

JESSIE RODRIGUEZ

STATE REPRESENTATIVE ★ 21ST ASSEMBLY DISTRICT

Testimony on Assembly Bill 152
Assembly Committee on Regulatory Licensing Reform
Tuesday, April 27, 2021

Thank you for giving me the opportunity to testify on AB 152, legislation that will update the procedures surrounding the review of commercial building plans.

Under current law, most commercial building plans are reviewed by the Department of Safety and Professional Services (DSPS) before construction may start. Unfortunately, contractors have, in recent years, had to wait an extended amount of time for their plans to be reviewed. Contractors have come to expect a six to eight week approval process, but unfortunately ten to twelve weeks has become standard more recently. At times, the review process has taken even longer than that. This is unacceptable. Having to wait for a state agency to act in order to stay on schedule and continue work puts projects on hold and stalls progress.

After a year of uncertainty and unforeseen obstacles, Wisconsin contractors cannot afford to have another season with these long delays due to DSPS backlog. Construction of any kind follows a strict timeline – a state agency adding to that timeline adds undue stress and costs to projects in our state. That is why Senator Roth and I have introduced this legislation, which will reform our laws surrounding this review process.

AB 152 will make three key changes:

1. Require that fees paid for plan reviews be submitted by the time a review is scheduled, and provide that 50% of the fee is non-refundable.
2. Determine what projects need to be reviewed by DSPS based on the size and general purpose of the building. The bill will exempt certain single story commercial buildings from the DSPS building plan review process based on the volume of that building. Because public safety is paramount, buildings intended for certain occupancies and uses would not be eligible for the exemption, including schools, healthcare facilities, churches and event venues.
3. Change the plumbing plan review requirements to require that only projects with 26 or more planned plumbing fixtures need review by DSPS (an increase from 16 or more fixtures).

If a building plan is exempted because of size and purpose, the building plan will need to be supervised by a registered engineer, architect, or designer. If a plumbing plan is exempted, the project will need to be supervised by a licensed master plumber. **These provisions will ensure commercial building plans are safe while reducing the amount of projects DSPS needs to review in hopes of reducing the delays in plan review and overall backlog at the agency.**

This legislation will allow our builders to get to work this summer by eliminating red tape. I encourage your support for this legislation.

Thank you again for your time and consideration.



April 27, 2021

TO: Committee on Regulatory Licensing Reform
FR: Michael Tierney, Legislative Liaison Department of Safety and Professional Services
RE: Assembly Bill 152 Relating to: examination of building plans for public buildings, public structures, and places of employment, and examination of plumbing plans.

Chair Sortwell and Committee members,

Thank you for the opportunity to testify today.

When Secretary-designee Crim was appointed, she inherited a plan review system that was broken. It was apparent that some contractors had learned how to use the system to their advantage – blocking out multiple plan review dates and times without knowing for certain when, or even if, they would have actual plans ready for review. Because of this, other contractors who looked at the department website for the next available plan review date were misled into believing the next available date for a plan review could be 12 weeks or more away. Contractors would also call individual plan reviewers to schedule plans resulting in further delays for other customers who had been waiting for a review date to open.

During a meeting held in Senator Roth's office in 2019 with department staff and industry leaders, Secretary-designee Crim asked those industry leaders what, to them, were acceptable timelines for plan review completion. The answer was 4 to 6 weeks.

We very much appreciated that during that meeting Senator Roth acknowledged that commercial plan review issues had existed for a long time.

Secretary-designee Crim ordered a comprehensive review of plan review procedures in 2019 and again asked industry stakeholders for their ideal timeframe for plan reviews to be completed. The response was consistently 4 to 6 weeks. She attended multiple meetings with industry representatives and our Division of Industry Services staff and approved substantive changes that were made effective at the start of calendar year 2020.

We began manually scheduling reviews and requiring that plans be substantially complete prior to receiving a reviewer or review date. We installed a system that holds not only the department accountable, but it also creates a virtual paper trail for customers to hold architects, designers, and contractors accountable as well.

As a result of the changes put into place by Secretary-designee Crim at the beginning of 2020, review of complete plans took 3 to just over 5 weeks over the course of 2020. This timeframe held during the height of the building season this past year – despite there being an increase in the number of plans submitted for review over the preceding year.

Since implementing these changes, we have heard from some stakeholders who want to go back to a process where they could pick their own reviewer. We have heard the argument that they have developed relationships with reviewers in the past and would like for that to continue. Clearly, we want plan reviewers to educate plan submitters and collaborate with them to resolve plan challenges as they arise.

However, we need to be clear that plan reviewers are regulators and just like attorneys should not pick judges plan submitters should not pick reviewers.

