

Legislative Analysis



ALLOW FOR UPDATE TO UNIFORM CONSTRUCTION CODE EVERY 6 YEARS, RATHER THAN EVERY 3 YEARS

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House Bill 4561 (Substitute H-1)
Sponsor: Rep. Joe Haveman
Committee: Regulatory Reform
First Analysis (11-30-11)

BRIEF SUMMARY:

House Bill 4561 (H-1) would amend the Uniform Construction Code to increase the time frame in which the director of the Department of Licensing and Regulatory Affairs must update the code from not less than once every 3 years to not less than once every 6 years or more than once every 3 years.

FISCAL IMPACT:

House Bill 4561 (H-1) can be expected to have a modest fiscal impact on the Department of Licensing and Regulatory Affairs (LARA) by marginally reducing expenditures for the Bureau of Construction Codes. The reduction would be caused by changes the bill makes to the frequency that the Director must update the State Construction Code: from not less than once every three years to not less than once every six years. It can be expected that the Director's review and the revision process of the Code entails administrative costs that would be reduced by a modest amount since the process would be carried out less frequently. Other changes made by the bill are not expected to have a fiscal impact on LARA.

THE APPARENT PROBLEM:

The establishment and enforcement of construction standards was traditionally the responsibility of local governments. This resulted in a host of issues as standards differed by community. Executive Order 1968-10 established the Michigan Commission on Housing Law Revision to make legislative recommendations concerning amendments to the Housing Law. The commission report revealed, among other things, (1) a large number of jurisdictions were responsible for establishing and enforcing construction codes, (2) most of the state was not covered by any construction code, (3) construction codes varied by jurisdiction, and (4) national construction codes were developed with little to no representation from Michigan building officials. The commission recommended repealing the Housing law and establishing a comprehensive State Construction Code Act, which was enacted as Public Act 230 of 1972.

At that time many local jurisdictions had already adopted and were operating under other building codes. As enacted, the State Construction Code Act allowed jurisdictions to be exempt under the state code provided it adopted a nationally recognized code. 1980 PA 371 placed primary enforcement of the construction code with the state's Bureau of

Construction Codes but still allowed local jurisdictions to enforce their own codes that were already in effect. 1980 PA 371 also established a mandatory three-year code update to correspond with the national code change cycle. 1999 PA 245 prohibited jurisdictions from exempting themselves from certain parts of the act and the Code by simply adopting a nationally recognized model code.

The State Construction Code Act was enacted in 1972 to provide for rules to govern the construction, use, and occupation of buildings and structures, the manufacture and installation of building components and equipment, the construction and installation of pre-manufactured units, and requirements relating to the safety of buildings. The act requires the director to promulgate the construction code and allows many international model codes to be incorporated by reference. By statute, the director is required to update the state construction code every three years.

As noted above, the state construction code includes references to a variety of different codes. Most of these codes are international model codes drafted by organizations like the International Code Council (ICC). ICC is an organization made up of building industry members and industry regulators that develop model codes for states to adopt as minimal safety standards. ICC updates their model codes every three years. According to testimony, Michigan adopts the majority of ICC's model building code and makes various changes to reflect the state's unique climate. According to the ICC, all 50 states and the District of Columbia have adopted its codes at the state or jurisdictional level.

Some believe the changes made by each national code update are not significant enough to require the state to update its code every three years. There is concern about who is benefiting from code updates and whether a three-year cycle is necessary. While the ICC and many other states follow a three-year cycle, there is not a national standard for updating construction codes. Some people believe that allowing the director to update the code every six years, instead of three years, will provide the department with flexibility and will bring stability to the construction industry.

