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BILL



ANALYSIS

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Senate Bill 235 (Substitute S-1 as passed by the Senate)
Sponsor: Senator Rick Jones
Committee: Regulatory Reform

Date Completed: 8-1-13

RATIONALE

Michigan statute and administrative rules contain construction standards for various types of buildings and structures as well as their components, including mechanical and electrical systems. At various stages of the process, depending on the system in question, plans must be reviewed before a building permit is issued, and the installation of the system and the construction itself must be inspected before a certificate of occupancy is issued. The plan reviews and inspections must be performed by a person who is registered by the State Construction Code Commission under the Building Officials and Inspectors Registration Act. It has been suggested that individuals who are nationally certified fire inspectors also should be recognized under that Act for the limited purposes of reviewing plans for fire protection systems, and inspecting those systems. Evidently, in some communities, registered mechanical or electrical inspectors are not always available to perform these functions, and some of those who are might not have the level of expertise in fire protection systems that fire inspectors have. Although certified fire inspectors have the authority to conduct inspections after a building has been constructed, and they may advise registered building inspectors and plan reviewers, they do not have the authority to review plans or inspect systems before or during the construction process.

CONTENT

The bill would amend the Building Officials and Inspectors Registration Act to provide for the registration of a person as a fire protection system plan reviewer if he or she were certified by a

national association as a Fire Inspector I and a Fire Plans Examiner, and provide for the registration of a person as a fire protection system inspector if he or she were certified by a national association as a Fire Inspector II.

Currently, the State Construction Code Commission, upon receiving the fee prescribed by Section 13 and without requiring an examination, must register or reregister an applicant as a building official, inspector, or plan reviewer if he or she is licensed or certified in that capacity under the laws of another state or by a national organization, provided the Commission determines that the requirements of that state or organization are equivalent to those of this State for the purpose of establishing reciprocity privileges for building officials, inspectors, and plan reviewers.

The bill also would require the Commission, upon receiving the prescribed fee and without requiring an exam, to register or reregister an applicant as a fire protection system plan reviewer if he or she were certified by the National Fire Protection Association or the International Code Council as both a Fire Inspector I and a Fire Plans Examiner. This registration would authorize the applicant only to conduct plan reviews on fire protection systems.

In addition, the bill would require the Commission, upon receiving the prescribed fee and without requiring an exam, to register or reregister an applicant as a fire protection system inspector if he or she were certified by the National Fire Protection Association or the International Code Council

as a Fire Inspector II. This registration would authorize the applicant only to inspect fire protection systems.

(Section 13 requires the Commission to charge fees for the registration of building officials, inspectors, and plan reviewers. For each year the registration covers, an applicant for registration must pay a fee of \$25. After September 30, 2015, the fee will be \$10.)

The bill would define "fire protection system plan reviewer" as a person meeting the qualifications established by the Act responsible for the review of fire protection system plans in accordance with the design and installation standards referred to by the Michigan Building Code.

"Fire protection system inspector" would mean a person meeting the qualifications established by the Act responsible for the inspection of fire protection systems in accordance with the design and installation standards referred to by the Michigan Building Code.

"Fire protection system" would mean that term as defined in the Michigan Building Code (i.e., "*approved* devices, equipment and systems or combinations of systems used to detect a fire, activate an alarm, extinguish or control a fire, control or manage smoke and products of a fire or any combination thereof" [*italics in original*]).

MCL 338.2311

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

By recognizing nationally certified fire inspectors under the Building Officials and Inspectors Registration Act for the limited purposes of fire protection system plan reviews and inspections, the bill would broaden the pool of qualified individuals who can perform these functions under the State's building code. This would give municipalities the option to use fire inspectors, rather than mechanical or electrical inspectors, for these purposes. Due to local units' budgetary cutbacks, and employee retirements, a local unit of

government might not have enough registered plan reviewers and registered mechanical inspectors and electrical inspectors, which can lead to scheduling conflicts, delays in the construction process, and the need to hire outside contractors. Also, unlike seasoned professionals, newly trained plan reviewers and inspectors might not have the experience or training specific to fire protection systems that certified fire inspectors have. Evidently, some communities already turn to fire inspectors for assistance during the construction process. While they can provide critical insight, however, fire inspectors cannot officially perform the plan reviews and inspections required for building permits and certificates of occupancy.

Fire inspectors currently are responsible for the enforcement of fire system maintenance after a building has been constructed. They spend numerous hours being trained in how the systems are designed, operated, and maintained, so they can identify deficiencies and code violations. Fire inspectors typically are trained under the standards developed by the National Fire Protection Association, which has three levels of certification: Fire Inspector I, Fire Plans Examiner, and Fire Inspector II. Along with the inspectors' knowledge of fire science, these certifications make fire inspectors a valuable asset in communities. Reportedly, Michigan has more certified fire inspectors at all three levels than any other state has. By allowing local governments to take advantage of fire inspectors' expertise before and during construction, the bill would streamline the process, while maintaining the safety of residents and businesses.

Response: Several concerns have been raised by the Bureau of Construction Codes, in the Department of Licensing and Regulatory Affairs (LARA). First, fire inspectors might not have the qualifications to inspect certain aspects of a system, particularly the electrical parts. For example, it is possible that a fire inspector would approve a system, and it might even work, but an electrical inspector then would find that the wiring was not done correctly. An inspector's lack of qualifications could lead to jurisdictional conflicts, as well as delay and inconvenience for building contractors and others. Reportedly, in fact, in a recent incident, a fire inspector working with a building department overstepped his authority and caused a retail structure to be

evacuated over a weekend, resulting in lost sales to the owner.

In addition, the criteria for national certification do not adequately qualify a certified fire plan reviewer or certified fire inspector to review plans or inspect systems for new construction. Rather, the certification requirements are geared toward existing structures.

Also, instead of incorporating national standards in statute, the bill should authorize the Construction Code Commission to set the standards for registering fire plan reviewers and inspectors. The Commission establishes the registration standards for other building officials through the rules promulgation process, and fire plan reviewers and inspectors should not be treated differently.

Supporting Argument

The use of combination inspectors was recommended by the Inspections & Permitting Advisory Rules Committee of the Office of Regulatory Reinvention (ORR) in LARA. Specifically, in the ORR's March 2013 report, Recommendation #9 is, "The state should encourage localities to consider the use of combination inspectors to better manage workflow and reduce the total number of inspections." According to the justification for this recommendation, "Building departments could have less staff members overall if they use combination inspectors – potentially saving time and taxpayer money. This would also be development friendly as the authority could limit the number of inspections overall (again saving taxpayer money)."

Certified fire inspectors who performed plan reviews and inspections of fire systems for building code purposes could be considered combination inspectors, and using them would be consistent with this recommendation.

Response: The ORR's recommendation contemplates the use of individuals who are registered in more than one discipline, such as mechanical and plumbing codes, who could perform multiple inspections at one time. Certified fire inspectors, even if they were registered, would not be "combination inspectors".

Fire inspectors still would be authorized to inspect only one component of a building's

construction, so inspections by mechanical inspectors and electrical inspectors would continue to be necessary.

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

The bill would have a minor, but likely positive fiscal impact on the Department of Licensing and Regulatory Affairs. Under the bill, individuals holding certain fire safety certifications from a national association would be able to pay a \$25 fee to be registered as a fire protection system plan reviewer or a fire protection system inspector for the purpose of conducting plan reviews or inspections on fire protection systems. The Department would use these fees for the support of the Bureau of Commercial Services.

Fiscal Analyst: Josh Sefton

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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.