



# HOUSE COMMITTEE ON APPROPRIATIONS

## FISCAL NOTE

HOUSE BILL NO. 409

PRINTERS NO. 1235

PRIME SPONSOR: Evankovich

### COST / (SAVINGS)

FUND	FY 2016/17	FY 2017/18
Commonwealth Funds	See "Fiscal Impact"	See "Fiscal Impact"
Municipal Funds	\$0	\$0

**SUMMARY:** Amends the PA Construction Code Act to make comprehensive changes to the process used by the Uniform Construction Code Review and Advisory Council to evaluate and adopt building code updates. The amendment of Section 902(c) would take effect in 60 days with the remainder of the legislation taking effect immediately.

**ANALYSIS:** Amends the PA Construction Code Act (Act 45 of 1999) to make comprehensive changes to the process used by the Uniform Construction Code (UCC) Review and Advisory Council (Council) to evaluate and adopt building code updates.

**Changes in Time-Frame for Council Review of Latest ICC Codes:** The legislation increases the timeframe (from 12 months to 24 months) that the Council has to review triennial ICC code updates. The legislation requires that the Council begin its review 21 months after publication of the updated triennial codes. The legislation further requires that the Department of Labor and Industry (L&I) promulgate final-omitted regulations implementing updated UCC provisions 33 months after the beginning of the review process.

**Creation of Public Comment Period on Latest ICC Codes:** The legislation amends the act to require that a 120 day public comment period be commenced 30 days after the Council begins its review of the triennial code updates. Public comments would have to be on a form created by L&I, and would have to be on a single updated section. All public comments would be provided to all Council members and be posted on L&I's internet site.

**Creation of Technical Advisory Committees:** The legislation requires the Council to establish technical advisory committees which would be limited to a maximum of 12 members and composed of up to 5 Council members. Each committee would have a Council member appointed to chair the committee. The Chairman of the Council would be limited to appointing four total Council members to each committee, unless not enough members of the public could serve. The legislation establishes standards for the appointment of Council members and members of the public to the committees. Meetings could be conducted in person, or tele-conference/video-conference.

**Guidelines for Operation of Council Review:** The legislation requires that after the expiration of the public comment period, the Chairman of the Council must assign each updated code section to a technical advisory committee. The committee must submit recommendations to the Council on whether to accept/modify/reject updated sections with rationale relied upon. Updated sections of triennial codes that never received public comment recommending modification/rejection, and which a committee member did not request separate consideration of, shall be reported as unopposed. These recommendations must be posted on L&I's website and be posted for 10 business days prior to the first public hearing conducted by the Council. The Council must hold three public hearings (one in Harrisburg, one in the eastern part of the state and one in the western part of the state).

Once the public hearings are completed, the Council must hold one or more official meetings to decide whether to adopt, reject, or modify the updated sections. The Council must review updated sections applying the following criteria: 1) the impact that the provision may have upon the health, safety, and welfare of the public; 2) the economic/financial impact, including to the end consumer; and 3) the technical feasibility of the provision.

The Council shall consider adoption into the UCC of the unopposed sections first, and as a block. However, before a vote is conducted on the unopposed "block", the Council must provide the opportunity for any member to make a motion to remove a section from the unopposed block. A motion to remove a section would have to be supported by a written explanation of the underlying rationale for the motion, and would only be successful if a majority of the Council membership supported it. If a section was removed from the unopposed block, it would be considered to be "controversial" and subject to the provisions relating to adoption of "controversial" items. After the Council's consideration of the unopposed block, the legislation requires the consideration of "controversial" sections. A two-thirds vote by the Council membership is necessary to adopt or modify such sections.

**Specific Guidelines for Review of 2015 Triennial ICC Codes:** The legislation requires that the Council initiate a new review of the updated provisions of the 2015 triennial codes within 30 days of passage of the legislation. The Council's existing report recommendations would remain in effect until September 30, 2018, and the new report recommendations would take effect October 1, 2018. The Council would have to conduct the review in accordance with the act, with the proviso that: 1) the public comment period would only have to be 30 days; 2) only one public hearing would have to be held; 3) the Council would not have to establish formal technical advisory committees, and could establish subcommittees based on past practices; and 4) the Council could rely on technical analysis' from its previous review of 2015 codes. The Council would have to submit a report of its recommendations by May 1, 2018.

