

HOUSE BILL REPORT

HB 1971

As Reported by House Committee On:
Local Government

Title: An act relating to installation, inspection, testing, and maintenance of smoke control systems and fire dampers, smoke dampers, and combination fire and smoke dampers.

Brief Description: Concerning installation, inspection, testing, and maintenance of smoke control systems and fire dampers, smoke dampers, and combination fire and smoke dampers.

Sponsors: Representatives Robertson, Senn, Eslick and Leavitt.

Brief History:

Committee Activity:

Local Government: 1/19/22, 2/1/22 [DPS].

Brief Summary of Substitute Bill

- Requires the State Building Code Council to adopt rules related to the installation, maintenance, inspection, and testing of smoke control systems and fire and smoke dampers.
- Replaces current law related to inspection and testing timelines, personnel qualifications, and potential penalties for violations with new provisions.

HOUSE COMMITTEE ON LOCAL GOVERNMENT

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 7 members: Representatives Pollet, Chair; Duerr, Vice Chair; Goehner, Ranking Minority Member; Griffey, Assistant Ranking Minority Member; Berg, Robertson and Senn.

Staff: Kellen Wright (786-7134).

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Background:

Fire dampers are designed to resist the passage of flame in the event of a fire. Installed in ducts and air transfer openings, a fire damper is designed to close automatically when flames are detected. Smoke dampers are designed to resist the passage of smoke in ducts and air transfer openings. Fire and smoke dampers can be combined in combination dampers. Smoke control systems are mechanical systems that control the movement of smoke during a fire, including systems that can create an air pressure differential to inhibit smoke movement.

The owners of buildings equipped with fire, smoke, or combination dampers must have all newly installed dampers inspected within 12 months of installation, and all dampers must be inspected every four years, or, in the case of hospitals, every six years. Owners of buildings with smoke control systems must have newly installed systems tested within 12 months of installation, and all smoke control systems must be inspected every six to 12 months, depending on the National Fire Protection Association Standard (NFPA) applicable to the smoke control system. Dampers and smoke control systems must be installed, inspected, and maintained in accordance with the manufacturer's guidelines and industry standards.

The required inspections and testing of dampers and smoke control systems must be done by a contractor or engineer with the requisite certifications. For example, to inspect a smoke control system, an inspector must have a current certification as a fire life safety two or smoke control system technician through a program accredited by the American National Standards Institute under the International Organization for Standardization/International Electrotechnical Commission 17024 standard. Tests and inspections must be done in accordance with the relevant NFPA. During the inspection, a building engineer or other individual knowledgeable about the building must be available to the inspector by phone or in person.

If the building passes the inspection, the inspector must issue a certificate of compliance which lists all the dampers and smoke control systems inspected and tested. If the building does not pass the inspection, the inspector must provide the building owner with a deficiency report identifying the deficiency and the basis for the finding of noncompliance. The building owner must remedy the deficiency within 120 days unless the local authority extends the compliance period.

The State Building Code Council (SBCC) and the Director of Fire Protection are required to work together to implement the inspection requirements for dampers and smoke control systems.

If the building owner does not remedy the issues identified in the inspection within 120 days, or has not complied with the required testing schedule, then a local code official can issue the building owner with a citation. The local authority may require the building owner to conspicuously post the citation at all entrances to the building until a certificate of

compliance has been issued for the building, or the citation has been dismissed. If the violations are not remedied within 120 days of the initial citation, then an additional citation with a monetary penalty of 5 cents per square foot of occupied space may be issued. If the violations are not corrected within a further 120 days, then a citation may be issued with a penalty of 10 cents per foot of occupied space, and the building's facilities manager must attend a four-hour life-safety course. Additional citations may be issued every 60 days until the violations are corrected and any previously issued penalties have been paid; such citations must also carry a monetary penalty of 10 cents per foot of occupied space. Revenue from these penalties is deposited into the fire service training account. These monetary penalties may only be imposed when other penalties are not required by the local authority.

