

PUBLIC HEARING
before
ASSEMBLY EDUCATION COMMITTEE
on
SENATE BILL 1934

Held:
October 13, 1983
Assembly Chamber
State House
Trenton, N.J.

MEMBERS OF COMMITTEE PRESENT:

Assemblywoman Mildred Barry Garvin (Chairwoman)
Assemblyman A. Palaia

ALSO PRESENT:

John A. White, Research Associate
Office of Legislative Services
Aide, Assembly Education Committee

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SENATE, No. 1934
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STATE OF NEW JERSEY

INTRODUCED NOVEMBER 23, 1982

By Senators CAUFIELD, FORAN, HIRKALA, LIPMAN, RAND,
CODEY, GALLAGHER, DUMONT, DALTON, BASSANO,
GORMLEY, DiFRANCESCO and BORNHEIMER

Referred to Committee on County and Municipal Government

AN ACT to amend and supplement the "State Uniform Construction
Code Act," approved October 7, 1975 (P. L. 1975, c. 217).

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. Section 3 of P. L. 1975, c. 217 (C. 52:27D-121) is amended
2 to read as follows:

3 3. Definitions. As used in this act unless the context clearly
4 indicates otherwise:

5 "Building" means **[** exclusive of a public school facility, **]** a struc-
6 ture enclosed with exterior walls or fire walls, built, erected and
7 framed of component structural parts, designed for the housing,
8 shelter, enclosure and support of individuals, animals or property
9 of any kind.

10 "Business day" means any day of the year, exclusive of Satur-
11 days, Sundays, and legal holidays.

12 "Certificate of occupancy" means the certificate provided for in
13 section 15 of this act indicating that the construction authorized by
14 the construction permit has been completed in accordance with the
15 construction permit, the State Uniform Construction Code and any
16 ordinance implementing said code.

17 "Commissioner" means the Commissioner of Community
18 Affairs.

19 "Code" means the State Uniform Construction Code.

20 "Construction" means the construction, erection, reconstruction,

EXPLANATION—Matter enclosed in bold-faced brackets **[** thus **]** in the above bill
is not enacted and is intended to be omitted in the law.

Matter printed in italics *thus* is new matter.

Matter enclosed in asterisks or stars has been adopted as follows:

*—Senate amendment adopted December 16, 1982.

**—Assembly committee amendments adopted June 27, 1983.

21 alteration, conversion, demolition, removal, repair or equipping of
22 buildings or structures.

23 "Construction board of appeals" means the board provided for
24 in section 9 of this act.

25 "Department" means the Department of Community Affairs.

26 "Enforcing agency" means the municipal construction official
27 and subcode officials provided for in section 8 of this act and
28 assistants thereto.

29 "Equipment" means plumbing, heating, electrical, ventilating,
30 air conditioning; refrigerating and fire prevention equipment, and
31 elevators, dumb waiters, escalators, boilers, pressure vessels and
32 other mechanical facilities or installations.

33 "Hearing examiner" means a person appointed by the commis-
34 sioner to conduct hearings, summarize evidence, and make findings
35 of fact.

36 "Maintenance" means the replacement or mending of existing
37 work with equivalent materials or the provision of additional work
38 or material for the purpose of the safety, healthfulness, and up-
39 keep of the structure and the adherence to such other standards
40 of upkeep as are required in the interest of public safety, health
41 and welfare.

42 "Manufactured home" or "mobile home" means a vehicular,
43 portable structure which is built on a chassis and designed to be
44 used without a permanent foundation as a dwelling for year round
45 rather than temporary occupancy when connected to required
46 utilities.

47 "Municipality" means any city, borough, town, township or
48 village.

49 "Owner" means the owner or owners in fee of the property or
50 a lesser estate therein, a mortgagee or vendee in possession, an
51 assignee of rents, receiver, executor, trustee, lessee, or any other
52 person, firm or corporation, directly or indirectly in control of a
53 building, structure, or real property and shall include any sub-
54 division thereof of the State.

55 "Premanufactured system" means an assembly of materials or
56 products that is intended to comprise all or part of a building or
57 structure***],** exclusive of a public school facility,**]** and that is
58 assembled offsite by a repetitive process under circumstances
59 intended to insure uniformity of quality and material content.

60 **["Public school facility" means any building or any part thereof**
61 **where the plans and specifications are submitted to, and approved**
62 **by, the State Board of Education pursuant to N. J. S. 18A:18-2.]**

62A ***"Public school facility" means any building, or any part
62B thereof of a school, under college grade, owned and operated by a
62C local, regional, or county school district.**

63 "State sponsored code change proposal" means any proposed
64 amendment or code change adopted by the commissioner in accord-
65 ance with subsection c. of section 5 of this act for the purpose of
66 presenting such proposed amendment or code change at any of the
67 periodic code change hearings held by the National Model Code
68 Adoption Agencies, the codes of which have been adopted as sub-
69 codes under this act.

70 "Stop construction order" means the order provided for in sec-
71 tion 14 of this act.

72 "State Uniform Construction Code" means the code provided
73 for in section 5 of this act, or any portion thereof, and any modifi-
74 cation of or amendment thereto.

75 "Structure" means [, exclusive of a public school facility,] a com-
76 bination of materials to form a construction for occupancy, use,
77 or ornamentation whether installed on, above, or below the surface
78 of a parcel of land; provided, the word "structure" shall be con-
79 strued when used herein as though followed by the words "or
80 part or parts thereof and all equipment therein" unless the context
81 clearly requires a different meaning.

1 2. Section 5 of P. L. 1975, c. 217 (C. 52:27D-123) is amended
2 to read as follows:

3 5. Adoption of a State Uniform Construction Code.

