



# OHIO BUILDING OFFICIALS ASSOCIATION



PO BOX 1506, COLUMBUS OH 43216-1506  
www.oboa.org

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The Honorable Kristina Roegner  
Chair, Senate Government Oversight & Reform Committee  
1 Capitol Sq Fl 1  
Columbus OH 43215-4275  
*Via e-mail ryan.culross@ohiosenate.gov*

SUBJECT: Opposition Testimony on SB 9 before the Senate Government Oversight and Reform Committee

1. Introduction. Chair Roegner, Vice Chair McColley, Ranking Member Craig, and members of the committee, my name is Robert Schutz PE and I serve on the Ohio Building Officials' Association (OBOA) Board of Directors. Thank you for allowing me to submit this testimony on Senate Bill 9 (SB 9). OBOA is a professional organization consisting of over 1,000 members most of whom administer construction and fire rules. Our membership includes private sector architects, professional engineers, other construction designers, and construction contractors. Our members include employees and officials in State government. However, my testimony has been neither specifically coordinated nor endorsed by any State government employee or official. Some portions reflect existing general policy of the Ohio Board of Building Standards (BBS) and the Division of State Fire Marshal (SFM), both of which are within the Department of Commerce.
2. Purpose. OBOA recognizes that government regulation incurs costs on individuals and the public as a whole. OBOA also recognizes the tendency for government organizations and rules to grow. This proliferation must be stringently evaluated for their benefits vs costs. SB 9's 30% reduction of State rules by June 30, 2025 delegates some flexibility to allow State departments to trade-off greater reduction of some rules to preserve others. Today I'll provide background and expert opinion on SB 9's effect on Ohio's construction and fire rules.
3. Background. Existing statute charges BBS and the Ohio Residential Construction Advisory Committee (RCAC) to develop rules regulating building safety, sanitation, energy efficiency, and (handicap) accessibility. These regulate new building construction, additions, alterations, and change of use. Existing statute charges SFM's office to develop rules so buildings continue to be used and maintained as approved and other fire hazards are mitigated.

4. Basis of Rules. BBS provides for adoption into Ohio Administrative Code (OAC) the Ohio Building Code (OBC) (OAC 4101:1), Ohio Mechanical Code (OMC) (OAC 4101:2), and Ohio Plumbing Code (OPC) (OAC 4101:3). RCAC and BBS provide the Residential Code of Ohio (RCO) (OAC 4101:8). SFM's office provides Ohio Fire Code (OFC) (OAC 1301:7-7). These rules are based on model construction and fire codes developed by a private organization comprised predominantly by government entities, the International Code Council, (ICC). (OBOA holds a chapter charter from ICC.)
5. Consistency. Ohio in providing construction and fire rules enhance commerce in general and the building design and construction industry in particular. A building designer, owner, and construction contractor in any part of Ohio can do a project anywhere else in Ohio knowing the construction rules are the same. Because the ICC codes are so widely used beyond Ohio, Ohio entities don't have a steep learning curve for projects outside Ohio. Also building owners and their design/construction teams from outside Ohio don't have to learn Ohio unique construction and fire prevention rules. The regulatory playing field (intra-State, interstate, and internationally) is level. Finally, ICC codes are coordinated to avoid conflict between each code.
6. Reduced Cost of Insuring Buildings. Insurance Services Office Inc (ISO) found the risk to buildings is affected by the quality of construction and fire codes. ISO conducts an evaluation of building and fire departments every five years assigning each scores. Critical to these scores is adoption of current ICC codes without significant modification. These scores allow individual insurance companies to adjust their prices (insurance premiums) accordingly.
7. Federal Mandates. Multiple federal funding programs have had as a condition State adoption of ICC's International Energy Conservation Code. Although the federal Americans With Disabilities Act (ADA) is civil rights legislation, not building code, federal regulations adopted pursuant to ADA are based on ICC's Standard A117.1, Accessible and Usable Buildings and Facilities. Per Ohio statute, OBC and RCO are in compliance with those federal statutes and regulations by adopting ICC A117.1 with the federal modifications. BBS adopts rules regarding installation of manufactured homes at OAC 4781-6 based on federal model regulations per federal requirement. Federal Emergency Management Agency's Building Resilient Infrastructure and Communities program is partially dependent on the community's ISO scores.
8. Complexity and Size.
  - a. The combined size and complexity of OBC, OMC, and OPC (and that of RCO) provide the building owner's design/construction team options to choose designs, building materials, and systems while providing the public a consistent, minimum level of safety, sanitation, energy efficiency, and (handicap) accessibility.
  - b. Sponsor Testimony cites the Mercatus Center, George Mason University State RegData project counting regulatory restrictions words and phrases. That project shows Ohio with the third largest count. However, where other states adopt the ICC codes at the State level (instead of at County/City level) Ohio's construction and fire codes word counts match those states.

## 9. Opinion.

- a. OBOA concurs with the SB 9 feature of granting flexibility to the State administrative departments regarding more severely reducing some rules to allow less or no reduction of other rules. However, neither OBOA nor the General Assembly nor the Governor can predict the recommendations of the BBS, SFM's office, or the Director of the Department of Commerce. If the Director decides BBS and SFM's office must accomplish 30% reduction, then Ohio business will be adversely affected for the reasons I've described. Another possible result of SB 9 is for counties, cities, health districts, and townships to respond to a 30% reduction of State construction and fire rules by replacing those deleted provisions via local ordinances and resolutions. This would sacrifice intra-state, interstate, and international regulatory consistency.
- b. OBOA concurs with the SB 9 feature of granting Joint Commission on Agency Rule Review (JCARR) the authority to grant an exemption to the rule reduction requirements. However, although the laws of physics don't change, building materials and construction methods do. Societal requirements for building design and the ways we use buildings changes. The ICC codes are updated on a three year cycle. BBS and SFM's office revise Ohio's rules as needed and bring the latest edition of the ICC codes to JCARR every five years. BBS and SFM's office might every time have to convince JCARR that their rules should be exempt from rule reduction.

## 10. Conclusions.

- a. The Legislative Service Commission Bill Analysis pp4-5 shows rules from nineteen agencies will be exempt from rule reduction. OBOA asks the Senate Government Oversight and Reform Committee to exempt BBS and SFM's Office from existing and SB 9 proposed rule reduction requirements because of the adverse impact on building owners, designers, construction contractors, and the public at large.
- b. OBOA opposes the designation of BBS and as a "state agency" as it relates to SB 9. SB 9 page 13 lines 351 – 357 defines "state agency" indicates it's an administrative department created under ORC 121.02. BBS is created by ORC 3781.06. ORC 3781.10(B) requires BBS "... report to the General Assembly proposals for amendments ..." This is more restrictive and direct legislative oversight than that in SB 9.