Summary of Substitute Bill:

Current provisions related to the timeline for the inspection and testing of fire and smoke dampers, combination dampers, and smoke control systems, and related to penalties for violations of the testing schedule or for failing to remedy a deficiency, are repealed.

The SBCC, after soliciting recommendations from stakeholders, is directed to provide rules by December 31, 2022, requiring a periodic testing plan for smoke control systems in existing buildings where such a plan does not exist. These rules must allow for an appropriate transition period. The SBCC must adopt rules by December 31, 2023, for the installation, inspection, testing, and maintenance of smoke control systems, fire dampers, smoke dampers, and combination dampers.

At the time of installation of a new smoke control system, a special inspections plan and a periodic testing plan must be included as part of the required construction documents by the engineer of record. The inspections plan must meet the requirements of the International Building Code as well as requirements imposed by the local fire code official. The building owner or a designee must name the special inspector in the special inspection plan. This special inspector must coordinate testing and assemble testing reports, which must be provided to the local fire code official upon request.

The required periodic testing plan must specify the methods and procedures to be used, the items subject to inspection and testing, and the frequency of inspections or test. A special inspector must be identified to perform the testing, and may also serve as the testing agent for interconnected systems when integrated system testing is performed at the time of installation. The special inspector must coordinate testing and assemble testing reports, which must be provided to the local fire code official upon request. Except when modified by the periodic testing plan, both dedicated and non-dedicated smoke control systems must be operated for each control sequence annually, and components bypassing weekly tests must be tested annually.

The special inspector under both the special inspections plan and the periodic testing plan must possess skills that demonstrate knowledge or experience in the design, installation, operation, and maintenance of the smoke control system and must have an appropriate certification, license, or other qualification verified by the local fire code official as provided for in NFPAS or provisions of the International Building Code. Certification as a smoke control special inspector through a relevant program accredited by the American National Standards Institutes qualifies as an appropriate certification. Others involved in the testing of subcomponents of the smoke control system or integrated systems must have qualifications that satisfy Washington requirements or, if there are no state requirements, NFPAS verified by the local fire code official.

Building owners or designees must maintain records of the locations and functions of dampers, and inspect all dampers, except those excluded by the fire code due to their concealed location, annually. Testing and maintenance of dampers must be conducted in accordance with NFPAS. This includes a requirement for the testing of all dampers in the first year after installation, and, except for concealed dampers, every fourth year thereafter. All dampers in a hospital must be tested every six years.

The personnel performing the installation, inspection, testing, and maintenance of dampers must have an appropriate certification, license, or other qualification established by NFPAS that is verified by the local fire code official. A certification through a relevant program accredited by the American National Standards Institute qualifies as an appropriate certification. Dampers that are not part of a smoke control system do not require a special inspector to be involved in their installation, inspection, testing, and maintenance.

If an inspection or test reveals deficiencies in dampers or smoke control systems, these deficiencies must be remedied within 120 days, or upon the timeline specified by the local fire code official. If a building owner fails to do so, a local fire code official can pursue enforcement consistent with the International Fire Code.

Owners of buildings that fail to follow installation, inspection, testing, maintenance, and record keeping requirements in the International Building Code and International Fire Code may face civil or criminal penalties as provided for in the International Building Code or International Fire Code. Statutory provisions related to smoke control systems installation, inspection, and testing; dampers installation, inspection, and testing; the qualifications of those involved with such installation inspection, and testing; and compliance and deficiencies revealed during inspection and testing expire as of the time that the SBCC passes to supersede the statutory provisions.

