SENATOR JEFF PLALE
SEVENTH SENATE DISTRICT

CHAIR
COMMITTEE ON COMMERCE, UTILITIES AND RAIL

STATE CAPITOL
P.O. BOX 7882
MADISON, WI 53707-7882

800-361-5487 - MADISON
414-744-1444 - MILWAUKEE
SEN.PLALE@LEGIS.WISCONSIN.GOV

Testimony of State Senator Jeff Plale
SB 266
Senate Committee on Commerce, Utilities and Rail
September 27, 2007

Thank you members of the Committee for your time and consideration of Senate Bill 266, which will establish a single set of standards for places of employment and public buildings.

This legislation is a necessary improvement over current law for several reasons:

1. **Wisconsin will have a single, uniform statewide code for all construction.** Currently there is one statewide standard for all residential construction. Single-family, multi-family and manufactured dwellings all must abide by a single statewide standard. It is only logical that commercial and public dwellings ought to meet a single uniform standard as well.
2. **The quality and safety of Wisconsin construction will no longer vary from community to community.** Wisconsin has already seen the necessity of uniform standards for residential construction. As a result, a new home owner in South Milwaukee is no less protected than a new home owner in Eau Claire. This ought to be true of the buildings where we work, play and go to school as well. Wisconsinites will have the confidence of knowing that no matter where they travel, the safety of the buildings they are in is monitored and enforced by the staff at the Department of Commerce who have the expertise and resources to adequately enforce these standards.
3. **It will bring a much needed stability and efficiency to the commercial construction industry.** This industry is one of the largest employer segments of the Wisconsin economy. However, the challenges of navigating an inconsistent often changing landscape of local ordinances and restrictions can make it very difficult for these companies to do their job well. The adoption of the statewide standard will give commercial construction firms the ability to more easily operate and employ workers statewide. This will undoubtedly drive economic development and create new opportunities for growth in the Wisconsin economy.

Again, I want to thank this committee for their work on this issue. I appreciate your time and attention to this matter, and I urge the committee to move this legislation on for consideration by the full Senate.

FORWARD

122 W. Washington Avenue
Suite 300
Madison, Wisconsin 53703-2715

608/267-2380
800/991-5502
Fax: 608/267-0645

E-mail: league@lwm-info.org
www.lwm-info.org

To: Senate Committee on Commerce, Utilities and Rail

From: Curt Witynski, Assistant Director, League of Wisconsin Municipalities

Date: September 27, 2007

Re: SB 266, Preemption of Municipal Commercial Building Standards

The League of Wisconsin Municipalities opposes SB 266, prohibiting cities and villages from enacting or enforcing more stringent commercial building code standards than are provided for under Department of Commerce rules.

This bill preempts municipalities from adopting more rigorous local safety standards designed to address the unique concerns of the community. For example, at least 15 communities statewide are currently enforcing ordinances that require sprinklers in multifamily dwellings of under 20 units in size. Wisconsin's current sprinkler standard only applies to multi-family dwellings of 20 units or more. Other communities require sprinklers in night clubs and restaurants capable of being occupied by 100 or more persons. The current state standard requires sprinklers if 300 or more persons can occupy the facility. These local ordinances would be invalidated by SB 266.

Local elected officials in consultation with their fire chiefs are in the best position to adopt building regulations that reflect community values and concerns relating to safety and firefighter response times.

We urge you to support local control by voting against recommending passage of SB 266. Thanks for considering our concerns.

Commerce Public Hearing Testimony - Senate Bill 266
Uniform Building Code
Senate Committee on Commerce, Utilities and Rail
September 27, 2007

Good Morning,

My name is Bob DuPont.

I am the Director of Program Development in the Safety and Buildings Division of the Department of Commerce.

I am testifying, for information, on behalf of Secretary Burke.

Currently, with one limitation, Wisconsin municipalities can adopt ordinances containing building code requirements that are more restrictive than the Wisconsin Commercial Building Code.

Such local building code requirements can apply to buildings used for things such as factories, mercantile, offices, restaurants, theaters and warehouses.

Regarding multifamily dwellings, municipalities are limited in what they can adopt as a local building code.

Legislation passed in 1991 limited municipal building codes that relate to multifamily dwellings.

Only certain local ordinances pertaining to fire sprinkler systems were allowed to continue if they were more restrictive than the state building code and were in place as of May 1, 1992.

Commerce is aware of 15 municipalities with fire sprinkler codes that are more restrictive than the state building code.