Over the last year legislative contacts to the department rarely involve the plan review timelines provided by the department. Instead, contacts now focus on providing emergency reviews, issues with reviews conducted by local delegated authorities, submittal of incomplete plans, and customers seeking confirmation on when plans were truly submitted by a contractor or subcontractor in their employ.

Plans may take longer to review when the plans submitted do not meet building code requirements and there is a need to have the customer work with the reviewer to add equivalency elements to a plan to allow for a variance to be granted.

When addressing substantive changes to codes and plans that must be subject to review, the department feels such changes are best addressed by the respective code councils that are affiliated with the department. At present, the code council is meeting to go through the most recent version of the International Building Code for commercial buildings to determine which portions to adopt by reference and which portions to modify with Wisconsin specific standards – known in the industry as Wisconsinisms. Unlike some other states which essentially automatically adopt new codes shortly after they are released, Wisconsin has had a process in place that gives stakeholders a seat at the table and substantial influence on the process.

It is also vital to remember, for the safety of residents who work-in and otherwise spend time in commercial buildings, that the designers and architects who design the structures and create the plans are human and make frequent mistakes. These mistakes are made much more often than most people realize and are ideally caught when there is a fresh set of eyes at the department looking at the plans submitted for review rather than when construction is underway, and design flaws if caught must be corrected at a high cost.

Our Division of Industry Services does track the respective types of plans that are submitted with errors and omissions. Roughly 15 to 20% of plans lack basic information when they are submitted. Of the 80/85% of plans that pass the triage process and go to a reviewer, there are significant numbers of plans that are found to be flawed. For elevators, roughly 40% of the plans submitted are faulty and require intervention by plan reviewers, for commercial buildings the figure is 50%, and for plumbing the figure is 60%.

As for the provision regarding fees contained in the bill, this is an issue that had been broached with Senator Roth prior to the enactment of the changes Secretary-designee Crim implemented. While the payment of fees upon submittal of a plan has been supported by the department to ensure the submission of complete plans on the scheduled review date, the steps taken by Secretary-designee Crim are already producing results that consistently allow the department to outperform stated timelines provided by industry stakeholders.

In conclusion, today we have a system in place that allows builders of commercial structures to have confidence. If you have plans to break ground and build a commercial structure in our state, all you need to do is focus on getting your plans done and submitted. You no longer need to look at a dysfunctional calendar on the department website and worry over how you may fit into the queue. You simply focus on getting your plans submitted to the department and the department will get our end of the job done in 6 weeks or less. Today, by the way, the figure is approximately 3 weeks.

Again, thank you for the opportunity to testify. I am available to answer questions about this legislation or plan review in general.



BUILDING SALE "TO START" TIMELINE	
Activity	Time Expired
Sell The Job	0 Weeks
Architect Transfer	1 Week
Make a State Appointment	(Not Allowed 2021)
Checkset	3 Weeks
Send Plan to State for Review	1 Week
State Approved Building Plans	6 Weeks (Best Case)
Local Building Permit	1 Week
Start Construction	1 Week
Subtotal to Start Construction	13 Weeks (Minimum)
Plumbing & HVAC Plan Approval	4 Weeks
Subtotal to Start Mechanical	17 Weeks (Minimum)

CONSTRUCTION SCHEDULE - DESIGN AGREEMENTS

Main table containing project details, dates, and names for various construction projects. Includes columns for project name, location, dates, and assigned personnel.



Table with columns: Footings, Walls, Flatwork and Floors, Building Erection, Carpentry, Crane, and Bldg Delivery. Each column lists project names and dates.

Summary table with columns: Project Name, Location, Dates, and Assigned Personnel.

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To: Chairman Sortwell and members of the Assembly Committee on Regulatory Licensing Reform

RE: Opposing passage of AB-152, relating to the examination of building plans for public buildings, public structures, and places of employment; examination of plumbing plans.

Thank you, Chairman Sortwell and members of Assembly Committee on Regulatory Licensing Reform, for the opportunity to provide comments on AB-152. We understand that there are lead times associated with DSPS plan reviews and, while we support the investigation of ways to reduce that lead time, we are opposed to this bill.

Under the bill, state level review wouldn't be required for certain plans involving fewer than 25 plumbing fixtures. By focusing solely on the number of plumbing fixtures, the bill removes the consideration of many important plumbing components from state level plan review and fails to take into consideration other plan review components. Many of these plumbing components act to protect municipal water supplies, sewerage systems, wastewater treatment plants and building occupant health and safety. Additionally, many communities lack the financial and staff resources to perform the plan review work that could fall to them as a result of this bill.