**Report by Council of Updated Provisions to Be Adopted into UCC:** The legislation requires that the Council submit to L&I, within 24 months of commencement of the triennial code review process, a report detailing the updated code provisions that are specified for adoption/modification. L&I would have to promulgate final-omitted regulations adopting the

report's recommendations within 9 months of receiving the report, which would then take effect 33 months after commencement of the review process.

**UCC Review and Advisory Council Composition:** The legislation increases the terms of Council members from 2 years to 3 years. The legislation states that members who miss three or more consecutive meetings, or who miss three or more technical advisory meetings, may be removed from the Council and committees. The legislation increases the size of the Council from 19 to 21 members by adding a member of the construction trades to represent employees in the construction industry, and an individual to represent the interests of commercial building owners. The legislation modifies the appointment process for 4 of the current positions from gubernatorial appointments to appointments by the General Assembly as follows:

- One member appointed by the Senate President Pro Tempore who is a general contractor from an association representing the residential construction industry.
- One member appointed by the Senate Minority Leader who must be a Second or Third Class City official experienced in the construction of buildings.
- One member appointed by the House Speaker who must be a general contractor from an association representing the nonresidential construction industry who has experience in the construction of nonresidential buildings.
- One member appointed by the House Minority Leader having recognized ability and experience in the construction trades to represent employees in the construction industry.

**UCC Review and Advisory Council Transition to New Composition:** This legislation contains specific language immediately "grandfathering in" 16 current members of the current Council onto the new Council. The current terms of 16 members are extended and the terms for the 5 new members are established in a manner that has 7 terms expiring in 2018, 7 terms expiring in 2019, and 7 terms expiring in 2020. The annual rotation of 7 members serving three year terms would thereafter continue indefinitely.

**UCC Review and Advisory Council Administrative Support:** The legislation states that L&I shall provide secretarial and legal support to the Council. It gives L&I the authority to compensate individuals who provide expert input to the Council. In addition, the legislation permits Council members to be reimbursed for reasonable travel, hotel, and other necessary expenses. The legislation also creates a Review and Advisory Council Administration Account in the State Treasury to fund Council operations.

**Education and Training Programs:** The legislation creates a new restricted account named the "Review and Advisory Council Administration Account". The legislation changes the funding distribution from a 50/50 split between the existing Municipal Code Official Training Account and the existing Construction Contractor Training Account as follows: 1) 47.5% to the existing Municipal Code Official Training Account; 2) 47.5% to the existing Construction Contractor Training Account; and 3) 5% to the newly created Review and Advisory Council Administration Account.

Money deposited into the Municipal Code Official Training Account and the Construction Contractor Training Account is hereby appropriated on approval of the Governor to DCED for education and training programs. DCED shall receive no monies from these funds for their administrative expenses.

**Review and Advisory Council Administration Account:** Monies deposited in the Review and Advisory Council Administration Account are to be transmitted quarterly to L&I for expenses of the Council for performance of duties, and for technical and administrative assistance as determined necessary by the Council. Monies may also be used for fees associated with contracting with the ICC to establish and publish code manuals which contain the standards of the Uniform Construction Code

**Technical Standards Involving Certification of “Uncertified Buildings”:** The legislation gives code officials the option of using the L&I’s technical standards to issue a certificate of occupancy to an uncertified building; the bill eliminates the current requirement that such standards can only be used if the municipality adopts an ordinance electing to use L&I’s standards.

**FISCAL IMPACT:** In FY 2015/16, \$984,036 was generated from the \$4 building permit fee. DCED had deposited all these funds into the Municipal Code Official Training Account and used \$36,901 for its administrative expenses per a memorandum of understanding with the Pennsylvania State Association of Township Supervisors. The legislation creates the Review and Advisory Council Administration Account and redirects 5% of the building permit fees to be used to offset costs for L&I’s assistance with the code review process as well as reimbursement for expenses incurred by Council board members. At 5%, this would generate about \$49,000 per year for these code review functions assuming similar levels (\$980,000) of permit application fees.

This legislation would have no adverse fiscal impact on municipal funds.

**PREPARED BY:** Tim Rodrigo  
House Appropriations Committee (R)

**DATE:** April 12, 2017

*Estimates are calculated using the best information available. Actual costs and revenue impact incurred may vary from estimates.*