Under Senate Bill 266, it appears to Commerce that those 15 municipalities may regress in their level of fire protection, as it relates to fire sprinklers, because their ordinances might be vacated by the Bill.

Those municipalities at risk of regression are: Appleton, Brookfield, Franklin, Greendale, Greenfield, Menomonee Falls, Monona, Muskego, Mt. Pleasant, New Berlin, Oak Creek, Shorewood Hills, Sussex, West Allis and West Bend.

If it is not the intent of Senate Bill 266 to vacate the existing local ordinances relating to fire sprinklers in multifamily dwellings Commerce recommends amending the Bill to acknowledge the local government authority that is currently spelled out in Statute Section 101.975.

Commerce has proposed a change to the Wisconsin Commercial Building Code that would require fire sprinklers in all multifamily dwellings.

That proposal is now under review by the legislative Joint Committee for Review of Administrative Rules.

If that code change were promulgated, no regression in the level of fire protection would occur in the 15 communities previously mentioned.

In fact, if that code change was made, all Wisconsin communities would have the same level of protection by fire sprinklers as what now occurs in those 15 communities.

The Department of Commerce recognizes the benefits that come with codes that are uniform or similar among various jurisdictions.

Commerce adopts national model codes and standards, in part, because of the safety and economic development advantages that come from having codes that are in line with other states and jurisdictions.

We are interested in improving the coordination of code requirements and regulatory services between state and local governments in Wisconsin.

We look forward to working with the legislature, the building construction industry and local government officials to improve the building regulatory system in Wisconsin.

WISCONSIN
FIRE PROTECTION
COALITION

As a former firefighter, and now a representative of the fire sprinkler industry, I am here today representing the Wisconsin Fire Protection Coalition. My name is Dan Gengler, and I will speak for information.

Under current law, local units of government, in conjunction with local fire departments, can choose to enact stricter safety standards for its public buildings. While we agree with a more uniform code for buildings in Wisconsin, we are concerned because our state lags behind the national standard in building safety.

The rule (clearinghouse rule 06-120) initiated by the Department of Commerce, which proposes to adopt the 2006 International Building Code, is an attempt to address that problem and bring Wisconsin up to date. It is also an outstanding step towards a more uniform building code. Our organization has teamed up with fire fighters, fire chiefs and fire inspectors to support the Department's rule. Not only would it would put Wisconsin in line with the national standard, but with 24 other states who have already adopted this proposed code.

If adoption of the rule is held up, SB 266 could hinder the ability of local units of government to adopt the national standard, especially as it relates to fire safety initiatives. Municipalities that choose to go above and beyond what the state standard is ought to be able to make that decision, especially when our state code is not up to par.

Furthermore, particularly as it relates to fire sprinkler ordinances, there are many municipalities that already have a code stricter than the state standard. ***Will those local units of government be grandfathered into this legislation?***

I encourage this committee to examine the concerns raised today, as well as address the issue of how to grandfather in communities that have taken steps to better protect citizens who live and work in public buildings.

I would be happy to address any questions or concerns you might have. Thank you for your time.

7 NORTH PINCKNEY STREET, SUITE 300 • MADISON, WI 53703 • P 608.259.1212 • F 608.259.1213

Associated Builders and Contractors, Inc.

Wisconsin Chapter

Senate Committee on Commerce, Utilities and Rail
Testimony on Senate Bill 266
Uniform Commercial Building Code
September 27, 2007

" ...no city, village, or town may enact or enforce an ordinance establishing minimum standards for the construction, repair, and maintenance of places of employment and public buildings unless that ordinance strictly conforms to rules promulgated by the department . . ."

Senate Bill 266 is only seven lines long. It is a simple bill intended to deal with a complex problem.

The problem: confusing pockets of local variations to the Enrolled Wisconsin Commercial Building Code.

Current law requires commercial buildings (over a certain size) to be reviewed and approved by the Department of Commerce prior to construction. The department reviews these plans to ensure that they meet Wisconsin's Commercial Building Code.

However, successful review by the Wisconsin Department of Commerce is not a promise of code compliance. More than one contractor has had building plans approved by the state only to find out that local building codes require them to meet a different standard.

Nearly all construction in Wisconsin is governed by the Uniform Dwelling Code, The Uniform Multi-family Dwelling Code, the Uniform Manufactured Housing Code, or the Commercial Building Code.

Of this list, the Commercial Building Code is the only building code left in Wisconsin that is not "uniform". Senate Bill 266 creates a uniform commercial building code in Wisconsin.

I am here today to testify in support of Senate Bill 266.

