

Building Code Coordinating Council

Key Points:

- ☛ *Supports the continuation of a state-wide building code that is free from inconsistencies, redundancies, conflicts or jurisdictional overlapping between the state's 13 separate specialty codes.*
- ☛ *As with current E.O. process, as a precursor to moving to public hearings, HB 1317 maintains the requirement that all proposed changes to construction codes be vetted by the BCCC first.*
- ☛ *State's Constitution does not allow an E.O. to override a board's statutory authority to promulgate regulations as they see fit.*
- ☛ *No change perpetuates current confusion within the design and construction industry as to which inconsistent, redundant, conflicting or jurisdictionally overlapping code requirements to follow resulting in additional time and money spent by Owners on all types of construction projects.*

An Act Establishing the Building Code Coordinating Council - HB 1317 Filed By Representative Chris Walsh

AIA MA Position

AIA MA supports the creation of a state-wide building code that is free from inconsistencies, redundancies, conflicts or overlaps in jurisdiction with the state's 13 other specialty codes. (ie. the mechanical code, plumbing code, accessibility code, etc..)

Action Sought

This bill offers a simple solution to this problem by requiring a proposed change to any of the 13 construction codes first be approved by the Building Code Coordinating Council (BCCC), which can reject proposals only if they are inconsistent, redundant, conflicting or overlapping with other codes.

Explanation and Justification

In 2002, Governor Jane Swift created the BCCC via Executive Order (EO) 440. Its purpose was to systematically review the state building code and specialty codes in order to eliminate redundancy, minimize inconsistencies and conflicts and maximize the efficiency of the various construction codes promulgation process. Its membership was comprised of designees from all state boards charged with the promulgation of construction codes. The BCCC have met nearly every month since.

In 2010, Governor Patrick renewed the BCCC's mission but with one important distinction. While EO 440 required the BCCC, "... to coordinate and make recommendations which will eliminate redundancy,..." EO 518 required the BCCC, "... to coordinate and create a review protocol which will eliminate redundancy,..."

In February 2014, the BCCC began their review of a new state fire code. Duplicative items were noted and the BCCC rejected the code proposal. While the duplications were eventually resolved, BCCC members were reminded of review protocol Item 10 which states in part, "... Although the recommendations of the BCCC should be carefully considered, the agency, board or commission, as the case may be, is not bound by such BCCC recommendations."

Item 10 was required because state boards derive their legal authority via the power granted them by statute. While EO 518 requires BCCC members to coordinate their regulations, the state's Constitution does not allow an EO to override a board's statutory authority to promulgate regulations as they see fit.

In recent years a much larger jurisdictional conflict between two state codes has been discussed. BCCC members noted that work to resolve this conflict had been ongoing for five years and was still at an impasse. The BCCC voted to request help from the office of the Attorney General, but due to conflicts of interest, guidance was not provided. This has left open the potential use of the Item 10 protocol exemption. If this were to occur, it will result in confusion within the design and construction industry as to which requirements to follow. This will add time and money to all construction projects because, lacking consistent state guidance from the code, these issues will inconsistently be resolved on a town by town, project by project basis.

