

Honorable Conference Committee Members  
75 Rev. Dr. Martin Luther King Jr. Blvd.  
Saint Paul, MN 55155

May 7, 2019

***RE: Concerns with Senate version SF2227, Art. 2, Sec. 11 - \$1,000 Rulemaking.***

Honorable Conferees,

The 18 organizations listed represent many levels of the construction industry. We support Construction Codes that balance public safety, stakeholder engagement & affordability.

**Today we are writing to express concern with a provision in the Senate version of SF2227, specifically Article 2, Section 11.** This section will likely slow the implementation of new building materials and methods, add more layers of government review to rulemaking, and further politicize the code adoption process.

Some specific concerns are as follows:

1. **Subdivision 1: The broad definition of “residential construction” will impact more than just the Minnesota Residential Code, it will also impact commercial construction codes.** This definition could trigger administrative review of most construction codes including the Plumbing Code, Electrical Code, Mechanical Code, Accessibility Code, Energy Code, and Septic Code. These codes also apply to commercial construction, and delayed adoption of the latest national codes, standards, and new materials will impact more than residential homes.
2. **Subdivision 2: Identifying an “average” cost “per unit” is ambiguous, subjective and invites litigation.** Determining costs for a “unit” of new construction or remodeling is based on unit size, features, and location. Even the most accomplished professionals bidding on projects can have widely varying cost estimates. Using the term “average” to trigger additional administrative review is ambiguous, subjective, and invites litigation.
3. **Subdivision 2: \$1,000 is a low and arbitrary threshold.** Most construction codes are updated once every six years as mandated by statute (MN. Stat. 326B.106, Subd. 1(c)). Cost increases, over a six-year code period, are often due to the inflation of labor and supplies. This makes \$1,000 a very low threshold for updating an entire code. Further SF2227 does not take into account the lowering of operating costs (i.e. life-cycle savings) by the code updates – for example, reduction in energy costs over the life of the building.
4. **Subdivision 2: Gives a single “party” the right to request additional government review, overriding the needs of all 5.4 million Minnesotans.** This will overturn MN. Stat. 14.25, and the well-established legislative policy requiring a minimum of 25 people to request an administrative hearing – a policy designed to balance the needs of concerned individuals with the needs of all 5.4 million Minnesotans.

5. **Subdivision 3(b): Gives the majority of a single committee, in a single legislative body, the ability to stop the adoption of a rule unless the rule is signed into law.** This section does not provide an appeals process for industry stakeholders that disagree with the \$1,000 cost analysis, could slow the use of new building materials and methods for years, and would codify rules into state statute.
  
6. **There is no direct link between this bill and the construction of affordable housing.** The bill does not require additional affordable housing to be built in Minnesota. Further, a single homeowner may save more than \$1,000 due to the adoption of new codes over the life of a building (i.e. improved building materials, methods & efficiencies).

Representatives from many levels of the construction industry are concerned that this language could slow the code adoption process and jeopardize public safety and the integrity of Minnesota's built environment. We ask that you please consider these concerns prior to passing this into law.

### **Organizations Opposing Senate Version, Article 2, Section 11, of SF2227**

1. American Institute of Architects – Minnesota
2. Association of Minnesota Building Officials
3. Center for Energy and the Environment
4. City of Saint Paul
5. Clean Energy Economy Minnesota
6. Fire Marshalls Association of Minnesota
7. Fresh Energy
8. IBEW Minnesota State Council
9. International Code Council
10. Minnesota Chapter of the International Association of Arson Investigators
11. Minnesota Mechanical Contractors Association
12. Minnesota Pipe Trades Association
13. Minnesota State Fire Chiefs Association
14. Minnesota State Fire Departments Association
15. National Electrical Contractors Association, Minnesota Contractors
16. National Fire Sprinkler Association Region 15
17. Sheet Metal, Air Conditioning and Roofing Contractors Association.
18. U.S. Green Building Council