

MAINE STATE LEGISLATURE

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**STATE OF MAINE
131st LEGISLATURE
SECOND REGULAR SESSION**

**Resolve, Directing the Commissioner of Public Safety to Establish a Stakeholder Group to Examine the
Responsibilities, Fees and Duties of the Technical Building Codes and Standards Board
Joint Standing Committee on Criminal Justice and Public Safety**

February 15, 2024

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Committee on Criminal Justice and Public Safety
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**Prepared by Richard McCarthy, State Fire Marshal
Office of the Maine State Fire Marshal**

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EXECUTIVE SUMMARY

Pursuant to LD 207, L.D. 207, “Resolve, Directing the Commissioner of Public Safety to Establish a Stakeholder Group to Examine the Responsibilities, Fees and Duties of the Technical Building Codes and Standards Board” The Commissioner of Public Safety, through the Office of the State Fire Marshal, convened the following stakeholder members required by the resolve.

STAKEHOLDER GROUP MEMBERS

1. Peter Holmes- Commissioners designee from Professional and Financial Regulation.
2. Hannah Pingree- Director of the Office of Policy Innovation and the Future.
3. Sarah Curran- Office of Policy Innovation and the Future
4. Richard McCarthy- State Fire Marshal
5. Michael Stoddard- Director of Efficiency Maine Trust.
6. Don McGilvary- Maine State Housing
7. Elizabeth Frazier- Association of Real Estate developers
8. Greg Cutera- Trade Association of Professional Engineers
9. David Matero- Maine AIA
10. Heather Raisanen- Maine Home Builders Association
11. Carl Chretien- Maine Home builders Association
12. Jon Smith- Associated General Contractors
13. Joanne Tarr- Retail Lumber Dealers Association
14. Chief Higgins- Maine Fire Chiefs Association
15. Mark Stambach- MBOIA
16. Scott McElravy- Maine Municipal representative

STAKEHOLDER EXAMINATION FOCUS

The following topics outlined in the resolve were discussed among the stakeholder to obtain their answers and input and concerns.

- A. The administration of the Technical Building Codes and Standards Board and the budget and fees required to support the board's duties;
- B. The timeline for the adoption of building codes and standards;
- C. The appropriate legislative committee of jurisdiction for legislation concerning building codes and standards;
- D. Cost-benefit analyses associated with the adoption of building codes and standards including consideration of the effect of such adoption on housing costs;
- E. The adoption of so-called stretch codes;
- F. The responsibilities and feasibility of technical advisory groups; and
- G. The training and education of interested parties, including, but not limited to, code enforcement officers, contractors and designers.

COMMENTS AND DISCUSSION

- A. The administration of the Technical Building Codes and Standards Board and the budget and fees required to support the board's duties:

- There was a general concern that the funding for the department to support the Technical Codes and standards board is not sufficient. Currently there is a surcharge of .04 cents / square foot placed on projects reviewed by the Office of State Fire Marshal. This funding is dependent on commercial buildings only placing the funding on approximately 750 projects/yr. The funding only allows for 2

- fulltime positions to be funded which was thought to be inadequate to perform the duties required.
- It was stated that only 5-10% of construction projects are the entire funding source for this program. This creates an inequity of the funding source and that was of concern to several of the Stakeholders.
- There was discussion that the funding source for other programs could be the basis for a more equitable funding. This would require a surcharge on all building permits issued in the State with the funds collected at the municipal level, being provided to fund this program. This was believed to be a far more equitable solution. The concern of this being considered and unfunded mandate was expressed during the meeting.
- It was believed an example of the budget would be advantageous to be included in this report. Currently the budget for the program is \$220,000 most of which goes toward personnel services and operations costs. The income from the surcharge varies depending on the economy, it has averaged income of \$225,000. There were several years where there were no people in the two positions so there is a cash balance to cover any deficits that may occur. This funding plan is not sustainable if the program is expanded, and concern was expressed at the lack of funding for the training portion of the program.

