

SENATE, No. 3095

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED NOVEMBER 5, 2020

Sponsored by:

Senator PATRICK J. DIEGNAN, JR.
District 18 (Middlesex)

Co-Sponsored by:

Senators Oroho, Singleton and Pou

SYNOPSIS

Establishes expedited construction inspection program.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 12/21/2020)

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1 AN ACT concerning inspections under the construction code, and
2 supplementing and amending P.L.1975, c.217.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. (New section) a. (1) The commissioner, in consultation
8 with the code advisory board, shall promulgate rules and
9 regulations, pursuant to the "Administrative Procedure Act,"
10 P.L.1968, c.410 (C.52:14B-1 et seq.), establishing standards,
11 procedures, and other requirements for an optional program
12 providing expedited inspections of construction undertaken
13 pursuant to a construction permit.

14 (2) The expedited inspection program shall provide that:

15 (a) a municipal governing body may participate in the program
16 by requiring its enforcing agency to conduct expedited inspections
17 within two calendar days of an owner's request for an inspection;

18 (b) an owner of a project located in a municipality that is not
19 requiring its enforcing agency to conduct expedited inspections may
20 select a private inspection agency to conduct expedited inspections;

21 (c) a business entity shall not conduct expedited inspections
22 unless licensed and authorized to do so by the department;

23 (d) an owner may opt to participate in the expedited inspection
24 program at the time of submission of an application for a
25 construction permit pursuant to section 12 of P.L.1975, c.217
26 (C.52:27D-130);

27 (e) an owner participating in the expedited inspection program
28 shall pay a premium in addition to all otherwise applicable fees;

29 (f) each expedited inspection shall be completed within two
30 calendar days of an owner's request for an inspection;

31 (g) if a local enforcing agency or a private inspection agency
32 fails to complete an expedited inspection within two calendar days
33 of an owner's request for an inspection, the agency shall complete
34 the inspection within the following 24 hours and shall refund the
35 premium for that expedited inspection to the owner. If a local
36 enforcing agency or a private inspection agency fails to complete an
37 expedited inspection within the following 24 hours, the owner may
38 elect to retain a different private inspection agency, in a manner
39 consistent with subsection b. of section 19 of P.L.1975, c.217
40 (C.52:27D-137), to perform the remainder of inspections required
41 for the project.

42 b. (1) A municipal governing body, in consultation with the
43 construction official of its enforcing agency, shall determine
44 whether the enforcing agency shall conduct expedited inspections or
45 whether an owner may retain a private inspection agency to conduct

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 expedited inspections. Regardless of whether expedited inspections
2 are conducted by an enforcing agency or a private inspection
3 agency, the enforcing agency shall retain the power and
4 responsibility over issuance of the certificate of occupancy under
5 section 15 of P.L.1975, c.217 (C.52:27D-133).

6 (a) An enforcing agency that conducts expedited inspections
7 may conduct those inspections outside of the hours specified in
8 section 14 of P.L.1975, c.217 (C.52:27D-132).

9 (b) The enforcing agency shall observe the progress of a
10 construction project receiving expedited inspections by a private
11 inspection agency and shall retain jurisdiction over the project in
12 order to be responsive to inquiries from the general public and from
13 special interests, to the needs of the owner and the private
14 inspection agency, and to the obligations and requirements imposed
15 by the code.

16 (2) An owner applying to participate in the expedited inspection
17 program shall submit payment of all applicable fees, together with
18 an expedited inspection premium fee of \$100 per inspection, to the
19 enforcing agency together with the application for a construction
20 permit, unless the municipality establishes an alternative premium
21 fee price, or variety of alternative prices depending on the size and
22 complexity of the application. If the enforcing agency does not
23 conduct expedited inspections, at the time of submission of an
24 application for a construction permit, the owner shall identify the
25 private inspection agency the owner has selected to conduct
26 expedited inspections. The enforcing agency shall deliver payment
27 of the expedited inspection premium fee to the private inspection
28 agency selected to conduct expedited inspections.