4 a. The commissioner shall after public hearing pursuant to
5 section 4 of the "Administrative Procedure Act," P. L. 1968, c. 410
6 (C. 52:14B-4) adopt a State Uniform Construction Code for the
7 purpose of regulating the structural design, construction, mainte-
8 nance and use of buildings or structures to be erected and altera-
9 tion, renovation, rehabilitation, repair, maintenance, removal or
10 demolition of buildings or structures already erected. Prior to
11 the adoption of said code, the commissioner shall consult with the
12 code advisory board and other departments, divisions, bureaus,
13 boards, councils or other agencies of State Government heretofore
14 authorized to establish or administer construction regulations.

15 Such prior consultations with departments, divisions, bureaus,
16 boards, councils, or other agencies of State Government shall in-
17 clude but not be limited to consultation with the Commissioner of
18 Health and the Public Health Council prior to adoption of a plumb-
19 ing subcode pursuant to paragraph b. of this section. Said code
20 shall include any code, rule or regulation incorporated therein by
21 reference.

22 b. The code shall be divided into subcodes which may be adopted
23 individually by the commissioner as he may from time to time
24 consider appropriate. Said subcodes shall include but not be limited
25 to a building code, a plumbing code, an electrical code, an energy
26 code, a fire prevention code, a manufactured or mobile home code
27 and mechanical code.

28 These subcodes shall be adoptions of the model codes of the
29 Building Officials and Code Administrators International, Inc., the
30 National Electrical Code, and the National Standard Plumbing
31 Code, provided that for good reasons, the commissioner may adopt
32 as a subcode a model code or standard of some other nationally
33 recognized organization upon a finding that such model code or
34 standard promotes the purposes of this act. The initial adoption
35 of a model code or standard as a subcode shall constitute adoption
36 of any subsequent revisions or amendments thereto.

37 The commissioner shall be authorized to adopt a barrier free
38 subcode or to supplement or revise any model code adopted here-
39 under, for the purpose of insuring that adequate and sufficient
40 features are available in buildings or structures so as to make
41 them accessible to and usable by the physically handicapped.

42 c. Any municipality through its construction official, and any
43 State agency or political subdivision of the State may submit an
44 application recommending to the commissioner that a State spon-
45 sored code change proposal be adopted. Such application shall
46 contain such technical justification and shall be submitted in
47 accordance with such rules of procedure as the commissioner may
48 deem appropriate.

49 At least 45 days prior to the final date for the submission of
50 amendments or code change proposals to the National Model Code
51 Adoption Agency, the code of which has been adopted as a subcode
52 under this act, the commissioner shall hold a public hearing in ac-
53 cordance with the Administrative Procedure Act, P. L. 1968, c. 410
54 (C. 52:14B-1 et seq.), at which testimony on any application recom-
55 mending a State sponsored code change proposal will be heard.

56 The commissioner shall maintain a file of such applications, which
57 shall be made available to the public upon request and upon pay-
58 ment of a fee to cover the cost of copying and mailing.

59 After public hearing, the code advisory board shall review any
60 such applications and testimony and shall within 20 days of such
61 hearing present its own recommendations to the commissioner.

62 The commissioner may adopt, reject or return such recommenda-
63 tions to the code advisory board for further deliberation. If adopted,
64 any such proposal shall be presented to the subsequent meeting

65 of the National Model Code Agency by the commissioner or by
 66 persons designated by the commissioner as a State sponsored code
 67 change proposal. Nothing herein, however, shall limit the right
 68 of any municipality, the department, or any other person from
 69 presenting amendments to the National Model Code Agency on its
 70 own initiative.

71 The commissioner may adopt further rules and regulations pur-
 72 suant to this subsection and may modify the procedures herein
 73 described when a model code change hearing has been scheduled
 74 so as not to permit adequate time to meet such procedures.

75 d. **[The Department of Education shall annually update its rules**
 76 **and regulations concerning public school facilities for the purpose**
 77 **of, insofar as appropriate for such facilities making them conform**
 78 **with the State Uniform Construction Code. Such updating shall be**
 79 **undertaken in consultation with the commissioner. Within three**
 80 **years from the effective date of this act, the Department of Edu-**
 81 **cation and commissioner shall submit to the Legislature reports**
 82 **on the extent to which the Department of Education's rules and**
 83 **regulations have been brought into conformity with the code, and**
 84 **identifying problems still outstanding for purposes of applying**
 85 **the provisions of the code to all public school facilities.]** *(Deleted*
 86 *by amendment, P. L. . . . , c. . . .)*

1 3. Section 11 of P. L. 1975, c. 217 (C. 52:27D-129) is amended
 2 to read as follows:

3 11. **[State buildings and buildings]** ****[Buildings]**** ****State**
 4 **buildings and buildings**** of interstate agencies. a. **[Notwith-**
 5 **standing any other provision of this act, the Division of Buildings**
 6 **and Construction in the Department of the Treasury shall have**
 7 **exclusive authority to administer and enforce the code in regard**
 8 **to buildings and structures owned by the State, and any of its**
 9 **departments, divisions, bureaus, boards, councils, authorities or**
 10 **other agencies provided that the division shall enforce the code**
 11 **with persons certified by the commissioner pursuant to this act.**
 12 **Prior to approval of plans and specifications for a structure or**
 13 **building costing in excess of \$50,000.00, the Division of Buildings**
 14 **and Construction in the Department of the Treasury shall hold**
 15 **a public hearing in the county in which the building is to be**
 16 **located.]** ****[(Deleted by amendment, P. L. . . . , c. . . .)]****
 17 ****Notwithstanding any other provision of P. L. 1975, c. 217 (C.**
 18 **52:27D-119 et seq.), the Department of Community Affairs shall**
 19 **have exclusive authority to administer and enforce the code in**
 20 **regard to buildings and structures owned by the State, and any of**
 21 **its departments, divisions, bureaus, boards, councils, authorities or**

