Michigan Manufacturers Association

MMA Testimony
HB 4561 (Haveman)
House Committee on Regulatory Reform
Mike Johnston, VP Government Affairs

MMA represents about 2,500 companies in the full spectrum of manufacturing sectors, from automotive to chemical; from cement to wood pulp products; electrical equipment to furniture, and the tool and die mold companies that make the parts. Manufacturing remains the largest sector of the Michigan economy. We strongly believe Michigan's economic future is dependent on the growth of manufacturing, and that growth is rooted in research and development of new and innovative products. Whether it is automotive safety equipment, biotech products, or energy efficient building technologies, innovative new products will drive the future of Michigan.

MMA opposes HB 4561. Some may be surprised that we oppose a bill that would call for a moratorium on new regulations for up to 6 years. To be clear, MMA does not oppose regulation categorically. We advocate for reasonable, predictable, and effective regulations, promulgated in an open, deliberative and transparent process. We oppose regulations that do not meet these standards.

We can provide many examples of regulations that are inappropriate and should be eliminated, such as Michigan's billion dollar mercury rule, which imposes regulations and costs on Michigan's electric rate payers. We have taken a stand against imposing regulations that go beyond federal standards, so that we can remain competitive, at least with our American competitors. We are working with Office of Regulatory Reinvention to compile a list of unreasonable regulations, but we do not oppose all regulation categorically.

In the case of the construction code adoption process, we ask, what is the problem that needs to be solved? The answer to that question remains elusive to us.

To try to glean some sense of the problem we ask: Is the promulgation process open, transparent, deliberative and efficient? Does the process yield predictable and understandable regulations? It appears that the process is open and predictable, and deliberative. Some have talked about it lacking some efficiency, but I would suggest that a regulatory rulemaking processes should not be built for speed. Michigan can choose to adopt or not adopt portions of the national model codes. In fact, we heard testimony from the Homebuilders Association that said the changes to the code are generally few at each cycle, but some changes can be significant. The point is the state has full discretion and authority over the changes adopted in Michigan. The legislature has delegated that authority to the agency, but the legislature retains full the authority to overrule those decisions, by either adding provisions or eliminating provisions adopted in the code of its own volition at any time through statutory changes. We are not sure who or what we fear in this process, especially when builders are well represented in the administrative process.

We believe this bill actually makes the process less transparent, less deliberative, increases process costs, reduces the return on manufacturing investment and decreases the amount of predictability in the process; leading to greater confusion in the regulated community. Michigan manufacturers not only produce innovative products for the market place, but we are also regulated by the building codes and are therefore customers of the code as we build and invest in manufacturing facilities in Michigan. Allowing full discretion to the director about when code changes occur between three and six years adds uncertainty about when, and therefore, what codes are in place in Michigan at any given time. Each new industrial or commercial construction project will be forced to initiate a case by case discussion with local building inspectors about what is in the code, what is not in the code, and what is allowable by the code that is on the books at any given time. These debates are costly and can often delay construction, and reduce the return on investment in that facility. Moreover, when making huge investments in facilities, companies are almost always concerned about the long term operational costs as it relates to the return on the investment in facilities, and therefore work to meet and exceed current efficiency standards. That often means using innovative materials, technologies and construction methods that will save energy and costs in the life of the plant. A Michigan code that is out of step with the rest of the nation only makes the process of investing and constructing industrial facilities in Michigan relatively more difficult and more expensive by delaying the process.

In addition, we were intrigued by the testimony of the gentleman from Schneider Electric who talked about changes to the current electrical code adopted in Michigan that reduced allowable distances from electric boxes, which made more efficient use of manufacturing floor space and ultimately will make manufacturers more productive. The proposed moratorium of up to six years in Michigan would have blocked this change in Michigan and as a result handed advantages to other states that updated their electrical code that was in sync with the national code.

Changes to the code can be important to safety and welfare of Michigan's citizens. We've heard examples cited in testimony, from stronger roofs to guard against the weight of snow, to swimming pool drain regulations to keep kids from drowning, or smoke detectors, or ground fault interrupt plugs in bathrooms. It is instructive to read current language in the statute, which has not been proposed for change, regarding the intended purpose of the existing act. Section 3(a) says the intent of the act is:

> "To provide standards and requirements for construction and construction materials consistent with nationally recognized standards and requirements."

Section 3(c) says the intent of the act is:

> "To permit to the fullest extent feasible the use of modern technical methods, devices, and improvements, including premanufactured units, consistent with reasonable requirements for the health, safety, and welfare of the occupants and users of buildings and structures.

And Section 3 (g) says,

> "Upon periodic review, to continue to seek ever-improving, cost-effective energy efficiencies."

This statutory language will remain on the books. We believe the proposed language to take Michigan out of sync with the typical three year review cycle, with a moratorium of up to six years, runs contrary to the current act and will not fulfill the intent of the act.

If the proposed problem is an unreasonable increase in the cost of building in Michigan, no one has made the case that we are out of line with the rest of the nation, or that the current process doesn't allow the administration or the legislature to stop individual code changes that they believe would unreasonably increase the cost of construction.

As indicated earlier, manufacturing is the largest sector of the Michigan economy, with research and development and innovation of new products by Michigan companies are the essential ingredients of Michigan's economic future. Any new regulatory action in Michigan, such as this, that would slow down or block the use of new and innovative products in Michigan compared to the rest of the nation, would send a message to the rest of the nation that Michigan does not support innovation and growth from Michigan companies. While this is clearly an unintended consequence of this proposed change, we believe the message would be clear. Michigan must keep pace with the adoption of cost saving and innovative products with the rest of the nation to remain competitive and avoid sending negative messages about Michigan's support of its large and innovative industrial economy.

In conclusion, we believe there must be further discussion about what is viewed to be the problem, so that we can have a thoughtful and deliberative discussion of possible solutions. We believe that the current proposal adds costs, increases uncertainty, reduces transparency, conflicts with the current statute, and tends to send the message that Michigan does not support innovation and new products even those produced by Michigan companies. We would be happy to continue conversations that help define the problem, whether it is individual code changes in the national model code, which can be addressed on a case by case basis, or changes the current process that would increase transparency, increase opportunities for public discourse, and increase predictability in the construction code.

Thank you for the opportunity to articulate our views.