

WRITTEN TESTIMONY
ROBERT MARSILLIA, CHIEF BUILDING INSPECTOR
CITY OF PORTSMOUTH
SENATE EXECUTIVE DEPARTMENTS AND ADMINISTRATION COMMITTEE

My name is Robert Marsillia and I am the Chief Building Inspector for the City of Portsmouth and have had that position for the last five years. I was the Building Commissioner of the City of Lowell, Massachusetts for seven years prior to working for the City of Portsmouth and have been a building professional for over forty years. The City neither supports nor opposes HB 710 or HB 259 but I wanted to provide commentary on these two bills regarding the State Building Code that the Senate Executive Departments and Administration Committee will consider today.

HB 710- My written testimony neither supports nor opposes HB 710 but I wanted to comment on the bill as drafted. The City supports the adoption of newer versions of codes within two years of publication but wanted to point out that the NEC, National Electric Code, is published every three years and the State adopts the NEC one year after it is published, not two. The quick adoption of the NEC within one year of publication is important for life safety reasons and the City would not want the adoption HB 710 as drafted to delay the State's adoption of the NEC to two years after its publication. The City also wanted to clarify that paragraph 3, lines 9-12 apply to Code amendments made by the State Building Code Review Board, not local amendments.

HB 259- My comments regarding the language of HB 259 are focused on the words "relevant sections". The bill, as drafted, could be read either narrowly or broadly and as such, potentially invite challenges to Notices of Violation issued by local building officials. For example, there are many sections of the State Building Code that reference the term "approved by the building official" or "Authority Having Jurisdiction (AHJ)". Approved is a defined term in the State Building Code in Chapter Two. There are instances where the AHJ must make a judgement call when a particular issue may not fit squarely within one particular section of the State Building Code but would warrant a Notice of Violation. The City would not want the language of this bill as written to be interpreted to remove the AHJ's ability to make necessary judgement calls in issuing a Notice of Violation. If a Notice of Violation is challenged because of an interpretation of the State Building Code by the AHJ, the remedy to challenge that decision is provided by appealing the decision to the local Building Code Review Board, which is empowered to review "interpretations" of the State Building Code by the AHJ. The decision of the local Building Code of Review Board can be appealed to the State Building Code Review Board. My comments today are to point out to the Committee that HB 259 as written may have unintended consequences of limiting the AHJ's ability to use its professional judgement in interpreting the Code.

Thank you for considering these comments.