22 other agencies; provided, however, that the Division of Building
 23 and Construction in the Department of the Treasury shall have
 24 authority to conduct field inspections for the purpose of enforcing
 25 the code in buildings built under its supervision. The Division of
 26 Building and Construction shall be authorized to review plans and
 27 undertake construction if the Department of Community Affairs
 28 cannot approve plans within the 20 day period provided for in
 29 P. L. 1975, c. 217. The Division of Building and Construction shall
 30 carry out any review or inspection responsibilities with persons
 31 certified by the Commissioner of the Department of Community
 32 Affairs pursuant to the provisions of P. L. 1975, c. 217. The Depart-
 33 ment of Community Affairs shall have ultimate responsibility for
 34 insuring that all buildings conform to the requirements of the
 35 code.**

36 b. Construction, alteration, renovation, rehabilitation, repair,
 37 removal or demolition of any building or structure situated wholly
 38 within New Jersey by or for an agency created by an interstate
 39 compact to which the State of New Jersey is a party shall be sub-
 40 ject to the provisions of the code; provided that such interstate
 41 agency shall have exclusive authority to administer and enforce
 42 the code in regard to such buildings and structures.

1 4. Section 12 of P. L. 1975, c. 217 (C. 52:27D-130) is amended
 2 to read as follows:

3 12. Permit required for construction or alteration of buildings
 4 and structures; application therefor; required contents of applica-
 5 tion; issuance, effect and duration of permits ****certain public**
 6 **school facilities****]; public school facilities]. Except as otherwise
 7 provided by this act or in the code, before construction or alteration
 8 of any building or structure, the owner, or his agent, engineer or
 9 architect, shall submit an application in writing, including signed
 10 and sealed drawings and specifications, to the enforcing agency as
 11 defined in this act. The application shall be in accordance with
 12 regulations established by the commissioner and on a form pre-
 13 scribed by the commissioner and shall be accompanied by payment
 14 of the fee to be established by the municipal governing body by
 15 ordinance in accordance with standards established by the com-
 16 missioner. The application for a construction permit shall be filed
 17 with the enforcing agency and shall be a public record; and no
 18 application for a construction permit shall be removed from the
 19 custody of the enforcing agency after a construction permit has
 20 been issued. Nothing contained in this paragraph shall be inter-
 21 preted as preventing the imposition of requirements in the code, for
 22 additional permits for particular kinds of work, including but not

23 limited to plumbing, electrical, elevator, fire prevention equipment
24 or boiler installation or repair work, or in other defined situations.

25 **¶**When final plans for the construction or alteration of a public
26 school facility are submitted to the Department of Education, for
27 approval, such plans shall also be filed with the enforcing agency
28 of the municipality in which the public school facility is located.
29 The enforcing agency shall have the right to inspect any construc-
30 tion or alteration of a public school facility for the purpose of
31 advising the board of education of the school district in which the
32 public school facility is being constructed and the Commissioner
33 of Education of any violations of the school house guide, adopted
34 pursuant to Title 18A of the New Jersey Statutes, or practices
35 detrimental to the health and safety of the community. The advice
36 of the enforcing agency shall be binding upon the district board of
37 education, except that an appeal to the Department of Education
38 shall be available to the district board of education. When changes
39 in the plans for construction or alteration of a public school
40 facility are submitted to the Department of Education, for
41 approval, said plans shall also be submitted to the enforcing agency
42 of the municipality in which the public school facility is or shall
43 be located.¶

44 ***No permit shall be issued for a public school facility which*
45 *requires the approval of the Department of Education unless the*
46 *plans have been first approved by the Department of Education.*
47 *Approval by the Department of Education shall only be required*
48 *when a review for educational adequacy is necessary. Requirements*
49 *determining when a review for educational adequacy is necessary*
50 *shall be established jointly by the Department of Community*
51 *Affairs and the Department of Education within 180 days of the*
52 *effective date of this act. The standards shall thereafter be adopted*
53 *as part of the Uniform Construction Code regulations by the*
54 *Department of Community Affairs. The Department of Education*
55 *when approving plans shall be responsible for insuring that the*
56 *plans conform to the requirements of the code as well as for*
57 *insuring that they provide for an educationally adequate facility.*
58 *In carrying out its responsibility pursuant to the provisions of this*
59 *section the Department of Education shall employ persons licensed*
60 *by the Commissioner of the Department of Community Affairs for*
61 *the type and level of plans being reviewed.***

1 5. (New section) Any law or regulation to the contrary notwith-
2 standing, the structure, design, construction, maintenance and use
3 of all buildings or structures to be erected and the alteration, reno-
4 vation, rehabilitation, repair, maintenance, removal, or demolition

5 of all buildings or structures already erected shall be regulated
6 pursuant to the "State Uniform Construction Code Act," P. L.
7 1975, c. 217 (C. 52:27D-119 et seq.).

1 6. This act shall take effect on the ninety-first day following
2 enactment.

SENATE COUNTY AND MUNICIPAL GOVERNMENT
COMMITTEE

STATEMENT TO

SENATE, No. 1934

with Senate committee amendments

STATE OF NEW JERSEY

DATED: DECEMBER 16, 1982

Senate Bill No. 1934 would amend the "State Uniform Construction Code Act," P. L. 1975, c. 217 (C. 52:27D-119 et seq.), to require all buildings constructed in the State to comply with the provisions of the State Uniform Construction Code.

