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House Bill 4771 (as reported without amendment)
Sponsor: Representative Gene DeRossett
House Committee: Regulatory Reform
Senate Committee: Economic Development, International Trade and Regulatory Affairs

Date Completed: 10-23-01

RATIONALE

Under the Single State Construction Code Act, each governmental subdivision that enforces the code must create a construction board of appeals. A person may appeal to the local board of appeals a decision, such as the denial of a building permit, of an enforcing agency (the local agency responsible for administering and enforcing the State construction code). In turn, a decision of a local appeals board may be appealed to the State Construction Code Commission. The Act provides that appeals to the Commission may be heard by the Commission as a whole, or by a panel of three or more members designated by the chairperson of the Commission. The executive director of the Commission, however, must refer an appeal to the "appropriate board" if, in his or her judgment, the appeal "relates principally to a plumbing, electrical, or barrier free design matter".

According to the Department of Consumer and Industry Services (DCIS), since at least 1985, the board of mechanical rules has been hearing appeals from local construction appeals boards that deal with mechanical issues. In June 2000, the mechanical board heard an appeal from a local board's denial of a permit to install a ventilation system in a single-family residence. Due to some special circumstances surrounding the case, the Bureau of Construction Codes contacted an Assistant Attorney General for some advice, and was informed that the mechanical board did not have statutory authority to hear appeals. Although the Act defines "board" as the State plumbing board, the board of mechanical rules, the electrical administrative board, and the barrier-free design board, the board of mechanical rules is not named in the section of the Act that requires appeals to the

Commission to be heard by the appropriate board if they deal with plumbing, electrical, or barrier-free design matters. Some people feel that the law should require appeals based on mechanical issues also to be referred to the appropriate board, so that the board of mechanical rules would have the statutory authority to hear those appeals as it apparently has done for more than 15 years.

CONTENT

The bill would amend the Single State Construction Code Act to require that the executive director of the State Construction Code Commission refer to the appropriate board, an appeal to the Commission that related principally to a mechanical matter. The executive director of the Commission must refer an appeal to the appropriate board if, in his or her judgment, the appeal relates principally to a plumbing, electrical, or barrier-free design matter. The bill would add a mechanical matter to that provision.

MCL 125.1516

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

The bill would address what appears to be an oversight in the Single State Construction Code Act. According to the DCIS, the State plumbing board and the electrical administrative board have been authorized to hear appeals since the Act was passed in

1972, and the barrier-free design board was allowed to do so by a 1974 amendment. The section of the Act that authorizes those boards to hear appeals was last amended in 1978. The board of mechanical rules, which was created in 1984 by the Mechanical Contractors Act, was not yet in existence at that time. That board never was specifically mentioned in the construction code Act as having the authority to hear appeals, yet it apparently began hearing appeals shortly after the Mechanical Contractors Act was enacted, and the DCIS policy reportedly is to refer to the board of mechanical rules all appeals pertaining to mechanical matters. The bill would give the board the statutory authority to continue to function in the manner that it has for more than 15 years.

Legislative Analyst: P. Affholter

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: M. Tyszkiewicz

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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.