that these relevant benchmarks might save time for the DSPS reviewer. Committee members also expressed support for expediting, rather than exempting, plumbing plan review for projects with a small number of fixtures.

Following discussion by the committee, Chair Stroebel asked the Legislative Council staff to set aside LRB-6533/P1 in favor of preparing the modifications to LRB-6532/P2 raised by the committee regarding identical plans and plumbing review for consideration at the committee's next meeting.

LRB-6534/P1, Relating to Local Government Review of Commercial Building Plans and Making an Appropriation

The committee next discussed LRB-6534/P1, relating to local government review of commercial building plans and making an appropriation. Committee members appreciated that the bill draft required DSPS to use some of its fee revenue to conduct outreach and training relating to plan review by local governments, but they raised concerns regarding the creation of a new appropriation that would be funded by the fees a local government currently forwards to DSPS for each plan reviewed by the local government. The committee asked that the bill draft be modified in some fashion to require DSPS to conduct the outreach and training out of existing funding streams. In addition, the committee asked that the outreach include outreach designed to encourage more local governments to assume plan review responsibility from DSPS. After some discussion, most committee members agreed to support the portion of the bill draft that limits the amount of the fee that DSPS may collect from a local government (SECTION 6).

The committee also discussed the portions of the bill draft addressing thresholds for plan review by a local government that is neither a second-class city nor a delegated agent of DSPS. For plans for a new building, members favored the increase from 50,000 to 100,000 cubic feet of volume represented in the bill draft. For alterations, the committee favored eliminating the size restriction in lieu of the 100,000 to 150,000 cubic feet increase in the bill draft. Committee members also requested the elimination of a limitation in existing DSPS administrative rules for an addition containing no more than 2,500 square feet of total floor area, no more than one floor level, a roof span not exceeding 18 feet, and an exterior wall height not exceeding 12 feet.

Following discussion by the committee, Chair Stroebel asked the Legislative Council staff to prepare the modifications to LRB-6534/P1 raised by committee members for consideration at the committee's next meeting.

LRB-6535/P1, Relating to Permission to Start Construction of a Commercial Building Before Plan Approval

Finally, the committee discussed LRB-6535/P1, relating to permission to start construction of a commercial building before plan approval. Committee members agreed with codifying in statute the

authority currently in the administrative code that a builder may ask for and receive a “permission to start” letter authorizing construction of footings and foundations in advance of plan approval. The members also agreed that additional types of construction should be added to that list. Most members agreed with adding underground plumbing, as contained in the bill draft, and also wanted exterior plumbing added to the list. Members could not agree on whether to add the building slab as a construction item that may receive a permission to start letter. Members also did not agree with the addition of building shell, as contained in the bill draft, due in part to concerns about flammability. Chair Stroebel asked the Legislative Council staff to research how other states handle permission to start construction of non-flammable building shell materials.

Committee members agreed with the approach in the bill draft of specifying that a permission to start letter does not relieve the designer who prepared the building plans of responsibility regarding the building plans. However, committee members requested that the bill draft refer to a licensed architect or engineer rather than the more general term “designer.”

Following discussion by the committee, Chair Stroebel asked the Legislative Council staff to prepare the modifications to LRB-6535/P1 raised by committee members for consideration at the committee’s next meeting.

ADJOURNMENT

Chair Stroebel adjourned the meeting at approximately 3:10 p.m.

EL:jal