Currently, public schools and State buildings are exempt from the code provisions. The Department of Education promulgates its own construction code for public schools and the Division of Buildings and Construction in the Department of the Treasury has authority to administer and enforce the State code for State buildings. Senate Bill No. 1934 would eliminate the exemption of public schools and State buildings from the code so that all buildings will comply with the State Uniform Construction Code.

It should be noted that although section 5 of Senate Bill No. 1934 effectively supersedes the four sections of Title 18A (C. 18A:4-35, C. 18A:18A-16, C. 18A:22-4.2, and C. 18A:20-36) that relate to the Department of Education's requirements for public schools, the four sections still remain unchanged in Title 18A.

This bill represents one of the several final recommendations of the New Jersey Fire Safety Study Commission.

The Senate committee amendment is technical in nature.

ASSEMBLY MUNICIPAL GOVERNMENT COMMITTEE

STATEMENT TO

SENATE, No. 1934

[OFFICIAL COPY REPRINT]

with Assembly committee amendment

STATE OF NEW JERSEY

DATED: JUNE 27, 1983

Senate Bill No. 1934 OCR, as amended by the committee, amends and supplements the "State Uniform Construction Code Act," P. L. 1975, c. 217 (C. 52:27D-119 et seq.) to require that all buildings constructed in the State comply with the construction regulations, plan review requirements and enforcement procedures of the State Uniform Construction Code.

Under current law, public schools and State buildings are exempt from the provisions of the Uniform Construction Code. Public schools are subject to a construction code promulgated by the Department of Education. The department is also responsible for administering and enforcing the public school code. State buildings are subject to the Uniform Construction Code, but the administration and enforcement of the code is the responsibility of the Division of Buildings and Construction in the Department of Treasury.

Senate Bill No. 1934 OCR, as amended by the committee, eliminates the current exemptions for public schools and State buildings. Under the provisions of the bill, the Department of Community Affairs would have exclusive authority to administer and enforce the code.

The committee, at the sponsor's request, amended the bill to clarify the definition of a "public school facility" and to provide for plan review by the Department of Education for the purposes of insuring educational adequacy. The standards for determining when an education review is necessary are to be promulgated jointly by the Department of Education and the Department of Community Affairs. In reviewing plans and checking for code compliance, the Department of Education is to employ and utilize persons licensed by the Department of Community Affairs.

The committee also amended the bill to empower the Division of Buildings and Construction to conduct field inspections of buildings under its jurisdiction, enforce the code and review plans when the Department of Community Affairs is unable to do so within 20 days.

In all other cases, the Department of Community Affairs has exclusive jurisdiction for code enforcement with regard to State buildings.

The committee notes that the provisions of Senate Bill No. 1934 OCR, as amended by the committee, are identical to Assembly Bill No. 2204 Aca.

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ASSEMBLYWOMAN MILDRED BARRY GARVIN (Chairwoman): Ladies and gentlemen, this public hearing is on Senate Bill 1934. This bill was introduced by Senator Caufield. Would you come forward, Senator Caufield? I think before we hear from the people testifying, I would like to hear the Senator's comments on Senate Bill 1934.

SENATOR JOHN P. CAUFIELD: Thank you very much, Madam Chairman. I don't have to make too much comment for Assemblyman Palaia, since he did sit on the Fire Study Commission, and for many months, sat with us as we heard testimony from all sides at regional meetings throughout the State and also Committee meetings that we had. We came to the conclusion that the recommendations ought to be put into bill-form and introduced in the Senate and in the Assembly.

There is a package of bills. There were really four bills that we were basically interested in. You might know the history. Three of those bills have been passed in both houses; one has already been signed by the Governor; and, from every indication, the Governor is prepared to sign the third bill of that package.

The only thing that is holding that package up now is S-1934. It provides that all State buildings and all buildings throughout the State of New Jersey would come under the Uniform Construction Code.

Now, without belaboring the point, because we sat down with some very reasonable people from the Department of Education, the Department of Community Affairs, Ted Reid from the administrators, and some other people from the fire service, we all have come to an agreement that, if an amendment, which Ted Reid is going to propose, is adopted by this Committee, we would all be perfectly happy with that result. When reasonable people try to sit down and try to accomplish things, and if they are all reasonable -- and all of the people concerned here are very reasonable people -- you can accomplish a great deal. We think we have done that. We think the amendment that will be presented here today will keep all people reasonably happy. I'm not totally happy. If any of them are totally happy, then we are going to be a little bit suspect that there is something wrong.

We do expect that with this amendment, we will all find it acceptable. So, rather than belabor the hearing any longer, I will just say that all of us, the Department of Education, DCA, the fire service, and the administrators all had one thing in mind, and that was the fire safety of the people in our schools. We have that obligation. We all have the same concern. And again, good people sitting down came up with a very reasonable solution.

Unless there are questions, or unless other people will raise questions, I will conclude.

ASSEMBLYWOMAN GARVIN: No, I think not. I would just like to thank you for having the meetings to come to a consensus, because I was never opposed to safety. I think the only questions that many people will attempt to address today would have to do with the cost factor. I do not intend to deal with that today.

I thank you for your patience with me, Senator Caufield, old dear friend of mine, because I really was concerned.

SENATOR CAUFIELD: We recognize that. You have every right to be concerned. Thank you.

ASSEMBLYWOMAN GARVIN: Okay. Thank you, Senator Caufield. Our next witness is Mr. Reid, from the New Jersey School Boards.