In 2001 Wisconsin adopted a commercial building code based on national model codes. This was the culmination of years of effort to move Wisconsin from its own "home-grown" code to one based on uniform national model codes.

Uniformity allows architects, builders, and developers to work more efficiently, therefore, reducing the cost of construction to businesses, private entities, and the public.

Uniform codes simplify and streamline construction regulations for architects, builders, and developers.

Uniform codes allow everyone to understand the rules.

5330 Wall Street • Madison, WI 53718 • 608.244.5883 • f: 608.244.2401 • www.abcwi.org

Unfortunately the promise of a uniform code has not yet been realized in Wisconsin. Even thought the Wisconsin Commercial Building Code is based on a national model codes, local units of government are free to adopt additional code provisions by ordinance.

Architects and engineers find it difficult to keep up with the actions local officials who may adopt new building code provisions at any given time. These professionals never know when the next town or city council meeting will produce a new building regulation.

In order for Wisconsin to realize all the benefits of a uniform commercial building code it is necessary to finish what we started in 2001 and adopt Senate Bill 266.

The Associated General Contractors of Wisconsin

4814 East Broadway, Madison, WI 53716 (608) 221-3821 Fax: (608) 221-4446

To: Senate Committee on Commerce, Utilities and Rail
From: Jim Boullion, Director of Government Affairs
Date: September 27, 2007
Re: Support SB 266 - Uniform Commercial Building Code

The Associated General Contractors of Wisconsin supports the creation of a uniform commercial building code and urges you to support SB 266.

Depending on the type of structure, Wisconsin construction standards are governed by the residential Uniform Dwelling Code, the Uniform Multi-family Dwelling Code, the Manufactured Housing Code, or the Commercial Building Code. Of this list, the Commercial Building Code is the only building code left in Wisconsin that is not "uniform".

Under current law local units of government are free to adopt additional code provisions. These ordinances can create confusing pockets of local variations to the model codes. More than one contractor has had building plans "approved" by the state only to find out that local codes require them to meet a different standard. Uniformity allows architects, builders, and developers to work more efficiently, therefore, reducing the cost of construction to businesses, private entities, and the public.

On July 1, 2001 Wisconsin adopted the International Building Code (IBC) as its "base" commercial code in an effort to move Wisconsin from its own locally written state code to a model national code. Now 45 states and Washington D.C. use the IBC. One of the main benefits of adopting the IBC was increased uniformity across state lines. Using the IBC simplifies and streamlines construction regulations for architects, builders, and developers.

While the IBC serves as the core of Wisconsin's commercial building code, local officials, fire chiefs, building inspectors, architects and contractors all have significant input into the way the code is applied in Wisconsin. The Commercial Building Code Council has a very thorough and deliberate process of reviewing the IBC and recommending certain "Wisconsinisms" that they feel are necessary.

As the commercial code moves from being the "minimum" code to becoming a "uniform" code, this group will be certain to address issues that local officials feel are important. In addition to their input on the Commercial Building Code Council, local officials will retain the ability to control many aspects of the construction process through their local zoning authority.

The most important factor for contractors and designers is not what the details of the code are; it is more important to have a consistent code that we can rely on to be efficient and productive in doing our jobs. Having to change the way we build a building in every community is not efficient, practical or necessary.

We hope that you will pass SB 266 and turn the final piece of Wisconsin's building codes into a uniform and constant document that builders and owners can use anywhere in the state.

Thank you for your consideration and support!

September 27, 2007

To: Senate Committee on Commerce, Utilities & Rail

From: Associated General Contractors – Greater Milwaukee

Re: Senate Bill 266 (Uniform Commercial Building Code)

We support the effort to make Wisconsin's Commercial Building Code uniform. For some time there has been a major movement in the direction of uniformity in building codes. Attached is a brief article that touches on the history and rationale for that movement.

In 2001 Wisconsin became one of 45 states which have adopted an International Building Code – based commercial building code. Senate bill 266 is the next logical step toward making the code truly uniform by requiring strict conformity on the part of local governments who adopt ordinances in this area.

Currently local governments are free to adopt their own "local nuances" to the state code which can be confusing and costly for architects, engineers, and contractors to comply with. Uniformity will simplify and streamline regulations for the construction industry while being protective of the public health, safety and welfare. With the exception of the commercial building code, all other construction in Wisconsin is governed by uniform codes. We urge your passage of SB266 to achieve the goal of overall code uniformity.

