

STATE OF HAWAII
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
ANNUAL REPORT ON
THE BUILDING CODE COUNCIL
DECEMBER 2016

SUBMITTED TO
THE TWENTY-NINTH STATE LEGISLATURE
IN RESPONSE TO SECTION 107-30, HRS

STATE OF HAWAII
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES (DAGS)
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Summary

Pursuant to the Act 82, SLH 2007, the State Building Code Council (the Council) is required to submit an annual report to the legislature no later than twenty days prior to the convening of the regular session of 2017. Realizing the value and importance of the Council's mission, its "voluntary" membership has continued to meet to work on national model building code updates and amendments.

The technical work of the Council has been completed for several code cycles, however, due to lack of funding to initiate, facilitate, and complete the Hawaii Administrative Rules (HAR) making process the State Building Code and other related codes have not been updated and the state continues to lag far behind more than 90% of other states. This lack of action will increasingly place future Federal disaster relief grants, affordable property insurance rates and the Hawaii Hurricane Relief Fund at risk.

Considerable time and effort has been spent discussing administrative and funding issues: while important, the efforts of volunteer technical experts needs to be squarely focused on the SBCC's technical mission. Without funding and administrative staff, the final adoption of administrative rules has stalled. Several funding alternatives have been reviewed that were based on funding for other states. Legislative efforts to provide funding were previously obtained, but not released. A 2015-2017 DAGS biennium budget proposal for Council staff and operating expenses was not approved. Council meetings with the DAGS Comptroller and the Governor's staff on the importance of its statutory responsibilities do not appear to be a priority.

The Council continues to produce and complete all the Hawaii specific technical amendments to national standards and model building codes in a timely manner with valuable input from the public, county building officials, state agencies and industry representatives. These technical amendments, when enforced will result in: (1) substantial savings in long-term operating, energy, and construction costs for publicly and privately owned and operated facilities; (2) construction of homes which are better protected from the effects of natural disasters; (3) businesses and an economy in Hawaii which are more resilient in the aftermath of natural disasters. Indeed, updating building codes generally reduce long-term costs—one dollar of prevention saves three dollars in recovery.

Enforcement of these codes is primarily done by the counties. The statute which established the SBCC requires that each county amend or adopt any new building codes within two years of state adoption. The counties indicate that local adoption is greatly helped when the Council (State) has completed the Hawaii Administrative Rules

process including public hearings—this gives the elected officials at the county level the confidence that the new rules have been properly vetted. The two year mandate helps the counties initiate timely action. The collaborative state-wide HAR process facilitates an open and well understood adoption of the county building code ordinances.

This work, conducted by volunteer organizations and experts continues to be stifled by a lack of funds being appropriated or previously appropriated funds failing to be released prior to expiration. The Council continues to work on developing technical amendments to national standards which are appropriate for Hawaii. The membership, scope of work, status of code amendments approved, annual operating costs, funding alternatives investigated, and other less desirable alternatives to implementation of state building codes are summarized below.

Membership

The Council members are:

1. Chair Gaur Johnson, Structural Engineers Association of Hawaii
2. Vice Chair Willard Nishigata, City and County of Honolulu
3. Jai Ho Cheng, County of Hawaii
4. Glenn Ueno, County of Maui
5. Doug Haigh, County of Kauai
6. Dennis Mendoza, Department of Labor and Industrial Relations
7. James Reinhardt, American Institute of Architects, Hawaii State Council
8. John Cheung, Building Industry Association of Hawaii
9. Gregg Serikaku, Subcontractors Association of Hawaii
10. Howard Wiig, Department of Business, Economic Development and Tourism (DBEDT), State Energy Office
11. Lloyd Rogers, State Fire Council
12. Douglas Murdock, DAGS Comptroller (non-voting)

Scope of Work conducted or initiated during the Year

Investigative committees, which are comprised of experts in industry and government serve on a voluntary basis, review and propose amendments to the national model codes and standards and are as follows:

- a. Structural provisions for the International Building Code (IBC) and the International Residential Code (IRC)
- b. Non-structural provisions for the IBC and the IRC
- c. The International Energy Conservation Code (IECC)
- d. The Uniform Plumbing Code (UPC)
- e. The State Fire Code (SFC) – Comprised of the four county fire department members and support from National Fire Protection Association (NFPA),

continued its review and amendments to the 2015 Edition of the NFPA 1 Fire Code.

- f. The National Electrical Code (NEC)
- g. The Mechanical Code
- h. The Green Building Code
- i. Communication and Training
- j. Council membership with the International Code Council

The Subcommittee of Building Officials is comprised of the members representing each county on the Council. They conducted five Subcommittee meetings during FY 2016 which resulted in the approval of the following technical recommendations for further consideration by the council.