OCTAVIUS T. REID, JR.: Thank you, Madam Chairman. I appreciate the opportunity to speak on behalf of, in this case, the School Boards Association, and hopefully, in very general terms, the Department of Education, the Department of Community Affairs, and Senator Caufield.

As you well know, the School Boards Association has been out in front in terms of some of the oppositions of this bill, because of concerns that were raised with respect to such things as cost, which you mentioned, the issue of who would be in charge in the involvement of the Department of Education, and those things that affect public schools, etc.

Over the course of the summer and in the early part of spring, we sat down to try to work out our differences and come to some agreement. I believe that we have an agreement today, which everybody is prepared to support. I have supplied copies of those amendments to you.

I would like to note one small change. Page four should read page five. The line number should be 75 instead of 49. Otherwise, the amendment as proposed exists.

I would like to take just a moment to go through a little bit of background. I think it is important for those who may not have been involved in the process to at least have an understanding of it, although, this is going to be repetitious for some people in the room, because we just had a brief meeting downstairs prior to your starting the meeting to make sure that our agreement was, in fact, still in effect and there was a clear understanding of what was going on.

Several of the concerns that had been raised over the course of the summer were, who would have charge over those things that affect public schools? And, there was the obvious general concern that everybody shared, and that was the maximum in pupil safety and how we were going to achieve it.

For those of us in education, our particular concerns were about the nature of public school buildings and how they differ from all the others, in that their population is youngsters, and so as a result, particular and unique requirements may have to be instituted for them as compared to what we would normally expect for adults. We were looking for a mechanism to provide that, and at the same time, allow the State to achieve its objective of having one Uniform Construction Code that all officials would then have the opportunity to understand and to work from, and that would establish minimum standards of safety, be they pupils or adults, throughout the State. Both goals, of course, were laudible, and after much work, I think we achieved all of those goals effectively.

Several of our amendments were just recently incorporated into the bill when it came out of the Government Committee. What those did was, assure that whenever there would be a need for review of building plans by a public school district, that where educational adequacy was of concern, the State Board of Education would be able to continue with its constitutional responsibility of assuring the opportunity for thorough and efficient education by reviewing and determining itself the educational adequacy of that building with respect to its educational specifications, philosophy, and established goals. That provision was incorporated in the last set of amendments.

It was also determined that when the requirements for an educational review were established, those requirements would be set forth in the Code. Also, it was established that the Department of Education, in its review of any plan for educational adequacy, would also review those plans to assure that they also complied with the Uniform Construction Code.

One of the things that was understood as a result of this was, the Schoolhouse Guide for Construction would no longer exist. There would no longer be a parallel track in terms of requirements for building construction in this State. There would be only one. Those things then that did exist in the Schoolhouse Guide would now be incorporated in the UCC. And, as a matter of fact, by way of historical perspective, the Department had, since the last amendment to this State law about five or six years ago, been attempting to make its guide comport with the UCC as much as possible and in reality, had achieved that goal to almost 98%.

Now, what will happen is, where there is a need for any kind of unique change or requirement that goes beyond those minimums set in the UCC, the Department of Education will be able to adopt those requirements, and those requirements will become a part of the published document known as the Uniform Code. The reason for doing that is to eliminate the Department of Education having to send out a separate document to local school districts which they, architects, construction code officials, and so forth, would also have to refer to in addition to the UCC. This way, everything will be in one place and within each respective subcode. If there is a specific provision that goes beyond that code that relates specifically to schools, then it would be noted as a part of a subscript there.

So, if you look at the amendment before you, what it says is, "The Department of Education will retain the authority to adopt enhancements to the Code as they pertain to public schools, as long as those amendments do not, in any way, fall below the adopted subcodes that exist. So, it is very clear that the motivation here is to do things that would represent more stringent requirements. I can give you some examples of those if you are interested in them, such things as, for example, stairways leading to the outside versus to the first floor, etc.; decreasing distances--

ASSEMBLYMAN PALAIA: With the corridors?

MR. REID: With the corridors, etc. There are several that are examples like that. We don't know how many more may come about in the future, but what we are interested in here is, retaining for the State Board of Education that option to be able to do that.

Now, by way of a mechanism, one of the problems that exists within the State is, each agency has its own respective title within the Administrative Procedures Act, in terms of Administrative Code. The Department of Education, when it adopts regulations, modifies Title 6; the Department of Community Affairs modifies Title 5, which is where the Uniform Construction Code is located, and so, it did not seem reasonable to have the Department of Education modifying the Department of Community Affairs' Title 5 Administrative Code regulations. So, in order to provide for that, this amendment says, "When the State Board of Education has adopted these enhancements to the code, it shall transmit those to the Commissioner of Community Affairs." The Commissioner of Community Affairs, then, shall cause those amendments to be published and incorporated in the UCC, and that will be reprinted with those amendments noted specifically under each respective subcode. And, they shall have the force and effect, as if they had originally been proposed and adopted by the Commissioner of Community Affairs himself. That takes care of whatever kinds of concerns there might be about one agency modifying another agency's area of responsibility.

Having done that, the other concern that was raised -- I might as well touch on it, since it was of some concern and was one that we have raised also -- was, what would these things mean to local school districts? We have received a number of assurances from the Department of Community Affairs, including the fact that, whenever suggestions are to be made about improvements to the Code, where they deem those to be quite viable, they, in turn, will carry those suggestions to the National BOCA Code Committee and propose that they actually be incorporated as a part of that national code. In the meantime, however, we can still make those amendments to the UCC on the State level.