Substitute Bill Compared to Original Bill:

The substitute bill makes the following changes to the underlying bill:

- removes the requirement that the SBCC to request recommendations from the Washington State Association of Fire Marshals regarding smoke control systems

- prior to rulemaking;
- adds certification as a smoke control special inspector through the American National Standards Institute as an acceptable qualification for a smoke control system special inspector;
 - add certification through a relevant program accredited by the American National Standards Institute as an acceptable certification for personnel performing installation, inspection, testing, and maintenance of smoke, fire, or combination dampers; and
 - requires the qualifications for personnel involved in installing, inspecting, and testing smoke control systems and in installing, inspecting, and testing smoke, fire, or combination dampers to be verified by, rather than acceptable to, the local fire department or code official.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill contains an emergency clause and takes effect immediately, except for section 1, relating to the State Building Code Council's adoption of rules, section 5, relating to the State Building Code Council working with the Director of Fire Projection to implement the act, section 6, relating to the responsibilities of building owners, section 7, relating to the Fire Service Training Account, and section 9, relating to the repeal of penalties provided for in current law, which take effect July 1, 2022.

Staff Summary of Public Testimony:

(In support) The main issue is the lack of current capacity to do inspections. There is a backlog of inspections that aren't getting done, and this bill would allow for more inspectors. Some hoped that a prior bill in this area would have been able to address the issues, but it was limited in a number of areas. It put requirements in statute that normally would be left to be decided by the SBCC. This is a very important life safety requirement for buildings, equivalent to fire alarms and smoke detectors. This is improved public safety legislation. Smoke inhalation is a frequent cause of injury and death, and these systems are essential to help prevent that. Smoke control systems are very complex systems, and help to make the environment safer for building occupants and firefighters during a fire. The original bill did not account for how complex these systems are, as they are designed and implemented by a team of people with different expertise. One building or trade group cannot do everything, as a team of people is required. This bill addresses issues in the prior legislation that had resulted in difficult and expensive inspection requirements with non-standard enforcement language. This bill has been put together by a large group of stakeholders. The prior bill made important public safety changes, but its training requirements excluded experienced service technicians who have been trained to perform this work. The prior bill was very limiting, and this bill allows for a wider group of people

to provide service. This doesn't remove safeguards but provides flexibility about who can do the work. The biggest impediment with the prior bill was that there were not enough people to do the work. This can cause buildings to go out of compliance simply because they cannot schedule an inspection. There is a high fail rate with dampers, so they need to be inspected and fixed. This bill should give fire marshals more flexibility. This bill continues to promote public safety.

(Opposed) This bill rolls back certification standards from the prior bill, as well as reducing the periodic inspections of dampers. The prior bill had required accreditation, which was important because it demonstrated significant training. Expertise is needed to do these inspections. This bill should focus on the additional tools for fire marshals, rather than reducing qualifications. The prior bill created statewide standards and ensured there would be enforcement, and these standards should continue. This bill moves public safety in the wrong direction. Not all stakeholders were invited to the discussion on this bill. In place of the clear training requirements in the prior bill, this bill substitutes vague criteria and allows local code enforcement to decide on the needed qualifications on a case-by-case basis. This bill allows vulnerable systems to be exempted from regular testing.

Persons Testifying: (In support) Representative Eric Robertson, prime sponsor; Rod Kauffman, Building Owners and Managers Association; Michael Transue, Mechanical Contractors Association of Western Washington; Dave Kokot, Washington State Association of Fire Marshals; Timothy Munnis, City of Seattle; and Lance Dahl, City of Spokane Fire Department.

(Opposed) Scott Hammond, National Energy Management Institute Committee; Sam Hem, Sheet Metal Workers Local 66; and Kathleen Collins, Sheet Metal and Air Conditioning Contractors of Western Washington.

Persons Signed In To Testify But Not Testifying: Brian Thompson, AEGIS Engineering; Robert Neill, Unico Properties LLC; Steven Tollington; Jeff Johnson; Dan Pickel, Associated Builders and Contractors of Western Washington; Christopher Moye, Guardian Security Systems, Inc; Robert Long; and Jan Himebaugh, Building Industry Association of Washington.