

HOUSE BILL REPORT

HB 1571

As Reported By House Committee On:

Government Reform & Land Use

Title: An act relating to enforcement of the state building code as it relates to single-family and multifamily residential buildings.

Brief Description: Revising the authority of local governments to enforce the state building code as it relates to single-family and multifamily residential buildings.

Sponsors: Representatives Sherstad, Dunn, Cairnes and McMorris.

Brief History:

Committee Activity:

Government Reform & Land Use: 2/10/97, 2/24/97 [DPS].

HOUSE COMMITTEE ON GOVERNMENT REFORM & LAND USE

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 7 members: Representatives Reams, Chairman; Cairnes, Vice Chairman; Sherstad, Vice Chairman; Bush; Mielke; Mulliken and Thompson.

Minority Report: Do not pass. Signed by 4 members: Representatives Romero, Ranking Minority Member; Lantz, Assistant Ranking Minority Member; Fisher and Gardner.

Staff: Kimberly Klaiber (786-7156).

Background: State Building Code. The state building code was enacted to promote health, safety and welfare of occupants and users of buildings and structures and the general public. The state building code contains mandatory minimum performance standards and requirements for construction and construction materials, consolidates the administration and enforcement of building codes within each authorized enforcement jurisdiction, and seeks to eliminate conflicting and duplicative regulations and requirements. The state building code applies in all counties and cities and includes the Uniform Building Code, the Uniform Mechanical Code, the Uniform Fire Code and Standards, and the Uniform Plumbing Code.

State Building Code Council. A state building code council (council) is charged with adopting and maintaining the state building code. The council consists of 15 members representing various interests. The council's specific duties consist of the following:

- adopt and maintain the codes consistent with the state's interest;
- approve or deny all county or city amendments to any code if amendments apply to single family or multifamily residential buildings;
- develop and adopt any codes relating to buildings; and
- propose a budget for the operation of the council.

The council may also appoint technical advisory committees, employ permanent and temporary staff and contract for services, and conduct research into matters relating to any code or codes. All council decisions require approval by at least a majority of the council members.

Counties and Cities Authorized to Amend and Enforce Code. The counties and cities are charged with enforcing the state building code. The counties and cities may amend the state building code *as long as* the amendments do not bring the code *below the enumerated minimum performance standards and objectives*. The counties and cities are not permitted to diminish the performance standards and objectives of the state building code. All county or city amendments to the Uniform Building Code, the Uniform Mechanical Code, the Uniform Fire Code, or the Uniform Plumbing Code as they apply to *single family or multifamily residential buildings* must be approved and adopted by at least a majority of the members of the council after the city or county legislative body has adopted the amendment and prior to implementation and enforcement of the amendment. Amendments cannot modify provisions governing building access to people with disabilities.

Summary of Substitute Bill: Legislative Findings. The Legislature finds that increasing the supply of affordable housing is important to the well-being of Washington residents and that a reasonable building code regulatory system can improve housing affordability. Further, the Legislature seeks to increase the supply of affordable housing through a program of regulatory reform of the building code enforcement system in order to place more reliance on the national model code system and statewide codes to encourage consistent enforcement of the building code from jurisdiction to jurisdiction.

New and Modified Definitions. The definition of "multifamily residential building" increases the maximum height from two stories to up to three stories and increases the maximum number of units from four to 15. A new definition of "stand-alone ordinance" means "an ordinance, resolution, or regulation, adopted by a local government that effectively amends the [Uniform Building Code, Uniform Mechanical Code, Uniform Fire Code, the Uniform Plumbing Code] as adopted and amended by the state building code council as they apply to single-family and multifamily residences--.

Amendments to State Building Code Subject to Prior Council Approval. The counties and cities are permitted to amend the performance standards of the codes and the objectives of the state building code, but if they affect single-family and multifamily residences, the city or county must obtain *prior* approval from the council.

In addition, the counties and cities may amend the state building code or the Uniform Building Code, Uniform Mechanical Code, Uniform Fire Code, or the Uniform Plumbing Code (as amended and adopted by the council) as those codes apply within the counties and cities' respective jurisdictions. The amendments to the code by counties and cities are not explicitly required to meet minimum performance standards, but any amendments to the building code are subject to certain conditions:

- Amendments to, or stand-alone ordinances amending, the Uniform Building Code, Uniform Mechanical Code, Uniform Fire Code, or the Uniform Plumbing Code (as amended and adopted by the council) that *affect single-family or multifamily residential buildings* are not effective without the council's approval. If a county or city adopts a stand-alone ordinance or local amendment affecting single-family and multifamily residences without obtaining approval by the state building code council, that ordinance or amendment is null and void as against public policy; and
- The council may review a county or city's *previously adopted* stand-alone ordinances or local amendments that increase the minimum performance standards for single-family or multifamily residential buildings beyond those contained in the state building code. If the council does not approve those stand-alone ordinances or local amendments, the stand-alone ordinance or local amendment is null and void as against public policy.

Substitute Bill Compared to Original Bill: The amendment slightly changes the definition of stand-alone ordinance. The amendment also clarifies that any previously existing ordinance or amendment is valid until such time as the council actually disapproves the ordinance or amendment. The amendment provides rulemaking authority for the council so that the council may develop criteria for accepting review of previously existing ordinances or amendments and for approval or disapproval of those ordinances or amendments.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date of Substitute Bill: Ninety days after adjournment of session in which bill is passed.

Testimony For: The code is being abused as a land use regulation tool. Forcing the council to look at local amendments is a check– on unfettered local power. Let the code be reviewed by experts.

Testimony Against: The definition of stand-alone ordinance may be overly broad. Reviewing the existing amendments would be burdensome on the council. It is a good idea to let the code be reviewed by people who know what they’re doing. Allowing amendments to code could thwart movement toward uniformity in code. There is a lack of clarity as to whether when the council is reviewing an already existing amendment the amendment is still valid. Allowing local government to amend the code but not require minimum performance standards is potentially dangerous.

Testified: Representative Sherstad, prime sponsor (pro); Larry Ward, Brian Minnich, and Dick Ducharme, Building Industry Association of Washington (pro); John Darnall and John Neff, Washington Association of Building Officials (con); Chief Jim Broman, Lacey Fire District 3 (con); Duane Malo, Washington State Association of Fire Chiefs (con); Fire Chief Dwight Van Zannen, King County Fire District 43 (con); Deputy Chief Ralph W. Johns, Tacoma Fire Department (con); Wayne A. Wienholz, Washington Fire Marshals Association and Pierce County (con); Fire Marshal Wayne Senter, city of Auburn Fire Department (con); Paul O’Connor, Fire Sprinkler Advisory Board of Puget Sound (con); Mel Sorensen, National Association of Independent Insurers (con); Mike Cecka, city of Leavenworth (con); Dan Sexton and Dick King, Washington State Building and Construction Trades Council (con); and Judy Wilson, Thurston County Commissioner.