With respect to the issue of cost, there are several ways in which that might be approached. One of those that came out of the discussions was, what happens when a school district proposes to add on to an existing building, and then is required to bring the balance of that building into compliance, thereby incurring a substantial cost, particularly for those very old buildings that might need an awful lot of improvement to be brought up to snuff?

There are ways in which they can avoid having to assume all of those costs, part of which would include establishing a fire wall of a given rated capacity, and then the new building can be added on, and the old building would not then fall under these particular requirements. They can also use a corridor-kind of thing, with a specified distance, depending on the nature of the building, that would allow for a brief separation between the two, again, thereby eliminating the requirements of the old building to come into compliance.

So, the basic assessment of the Department of Community Affairs is, and I believe generally agreed to by the Department of Education, that where a district is unable to or does not desire to bring that other building into compliance because it is simply not a project that they can afford at that time, there is a way in which they can achieve their additional capacity, if that is what they are going after, without being forced into it.

Keep in mind, however, the Department of Education retains the responsibility and authority to provide occupancy permits to local school districts. And, where an existing building which they believe has reached a point where it does, in fact, threaten any kind of pupil safety, if they refuse to issue an occupancy permit, then, of course, they are going to have to find alternate facilities. Those alternative facilities that they have to construct will obviously have to comport with all of the requirements of this law. We happen to think that that is indeed a very good thing. One of our major cities, as a matter of fact, has one school building that I think falls into that category, and it makes sense for it to be brought up to snuff.

One of the other things that was in agreement as a result of these negotiations is, those persons who are on the staff of the

Department of Education who would be reviewing the various areas of the Subcode, would also be required to secure a license, similar to that of the officials on the local level who would be doing that same thing. The Department has also made very strong assurances of the fact that all of those people on the local level who would be carrying out the Code compliance review would also be licensed and brought up to snuff, so that what we will have in the State, not only from the perspective of local officials, but also for those in Trenton who are doing the review, is a basic standard for which everyone will have to comply. That, hopefully, will provide an assurance to everyone in the State that those people who are making those determinations about whether or not our public buildings, be they schools or whatever, comply, will be doing so from a knowledge of competence and professionalism.

It is our feeling that those people who have given us those assurances in the Department of Community Affairs have done so with a great deal of professionalism and integrity, and we have all been considerably impressed by that.

I think, basically, that covers all of the amendments that were incorporated and the negotiations. One other procedure was, when the Department of Education is considering additional enhancements to the Code, prior to the publishing in the New Jersey Register of the intent of the State Board to adopt any enhancements, there is a mechanism. That is contained in the amendment that I passed out to you also, whereby, the Commissioner of Education is required to consult with the Commissioner of Community Affairs, and therefore, those Code officials at the State level will have an opportunity to provide their input to the Department of Education and to reflect and discuss these things before they are brought out for publication and ultimately, public adoption.

Furthermore, if that process does not result in sufficient satisfaction for the people involved, there is still the process where the State Board adopts rules which allows for a minimum of thirty, and in some cases, as much as forty-five days for public input and review.

Madam Chairman, I think that covers all of the agreements that have been made to this point.

ASSEMBLYWOMAN GARVIN: Do you have any questions, Assemblyman Palaia?

ASSEMBLYMAN PALAIA: First and foremost, Ted, I want to congratulate you and your staff, because in politics, people don't realize the word "politics" really means the order of compromise. I think this is the true case of where people just didn't go sort of running off their mouths. You sat down, you discussed it, and you came up with some logical conclusions that I am sure Senator Caufield and our Committee feel are well within the rights of what you people are asking. I think one of the most important things -- as I told you downstairs -- is that it still maintains control. That is one thing we never want to lose, the control of the local boards of education, fire service and what have you. We all thought it was important to keep it under one roof, and that is what we were trying to do. Congratulations to you. You did an excellent job.

MR. REID: I think the congratulations ought to go to several other people, if I can take the opportunity to note them. I would like to especially mention Mr. William Connolly, Mr. Chuck Decker from the Department of Community Affairs, Senator Caufield; who has been very understanding, to John Inman, who is also from his office, and to Vince Calabrese and Irv Peterson from the Department of Education. They were, as you said, very reasonable people with the utmost professionalism and integrity, and it was a real pleasure to work with all of those individuals.

ASSEMBLYMAN PALAIA: People don't realize that this has been going on for almost two years. This wasn't an over-night thing.

MR. REID: That's right.

ASSEMBLYMAN PALAIA: It took almost two years--

MR. REID: Well actually, the first start of this was with Assembly Bill 1419, sponsored by Mr. Merk in 1974.

ASSEMBLYMAN PALAIA: I wasn't here.

MR. REID: I had just started in the job.

ASSEMBLYWOMAN GARVIN: I, too, would like to commend you. It is nice to know that the departments are beginning to talk to one another. I think that is the plus of the agreement.

I, also, would like to thank you for your initiative in this because originally, all of these marvelous young men here, and all of those marvelous letters that I received-- I am glad that you were able

to come to a consensus. I am sure that your initiative has something to do with it.

Before I go any further, since I do approve of the consensus, I just have one question, which has to do with a time -- maybe this is not the place to deal with it, so maybe I'll deal with it this way. When the Departments develop the rules and regulations to implement this law, may I ask that we have the kind of monitoring and concern, Senator Caufield, so that the intent will be bolstered in the rules and regulations that are going to be developed by the Department? That would be the only place I could see where what has taken place can be distorted, if you will. So, I would recommend that we monitor the rules and regulations to implement very closely, Senator, so that the intent of this bill stays intact. When I say that, I'm talking about the time frame allowable from DCA to the Department of Education, and the affects to the local Board. I think that would be something that we all have to monitor. I would like to thank you.

