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## **OLR Bill Analysis**

### **sSB 830**

#### ***AN ACT PROHIBITING THE USE OF CERTAIN OUTDOOR WOOD-BURNING FURNACES.***

#### **SUMMARY:**

This bill (1) continues the conditional ban on constructing, installing, establishing, modifying, operating, or using an outdoor wood-burning furnace unless it meets certain revised requirements and (2) requires all outdoor wood-burning furnaces to meet an emissions standard if they are constructed, installed, established, modified, operated, or in use on and after October 1, 2011. It allows furnace replacement or modification to meet the standard.

Additionally, the bill explicitly allows municipalities to regulate or prohibit outdoor wood-burning furnace operation or use at certain times of the year and provides local health directors with enforcement powers. It adds "hot air" to the means by which an outdoor wood-burning furnace transfers or provides heat and allows such furnaces to burn wood pellets. The bill also increases the penalty for violating the law.

EFFECTIVE DATE: October 1, 2011

#### **OUTDOOR WOOD-BURNING FURNACE REQUIREMENTS**

By law, people may not construct, install, establish, modify, operate, or use an outdoor wood-burning furnace between July 8, 2005 and the date the U.S. Environmental Protection Agency (EPA) regulations governing these furnaces take effect (they were never adopted) unless it was built or in use before July 8, 2005 or the furnace:

1. is installed at least 200 feet from the nearest residence not serviced by it;
2. has a chimney no higher than 55 feet but higher than the roof

peaks of residences not serviced by it within 500 feet of the furnace;

3. burns only non-chemically treated wood; and
4. is installed and operated according to the manufacturer's written instructions, provided the instructions comply with the law.

The bill requires all outdoor wood-burning furnaces constructed, installed, established, modified, operated, or in use on and after July 8, 2005 to either (1) have been constructed, installed, established, modified, operated, or in use before July 8, 2005 or (2) comply with the four above requirements, with three modifications. First, the chimney must be at least 200 feet from the nearest exterior wall of an existing residence not serviced by it, instead of the residence. The bill defines a residence as any structure customarily used for human habitation, but it excludes contiguous structures or portions of structures not customarily used for human habitation (e.g., garages). Second, it specifies that a chimney must be higher than the existing roof peaks of residences not serviced by it within 500 feet of the furnace and no higher than 55 feet. And third, the furnace may burn wood pellets as well as non-chemically treated wood.

The bill also requires all outdoor wood-burning furnaces constructed, installed, established, modified, operated, or in use on and after October 1, 2011 to meet a Phase II emission standard with a particulate matter emission limit of 0.32 pounds per MMBtu heat output (see BACKGROUND).

### **REGULATION AND ENFORCEMENT**

The bill explicitly allows municipalities to regulate or prohibit outdoor wood-burning furnace operation or use from May 15 to September 15 or any time between these dates. But it provides that it does not affect any municipal ordinance or regulation concerning outdoor wood-burning furnace operation or use.

By law, municipalities can define, prohibit, and abate nuisances and

things detrimental to the health, morals, safety, convenience, and welfare of their inhabitants. They also can regulate smoke emission from any chimney, smokestack, or other source within their limits. It is not clear if the bill is limiting existing municipal powers concerning smoke emission by explicitly allowing municipalities to ban furnace use during some period between May 15 and September 15, while remaining silent as to the rest of the year.

Under existing law, the Department of Environmental Protection commissioner must enforce the furnace law's provisions, and a municipality affected by an outdoor wood-burning furnace's operation or potential operation can enforce them. The bill explicitly authorizes local health directors to enforce the law.

## **PENALTIES**

Under current law, anyone operating a furnace in violation of the law commits an infraction, punishable by a fine of up to \$90. Each day of operation is considered a separate infraction. The bill (1) changes the infraction to a violation, (2) requires a fine of up to \$250 for the first violation, and (3) imposes a \$100 fine for each subsequent day of operating in violation of the law.

## **BACKGROUND**

### ***Emission Standards***

While indoor wood stoves must meet EPA-certified emissions levels, outdoor wood-burning furnaces are not required to meet a federal emission standard. In 2007, EPA began a voluntary partnership with manufacturers to design and market cleaner, more efficient furnaces. The furnaces are certified and labeled to meet EPA emissions performance levels in two phases: Phase I emissions levels of 0.60 pounds of particulate matter per million British thermal units (MMBtu) of heat input and Phase II emissions levels of 0.32 pounds of particulate matter per MMBtus of heat output.

### ***Legislative History***

The Senate referred the bill (File 421) to the Planning and Development Committee, which reported a substitute that requires all

outdoor wood-burning furnaces constructed, installed, established, modified, operated, or in use on and after October 1, 2011 to meet a Phase II emission standard with a particulate matter emission limit of 0.32 pounds per MMBtu heat output. The prior version of the bill required such furnaces to meet this standard unless they were constructed, installed, established, modified, operated, or in use prior to October 1, 2011 and, if applicable, met the law's installation and operation specifications and requirements.

**COMMITTEE ACTION**

Environment Committee

Joint Favorable Substitute

Yea 26 Nay 1 (03/18/2011)

Planning and Development Committee

Joint Favorable Substitute

Yea 15 Nay 4 (04/18/2011)