29 c. (1) The department shall establish a program for the
30 licensure and authorization of business entities as private inspection
31 agencies for the purpose of contracting with owners to conduct
32 expedited inspections pursuant to this section or to perform
33 inspections pursuant to section 19 of P.L.1975, c.217 (C.52:27D-
34 137). No business entity shall conduct inspections under a
35 construction permit or enter into any contract to do so without first
36 receiving the licensure and authorization of the department. The
37 department may impose and collect fees from applicants for
38 licensure and authorization under this section.

39 (2) Licensure and authorization of a business entity as a private
40 inspection agency shall include, but not be limited to, consideration
41 of the qualifications of the management and technical personnel of
42 the business entity, the fiscal integrity of the business entity, and
43 the ability of the business entity to perform expedited inspections
44 within the requisite time frames in a manner sufficient to ensure
45 that the construction is performed in accordance with the conditions
46 of the construction permit and the requirements of the code.

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1 (3) A private inspection agency shall not employ a person as an
2 officer or inspector unless the person is certified by the department
3 in the appropriate subcode.

4 (4) A private inspection agency shall be subject to the orders
5 and directives of the municipal construction official and the
6 department in matters relating to the enforcement of the code.

7 (5) A private inspection agency shall maintain records of all
8 inspections and any other information that may be required by the
9 municipal construction official or the department. These records
10 shall be open to department audit and shall not be destroyed or
11 removed from the offices of the private inspection agency without
12 the permission of the department.

13 (6) A private inspection agency shall not directly collect fees
14 from the owner, or any agent or employee of the owner. The
15 enforcing agency shall be the sole agent for the collection and
16 delivery of an expedited inspection premium fee to a private
17 inspection agency.

18 d. (1) Except as otherwise provided in this section, a private
19 inspection agency that has contracted to perform expedited
20 inspections for a project shall carry out its obligations under the
21 contract and applicable provisions of law until full completion of
22 the project, as evidenced by the enforcing agency's issuance of a
23 certificate of occupancy.

24 (2) A private inspection agency conducting expedited
25 inspections shall have all of the powers, and shall be subject to all
26 of the requirements, applicable to an enforcing agency with regard
27 to conducting inspections under P.L.1975, c.217 (C.52:27D-119 et
28 seq.), however, the private inspection agency shall be obligated to
29 conduct inspections in an expedited timeframe.

30 (3) A private inspection agency conducting expedited
31 inspections shall:

32 (a) maintain all inspection records applicable to each
33 construction permit;

34 (b) maintain an adequate number of certified staff to conduct
35 expedited inspections for all classes of structure consistent with the
36 private inspection agency's licensure and certification;

37 (c) provide adequate supervision of employees and ensure that
38 an employee is properly licensed and certified before conducting an
39 inspection;

40 (d) carry insurance as may be required by the department; and

41 (e) prepare and submit all required reports to the department and
42 the enforcing agency.

43 e. An owner and a private inspection agency may agree to the
44 performance of expedited inspections outside of the hours specified
45 in section 14 of P.L.1975, c.217 (C.52:27D-132).

46

47 2. Section 6 of P.L.1975, c.217 (C.52:27D-124) is amended to
48 read as follows:

1 6. The commissioner shall have all the powers necessary or
2 convenient to effectuate the purposes of **【this act】** P.L.1975, c.217
3 (C.52:27D-119 et seq.), including, but not limited to, the following
4 powers in addition to all others granted by **【this act】** P.L.1975,
5 c.217 (C.52:27D-119 et seq.):

6 a. To adopt, amend and repeal, after consultation with the code
7 advisory board, rules: (1) relating to the administration and
8 enforcement of **【this act】** P.L.1975, c.217 (C.52:27D-119 et seq.)
9 and (2) the qualifications or licensing, or both, of all persons
10 employed by enforcing agencies of the State to enforce **【this act】**
11 P.L.1975, c.217 (C.52:27D-119 et seq.) or the code, except that,
12 plumbing inspectors shall be subject to the rules adopted by the
13 commissioner only insofar as such rules are compatible with such
14 rules and regulations, regarding health and plumbing for public and
15 private buildings, as may be promulgated by the Public Health
16 Council in accordance with Title 26 of the Revised Statutes.

