



MAIN (216) 529-6270

FAX (216) 529-5930

DIRECT TO DESK (216) 529-6689

charles.huber@lakewoodoh.net

DIVISION OF HOUSING AND BUILDING
12650 DETROIT AVE • LAKEWOOD OH 44107-2832
lakewoodoh.gov

Sen Andrew O. Brenner
Chair, Senate Education Committee
1 Capitol Sq Rm 140
Columbus OH 43215-0170
Via e-mail Brenner@ohiosenate.gov

April 17, 2024

SUBJECT: SB 112, Interested Party Testimony

1. Introduction: Chair Brenner, Vice-Chair O'Brien, Ranking Member Ingram, and members of the Senate Education Committee, my name is Charles Huber and I'm employed by the City of Lakewood where I administer Ohio Revised Code (ORC) 3781, Ohio rules including Ohio Building Code (OBC) [Ohio Administrative Code (OAC) 4101:1]. Thank you for the opportunity to provide interested party testimony on Senate Bill (SB) 112. My service of 33 years administering State of Ohio law regulating building construction includes City of Moraine, City of Kent, and Medina County. Prior to that I served 12 years in the US Air Force in the civil engineering career field. During that time I worked with facilities approved to hold nuclear weapons and with the security police personnel charged with keeping those weapons safe from violent attack.
2. Summary: Sponsor testimony describes how SB 112 will reduce risk in both a fire situation and from a violent attacker. I'll address:
 - a. Existing statute and rule regarding building safety standards.
 - b. That SB 112 adopts a technical standard different than those which are the basis for OBC (OAC 4101:1) and Ohio Fire Code (OFC) (OAC 1301:7-7) and that the edition of SB 112's referenced technical standard is already superseded.
 - c. That fire doors are part of a larger fire rated wall.
 - d. That fire doors aren't security doors designed to resist forced entry by a violent attacker. Furthermore, fire doors generally aren't required at exterior walls.
3. Background; Existing Statute & Rule: Existing statute at Ohio Revised Code (ORC) 3781 establishes the Ohio Board of Building Standards (BBS) and charges it to adopt rules into Ohio Administrative Code (OAC) "... governing the

erection, construction, repair, alteration, and maintenance of ... buildings ... The standards shall relate to the safety ... of those buildings.” [ORC 3781.10(A)(1)]. The Ohio Building Code (OBC) (OAC 4101:1) applies to school buildings. OBC effective March 1, 2024 is based on and adopts by reference International Code Council’s (ICC) 2021 Edition International Building Code (IBC). ORC 3737 tasks the State Fire Marshal’s office to adopt the Ohio Fire Code (OFC) (OAC 1301:7-7) which is based on ICC’s 2015 Edition International Fire Protection Code. Following the Building Official’s issuance of a Certificate of Occupancy per OBC 111 (OAC 4101:1-01-1), the local fire department’s Fire Official via inspections under the OFC makes sure the building’s maintained per that Certificate of Occupancy and the construction documents (drawings) approved by the Building Official.

4. Authority Having Jurisdiction, Hearings, & Appeals: Legislative Service Commission (LSC) Bill Analysis May 23, 2023 shows the “authority having jurisdiction” will be the township, municipality, or county certified by BBS to administer ORC 3781, 3791, & OBC (OAC 4101:1). Where the township, municipality, or county isn’t BBS certified, those statutes and rules are administered by Ohio Department of Commerce, Division of Industrial Compliance, Bureau of Building Code Compliance. Existing/continuing law requires the Building Official to issue an Adjudication Order before any litigation’s pursued. Such Adjudication Order’s appealable to the BBS certified local nonresidential board of building appeals (BBA). Where no such BBA exists, the Adjudication Order’s appealable to the Ohio BBA (ORC 3781.19 & 3781.20). Similarly, citations and orders issued by the local fire department’s Fire Official under the OFC are appealable to the same Ohio BBA {ORC 3737.43, 3781.19, & OFC 108.1 [OAC 1301:7-7-01(H)]}. SB 112 should be amended to be reconciled with these enforcement and appeal processes.
5. Civil Penalty Collection, Deposit, & Use. LSC Bill Analysis May 23, 2023 shows, “The bill does not specify how the civil penalty is to be collected, where it must be deposited, or how it must be used.” SB 112 should be amended to address these issues.
6. Vested Rights, ORC 3781.11(A)(5): Existing/continuing statute at ORC 3781.11(A)(5) shows the rules of the BBS shall, “Not require any alteration or repair of any part of a school building owned by a chartered nonpublic school or a city, local, exempted village, or joint vocational school district and operated in conjunction with any primary or secondary school program that is not being altered or repaired ...” BBS educates Building Officials administering the OBC that this reflects the legal concept of “vested rights.” From a point of view of enforcing ORC 3781 and developing rules pursuant to SB 112’s new ORC 3781.50 language, SB 112 should be amended to clarify the relationship between the continuing and the new statute language.
7. 2015 Edition National Fire Protection Association (NFPA) 101. Existing OBC

