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BILL ANALYSIS

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House Bill 5011 (Substitute H-2 as passed by the House)
Sponsor: Representative Mark Ouimet
House Committee: Regulatory Reform
Senate Committee: Regulatory Reform

Date Completed: 1-25-12

CONTENT

The bill would amend the Single State Construction Code Act to allow a governmental subdivision to contract with a private entity for certain activities involving the administration of the Construction Code.

Specifically, the bill would authorize a governmental subdivision to contract with a private organization to do one or more of the following on behalf of the enforcing agency:

- Receive applications for building permits.
- Receive payments of fees and fines on behalf of the governmental subdivision.
- Perform plan reviews using plan reviewers registered under the Building Officials and Inspectors Registration Act.
- Perform inspections using inspectors registered under that Act.
- Approve temporary service utilities.
- Make determinations that structures or equipment are unsafe.
- Process and deliver correction notices.
- Issue orders to connect or disconnect utilities, or to vacate premises, in emergency situations.

A governmental subdivision also could contract with a private organization to process and deliver any of the following, after the building official had approved their issuance:

- Orders to connect or disconnect utilities, or to vacate premises, in nonemergency situations.
- Building permits.
- Temporary or permanent certificates of use and occupancy.
- Orders to suspend, revoke, or cancel a building permit or certificate of occupancy.
- Violation notices.
- Notices to appear or show cause.
- Stop-work orders.
- Orders to remedy noncompliance.

Under the bill, "building official" would mean an individual who is employed by a governmental subdivision and is charged with the administration and enforcement of the Code and who is registered in compliance with the Building Officials and Inspectors Registration Act. The official also could be an employee of a private organization.

The Act defines "governmental subdivision" as a county, city, village, or township that, in accordance with the Act, has assumed responsibility for administration and enforcement of the Act and the Code within its jurisdiction. "Enforcing agency" means the enforcing agency that, in accordance with the Act, is responsible for administration and enforcement of the Code within a governmental subdivision. The bill would refer to the "governmental agency" that has this responsibility.

MCL 125.1502a et al.

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

At the State level, the bill would likely have a minimal fiscal impact. The administration of the State Construction Code Act as it pertains to issuing individual permits for construction projects is largely handled by local governments. The exceptions are typically small rural communities that have no local building code enforcement. To the extent that the State could obtain inspection and permit review services using one or more private organizations for a lower cost than using Department of Licensing and Regulation Affairs personnel to perform these services, some indeterminate amount of money could be saved. However, the Bureau of Construction Codes, which performs the services, is a self-funded agency. This means that any savings obtained by privatizing services would have no effect on State finances, but to the extent that permit and inspection fees could be lowered, some savings could accrue to individuals and businesses seeking permits.

At the local level, savings could be obtained in situations where local permit and inspection fees generate an insufficient amount of revenue to operate local building permit and inspection programs, assuming a private contractor could perform the services for less than the local government. For local programs that do generate sufficient revenue, a less expensive private contractor could be used to lower the fees regulated individuals and businesses pay.

For both the State and local programs, it is unknown whether a private contractor could provide permitting and inspection services less expensively than those government entities can do so.

Fiscal Analyst: Josh Sefton

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.