



Senate Fiscal Agency
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BILL ANALYSIS



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Senate Bill 719 (as enrolled)

PUBLIC ACT 270 of 1995

Sponsor: Senator Mike Rogers

Senate Committee: Human Resources, Labor and Veterans Affairs

House Committee: Regulatory Affairs

Date Completed: 4-1-96

RATIONALE

In May 1995, the Legislature's Joint Committee on Administrative Rules (JCAR) adopted a new version of the State Construction Code, which included new energy conservation standards patterned after those in the Model Energy Code (MEC). The MEC standards evidently are more stringent than the previously recognized construction standards for energy conservation, which reflected the standards of the American Society of Heating, Refrigerating, and Air-Conditioning Engineers (ASHRAE). When the State Construction Code proposal was before the JCAR, representatives of the Michigan Association of Home Builders reportedly testified that they had concerns about adopting the MEC standards because of the increased cost that would be required to meet the stricter standards. The builders felt that adoption of the new standards could have a negative effect on the availability of affordable housing and on individuals' ability to purchase newly built homes. Since the MEC standards were contained within the State Construction Code, it would have been necessary for the JCAR to reject the entire Code in order to address the issue of the energy standards. The builders did not request such a drastic measure, but when they had to comply with the new energy conservation standards, they claimed that the conditions they feared had indeed arrived. Some people believe that, in order to protect home buyers from excessive construction costs and to promote the availability and affordability of new housing in Michigan, the State Construction Code's use of the MEC energy conservation standards should be overruled and the use of the ASHRAE standards for energy conservation should be specifically allowed in statute, while the State Construction Code Commission develops new standards for cost-effective energy efficiency.

CONTENT

The bill amended the State Construction Code Act to provide that, until March 31, 1997, or until the

adoption of changes to the Code pursuant to the bill, the standards for energy conservation in the construction of a "building envelope" must be those set forth in the standards for residential or commercial construction published by the American Society of Heating, Refrigerating, and Air-Conditioning Engineers, except for a section of the ASHRAE standards that requires the application of more stringent standards where those standards exist. ("Building envelope", under the Act, means the elements of a building that enclose conditioned spaces through which thermal energy may be transferred to or from the exterior.)

The Act requires the State Construction Code Commission to prepare and promulgate the State Construction Code consisting of the rules governing the construction, use, and occupation of buildings. The bill specifies that, "It is intended that" the MEC rules promulgated by the Commission be rescinded on the bill's effective date (January 8, 1996).

In addition, the Act requires that the Code be designed to effectuate the general purposes of the Act and specific objectives and standards listed in the Act. The bill added all of the following to that list:

- To provide standards and requirements for cost-effective energy efficiency that will be effective April 1, 1997.
- Upon periodic review, to continue to seek ever-improving, cost-effective energy efficiencies.
- The development of a voluntary consumer information system relating to energy efficiencies.

MCL 125.1504

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

Michigan's standards for energy conservation in residential construction should reflect the ASHRAE standards that were used prior to JCAR's approval of the MEC within the State Construction Code. Building homes to meet the MEC standards is more expensive than building them to meet the ASHRAE standards, and the increased cost might price some buyers out of the market or result in their not qualifying for a mortgage. Building codes have an economic impact on home buyers, and requiring compliance with the MEC standards is anticonsumer because it makes houses less affordable and, consequently, might result in a slowdown in the construction industry. Michigan should revert to the use of the ASHRAE residential construction standards for energy conservation, while more cost-effective, energy-efficient standards are developed.

Opposing Argument

Requiring compliance with the MEC energy conservation standards has both environmental and economic value. The higher standards result in less heat loss to a building, thereby decreasing thermal air pollution. Engaging in energy conservation practices in a building's construction, then, benefits the broader community. In addition, the savings realized in lowered utility costs over the lifetime of a mortgage may more than make up for the higher initial construction prices of building a home to meet the MEC standards. Indeed, one builder who advocates continued use of the MEC standards testified before the Senate Committee on Human Resources, Labor and Veterans Affairs that a home owner with a \$125,000 mortgage would pay an additional up-front cost of about \$1,800 for MEC compliance, while saving about \$51 per month in utility costs. This saving may enable the home owner to obtain an even larger mortgage for either a bigger house or more amenities in the same house. The ASHRAE standards are good, but use of the MEC standards is a step in the right direction for greater energy efficiency and increased consumer protection.

Response: Even though more energy efficient buildings might result in lower monthly utility bills, mortgage approval decisions are based on income levels, construction costs, and monthly payment amounts, not on utility costs. In addition, projected savings on a smaller, more affordable home may never amount to the added cost of meeting the MEC standards. Another builder who testified before the Senate committee claimed that, in the small, lower-cost houses he is building, energy savings due to use of the MEC standards will amount to only about \$5 per month and will take

over 60 years to catch up with the cost of MEC compliance. Moreover, the added initial cost of meeting the MEC standards may even preclude some potential home buyers from being financially able to purchase a home.

Opposing Argument

The MEC standards should not have been abandoned. They provided a greater degree of consumer protection by providing for savings to the home buyer over the life of his or her mortgage and informing the buyer, up front, about those projected savings. In addition, continuing to require compliance with the MEC standards would create a demand for those types of developments. Greater awareness of the long-term benefits of MEC compliance also could bring changes to the financial industry, as lenders begin to see the benefits of including energy efficiency factors in their mortgage decisions. One Michigan bank reportedly plans to start requiring the higher energy conservation standards in the construction of homes it mortgages.

Legislative Analyst: P. Affholter

FISCAL IMPACT

The bill will not affect the regulatory workload of the Bureau of Construction Codes, Michigan Department of Labor, or have a fiscal impact on the State or on local governmental units.

Fiscal Analyst: K. Lindquist

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.