



## HOUSE COMMITTEE ON APPROPRIATIONS

# FISCAL NOTE

HOUSE BILL NO. 349

PRINTERS NO. 1129

PRIME SPONSOR: Heffley

### COST / (SAVINGS)

FUND	FY 2018/19	FY 2019/20
General Fund	\$0	\$0
Municipal Funds	\$0	See "Fiscal Impact"

**SUMMARY:** Amends the PA Construction Code Act (Act 45 of 1999) to require that municipalities, which opt to enforce the Uniform Construction Code (UCC) by utilizing third-party agencies, have at least two or more contracted for UCC administration. This legislation would take effect immediately.

**ANALYSIS:** This legislation amends the PA Construction Code Act to require that municipalities, which opt to enforce the Uniform Construction Code (UCC) by utilizing third-party agencies, have at least two or more contracted for UCC administration.

**Requirement for Two or More Third-Party Agencies:** The legislation amends Section 501 ("Administration and Enforcement") of the act to require that municipalities which have opted to use the services of an exclusive third-party agency for UCC enforcement have at least two or more such agencies under contract. This requirement will take effect January 1, 2020. A permit applicant must choose from one of the contracted agencies for their code work.

**Administration of "Two or More" Requirement:** This legislation amends Section 501 to add language which details how municipalities are to administer the "two or more" mandate. Municipalities will be required:

- To have written professional services contracts with third-party agencies.
- To consider the qualifications/fee schedule/availability of services/input from stakeholders in selecting third-party agencies for professional service agreements entered into on or after the effective date of the legislation.
- To not enter into contracts with third-party agencies that are more than three years in length.

The legislation specifically states that a permit applicant must utilize the services of the third-party agency they select for all services performed on a project.

**Waiver from “Two or More” Requirement:** The legislation amends Section 501 to establish a process to allow municipalities, which cannot find a qualified second third-party agency, to obtain a waiver from the “two or more” requirement. A municipality that needs a waiver will be required to complete a certification form annually as furnished by the Department of Labor and Industry (L&I). The certification form will require that: 1) the municipality disclose the methods and dates of the public solicitation of services (to document advertisement for services and documentation that an announcement was made at a public meeting); 2) the municipality disclose the number of qualified bids received; and 3) the municipality state that information provided in the certification form is in compliance with Title 18 4904 (relating to unsworn falsification to authorities). The form would contain a statement that L&I does not have the discretion to deny waivers.

**“Two or More” Requirement for Intermunicipal Agreements:** This legislation amends Section 501 to require that enforcement programs based on new inter-governmental agreements and which have an exclusive third-party agency agreement must provide for two or more third-party agencies on or after January 1, 2020. The legislation makes clear that a professional services agreement with an inter-governmental unit in effect, on the effective date of the act, may remain in effect. It also specifically states that a permit applicant must utilize the services of the third-party agency they select for all services performed on a project.

**Clarification of Ability of Municipal Code Programs to Use Third-Party Agencies:** This legislation amends Section 501 to state that a municipal code official may utilize third-party agencies to supplement a municipality’s code enforcement program, or to conduct plan review/inspection services in categories for which the municipal program does not have expertise.

**Notice of Ability to File Complaints about Code Officials:** This legislation amends Section 501 to add language to require that municipalities that contract with third-party agencies to enforce the UCC provide on the application form for a building permit written notification of the following information:

- (1) The authority of the third-party agency is the result of a contract approved by the governing body of the municipality, or the result of an inter-municipal agreement entered by the municipality.
- (2) An applicant may inform the governing body of the municipality of complaints about the agency’s services, including reports of incompetence or gross negligence, a failure to abide by a time specified in the act, rude or unprofessional behavior, or discrimination based on personal bias against the applicant.
- (3) L&I certifies third-party agencies and investigates complaints about service, including complaints about violations of the act, incompetence, or gross negligence, fraud, deceit, or acts of moral turpitude.
- (4) L&I has a publicly accessible internet site that includes the form for filing a complaint.

The legislation requires that the municipality maintain a record of complaints that are submitted to its governing body.

**Clarification of Act with Respect to Philadelphia UCC Appeal Board:** The legislation amends Section 501 to state that the City of Philadelphia may designate an existing departmental appeal board as its UCC appeals board, and such board will advise the appropriate department as to whether an appeal should be granted, modified, or rejected; that department would have final decision on such appeals.

**FISCAL IMPACT:** This legislation would have no adverse fiscal impact on Commonwealth funds. The legislation could create some additional costs, though minimal, for some municipalities that have to contract with two, third-party agencies. It is likely that individual contracts for third-party agencies would decrease as a result of increased competition.

**PREPARED BY:** Tim Rodrigo  
House Appropriations Committee (R)

**DATE:** April 4, 2019

*Estimates are calculated using the best information available. Actual costs and revenue impact incurred may vary from estimates.*