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SEP 10 2001

J.E. "BUSTER" BROWN
STATE SENATOR
OPINION COMMITTEE

September 5, 2001

The Honorable John Comyn
Office of the Attorney General
300 W. 15th Street
Austin, Texas 78701

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OFFICE OF THE ATTORNEY GENERAL
EXECUTIVE ADMINISTRATION
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Dear Attorney General Comyn:

As Chairman of the Senate Natural Resources Committee and the author of SB 5, I respectfully request an Attorney General's opinion regarding new legislation implementing HEALTH & SAFETY CODE, CHAPTER 388, the Texas Building Energy Performance Standards. Senate Bill 5, passed by the 77th Legislature, was signed by the Governor on June 15, 2001. Chapter 388 of Senate Bill 5 establishes an energy code for the State of Texas.

Question

Under Senate Bill 5, when must new construction in the unincorporated areas of the state begin complying with the energy performance standards as prescribed by Chapter 388, *Health & Safety Code*?

Under Senate Bill 5, municipalities that are required to comply with the energy code provisions of Chapter 388 must do so by September 1, 2002, (Section 11(d) of Senate Bill 5). However, there is no similar effective date mentioned for compliance in the unincorporated areas of the state. It is our belief that this was an oversight, and the intent of the legislation was to have the compliance dates coincide.

During the discussion and drafting stages of the legislation, the parties involved noted that the energy code requirements would impose some significant changes on methods and materials used by builders and contractors. Therefore, the builders, contractors, and material suppliers would need a phase-in period to allow for adjustments in design and construction methods, as well as to allow manufacturers and suppliers time to provide the needed materials. Of specific concern with materials is the availability of windows that meet the requirements of the energy chapter of the IRC.

Additionally, the Energy Systems Laboratory at the Texas Engineering Experiment Station of Texas A&M University is the entity charged with developing forms and training for compliance with Chapter 388. The laboratory also needs time to prepare for implementation.

For the foregoing reasons, the effective date for compliance with Chapter 388 of Senate Bill 5 for unincorporated areas of the state should be the same as the effective date for compliance by municipalities - September 1, 2002.

Thank you for your consideration of this matter. Please do not hesitate to contact me at (512) 463-0390.

Sincerely,

JEB:tc

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