17 b. To enter into agreements with federal and State of New
18 Jersey agencies, after consultation with the code advisory board, to
19 provide insofar as practicable (1) single-agency review of
20 construction plans and inspection of construction and (2)
21 intergovernmental acceptance of such review and inspection to
22 avoid unnecessary duplication of effort and fees. The commissioner
23 shall have the power to enter into such agreements although the
24 federal standards are not identical with State standards; provided
25 that the same basic objectives are met. The commissioner shall
26 have the power through such agreements to bind the State of New
27 Jersey and all governmental entities deriving authority therefrom.

28 c. To take testimony and hold hearings relating to any aspect of
29 or matter relating to the administration or enforcement of **【this act】**
30 P.L.1975, c.217 (C.52:27D-119 et seq.), including but not limited to
31 prospective interpretation of the code so as to resolve inconsistent
32 or conflicting code interpretations, and, in connection therewith,
33 issue subpoena to compel the attendance of witnesses and the
34 production of evidence. The commissioner may designate one or
35 more hearing examiners to hold public hearings and report on such
36 hearings to the commissioner.

37 d. To encourage, support or conduct, after consultation with the
38 code advisory board, educational and training programs for
39 employees, agents and inspectors of enforcing agencies, either
40 through the Department of Community Affairs or in cooperation
41 with other departments of State government, enforcing agencies,
42 educational institutions, or associations of code officials.

43 e. To study the effect of **【this act】** P.L.1975, c.217 (C.52:27D-
44 119 et seq.) and the code to ascertain their effect upon the cost of
45 building construction and maintenance, and the effectiveness of
46 their provisions for insuring the health, safety, and welfare of the
47 people of the State of New Jersey.

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- 1 f. To make, establish and amend, after consultation with the
2 code advisory board, such rules as may be necessary, desirable or
3 proper to carry out his powers and duties under **【this act】** P.L.1975,
4 c.217 (C.52:27D-119 et seq.).
- 5 g. To adopt, amend, and repeal rules and regulations providing
6 for the charging of and setting the amount of fees for the following
7 code enforcement services, licenses or approvals performed or
8 issued by the department, pursuant to the "State Uniform
9 Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.):
- 10 (1) Plan review, construction permits, certificates of occupancy,
11 demolition permits, moving of building permits, elevator permits
12 and sign permits; and
- 13 (2) Review of applications for and the issuance of licenses
14 certifying an individual's qualifications to act as a construction code
15 official, subcode official or assistant under **【this act】** P.L.1975,
16 c.217 (C.52:27D-119 et seq.).
- 17 (3) (Deleted by amendment, P.L.1983, c.338).
- 18 h. To adopt, amend and repeal rules and regulations providing
19 for the charging of and setting the amount of construction permit
20 surcharge fees to be collected by the enforcing agency and remitted
21 to the department to support those activities which may be
22 undertaken with moneys credited to the Uniform Construction Code
23 Revolving Fund.
- 24 i. To adopt, amend and repeal rules and regulations providing
25 for:
- 26 (1) Setting the amount of and the charging of fees to be paid to
27 the department by a **【private agency】** business entity for the review
28 of applications for and the issuance of approvals authorizing a
29 **【private agency】** business entity to act as a private inspection
30 agency, an on-site inspection and plan review agency, or an in-plant
31 inspection agency;
- 32 (2) (Deleted by amendment, P.L.2005, c.212).
- 33 (3) (Deleted by amendment, P.L.2005, c.212).
- 34 j. To enforce and administer the provisions of the "State
35 Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-119
36 et seq.) and the code promulgated thereunder, and to prosecute or
37 cause to be prosecuted violators of the provisions of that act or the
38 code promulgated thereunder in administrative hearings and in civil
39 proceedings in State and local courts.
- 40 k. To monitor the compliance of local enforcing agencies with
41 the provisions of the "State Uniform Construction Code Act,"
42 P.L.1975, c.217 (C.52:27D-119 et seq.), to order corrective action
43 as may be necessary where a local enforcing agency is found to be
44 failing to carry out its responsibilities under that act, to supplant or
45 replace the local enforcing agency for a specific project, and to
46 order it dissolved and replaced by the department where the local
47 enforcing agency repeatedly or habitually fails to enforce the
48 provisions of the "State Uniform Construction Code Act."