B. The timeline for the adoption of building codes and standards:

- Currently Statute requires that the Technical Code Board cannot be more than one code cycle out for all codes listed under the MUBEC(Maine Uniform Building and Energy Code). Codes are updated every three years so essentially once a code is adopted approximately every five to six years a new code is required to be adopted.
- There were concerns that this timeline makes it harder for some larger projects to keep up with code changes and sometimes these projects get caught with code change requirements that adds cost to the project.
- Several Stakeholders thought that the current schedule works and the five to six year period allows plenty of time to keep up with codes and any changes, and wanted to leave the Statute alone. Having smaller incremental shifts in the codes is easier to manage compared to moving multiple years that may have more substantial changes ending up in more expense overall.
- Some members thought that allowing two code cycles would allow for more flexibility in code adoption instead of adopting new codes each code cycle. This could place our state upwards of nine years between adoptions. Towns have ISO ratings that effect insurance rates and those are tied to being current with building codes so there was a discussion that if there was an allowance to be further out of the code cycles there could be ramifications with the ISO rating system.
- One member stated that under the current system you may have to adopt a code even though there may not be necessary. A situation which can be sometimes difficult.

C. The appropriate legislative committee of jurisdiction for legislation concerning building codes and standards:

- The Stakeholder group unanimously agreed that the current committee of oversight was not the correct committee to have oversight on the MUBEC codes.

D. Cost-benefit analyses associated with the adoption of building codes and standards including consideration of the effect of such adoption on housing costs;

- Cost benefit analysis are contained in Appendix A and B

E. The adoption of so-called stretch codes:

- Stretch codes are required by Statute to allow municipalities to adopt a more stringent energy code if they wish. Codes are a minimum not a maximum so at anytime a building owner can exceed an adopted code.
- Many of the Stakeholders like the Stretch Energy Code because it provides building owners a path for additional energy savings and allows the State and those municipalities that adopt the stretch code access to additional funds for training.
- Several Stakeholders are not in favor of a stretch code because the code is no longer uniform and have several towns adopting it making it harder for developers and builders to keep up on what is adopted to ensure compliance with the stretch code.
- They also mentioned that there is nothing stopping anyone following a more stringent code without making it mandatory for an entire municipality.

F. The responsibilities and feasibility of technical advisory groups; and

- TAG's (Technical Advisory Groups) were created when the MUBEC first was adopted to assist the Board in the many technical issues that arose during the adoption of the code. TAG's were open to anyone with an interest in a particular code. This allowed the Board to convene TAG's to get answers to many of the more technical subjects. TAG's are advisory in nature and would propose solutions to the Board that could be accepted or not.
- A lot of work has been performed at the TAG level during this round of code adoptions. There has been concern that the TAG's lacked direction as to their goal. A suggestion was made to create a document for all TAG members giving them guidance of what is expected from them.
- Most Stakeholders liked the concept of TAG's but agreed more guidance is needed. The job of a TAG was not to create code but review what is currently in the code in a specific section and provide technical assistance to the Board. This valuable insight will be used to improve the TAG process.

G. The training and education of interested parties, including, but not limited to, code enforcement officers, contractors and designers:

- Currently our office provides training to CEO's (Code Enforcement Officers) training is provided in twelve different disciplines. The stakeholder group was unanimous in their desire for more training.
- Stakeholders also agreed that contractors and design professionals be included in these trainings.
- It was discussed that there would be great value in getting all disciplines in the room together, so everyone hears the same information. Several stakeholders mentioned that trade groups are a great source of trainings and could be used as a resource. Training is a critical part of the construction/ code enforcement world, and it needs to be addressed so that correct information gets to the folks that need and use it the most.

RECOMMENDATIONS

- Develop and implement a funding mechanism that will enable the MUBEC to fulfill the purpose it has been assigned in statute.
- Add additional staff to the Fire Marshal's Office.
- Remove or extend to 3 editions the time requirements for new editions of the code so as to enable adequate time for review and/or to not incorporate a new standard/code if the Board deems it unnecessary.
- Provide written guidance for future TAG members providing them with a clear purpose and role in the code development process.

- Provide training to contractors on codes.
 - Require all professional engineers be trained and certified in their respective fields of expertise.