Chapters 7 & 9 (OAC 4101:1-07-1 & 4101:1-09-1) address where fire doors are required. These rules also describe fire door characteristics including adopting by reference NFPA Standard 80 which further describes fire door characteristics. SB 112 references 2015 Edition NFPA Standard 101. NFPA 101 isn't used by OBC (OAC 4101:1). OBC instead is based on and adopts ICC 2021 Edition IBC. NFPA periodically updates its standards. 2024 Edition NFPA Standard 101 is now available. The General Assembly doesn't have a history of adopting the current technical standard. For example, ORC 3781.104(A)(1) cites, "... sections of the national fire prevention association standard No. 74 "standard for the installation, maintenance, and use of a household fire warning system" shall be considered ..." Not only does the statute fail to correctly name NFPA (it reads "prevention" rather than "protection"), that standard's been replaced by NFPA Standard 72 making the statute unenforceable. I suggest replacing the references to 2015 Edition NFPA Standard 101 with references to OBC (OAC 4101:1) and OFC (OAC 1301:7-7).

8. Fire Doors Are Part of a Fire Resistance Rated Assembly. OBC Chapters 7 & 10 (OAC 4101:1-07-1 & 4101:1-10-1) and OFC Chapter 10 (OAC 1301:7-7-10) describe where fire rated assemblies are required, including in some corridors. Those codes (Ohio rules) go on to require that penetrations of those walls, such as for electrical, information technology, fire alarm, plumbing, and heating, ventilation, & air conditioning systems have approved fire stopping. Also, door openings in such walls must be protected with fire doors. It would be ineffective to require a new fire door in an opening of a wall which where the wall itself doesn't provide the OBC required fire resistance. Nor would it be effective to require a new fire door in a wall which is compromised by other unprotected penetrations. SB 112 should be amended to give the school latitude to not install fire doors in a wall which otherwise fails to provide the fire resistance required if the wall were being built today.
9. Fire Doors Aren't Security Doors. OBC Chapter 10 (OAC 4101:1-10-1) and OFC Chapter 10 (OAC 1301:7-7-10) require fire doors have automatic closers and latches. They must withstand the atmospheric pressure of a fire and in some instances the pressure of a fire hose stream. Neither OBC, OFC, nor NFPA Standards 80 nor 101 require fire doors be lockable. SB 112 should be amended to task BBS with adopting standards for the door's resistance to forced entry.
10. Fire Doors Generally Aren't Required at Exterior Doors. There are situations where an exterior wall's required to provide fire resistance. Only then would a door in that exterior wall be required to be a fire door. Generally, this isn't the case. SB 112 should be amended to task BBS with adopting standards for exterior door's resistance to forced entry.
11. Rule Reduction Requirements Relief. The 133rd and 134th Sessions of the General Assembly and the Governor amended statute requiring State agencies to reduce rules content in OAC. SB 112's new ORC 3781.50(K) tasks BBS to

adopt rules implementing the new statutory requirements. In full disclosure, BBS has already moved Ohio Department of Commerce towards compliance by revising OBC (OAC 4101:1), Ohio Mechanical Code (OAC 4101:2), and Ohio Plumbing Code (OAC 4101:3) effective March 1, 2024 by adopting the ICC's IBC, International Mechanical Code, and International Plumbing Code by reference rather than republishing the text in OAC. I expect Ohio Fire Marshal's office to soon follow suit with the OFC (OAC 1301:7-7) by adopting 2021 Edition International Fire Code by reference rather than republishing it in OAC. However, I suggest amending SB 112 to read, "Notwithstanding any provision of section 121.95 of the Revised Code to the contrary, a rule adopted implementing ORC 3781.10 is not subject to sections 121.95 to 121.953 of the Revised Code."

12. Conclusion. SB 112 intends to further reduce risks in schools from fire and violent attack. However, it proposes a process and technical standard incongruent with existing statute, rule, and the concept of vested rights. That technical standard is already out-of-date, is different than the ones adopted in OBC and OFC, and isn't suited to reducing risk from violent attack. I offer to work with SB 112's sponsor and other interested parties to address these deficiencies. I'm happy to address any questions.