



Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #221

Repeal Requirement to Provide Education Regarding Construction Standards (Commerce -- Housing, Buildings, and Environmental Regulation)

Base Agency

[LFB 2007-09 Budget Summary: Page 100, #3]

CURRENT LAW

Commerce administers several building construction codes, including the one- and two-family dwelling code, also known as the uniform dwelling code (UDC). The UDC applies throughout the state. Commerce is required to contract with a private organization to provide education for builders of dwellings (one- and two-family homes) about construction standards and inspection requirements. Under 2005 Act 25, Commerce was required to also: (a) contract with a private organization to provide education regarding business practices to builders of dwellings, and allocate \$100,000 annually for the contract, beginning in 2005-06; and (b) contract with a private organization to provide education for consumers about the home building process, and allocate at least \$600,000 annually for the contract, beginning in 2005-06. All three of the contracts are required to be with an organization that is described in section 501 (c)(6) of the Internal Revenue Code and is exempt from federal income tax. 2005 Act 25 provided additional expenditure authority of \$650,000 in 2005-06 and \$700,000 in 2006-07 in the Safety and Buildings program revenue operations appropriation for the contracts.

GOVERNOR

Repeal the statutory requirements that Commerce: (a) contract with a private organization to provide education for builders of dwellings about construction standards and inspection requirements; (b) contract with a private organization to provide education regarding business practices to builders of dwellings, and allocate \$100,000 annually for the contract; and (c) contact with a private organization to provide education for consumers about the home building

process, and allocate at least \$600,000 annually for the contract. Maintain authorization for Commerce to enter into a contract for education, under item (a) above, with an organization that is described in section 501 (c)(6) of the Internal Revenue Code and is exempt from federal income tax.

DISCUSSION POINTS

1. In the Commerce expenditure reduction plan submitted to the Department of Administration (DOA) in November, 2006, as part of the 2007-09 biennial budget request, Commerce proposed deleting the \$700,000 in base funding and the statutory mandate to enter into the contracts. The bill would retain the \$700,000 in base funding in the Safety and Buildings program revenue operations appropriation. The administration indicates that Commerce could choose to use the \$700,000 for contracts or other purposes of the Division, or could use it to help meet the requirements under the bill that agencies lapse monies to the general fund.

2. At the March 14, 2007, briefing before the Joint Committee on Finance, the Commerce Secretary indicated that Commerce has not entered into contracts with a private organization to provide education regarding business practices to builders of dwellings, and to provide education for consumers about the home building process. The Secretary also indicated that the Department believed the contracts were not necessary because several other educational and training opportunities are provided throughout the state. Commerce officials have since indicated that home builders associations in various parts of the state offer seminars for consumers and home builders.

3. The requirement that Commerce contract with a private organization to provide education for builders of one- and two-family homes about construction standards and inspection requirements existed prior to 2005 Act 25. Commerce entered into contracts with the Wisconsin Builders Association to provide this education for builders in 2000-01 (\$80,645) and in each of 2002-03 through 2007-08 (\$50,000 in each year). The current contract is a two-year contract for the time period from July 1, 2006, through June 30, 2008. Under the contract, the Wisconsin Builders Association is required to: (a) develop training courses for UDC contractors; (b) market the UDC training courses to dwelling contractors; and (c) conduct, on a statewide basis, the UDC contractors training courses. Commerce officials indicate that, in 2005-06, the \$50,000 helped train 482 persons, and funded costs related to room rental, food, marketing, materials, and curriculum development. In addition, the Wisconsin Builders Association charged a \$94 registration fee and had sponsorship from other organizations.

4. Commerce officials anticipate that the Department would continue to contract for the provision of training to builders of dwellings regarding construction standards. It would also regularly assess the need for this training.

5. While the 2005-07 biennial budget increased the expenditure authority of the Safety and Buildings Division by \$650,000 in 2005-06 and \$700,000 in 2006-07 for the contracts, it did

not increase related revenues, due to an available balance in the appropriation.

6. Commerce receives program revenue related to UDC administration from a \$25 uniform building permit seal fee established in Commerce administrative rule. The fee is submitted to Commerce by municipalities or UDC inspection agencies that administer the Uniform Dwelling Code. The fee was last increased in 1992, from \$22 per permit. Commerce also receives revenue from fees set in administrative rule related to certifications and registrations for UDC inspectors (for example, a UDC construction inspector pays a \$10 application fee, \$20 examination fee, and \$30 certification fee for a four-year term).

7. UDC permit and certification fees are deposited in a Safety and Buildings Division general operations program revenue appropriation. The appropriation also receives program revenues from several plan review and inspection activities related to construction such as commercial buildings, multi-family and manufactured dwellings, plumbing, private sewage systems, electrical and heating systems, and elevators. Under the bill, the appropriation is expected to have a June 30, 2009, balance of approximately \$1 million. Revenues are estimated at approximately \$17,430,000 in 2007-08 and \$16,335,000 in 2008-09. (Revenues are expected to be lower in 2008-09 than in 2007-08 because the 2005-07 budget act changed the term of several credentials for plumbers, pipelayers, and installers of automatic fire sprinklers from two to four years, and less revenue from renewal of credentials will be received in the third and fourth year of the four-year cycle.) Authorized expenditures would be approximately \$17.5 million PR annually with 156.8 positions.

