

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

April 17, 2009

TO: Honorable Garnet Coleman, Chair, House Committee on County Affairs

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB4475 by Callegari (Relating to fire code certificates of compliance, violations, and enforcement; providing penalties.), **Committee Report 1st House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill would amend Chapter 233, Local Government Code, to authorize a county to issue a partial certificate of compliance in certain circumstances for any portion of a building or complex the inspector determines is in compliance with the fire code. Under certain circumstances, a county would be authorized to issue a conditional certificate of compliance for a building that does not comply with the fire code to be occupied. Stipulations and procedures associated with issuing a conditional certificate of compliance are included in the bill, including revocation procedures.

The bill would create Class C and Class B misdemeanor offenses related to violations of construction permit and certificate requirements. In an action seeking injunctive relief or in a civil case related to violations, the county would not be required to give bond, and if the county prevails, the court would be required to award the county reasonable attorney's fees, costs of court, and investigative costs. The bill would increase from \$200 to \$500 the amount of a civil penalty for each day on which an offense occurs. Procedures for a county fire marshal, an assistant fire marshal, or a certified fire inspector related to issuing citations are provided in new sections to be added to Chapter 233.

The bill would amend Chapter 352, Local Government Code, to change the penalties associated with violations of county fire codes. Except as added by Section (d) of Section 352.022, an offense would be a Class C misdemeanor, whereas under current statute it is a Class B. The bill would stipulate that certain other violations constitute a Class B misdemeanor or a state jail felony. Civil penalties not to exceed \$500 for each day on which an offense occurs would be authorized under Chapter 352. A county would not be required to give bond when seeking injunctive relief and if the county prevails in an action, the court would be required to award the county reasonable attorney's fees, costs of court, and investigative costs.

A county would be authorized to issue a partial certificate of compliance on or after the effective date of the bill to any eligible building or complex , regardless of whether the building project started before, on, or after the effective date of the bill. The proposed changes in law regarding offenses would apply only to an offense committed on or after the effective date of the bill, which would be September 1, 2009.

Provided there are not a significant number of civil penalties imposed or civil actions brought, no significant fiscal impact is anticipated related to those issues. Provided there are not a significant number of criminal offenses committed, misdemeanor or state jail felony, costs associated with enforcement, prosecution, and punishment and revenue gains from fines and court cost fees are not anticipated to have a significant fiscal impact.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies:

LBB Staff: JOB, DB