

June 18, 2020

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Alana,

The League of Oregon Cities (LOC), Association of Oregon Counties (AOC) and the cities participating in the Rulemaking Advisory Committee (RAC) for the Building Codes Division regarding municipalities' use of third-party building officials would like to submit the following draft language for consideration in the process.

Senate Bill 1047 was introduced during the 2019 regular legislative session. It had bipartisan, bicameral sponsorship and was filed at the request of the LOC and AOC. There are several provisions of this proposed legislation that we feel would address many of the issues that have been brought up in previous legal opinions regarding these matters. These recommendations include both elements for an administrative rule and consideration of legislation for 2021.

**Administrative Rule:**

**Sections 2 and 3** provide statutory language that ensures municipal oversight of building programs administered by third parties.

**Section 4** codifies a process under which municipalities are required to engage in periodic oversight of the financial aspects of those building programs.

**Section 9** clarifies and provides remedies for any potential conflicts of interest that may arise from third-party arrangements.

**Legislative Language:**

We recognize that there are some aspects of SB 1047 and other solutions to these problems that may not be solved through the rulemaking process. Legislation would potentially be needed to fully address these items below.

**Section 2** states that all actions by the building official be considered as those of an agent of the municipality acting under a grant of authority from the municipality. If this item cannot be resolved by administrative rule, we would like BCD to consider possible legislation for the 2021 session with language to address these provisions.

**Safe harbor** language that validates all previous permits and inspections appear to be a consensus point for the RAC based on previous conversations. We are recommending language recognizing this area of agreement for 2021 session.

As this process goes forward it will be important to develop a rule that considers the geographic and financial challenges faced by many of the cities who are using the existing third-party structure. These cities may well be urban compared to areas outside their city limits, but they don't resemble the populations or resources available to larger population centers found in Portland metro, Salem-Kaiser or other similar urban centers.

We appreciate the good faith efforts and dialogue from RAC members and remain optimistic that many of the issues that have been brought up can be addressed through the drafting of rules with the template that SB 1047 provides.

Sincerely,



Scott Jorgensen  
City of Aurora



Greg Hinkelman  
City of Clatskanie



Wendy Farley-Campbell  
For Erin Reynolds  
City of Florence



Jim McCauley  
League of Oregon Cities



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