8. Commerce Safety and Buildings Division staff who administer the UDC perform the following types of activities: (a) provide advice, technical assistance, and determinations of the application of the UDC to building inspectors, designers, and others; (b) mediate conflicts between contractors and local building officials; (c) monitor the work of inspection agencies and inspectors; (d) review municipality participation in the UDC program; (e) develop training programs for users of the building code; (f) research and write informational bulletins about the code; (g) maintain and update the UDC code; and (h) develop certification exams, such as for inspectors.

9. At the time the additional contract requirements and expenditure authority were included in 2005 Act 25, Commerce anticipated the revenue generated by the UDC program would cover the \$700,000 cost of the contracts. At that time, UDC program revenues exceeded expenditures. Since then, Commerce has allocated additional staff to the program, costs such as salaries and supplies have increased, and Commerce has reestimated revenue to be lower than previously anticipated. Commerce officials currently believe that the UDC program does not generate sufficient revenue to pay for both Commerce administration of the UDC and the contract requirements of 2005 Act 25. The following table shows UDC program revenue and expenditures from 2004-05 through 2008-09. The expenditures include \$50,000 in each year for the contract with the Wisconsin Builders Association to provide education to builders about construction standards and inspection requirements, but not the \$700,000 in contracts required under 2005 Act 25.

Commerce Uniform Dwelling Code Revenue and Expenditures

<u>Fiscal Year</u>	<u>Revenue</u>	<u>Expenditures</u>	<u>Difference</u>	<u>Number of Staff</u>
2004-05	\$1,014,500	\$529,500	\$485,000	5.33
2005-06	997,000	617,000	380,000	5.99
2006-07 (estimated)	852,500	885,800	-33,300	7.75
2007-08 (estimated)	980,000	885,800	94,200	7.75
2008-09 (estimated)	980,000	885,800	94,200	7.75

10. Commerce officials indicate that expenditures for UDC administration have increased because the Department has focused on implementing the requirements of two recent acts. First, 2003 Act 90 removed the authority of municipalities with populations of 2,500 or less to opt out of enforcement of the one- and two-family dwelling code. Commerce submitted a fiscal note estimating revenues of \$175,000 annually and indicating a need for two staff to administer the provisions of the act. Second, 2005 Act 200 included continuing education and certification requirements related to the construction of one- and two-family dwellings. Commerce submitted a fiscal estimate indicating a need for one position to administer the provisions of the act. Neither act provided additional staff or expenditure authority. Commerce has reallocated staff from other activities, including an elevator inspector and commercial building plan reviewer, to implement UDC administrative functions.

11. It could be argued that the statutory requirement to enter into contracts is not needed because Commerce could enter into contracts, if needed, without the statutory requirement. Others may argue that the statutory requirement is needed to ensure that builders and buyers of dwellings have the opportunity to receive training on the homebuilding process and the requirements of the UDC.

12. If the statutory requirement to enter into contracts to provide training related to the building of dwellings is repealed, the \$700,000 in annual expenditure authority that was provided for this purpose in the 2005-07 biennial budget could also be deleted (Alternative 2). If Commerce needs additional expenditure authority for other activities of the Safety and Buildings Division, a request could be made, as necessary, through the budget process or under the 14-day passive review process to the Joint Committee on Finance.

13. As shown in the table, Commerce UDC revenue is anticipated to exceed UDC program expenditures during 2007-09, but by \$94,200 annually rather than the \$700,000 needed for the contracts. Thus, if the current requirement to enter into the contracts, and to spend \$700,000 annually, is maintained, Commerce would need to utilize revenues derived from programs other than Uniform Dwelling Code administration (such as commercial, electrical, and plumbing plan review and inspection) to pay for the contracts.

14. If the Committee chooses to maintain the current requirement that Commerce enter

into contracts to provide the three types of education related to the home building process, the Committee could choose to delete the specific dollar amounts for the contracts (Alternative 3). This could provide Commerce with some flexibility to determine how much revenue to allocate for the training contracts.

ALTERNATIVES TO BASE

1. Approve the Governor’s recommendation to repeal the statutory requirements that Commerce: (a) contract with a private organization to provide education for builders of dwellings (one- and two-family homes) about construction standards and inspection requirements; (b) contract with a private organization to provide education regarding business practices to builders of dwellings, and allocate \$100,000 annually for the contract; and (c) contact with a private organization to provide education for consumers about the home building process, and allocate at least \$600,000 annually for the contract. Maintain authorization for Commerce to enter into a contract for education, under item (a) above, with an organization that is described in section 501 (c)(6) of the Internal Revenue Code and is exempt from federal income tax.

2. Adopt Alternative 1. In addition, delete \$700,000 PR annually allocated for the two contracts.

ALT 2	Change to Bill Funding	Change to Base Funding
PR	-\$1,400,000	-\$1,400,000

3. Maintain the current requirement that Commerce enter into the three contracts, but delete the requirement that Commerce allocate specific dollar amounts for the contracts (\$100,000 for education of builders of dwellings about business practices and \$600,000 for education of consumers about the home building process).

4. Maintain current law.

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