

BOARD OF MECHANICAL RULES

House Bill 4771 as introduced First Analysis (6-12-01)

Sponsor: Rep. Gene DeRossett
Committee: Regulatory Reform

THE APPARENT PROBLEM:

Under the Stille-DeRossett-Hale Single State Construction Code Act, each governmental subdivision that enforces the code must create a construction board of appeals. A person may appeal a decision, such as denial of a building permit, of an enforcing agency to the local board of appeals. An "enforcing agency" is the agency responsible for administration and enforcement of a nationally recognized model code or the state construction code and the code within a governmental subdivision. In turn, a decision of a board of appeals may be appealed to the state Construction Code Commission.

According to information supplied by a representative of the Department of Consumer and Industry Services, the Board of Mechanical Rules heard an appeal last summer regarding a local construction board of appeals' decision that denied an installation of a venting system in a single-family residence. Due to special circumstances relating to the case, the Bureau of Construction Codes contacted an assistant attorney general for advice. The response from the assistant attorney general included a statement that the Board of Mechanical Rules did not have statutory authority to hear appeals since it is not named in Section 16 of the construction code. Currently, Section 16 of the code specifies that the executive director of the commission must refer an appeal which relates principally to a plumbing, electrical, or barrier free design matter to the appropriate board.

The Plumbing and Electrical Boards have been authorized to hear appeals since the construction code was first enacted in 1972, and the Barrier Free Design Board was granted similar authority to hear appeals by legislation passed in 1974. The last time that Section 16 was amended was in 1978, six years before the Forbes Mechanical Contractors Act, which created the Board of Mechanical Rules, was enacted. Legislation has been requested by the department to authorize the Board of Mechanical Rules to hear appeals relating to mechanical matters.

THE CONTENT OF THE BILL:

Currently, the Stille-DeRossett-Hale Single State Construction Code Act specifies that the executive director of the State Construction Code Commission must refer an appeal which relates principally to a plumbing, electrical, or barrier free design matter to the appropriate board. House Bill 4771 would amend the construction code to instead specify that the commission refer an appeal which relates principally to a mechanical, plumbing, electrical, or barrier free design matter to the appropriate board. Thus, an appeal regarding a mechanical matter could be referred to the Board of Mechanical Rules.

MCL 125.1516

FISCAL IMPLICATIONS:

The House Fiscal Agency reports that the bill would have no fiscal impact on the state or on local units of government. (6-11-01)

ARGUMENTS:

For:

Section 16 of the construction code allows the State Construction Code Commission to refer appeals made to it by local boards of appeals to the Plumbing and Electrical Boards and Barrier Free Design Board if an appeal pertains primarily to a plumbing, electrical, or barrier free design matter. The Forbes Mechanical Contractors Act, which created the Board of Mechanical Rules, was not enacted until 1984 - six years after the last time Section 16 was amended. Therefore, the Board of Mechanical Rules was never specifically mentioned as one of the boards having authority to hear appeals. This would appear to be an oversight. According to the Department of Consumer and Industry Services, it is already commission policy to refer appeals pertaining to mechanical matters to the Board of Mechanical Rules, as the board has been hearing appeals since at least 1985. Simply put, the bill would allow the Board of Mechanical Rules to hear appeals pertaining to mechanical matters just as the Plumbing Board hears

matters pertaining to plumbing, the Electrical Administrative Board hears electrical matters, and the Barrier Free Design Board hears matters pertaining to barrier free designs.

POSITIONS:

The Department of Consumer and Industry Services supports the bill. (6-7-01)

Analyst: S. Stutzky

■This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.