Though we appreciate the authors intent, we recognize that DSPS has been able to reduce the lead times on plumbing plan review since the original introduction of this bill last session. In other words, this bill is now outdated based on updates that have been made at the Department level. We would now rather focus the attention of other components of plan review that have fallen behind and work towards solutions that provide long-term results. Our concern is this bill is a temporary fix to a bigger picture problem. We believe this can be a bi-partisan solution at the agency level and appreciate the efforts of DSPS thus far to make needed improvements to the plan review process, and we are hopeful they will continue to be open-minded on additional improvements.

Again, we sincerely appreciate your attention to this issue. However, we are opposed to setting a fixture-specific plan review threshold. We support considering policy changes that will improve the plan review process, but believe that working through the Commercial Building Code Council and Plumbing Code Advisory Council is the best way to go about investigating such changes.

Thank you again for the opportunity to provide comment on this bill.



April 26, 2021

Department of Neighborhood Services

Erica R. Roberts
Commissioner

Thomas Mishefske
Operations Director

Michael Mazmanian
Operations Director

State Representative Shae Sortwell, Chair
Assembly Committee on Regulatory Licensing Reform

Dear State Representative Sortwell and Committee Members,

On October 15, 1914, the Industrial Commission of Wisconsin established a statewide code for construction of places of employment or public buildings. Building codes and have evolved over the past century, and this evolution often results from the examination of a loss of life event.

The International Code Council develops codes through a consensus process. With modifications, Wisconsin currently adopts the 2015 International Building Code, 2015 International Energy Conservation Code, 2015 International Mechanical Code, 2015 International Fuel Gas Code, and the 2015 International Existing Building Code.

Assembly Bill 152 has the effect of moving backwards with respect to protecting the health, safety, and welfare of the public and employees. The plan review process is an essential element to ensure structures are designed to protect the health, safety, and welfare of the public and employees.

The City of Milwaukee conducts plan reviews of designs submitted by many licensed architects and registered professional engineers. Issues of non-compliance with the code are identified through this review process. While still lines on paper, as opposed to identifying the issues of non-compliance at the time of field inspection, these issues of non-compliance take significantly less time to correct and at a lower cost. The savings in both time and expense to construct a compliant structure provides a direct benefit to the designer, builder, owner, public and employees.

The benefits gained through the plan review process would be lost to those exempted by Assembly Bill 152.

Therefore, the City of Milwaukee opposes Assembly Bill 152.

Sincerely,

Erica R. Roberts
Commissioner of Building Inspection
Milwaukee Department of Neighborhood Services



4/26/2021

Senator Stephen Nass, Chair, Senate Committee on Labor and Regulatory Reform
Via Committee Clerk Mike Mikalsen; Mike.Mikalsen@legis.wisconsin.gov

Representative Shae Sortwell, Chair, Assembly Committee on Regulatory Licensing Reform
Via Committee Clerk Zach Pfaffenbach; Zach.Pfaffenbach@legis.wisconsin.gov

Dear Senator Nass and Representative Sortwell;

The Wisconsin Code Officials Alliance is opposed to 2021 SB 167 and AB 152. We believe these bills will place Wisconsin citizens and visitors at greater risk to their health and safety by negatively affecting building occupants, first responders, municipal sewer and water utilities, and the waters of the state.

These bills remove an important safety net from the state's building and plumbing safety programs and shift the burden of plan review to communities throughout the state. Many communities lack the financial and staff resources to pick up the plan review workload abandoned by the state under these bills. Because building and plumbing inspections are not required for commercial buildings, under state law or code, we cannot rely on field inspections to catch problems not caught by plan review.

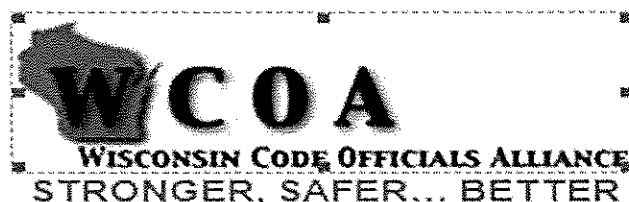
In addition, by focusing solely on the trigger of 25 plumbing fixtures, these bills remove many important plumbing components from state level plan review. In addition to protecting building occupants from harm, such plumbing components protect municipal water supply systems, sewerage systems, wastewater treatment plants, and the waters of the state.

We agree that the construction industry needs timely plan review services from the Department of Safety and Professional Services and we are pleased that the timeliness of DSPS plan review improved significantly in 2020. The DSPS has greatly improved plan review timeliness by redesigning its plan review process and by partnering with municipal plan review programs to address workload peaks. These effective changes were the result of focused and fruitful customer and partner engagement by the Department.

