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TO: House Committee on Energy and Digital Infrastructure

FROM: Michael Desrochers, Executive Director, Department of Public Safety, Division of Fire Safety

SUBJECT: H.181 Testimony

Why continue the BECWG until an Authority Having Jurisdiction is named? (What's so hard about naming an AHJ??)

Answer: The Authority Having Jurisdiction (AHJ) is defined as an organization or individual responsible for enforcing the requirements of the codes or standards including the approval of equipment, materials, installations and or procedures. The AHJ can be an individual, county government, a municipality, a fire chief, building department, governmental agency. There are multiple AHJ's residing over projects, all with different legal authority. The AHJ as implied in H.181 is an entity with legal authority over the enforcement of the energy efficiency codes and standards. In the past couple of years, it has been implied and recommended by BECWG to assign this responsibility to the Division of Fire Safety. My recommendation is any change in the program should start at the bottom (training, education and awareness). Below is a partial list of why I have and continue to oppose being named the AHJ.

- The Division does not have the bandwidth or the resources to manage the energy efficiency program. Contributing to this is the lack of trained employees, inadequate funding, the expansion of our statutory authority, inadequate physical space, and differences in the adoption of codes.
- An enforcement program includes plan review, permitting, inspection, document management, variances, project management and much more. Establishing enforcement programs is extremely complex and rather than using the term enforcement, we like to call it "code management". We just took on the responsibility of Rental Housing Health and Safety a year ago and we have many challenges managing this program.
- The Division does not have the capacity or the necessary skills to train energy-efficiency professionals nor do we have the funding.
- The energy efficiency landscape is a continuous moving target based on a diverse range of advocacy groups. Although diversity is important the downfall is there are many opinions on how an energy efficiency program should be managed .
- The AHJ designation in my opinion would require the division of fire safety to promulgate rules. The reason being if we are the authority having jurisdiction



then we need to have firsthand knowledge of the codes and standards we are enforcing so we can manage the program. We cannot do this and as I have previously reported we would be doing a dis-service to our constituents.

- We have concern over the delays in the issuance of building permits by adding additional review requirements. Delays in issuing construction permits is not an option for us-delays cost a lot of money and create a bottleneck in our work flow.
- The expansion of our jurisdiction into single-family owner-occupied homes would require major statutory revision and would add multiple levels of regulatory authority and bureaucracy spanning a wide range of stakeholder groups (real-estate, financial institutions, municipal government, legal services, home owners, home buyers, contractors and trade professionals).

What would be required to overcome these challenges so DFS could become the AHJ?

- Everyone must first agree on a path forward- what does an energy efficiency program look like? What are we trying to achieve? What is the root problem with compliance? Is it failure to file compliance certificates, poor workmanship or a combination of the above? Is the complexity of the energy efficiency standards contributing to noncompliance? Do we have the workforce necessary to carry out the objectives of the program?
- A program that does not expand our jurisdiction authority, a program that does not grow the division of fire safety by adding employees. A program that has enough trained contractors to do the work, a volunteer registration/certification program that promotes professional development creating a work force initiative, having a program that encourages participation and does not drive the cost of building up and does not delay permitting.

What's the status of the residential building code group? Is there a path to the state adopting it? Again, what would be needed? (FEMA is canceling BRIC; does that slam the door shut?)

- We are holding our second meeting on Friday May 9th, 2025. At this meeting we will establish key issues that need to be discussed and debated. The loss of the BRIC Grant Funding does not slam the door shut.
- The International Residential Construction Code (IRC) applies to the construction of 1&2 Family Dwellings. The Division of Fire Safety utilizes the International Building Code (IBC) for residential construction (3 units or more). The IBC is a building code thus, the only structures we regulate without an "official building code" is the 1&2 family dwelling unit. We do use the Life Safety Code, NFPA 1 and the Vermont Fire and Building Safety Code on 1&2 Family Dwellings.
- There are conflicts between the IRC and NFPA Standards including the Energy Efficiency Codes at Public Service and the Energy Efficiency sections of the IRC. These conflicts must be thoroughly evaluated by resolving the conflicts.
- Under 26 V.S.A. Chapter 3: Exemption from Architectural Stamp on plans-
 1. a detached single, two-family, three-family, or four-family dwelling, or a shed, storage building, or garage incidental to that dwelling.
 2. a farm building, including barns, silos, sheds, or housing for farm equipment and machinery, livestock, poultry, or storage; or

3. a pre-engineered building, or a building, plans for which have been stamped or sealed by a licensed professional in the appropriate field.

- The IRC requires plans from a design professional be submitted to the AHJ – we need to determine what a design professional (architect) so this would need statutory changes, and this would change our entire business flow process for these structures.
- Public Service adopts a newer “IECC” International Energy Conservation Code of the International Code Council then Fire Safety, thus are codes are not in alignment. Currently PSD is under the IECC- 2024. We are currently preparing to file rules to adopt the 2021 IBC and 2021 NFPA Standards. In the IECC there is language which states if a conflict exist between the energy codes and the division of fire safety rules, the Division’s rules will take precedence over the IECC. Some of the construction labeling/listing requirements of fire walls, exterior wall construction, floor ceiling assemblies may not align with the listings and approvals.

As RBES/CBES get more stringent by 2030, what impacts will that have on the building code administration DFS currently does?

- There is more risk of conflict between the codes.