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Code Fusion

by Andrew N. Siegel - December 1998

In an effort to improve the way building code's impact on construction, an amalgam of building code officials and administrators announced four years ago this month (December 1994), the establishment of the International Code Council (ICC). The ICC is a nonprofit organization dedicated to developing a single set of comprehensive and coordinated national building codes by the end of the year 2000.

The ICC founders - the Building Officials and Code Administrators (BOCA), the International Conference of Building Officials (ICBO), and the Southern Building Code Congress International (SBCCI) - created the ICC in response to "technical disparities among the three sets of model codes now in use in the US." The lack of a uniform building code can make it difficult for building industry professionals to design, construct, or interpret their work from place to place.

Every major jurisdiction in this country has adopted a building code. The simplicity ends there. In the spirit of great American individualism, the major regional code bodies have fought over turf and authority in the past. As a result, government officials have frequently adopted different sets of codes from one county to the next. Local building code officials usually choose BOCA, ICBO, SBCCI, or the Council of American Building Officials (CABO) in order to protect the health, safety and welfare of building occupants. To make matters worse, local governments always have the right to modify these model codes as they see fit. So in many places there is a complex web of codes promoting inefficiency, confusion, frustration, and non-compliance.

Building codes are not a function of modern civilization but, rather, have evolved from the ancient world. After all, shelter has been around at least as long as the oldest profession. One of the earliest requirements regarding regulation of structures dates back to ancient Mesopotamia, the Code of Hammurabi (1800 BC). Section 229 from what many believe was the first known building code says, "If a builder has built a house for a man and his work is not strong, and if the house he has built falls in and kills the householder, that builder shall be slain." That seems fair to me. As you can imagine, most of the builders took the threat seriously and the effectiveness of codes was empirically proven.

Sometime in the 19th century, when lawyers began to rule the world, all kinds of laws and contracts used the clause "according to the code." This was an attempt to make sure the liability for anything could be pinned on someone for the pain and suffering caused by a structure that was not built "according to the code." That language inspired the establishment of many different codes as demonstrated by the alphabet soup of organizations listed as the founders of the ICC. Few paid attention to the manufacturers, builders, designers, and inspectors charged with the awful job of applying the codes to their products, trades, and buildings.

Here is an example of the problem the ICC will try to remedy. In order to get people out of a burning building, the fire code requires the activation of illuminated exit signs in the

event of a fire alarm. No one argues the code concept because it makes perfect sense. At this point, however, code idiocy strikes with a vengeance.

It seems code gnomes have a dispute over what color the exit signs should be. Some insist that panicked building occupants need to see a red sign, while others insist green be the emergency color of choice. I will not bore you with the arguments. Designers who draw a set of plans, for more than one locality, revert to the ominous language to provide exit signs "according to the code," thus relieving themselves of any liability. The point is, that depending on what jurisdiction you are being fried in, you could encounter either color because that is the downside of decentralized regulation. In some places it's a green sign, in others it's red.

Big deal you say, you have always been pro-choice. Who cares what color they are as long as the signs work? Read on my fellow building occupant. Manufacturers of exit signs must allow for the color differences and, therefore, have a problem. Some choose to sell their products packaged with both colors. That is a wasteful and expensive solution to the problem. It is however a safe way to buy the product.

Many vendors sell the color specified by the buyer. This response guarantees a certain percentage ordered in the wrong color, requiring the restocking, repurchasing, and reshipment of the exit signs. Furthermore, the building completion is delayed while all the "re" stuff is happening. More time is then wasted as building team members argue over who was at fault for the mistake and incumbent delay. All because the codes are inconsistent about the color of a sign.

Is this all starting to make you mad? Well it should, because guess who ultimately pays for this "economy of fail" - I will not insult you by telling you the answer. However, this is an example of a situation over which you may have some control, because participation in the revision process is open to anyone. Contact the International Conference of Building Officials at (800) 423-6587 for more information about how you can participate in the code revision process.

"Code fusion" is definitely a good idea. I hope the ICC will be able to meet their goal and remedy the code morass by the end of year 2000. My optimism is, however, somewhat tempered by the fact that many of the same people who caused the confusion in the first place are now trying to solve the problem.

About The Author

Andy Siegel is a third generation builder, developer and consultant who writes from his code compliant home in Owings Mills, Maryland. His professional career spans over 23 years during which he has worked on a wide range of construction projects. With experience in historic rehabilitation, commercial structures, multi-family low and high rise units, single family detached and luxury custom homes, Andy has acquired a wide range of knowledge about the construction process. His writing is often inspired by real life experiences and we are pleased that he has decided to share his insights with us.

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