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1 1. To adopt, amend, and repeal rules and regulations
2 implementing the provisions of P.L.1999, c.15, P.L.2003, c.44, and
3 section 1 of P.L.2015, c.146 (C.52:27D-123f) concerning the
4 installation and maintenance of carbon monoxide sensors.
5 (cf: P.L.2015, c.146, s.2)

6

7 3. Section 14 of P.L.1975, c.217 (C.52:27D-132) is amended to
8 read as follows:

9 14. a. The enforcing agency shall periodically inspect all
10 construction undertaken pursuant to a construction permit issued by
11 it to insure that the construction or alteration is performed in
12 accordance with the conditions of the construction permit and
13 consistent with the requirements of the code and any ordinance
14 implementing said code.

15 b. The owner of any premises upon which a building or
16 structure is being constructed shall be deemed to have consented to
17 the inspection by the enforcing agency and the department, of the
18 entire premises and of any and all construction being performed on
19 it until a certificate of occupancy has been issued. An inspector, or
20 team of inspectors, on presentation of proper credentials, shall have
21 the right to enter and inspect such premises, and any and all
22 construction thereon, for purposes of ensuring compliance with the
23 provisions of the applicable construction permit, the code, and other
24 applicable laws and regulations. All inspection pursuant to **[this act]**
25 P.L.1975, c.217 (C.52:27D-119 et seq.) shall be between the
26 hours of 9 a.m. and 5 p.m. on business days, or when construction is
27 actually being undertaken, provided, however, that inspections may
28 be conducted at other times if the enforcing agency has reasonable
29 cause to believe that an immediate danger to life, limb or property
30 exists, or if permission is given by an owner, or his agent, architect,
31 engineer or builder. No person shall accompany an inspector or
32 team of inspectors on any inspection pursuant to **[this act]**
33 P.L.1975, c.217 (C.52:27D-119 et seq.), unless his presence is
34 necessary for the enforcement of **[this act]** P.L.1975, c.217
35 (C.52:27D-119 et seq.), or the code, or unless consent is given by
36 an owner or his agent, architect, engineer or builder.

37 c. If the construction of a structure or building is being
38 undertaken contrary to the provisions of a construction permit, **[this act]**
39 P.L.1975, c.217 (C.52:27D-119 et seq.), the code, or other
40 applicable laws or ordinances, the enforcing agency may issue a
41 stop construction order in writing which shall state the conditions
42 upon which construction may be resumed and which shall be given
43 to the owner or the holder of the construction permit or to the
44 person performing the construction. If the person doing the
45 construction is not known, or cannot be located with reasonable
46 effort, the notice may be delivered to the person in charge of, or
47 apparently in charge of, the construction. No person shall continue,

1 or cause or allow to be continued, the construction of a building or
2 structure in violation of a stop construction order, except with the
3 permission of the enforcing agency to abate a dangerous condition
4 or remove a violation, or except by court order. If an order to stop
5 construction is not obeyed, the enforcing agency may apply to the
6 appropriate court as otherwise established by law for an order
7 enjoining the violation of the stop construction order. The remedy
8 for violation of such an order provided in this subsection shall be in
9 addition to, and not in limitation of, any other remedies provided by
10 law or ordinance.

11 d. When an inspector or team of inspectors finds a violation of
12 the provisions of a construction permit, the code, or other applicable
13 laws and regulations at an owner-occupied single-family residence,
14 and issues a notice of violation and an order to terminate the
15 violation, the enforcing agency shall require the same inspector or
16 team of inspectors who found the violation to undertake any
17 subsequent reinspection thereof at the premises. When the same
18 inspector or team of inspectors cannot be assigned to undertake the
19 reinspection, the enforcing agency may assign an available
20 inspector provided the scope of the reinspection shall be limited to
21 the violation for which the reinspection is required. The
22 requirements of this subsection shall not apply to violations of the
23 plumbing or electrical subcodes, or to fire safety code violations, or
24 to any violation of any other subcode that the Department of
25 Community Affairs determines to be a health or safety violation.
26 Nothing in this subsection shall be construed to infringe upon the
27 right of a property owner to request a different inspector, team of
28 inspectors, or supervisor, to perform any required reinspection.