- Approved the recommendations of the Investigative Committee for the 2015 International Energy Conservation Code (IECC).
- Accepted the recommendations by the Structural Engineers Association of Hawaii (SEAOH) for structural provision amendments to the 2012 IBC.
- Accepted the recommendations by the American Institute of Architects (AIA) Codes Committee for non-structural provision amendments to the 2012 IBC.

Achievements during the Year

Council reviewed and approved the following codes with Hawaii State amendments:

- a. The 2015 Edition of the International Energy Conservation Code (IECC)
- b. The 2014 Edition of the National Electrical Code (NEC)
- c. The 2012 Edition of the Uniform Plumbing Code (UPC)
- d. The 2012 Edition of the International Building Code (IBC)

The IECC and the NEC have progressed through the rule adoption process due to the staff support of the DBEDT and the SFC respectively. They are awaiting funding availability for the publication of public hearing notices.

A Federal Emergency Management Agency grant application was filed in November 2015, to provide support to adopt the 2012 Edition of the IBC with Hawaii amendments. This code is necessary to modernize Hawaii codes for hurricane, tsunami, and earthquake resistive standards, and compliance with the Federal Emergency Management Agency's National Flood Insurance Program and recently updated disaster relief grant policy changes. Non-compliance jeopardizes Hawaii's eligibility for pre- and post-disaster federal assistance and grants. Therefore, the legal adoption of the 2012 IBC as a Hawaii regulation is critically needed in 2016. The Council is awaiting the grant determination.

Annual operating costs of the Council are estimated to be \$150,000.

These costs include: (1) an executive director and executive assistant who facilitate all aspects of the HAR rule making process and (2) all costs associated with advertising and holding public hearings including providing required hard copies of code documents for public review. The executive director and executive assistant positions ideally are

permanent but could also be contract hires. Possible permanent funding alternatives have been discussed and include:

1. The Council's Funding Appropriation to DAGS

As a state regulatory board the Council has statewide impact/benefit for state, private design and construction interests. Of the dozen states surveyed, all had funding for agency staff and operating expenses for their building code councils. Each state also uses "voluntary" members with various building codes expertise. In order to meet its responsibilities the Council needs funding to function effectively. An appropriation of \$136,676 SLH 2014 was not released by the Governor. A budget request was submitted through DAGS for consideration by the administration during the current budget cycle.

2. Building Permit Fee Assessment (i.e. \$10/residential, \$25/non-residential)

Some states use this to fund their building code council's salaries/operations. This would provide a sustainable funding stream, if there were an efficient collection and distribution process in place.

3. Property Insurance Assessment (\$1.00/building)

Property owners purchase building/homeowner insurance and benefit by having the most up-to-date building code standards, so there is a nexus to the Council's responsibilities.

4. Hawaii Hurricane Relief Fund (HHRF)

HB 763, 2013 Legislative Session, that sought to fund the Council, was vetoed by the Governor. The veto cited a negative precedent that may invite others to deplete the fund for uses remote from its primary purpose. This bill sought an avenue for HHRF to provide funding for the Council to implement HHRF's loss mitigation standards within the state building code as part of a loss reduction plan to protect the HHRF. The Council's work is the most effective method to protect the HHRF because updating the State Building Code with appropriate modern hurricane protection requirements is then executed during the permitting process required for all construction projects at the county level.

5. State Construction/Renovation Fund Percentage for Capital Improvement Projects (CIP)

Since the Council's responsibilities are a state function, a small percentage can be designated for funding. CIP funds are derived from the proceeds of tax exempt bonds. To support the bonds tax exemption, the proceeds are used to fund long term assets, i.e. government buildings. Using CIP funds for the Council would result in the use of those funds for operations that have no direct

connection to a “long-term asset” and could negatively impact the tax exempt status of the bonds.

6. Contractor License Renewal Fee

Charge all contractors a fee for biennial license renewal currently collected by the Department of Commerce and Consumer Affairs.

Less Desirable Alternatives to Implementation of State Building Codes

In light of the lack of support by the Governor, DAGS and the legislature, the following have been considered in the past as a means of streamlining or dissolving the Council if funding is not obtained:

1. Streamline the code adoption process by eliminating state administrative rules and use uniform county amendments for county ordinance adoption. This creates uniform statewide amendments, but at the county level and bypasses the state rule adoption process.
2. Adopt “as is” national model building codes and standards with no amendments. The national model codes include administrative and permitting sections that would not apply to Hawaii state building codes. Local conditions relating to climatic, geographic and topographic features, warrant code modifications, and would be accomplished through the county ordinance process.
3. Dissolve the Council and return to the previous county adoption process. This would be a return to the way building codes and standards were adopted by each county, with varying editions of each of the codes in effect. Past records indicate differences of eight or sometimes ten years in the different editions adopted. This would limit large scale cost effectiveness for designers, builders, owners, and insurers without uniformity in building materials, methods and technologies.