MR. REID: Thank you, Madam Chairman.

ASSEMBLYWOMAN GARVIN: I am going to call on Vince Calabrese, Assistant Commissioner of the Department of Education.

V I N C E C A L A B R E S E: I would just like to say at the outset, there was never any problem with the Departments talking together, it was what they said to each other. (laughter)

We are pleased to report that we have come to an agreement with the Department of Community Affairs on the bill. It is a compromise that takes into consideration legitimate concerns of both Departments, and I think more importantly, the need to protect the children in our schools. It does make sense to have a uniform code. It is also important that we recognize the State Board, under 2:12, has a responsibility for safe and efficient schools. A device was essential that would permit them to carry out that responsibility. The bill, with the amendments, accomplishes all three objectives. The Commission supports the bill, and we would also like to express our appreciation to this Committee and to you, Mrs. Garvin, for providing the forum to which this compromise and agreement could be reached. Thank you.

ASSEMBLYWOMAN GARVIN: Thank you. Do you have any questions, Assemblyman Palaia?

ASSEMBLYMAN PALAIA: No.

ASSEMBLYWOMAN GARVIN: I am going to be a little parochial and call my fire chief, Chief Peterkin from East Orange. I am proud of him. I would ask if he would like to make comment. I understand you were part of the discussion this morning.

E. O. PETERKIN: Yes, I was.

ASSEMBLYWOMAN GARVIN: So, if you would just briefly comment on it.

MR. PETERKIN: As Assemblywoman Garvin mentioned, I am Chief Peterkin from the East Orange Fire Department. I am a member of the Pay Chiefs Association of the Fire Prevention Association, and along with Chief Vliet from Edison, we represent the Fire Service on the Schoolhouse Guide Committee.

In that role, we have attempted to act as a liaison to bring the feelings of the Committee forward to both Senator Caufield and yourself, to get some dialogue going. Obviously, there has been some successful dialogue, and we are very happy about that. Thank you.

Our basic concern from the fire service standpoint was, that the fire service be involved in the process, that we have the responsibility to review the plans for new schools and school renovation, and that we exercise that responsibility -- we are the fire service professionals -- and also, that we have the -- as the bill includes -- right to inspect and see that the buildings are safe. I am very happy to hear that there has been a meeting of the minds today, and I think it is going to be for the best interest of the school children. Thank you.

ASSEMBLYWOMAN GARVIN: Thank you. We have a Robert Kordulak, New Jersey Heating and Cooling Contractors Association to be heard.

ROBERT KORDULAK: Our question was answered.

ASSEMBLYWOMAN GARVIN: Very good. Thank you for coming. Do you have any questions, Assemblyman Palaia?

ASSEMBLYMAN PALAIA: No.

ASSEMBLYWOMAN GARVIN: Okay, we will hear from Mr. William Connolly, Director of the Division of Housing and Development.

WILLIAM CONNOLLY: I want to be brief, but at the same time, we have been trying to get to this point for ten and a half years. This issue has been simmering for a long time.

The Department of Community Affairs just wants to say that it is extremely pleased that we finally have been able to harmonize the responsibilities of the local officials we represent, and those of the Department of Education, so that both can work together rather than to cross purposes. We can deal with our educational concerns appropriately, but we can also deal with our public safety concerns on the local level appropriately. We wholeheartedly endorse the bill with the amendments.

ASSEMBLYWOMAN GARVIN: Thank you. We have a Mr. Charles Decker, Bureau of Construction Code Enforcement.

CHARLES DECKER: Mr. Connolly's comments apply for me as well. Thank you.

ASSEMBLYWOMAN GARVIN: Okay. We have a Neal Carroll, River Edge Fire Department.

NEAL CARROLL: The meeting downstairs basically solved most of the problems. I will send a copy of my testimony to Mr. White.

ASSEMBLYWOMAN GARVIN: Thank you very much. We have a Bruce Scott, President of the New Jersey Fire Chiefs Association.

BRUCE SCOTT: Thank you, Mrs. Garvin. I will be brief. I wish to place on the record the endorsement of the New Jersey State Fire Chiefs Association for the bill, S-1934, as amended this morning. We urge its approval. Thank you.

ASSEMBLYWOMAN GARVIN: Thank you. Is there anyone else here who did not register?

BILL FLYNN: Yes.

ASSEMBLYWOMAN GARVIN: Would you kindly give your name, sir? I would just like to thank everybody. I will never be able to answer everybody's letters, but thank you for writing them.

MR. FLYNN: Thank you very much. My name is Bill Flynn from the State FMBA, State Firemen's Benevolent Association. The State Association heartily concurs with the actions of the people involved in

the passage of this bill. This bill has been supported by the State FMBA from its inception. The State FMBA supports any bill that is going to enhance the safety of firefighters and of the citizens of the State of New Jersey. Thank you.

ASSEMBLYWOMAN GARVIN: Thank you. This is my fire chief from Orange, New Jersey, Sam Maglione.

S A M M A G L I O N E: My name is Sam Maglione. I am President of the New Jersey Fire Prevention and Protection Association. I am Deputy Fire Chief from the City of Orange. I come before you, Assemblywoman, to urge the passage of the legislation, and to say that our Association supports it fully in its amended form, as has been agreed to this morning.

Our Association also believes that this is a very big step forward on the part of both the education and the fire safety communities. We are deeply gratified that this agreement has been reached. I would like to place before the Committee a letter from the Fire Association for the record.

ASSEMBLYWOMAN GARVIN: Thank you. Sir, would you come forward and speak into the microphone?