29 e. The owner or other responsible person in charge of work
30 shall notify the enforcing agency when the work is ready for any
31 required inspection under the code. This notice shall be given at
32 least 24 hours prior to the time the inspection is desired. Except for
33 an expedited inspection performed pursuant to section 1 of P.L. ,
34 c. (C.) (pending before the Legislature as this bill), the
35 enforcing agency shall perform an inspection within three business
36 days of the time for which it was requested.

37 (cf: P.L.2007, c.149, s.1)

38

39 4. Section 19 of P.L.1975, c.217 (C.52:27D-137) is amended to
40 read as follows:

41 19. a. At the request of an enforcing agency, the department or
42 an agency approved by the commissioner may assist an enforcing
43 agency in the inspection of any construction of buildings or
44 structures, provided that the enforcing agency has submitted the
45 plans and specifications for such construction to the department or
46 such agency, as the case may be, for review as to compliance with
47 the code and **【this act】** P.L.1975, c.217 (C.52:27D-119 et seq.). In
48 such cases the commissioner shall provide by regulation for fees to

1 the department or an agency to cover the cost of providing such
2 services, to be borne ultimately by applicants for construction
3 permits. The commissioner shall also provide guidance for the
4 readjustment of municipal fees in accordance with the cost of
5 services performed by the department or an agency.

6 b. (1) If a local enforcing agency fails to perform an inspection
7 within three business days of the time for which it was requested, as
8 required by subsection e. of section 14 of P.L.1975, c.217
9 (C.52:27D-132), the owner may elect to retain a private inspection
10 agency, authorized by the department to perform inspection
11 services, to perform the remainder of inspections required for the
12 project. The owner shall notify the local enforcing agency in
13 writing that the owner has retained a private inspection agency to
14 perform the remaining inspections, and shall identify the private
15 inspection agency the owner has selected to conduct inspections.
16 The local enforcing agency shall immediately provide the private
17 inspection agency a copy of the plans and specifications for the
18 construction and all other materials relevant to inspection of work
19 on the project to facilitate the transfer of responsibility for
20 inspections to the private agency. The local enforcing agency shall
21 return to the owner a proportional amount of the fees paid by the
22 owner to the local enforcing agency, consistent with the
23 commissioner's guidance for the readjustment of fees, provided
24 pursuant to subsection a. of this section, in order to reflect the
25 transfer of responsibility to perform the remaining inspections from
26 the local enforcing agency to a private inspection agency, however,
27 the local enforcing agency may retain a portion of the fees to cover
28 its costs associated with its continued responsibilities related to the
29 project.

30 (2) A private inspection agency that is authorized by the
31 department to perform inspection services may contract with an
32 owner to perform the remainder of inspections required for a
33 construction project, if a local enforcing agency has failed to
34 perform an inspection within three business days of the time for
35 which it was requested. A private inspection agency may charge
36 the owner fees to cover the cost of providing inspection services. A
37 private inspection agency shall maintain records of all inspections
38 and any other information that may be required by the department
39 and shall submit a report to the local enforcing agency after each
40 inspection. A private inspection agency shall have all of the
41 powers, and shall be subject to all of the requirements, applicable to
42 a local enforcing agency with regard to conducting inspections
43 under P.L.1975, c.217 (C.52:27D-119 et seq.).

44 (3) The local enforcing agency shall observe the progress of a
45 construction project receiving inspections by a private agency under
46 this subsection, and shall retain oversight jurisdiction of the project
47 in order to be responsive to inquiries from the general public and

1 from special interests, to the needs of the owner and the private
2 agency, and to the obligations and requirements imposed by the
3 code.

4 (cf: P.L.1975, c.217, s.19)

5

6 5. This act shall take effect on the first day of the fourth month
7 next following the date of enactment, however, the commissioner
8 shall immediately commence the process of promulgating rules and
9 regulations to effectuate the provisions of this act.