We recommend that any state plan review changes be made through the code promulgation process. Because determination of plan review triggers reflects important technical public safety considerations, we believe the code development process, with input from the Commercial Building Code Council and the Plumbing Code Advisory Committee, as well as other interested parties involved in building design, construction and regulation, is the best avenue to pursue.

Best Regards,

Brad Neumeister
President WCOA



ADVANCING QUALITY & SAFETY IN THE BUILT ENVIRONMENT



**2021 Assembly Bill 152
April 20, 2021**



**Jeffrey J. Beiriger
Executive Director
Plumbing Heating Cooling Contractors – Wisconsin Association**

My name is Jeff Beiriger and I am the Executive Director of the Plumbing Heating Cooling Contractors – Wisconsin Association and the Master Plumbers Association of Wisconsin. I am sorry that I cannot be with you in person for the public hearing on AB 152, but wish to provide the following, written testimony.

When this bill was introduced during the 2019 session (as SB 820), I testified at the time that plumbing plan review times were too long and that they've been that way for too long. I said, "The industry is looking for review times in the 4- to 6-week range. More recently, we've been out 10 to 12 weeks. The net effect is a bottleneck on the construction industry and the state's economy."

Today, plumbing plan reviews are within our stated goal of 4 to 6 weeks. As reported at last week's Senate hearing on SB 167, the companion bill to AB 152, the DSPS reported that plumbing plan reviews were as low as three weeks. The point is, we've made the progress we had hoped for over the past year and did so without a change in the law.

To our thinking, the agency did an excellent job of reaching out and working with the industry. We came to the table with a few ideas and so did the department. We got on the same side of the table and talked about what we *could* do. We looked for possible

bottlenecks and discovered that many of them were of our own making. When the time came, we helped communicate the solution. And it worked....

As we sit here today, I haven't received any comments from my members about plan review times. I'm not saying that I might not, but our experience this last time gives us confidence that we can stay ahead of the curve through continued dialogue and, importantly, action.

We still have a few ideas and, I'm sure the agency does too. For the past several months, the Plumbing Advisory Code Council has been reviewing our State plumbing code. Among the proposals they will discuss is one that we have offered to further streamline the plan review process. We've also heard feedback from some of our contractors about all the elements of a plan that are reviewed and whether that needs to be reconsidered. And we're open-minded to greater use of local plan reviewers, possibly including third-party organizations, *if* there is significant oversight by the Department and input from the industry. These are all part of what we think are the next steps. To take what we've done and to build on it.

Put another way, we think that the solution isn't to review fewer plans simply by increasing the fixture counts. Instead, we should keep working on the review process itself. More than that, and we know that this may not be a popular option, it may be time to consider whether we need to invest in plan review as an important part of our economic engine in the state. We are gathered here today precisely because we recognize that plan review can be a bottleneck for the construction industry and our State's economy. An investment, should you choose to make it, would come from program revenue, not general revenue. The industry may already be providing enough financial

support to do this. And if it isn't, it might be willing to invest in slightly higher fees to make that happen.

As I said during my testimony that changing the fixture counts isn't something we really want to do. We noted that we don't really know what effect this will have on plan review times, only that fewer plans will be reviewed. We think there is a public health and safety issue with that course of action, but even if we could set that aside, it's important to remember that we are looking at "plans." Anecdotally, I testified on 2021 Senate Bill 167 that about 25 percent of plans come back with some sort of markup from the Department staff and/or local plan reviewers. The Department reported that about half of the plans they review require revisions.

These are, after all, plans. To review these critical construction document, one more time, before work begins in the field, will almost always result in better projects, less rework, and better outcomes during inspection. Think of plan review as something akin to an editor. It isn't that an author doesn't know how to write, or that a plumber can't do a design, but another set of eyes – the editor or the plan reviewer – will almost certainly make the outcome better. Isn't that our goal?

So perhaps there was a time when a legislative solution was the answer. For our part, we don't think we're there right now. We've made what we think is more than satisfactory progress and we've done that by having the regulated community working closely with its regulating agency. It's a good process and even my harshest critics of the DSPS from two years ago are satisfied with the results and encouraged by the potential for future progress.

I defer to others to speak to the merits of commercial building plan reviews, but for those portions dealing with plumbing, we are opposed. AB 152 is, to our thinking, a broadsword approach. We know a more surgical approach can work precisely because it already has. If something is working, let's double down on that option before doing anything else.

Bottom line. A bill like this will always be an option for another day. Frankly, if we hadn't had the success we've had working with the Department, we might be here testifying in support of this bill not because it is our best option, but because it is our only option.

But today, it's not. For that reason, we oppose AB 152.

For more information:

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