W I L B U R H. L Y N N: Madam Chairman, I am Wilbur H. Lynn, Construction Official and Deputy City Manager of the City of Hackensack. I also served on the Fire Safety Study Commission, and I am past President of BOCA International, which is the Model Code on which the Uniform Construction Code is based.

I would just like to say, on behalf of the Construction officials, we are very happy to see this moving along, because it is one more step toward uniformity, which we have been pushing for many, many years.

As a member of the Fire Safety Study Commission, I am very happy to see it move, because it is part of the package. We need the whole package, not just parts of it.

Lastly, on behalf of BOCA, the code-writing group, we offer our assistance to the agency at any time to assist them in any problems they may have with our Code. Thank you.

ASSEMBLYWOMAN GARVIN: Thank you. Do we have anyone else? (no response) Assemblyman Palaia, do you have anything to add?

ASSEMBLYMAN PALAIA: No. Just to say, if I'm not mistaken, John, these amendments now must be approved and sent back. It has to be approved by the Assembly, released from here, approved by the Assembly and then sent back to the Senate. So, what I am saying, in effect, is the legislative process, quite simply, will take a little time to become law in the next few weeks. It does have to go back to the Senate. The point is, it does have to go through the legislative process, so it will take just a little while. So, be patient.

ASSEMBLYWOMAN GARVIN: Well, I can assure you, Senator Caufield, that we will do everything possible to expedite this, since we all have agreed at this point. I think this, perhaps, can come to the Assembly with this amendment, and that would expedite what takes place in the Senate, since it already passed. I offer you my assistance in expediting the process from here on in.

If there are no other comments, I will call this hearing to an end. I thank all of you for coming this morning. This afternoon, we will have a hearing on Assemblyman Patero's bill on tuition tax breaks.

I just want to say to the fire chiefs and to the President, that in one of your future meetings, begin to look at some resolution for those schools where they have to put that chain around the door.

I think I can ask my fire chief to begin to look at that. I know the problems and you know the problems. Somehow, I think you are in the position to come up with some kind of solutions, especially for those schools in the districts where the doors are chained during the school day.

Thank you for coming.

(Hearing Concluded)

FIRE PREVENTION

NEW JERSEY FIRE PREVENTION AND PROTECTION ASSOCIATION

P.O. BOX #9149 51 SOUTH ST., MORRISTOWN, NEW JERSEY 07960 201-539-4089

Send reply to:



THROUGH EDUCATION

October 13, 1983

Dear Assemblymember:

OFFICERS

President
SAMUEL A. MAGLIONE
Deputy Chief
Orange Fire Dept.
1st Vice President
GERALD RICHELLO
Captain
Springfield Fire Dept.
2nd State Vice President
LOUIS TREMBLE
Chief Inspector
No. Arlington Fire Dept.
Secretary
GEORGE MILLER
Senior Inspector
Bayonne
Treasurer
JAY G. BENDER
Inspector
Fair Lawn Fire Dept.
Sgt.-at-Arms
WILLIAM SCHULTZ
Fire Inspector
Highland Park Fire Dept.
No. Region Vice Pres.
JOHN MALOOL
Chief Code Enforcement Officer
Englewood
Cent. Region Vice Pres.
RAYMOND WELCH
Fire Inspector
Pliscataway Township
So. Region Vice Pres.
ROBERT EHRHARDT
Chief Inspector
Bricktown Fire Dept.
Past Presidents
JOHN W. DRIES (1980-82)
Fire Chief
Morris Township Fire Dept.
FRANCIS X. DONOVAN (1979-80)
Deputy Chief, F.P.B.
Bayonne Fire Dept.
LOUIS F. LUIBIL (1976-78)
Chief Inspector
Montclair Fire Dept.
ROBERT P. HORNER, III (1971-75)
Deputy Chief, F.P.B.
Plainfield Fire Dept.
JOHN H. FLAHERTY (1962-70)
Fire Chief
Bloomfield Fire Dept.

The New Jersey Fire Prevention and Protection Association wishes to indicate its support for the passage of S-1934 to require schools to comply with the provisions of the Uniform Construction Code of the State of New Jersey.

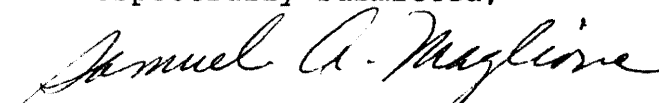
It has been reported that to enforce such a position would be economically cataclysmic to New Jersey's school systems because of greatly increased construction costs. That is simply not true. In fact, at the present time there is very little school construction going on in the State since most school districts have experienced reductions in student enrollment causing many districts to close schools and consolidate student populations proportionately into the remaining schools in their district.

Since 75 percent of any construction code deals directly with fire safety and since it was the intent of the Legislature to provide a uniform level of safety to New Jersey's citizens, it is reasonable to bring fire safety in construction under one roof which will provide the greatest level of safety to our children. The stated aims of quality education cannot be achieved if fire safety is compromised for the sake of budgets. It is unreasonable to wait for a body count before acting in a positive manner in this matter.

It is interesting to note that after 18 months of hearings the New Jersey Fire Safety Study Commission concluded that "the safety of New Jersey's citizens from fire is being eroded because certain types of buildings are exempt from some or all of the provisions of the State Uniform Construction Code Act." It should also be noted that there was no attempt to address this issue during that eighteen month time period.

Therefore, the New Jersey State Fire Prevention and Protection Association urges your favorable consideration of this bill.

Respectfully submitted,


Samuel A. Maglione, President

New Jersey State Library