THE CONTENT OF THE BILL:

The bill would make the following changes to the Uniform Construction Code :

****Add the International Existing Building Code and the International Energy Conservation Code published by the International Code Council to the list of codes that will make up the Construction Code. It would also remove reference to the Michigan Uniform Energy Code. Additionally, the bill would allow the director to adopt all or any part of the above-mentioned codes or the standards contained within the codes by reference (this was not allowed under the originally introduced version).**

**** The LARA director (or a person designated by the director) is required to add, amend, and rescind rules to update the code not less than once every three years "to coincide with the national code change cycle." The bill, instead, would increase that time frame to not**

less than every six years or more than once every three years. The bill would also eliminate the language on the national code change cycle.

****Add a provision stating if a listed code is updated on a six year cycle, use of a material, product, method of manufacture, or method or manner of construction or installation provided for in an interim edition of the relevant code is acceptable in the state but cannot be mandated by an enforcing agency or its building official or inspector.**

MCL 125.1504

ARGUMENTS:

For:

Proponents of the bill say that requiring the department to update codes on a three-year cycle is expensive. Some believe that the updated codes do not contain substantive changes from the previous versions. According to testimony, some building trades are mainly operating under standards from the 1970's and updated codes have changed very little. Many believe the bill will provide the department flexibility in determining when to update a code and if the changes contained are substantial enough to go through the code revision process.

It was noted during testimony that there is no national standard when it comes to code adoption cycles. The International Code Council operates on a three-year cycle and many states follow the same timelines, including California, Massachusetts, Ohio, Pennsylvania, Montana, North Carolina, Oregon, and North Dakota, among others. However, there are other states that operate on different cycles.

Against:

While home builders may be operating under a code substantially similar to past codes, many other building trades are working with evolving technology that requires updated building safety codes. Several building inspectors provided testimony as to the importance of up-to-date codes when dealing with the installation of new technology, such as charging stations for electric cars. There are concerns about proper installation if safety codes don't reflect the technology. There is also significant concern from Michigan manufacturers of new products that their products would not be used if not reflected in the code. Many also questioned the safety of a newly built structure if it is not built to meet current specifications.

Response:

The bill, as now written, contains language allowing for the use of a material, product, method of manufacture, or method or matter of construction provided for in an interim edition of the relevant code if that particular code is updated on a six-year cycle. However, an enforcing agency or its building official or inspector cannot mandate its use.

The majority of international model codes appear to be designed to work in cooperation with each other and many of them are updated on a three-year cycle. They contain references to other codes and work hand-in-hand. There is concern that if codes are

updated on different cycles they will not work together and will require more work to determine if references are accurate.

POSITIONS:

The Associated Builders and Contractors of Michigan support the bill. (9-14-11)

The Coalition for Fair Energy Codes submitted written testimony supporting the bill. (9-14-11)

The Michigan Association of Home Builders supports the bill. (9-14-11)

National Federation of Independent Business - Michigan supports the bill. (9-13-11)

The Midwest Energy Efficiency Alliance is neutral on the bill. (9-14-11)

The American Chemistry Council submitted written testimony opposing the bill. (9-21-11)

Arvron, Inc. submitted written testimony opposing the bill. (9-21-11)

BASF submitted written testimony opposing the bill. (9-21-11)

The Code Officials Conference of Michigan submitted written testimony opposing the bill. (9-23-11)

The Dow Chemical Company opposes the bill. (9-14-11)

Guardian Industries opposes the bill. (9-14-11)

Huntsman Corporation submitted written testimony opposing the bill. (9-21-11)

The International Association of Electrical Inspectors submitted written testimony opposing the bill. (9-20-11)

The International Code Council opposes the bill. (9-14-11)

The Michigan Chemistry Council submitted written testimony opposing the bill. (9-21-11)

The Michigan Manufacturing Association opposes the bill. (9-14-11)

The National Fire Sprinkler Association opposes the bill. (9-14-11)

The Responsible Energy Codes Alliance opposes the bill. (9-14-11)

WRJ Associates opposes the bill. (9-14-11)

Several building and fire inspectors testified in opposition to the bill.

Legislative Analyst: Jeff Stoutenburg
Fiscal Analyst: Paul Holland

■ 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.