

**SB 866 STAFF MEASURE SUMMARY****Carrier:** Sen. Anderson**Senate Committee On Rules**


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**Action Date:** 06/10/21  
**Action:** Do pass.  
**Vote:** 4-0-1-0  
**Yeas:** 4 - Burdick, Girod, Manning Jr, Wagner  
**Exc:** 1 - Thatcher  
**Fiscal:** Has minimal fiscal impact  
**Revenue:** No revenue impact  
**Prepared By:** Leslie Porter, LPRO Analyst  
**Meeting Dates:** 5/25, 6/10

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**WHAT THE MEASURE DOES:**

Permits municipality or Department of Consumer and Business Services to contract with person to administer and enforce building inspection program and act as building official. Allows municipalities that began contract with person before January 1, 2018 and before effective date of Act to continue contract with person. Allows municipalities to begin contract with person after effective date of Act on limited basis during active recruitment. Requires contract building official to submit discretionary decisions in writing to municipal employee. Requires contract building official to submit discretionary decisions concerning permit applications in writing to applicant and to provide available opportunities for hearing and appeal of decision. Establishes appeals process for contract building official decisions. Requires audits of municipal and county building inspection programs using contract building official. Considers person providing building inspection services to be public official for purposes of ORS Chapter 244.

**ISSUES DISCUSSED:**

- Stakeholder agreement to proposed solution
- Oregon Department of Justice consultation
- Process to ratify decisions made prior to Senate Bill 866
- The need for small municipalities to contract services
- Safeguards included in the the proposed solution

**EFFECT OF AMENDMENT:**

No amendment.

**BACKGROUND:**

On March 14, 2019, Oregon Attorney General Opinion [No. 8296](#) (Opinion) responded to questions from the Department of Consumer and Business Services (DCBS) about municipalities' use of private entities to administer and enforce the building code. The Opinion states that the Oregon Constitution limits the ability for public bodies to hire private entities to administer and enforce governmental power, but also states that municipalities are not prevented from hiring private entities to administer some of the duties of a building inspection program, as long as adequate safeguards exist. The Opinion states that the current statutory scheme allows municipalities to administer and enforce a building inspection program, and does not permit the administration and enforcement of a building inspection program to be contracted out.

Senate Bill 866 permits a municipality or DCBS to contract with a person to administer and enforce a building inspection program and act as a building official, while addressing the legal safeguards discussed in the Opinion.