

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

SENATE, No. 3402 STATE OF NEW JERSEY 221st LEGISLATURE

DATED: JUNE 26, 2024

SUMMARY

- Synopsis:** “New Jersey Design Professional Self-Certification Act”; requires DCA to establish design professional self-certification program.
- Type of Impact:** Annual State expenditure and revenue increases; local enforcing agency cost impact.
- Agencies Affected:** Department of Community Affairs; local governments.

Office of Legislative Services Estimate

Annual Fiscal Impact	
State Expenditure Increase	Indeterminate
State Revenue Increase	Indeterminate
Local Enforcing Agency Cost Impact	Indeterminate

- The Office of Legislative Services (OLS) concludes that the bill will result in an indeterminate amount of annual costs to the Department of Community Affairs associated with the establishment and administration of a design professional self-certification program. The State may collect a reasonable fee in connection with its audit responsibilities under the program, which will lead to an indeterminate amount of State revenues annually.
- Local enforcing agencies, and the department when acting in that capacity, are also expected to experience administrative cost increases to review self-certified construction permit applications and all accompanying documents. However, local enforcing agencies may experience some cost savings as a result of the bill as the use of the self-certification program would negate workforce needs that would otherwise be required of the local enforcing agency to ensure compliance with the Uniform Construction Code. The OLS is unable to estimate the magnitude and direction of the net cost impact under the bill for local enforcing agencies.

BILL DESCRIPTION

This bill directs the Department of Community Affairs to establish a program through which it is required to certify an architect or engineer who satisfies certain criteria to be a qualified design professional. This certification enables the certified professional to take responsibility for a construction project's compliance with the State Uniform Construction Code, and to self-certify that an application for a construction permit, and the plans and specifications submitted therewith, comply with the Uniform Construction Code and other applicable laws. The bill requires an enforcing agency to: accept a self-certified permit application and accompanying documents; conduct a supervisory check acknowledging the enforcing agency's receipt of all materials required under the Uniform Construction Code; and issue a permit following receipt of a submission, depending on the scope of the project. The bill directs the department to establish eligibility requirements for a design professional to qualify to participate in the self-certification program.

The bill requires the department to establish and promulgate on its website a design professional of record self-certification form, and requires a qualified design professional of record to complete, sign, and deliver the completed form to the enforcing agency together with the construction permit application and accompanying documents. The bill requires a qualified design professional to submit a design professional of record self-certification statement, and the qualified design professional's attestation of the accuracy of submitted information and the compliance with State requirements. The bill also requires the department to establish and promulgate on its website an owner certification statement and an owner hold harmless letter.

The bill empowers the department to conduct random audits of qualified design professionals to determine whether a construction permit application, and plans and other documents submitted in support of the application, comply with the requirements of the Uniform Construction Code and other applicable laws. The bill also authorizes the department to charge a reasonable fee to cover the costs associated with an audit. The bill enables the department to exclude, suspend, or sanction a qualified design professional for cause for actions specified by the bill. The bill also requires the department to create and maintain a searchable database on its website of all qualified design professionals who have been excluded from the program, suspended, or sanctioned by the department, and requires notice of such actions to be provided to the State Board of Professional Engineers and Land Surveyors, or the State Board of Architects. The bill requires the department to undertake a study, in consultation with the Code Advisory Board, within three years of the bill's effective to determine construction activity that may be added to the self-certification program. The department also is to prepare and submit a report to the Governor and the Legislature regarding the self-certification program and the results of the study within this three-year period.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS concludes that the bill will result in an indeterminate amount of annual costs to the Department of Community Affairs associated with the establishment and administration of a design professional self-certification program. In addition to promulgating rules and regulations

to implement the design professional self-certification program, the department would be required, specifically, to establish requirements for design professionals to participate in the self-certification program and develop a series of forms to be used in the self-certification process. The department would also be responsible for conducting a study, within three years of the bill's effective date, to determine any expansion of the types of projects permitted to be self-certified under the program as well as for submitting an associated report to the Governor and the Legislature.

Under the bill, all qualified design professionals are subject to random audit by department to determine whether the application, plans, and specifications for their projects comply with the bill and the State Uniform Construction Code. The department would be responsible for designing and implementing the audits as well as for providing written notice of audit results to the qualified design professional. Audited qualified design professionals would be given opportunity to correct violations found in the audit, or face a hearing to exclude, suspend, or otherwise sanction the qualified design professional. The department would also receive and review applications for reinstatement to the self-certification program as well as approve continuing education for qualified design professionals to participate in following disciplinary action. The department would also be responsible for creating and maintaining a database of qualified design professionals who have faced disciplinary action under the self-certification program as well as notifying the appropriate State professional board. The OLS is unable to estimate the number or frequency of audits of qualified design professionals to be conducted by the department. The OLS is also unable to predict the complexity of each project that will be audited. For these reasons, the OLS is unable to estimate the cost of conducting audits of qualified design professionals. However, under the bill, the department is permitted to collect a reasonable fee to cover the costs of performing an audit, which will increase annual State revenues

Local enforcing agencies, including the department, which operates as the enforcing agency in 45 municipalities, are also expected to experience administrative cost increases associated with the requirement to review self-certified construction permit applications and all accompanying documents. However, local enforcing agencies may experience cost savings as a result of the bill as the use of the self-certification program would negate workforce needs that would otherwise be required of the local enforcing agency to ensure compliance with the Uniform Construction Code. Since the OLS is unable to predict the number of design professionals who will seek the opportunity to self-certify projects, the number of projects eligible for self-certification, or the proportion of all eligible projects that qualified design professionals will ultimately seek to self-certify, the OLS is unable to estimate the magnitude and direction of the net cost impact for local enforcing agencies.

Section: Local Government
Analyst: Abigail Stoyer
Associate Fiscal Analyst
Approved: Thomas Koenig
Legislative Budget and Finance Officer

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).