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STATEMENT

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14 This bill would establish an alternate inspection process, under the
15 State Uniform Construction Code Act, for property owners willing to
16 pay a premium fee to expedite inspections. The bill would also
17 authorize a property owner to retain a private agency to perform
18 construction code inspections if the local code enforcing agency is
19 unable to complete an inspection within three business days of the
20 time the owner requests the inspection to be performed.

21 Under the bill, an applicant for a construction permit may opt to
22 pay a premium fee to have inspections under the permit performed on
23 an expedited basis, i.e., within two calendar days of the time requested
24 for an inspection. The premium fee would be \$100 per inspection
25 unless the municipality establishes an alternative price, or variety of
26 alternative prices depending on application size and other relevant
27 factors. The bill would allow an applicant to exercise this option at the
28 time of submitting an application for a construction permit.

29 The expedited inspection program would provide that:

- 30 • a municipal governing body may participate in the program by
31 requiring its enforcing agency to conduct expedited inspections
32 or by allowing an applicant to have a private agency perform
33 expedited inspections ;
- 34 • an owner of a project located in a municipality that is not
35 requiring its enforcing agency to conduct expedited inspections
36 may select a private inspection agency to conduct expedited
37 inspections;
- 38 • to conduct expedited inspections under the bill a private
39 inspection agency must be licensed and authorized to perform
40 inspections by the Department of Community Affairs (DCA);
- 41 • an owner may opt to participate in the expedited inspection
42 program at the time of submission of an application for a
43 construction permit ;
- 44 • an owner participating in the expedited inspection program
45 would pay a premium in addition to all otherwise applicable
46 fees;
- 47 • each expedited inspection would be completed within two
48 calendar days of an owner's request for an inspection;

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- 1 • if a local enforcing agency or a private inspection agency fails
2 to complete an expedited inspection within two calendar days
3 of an owner's request for an inspection, the agency must
4 complete the inspection within the following 24 hours and
5 must refund the premium for that expedited inspection to the
6 owner.

7 The bill provides that regardless of whether the local enforcing
8 agency or a private inspection agency are conducting expedited
9 inspections, the enforcing agency would retain the power and
10 responsibility over issuance of the certificate of occupancy for the
11 construction project. The enforcing agency would observe the
12 progress of a construction project receiving expedited inspections by a
13 private inspection agency, and would retain jurisdiction over the
14 project in order to be responsive to inquiries from the general public
15 and from special interests, to the needs of the owner and the private
16 inspection agency, and to the obligations and requirements imposed by
17 the construction code.

18 The bill would require DCA to establish a program to license and
19 authorize business entities as private inspection agencies for the
20 purpose of contracting with owners to conduct expedited inspections
21 or to perform inspections when an enforcing agency is unable to
22 complete inspection within the time required by law. The bill specifies
23 requirements for a business to be licensed and authorized as a private
24 inspection agency.

25 Additionally, the bill would codify that a local enforcing agency
26 must perform a construction code inspection within three business
27 days of the time the owner requests it to be performed. If a local
28 enforcing agency fails to perform an inspection within that timeframe,
29 the bill would authorize the owner to retain a private inspection agency
30 to perform the remainder of inspections required for the project.
31 Under the bill, the owner would be required to notify the local
32 enforcing agency in writing, that the owner has retained a private
33 inspection agency to perform the remaining inspections. The bill
34 would require the local enforcing agency to provide the private
35 inspection agency a copy of the plans and specifications for the
36 construction and all other materials relevant to inspecting the
37 construction project. Under the bill, the local enforcing agency must
38 return to the owner a proportional amount of the fees paid by the
39 owner to the local enforcing agency, however, the local enforcing
40 agency may retain a portion of the fees to cover its costs associated
41 with its continued responsibilities related to the project. The bill
42 would allow a private inspection agency to charge the owner fees to
43 cover the cost of providing inspection services. Despite the transfer
44 of control over the inspection function to a private agency, the bill
45 would require the local enforcing agency to observe the progress of
46 a construction project, and to retain oversight jurisdiction of the
47 project in order to be responsive to inquiries from the general public

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1 and from special interests, to the needs of the owner and the private
2 agency, and to the obligations and requirements imposed by the
3 code.