

A bill for an act

relating to the State Building Code; regulating the application and enforcement of the State Building Code; amending Minnesota Statutes 2006, sections 16B.616, subdivision 4; 16B.62; 16B.71; Minnesota Statutes 2007 Supplement, sections 16B.61, subdivision 3; 16B.735; repealing Minnesota Statutes 2007 Supplement, sections 16B.72; 16B.73.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2007 Supplement, section 16B.61, subdivision 3, is amended to read:

Subd. 3. **Special requirements.** (a) **Space for commuter vans.** The code must require that any parking ramp or other parking facility constructed in accordance with the code include an appropriate number of spaces suitable for the parking of motor vehicles having a capacity of seven to 16 persons and which are principally used to provide prearranged commuter transportation of employees to or from their place of employment or to or from a transit stop authorized by a local transit authority.

(b) **Smoke detection devices.** The code must require that all dwellings, lodging houses, apartment houses, and hotels as defined in section 299F.362 comply with the provisions of section 299F.362.

(c) **Doors in nursing homes and hospitals.** The State Building Code may not require that each door entering a sleeping or patient's room from a corridor in a nursing home or hospital with an approved complete standard automatic fire extinguishing system be constructed or maintained as self-closing or automatically closing.

(d) **Child care facilities in churches; ground level exit.** A licensed day care center serving fewer than 30 preschool age persons and which is located in a belowground space

in a church building is exempt from the State Building Code requirement for a ground level exit when the center has more than two stairways to the ground level and its exit.

(e) Family and group family day care. Until the legislature enacts legislation specifying appropriate standards, the definition of dwellings constructed in accordance with the International Residential Code as adopted as part of the State Building Code applies to family and group family day care homes licensed by the Department of Human Services under Minnesota Rules, chapter 9502.

(f) Enclosed stairways. No provision of the code or any appendix chapter of the code may require stairways of existing multiple dwelling buildings of two stories or less to be enclosed.

(g) Double cylinder dead bolt locks. No provision of the code or appendix chapter of the code may prohibit double cylinder dead bolt locks in existing single-family homes, townhouses, and first floor duplexes used exclusively as a residential dwelling. Any recommendation or promotion of double cylinder dead bolt locks must include a warning about their potential fire danger and procedures to minimize the danger.

(h) Relocated residential buildings. A residential building relocated within or into a political subdivision of the state need not comply with the State Energy Code or section 326.371 provided that, where available, an energy audit is conducted on the relocated building.

(i) Automatic garage door opening systems. The code must require all residential buildings as defined in section 325F.82 to comply with the provisions of sections 325F.82 and 325F.83.

(j) Exit sign illumination. For a new building on which construction is begun on or after October 1, 1993, or an existing building on which remodeling affecting 50 percent or more of the enclosed space is begun on or after October 1, 1993, the code must prohibit the use of internally illuminated exit signs whose electrical consumption during nonemergency operation exceeds 20 watts of resistive power. All other requirements in the code for exit signs must be complied with.

(k) Exterior wood decks, patios, and balconies. The code must permit the decking surface and upper portions of exterior wood decks, patios, and balconies to be constructed of (1) heartwood from species of wood having natural resistance to decay or termites, including redwood and cedars, (2) grades of lumber which contain sapwood from species of wood having natural resistance to decay or termites, including redwood and cedars, or (3) treated wood. The species and grades of wood products used to construct the decking surface and upper portions of exterior decks, patios, and balconies must be made available to the building official on request before final construction approval.

(l) **Bioprocess piping and equipment.** No permit fee for bioprocess piping may be imposed by municipalities under the State Building Code, except as required under section 326.47, subdivision 1. Permits for bioprocess piping shall be according to section 326.47 administered by the Department of Labor and Industry. All data regarding the material production processes, including the bioprocess system's structural design and layout, are nonpublic data as provided by section 13.7911.

(m) Use of ungraded lumber. The code must permit lumber mills to offer for sale ungraded dimension lumber for use in construction regulated by the State Building Code in all areas of the state under the following conditions:

(1) the producing mill shall sell or provide the ungraded dimension lumber directly to the end-use consumer or the consumer's licensed builder; and

(2) the producing lumber mill shall certify in writing to the end-use consumer and licensed builder on a form to be provided by the commissioner that the quality and safe working stresses of the species of dimension lumber are equal to or exceed stud grade for wall studs and wall plates and are equal to or exceed No. 2 grade for all other uses in accordance with national lumber grading standards and that the lumber does not exceed 22 percent moisture content at the time of sale. The certification shall be filed with the application for a building permit where applicable.

Sec. 2. Minnesota Statutes 2006, section 16B.616, subdivision 4, is amended to read:

Subd. 4. **Enforcement.** (a) A statutory or home rule charter city that ~~is not covered by the code because of action taken under section 16B.72 or 16B.73~~ does not have in effect an ordinance adopting the State Building Code is responsible for enforcement in the city of the code's requirements for bleacher safety. In all other areas where ~~the code does not apply because of action taken under section 16B.72 or 16B.73~~ there is no ordinance in effect adopting the State Building Code, the county is responsible for enforcement of ~~those~~ the code's requirements for bleacher safety.

(b) Municipalities that have not adopted the code may enforce the code requirements for bleacher safety by either entering into a joint powers agreement for enforcement with another municipality that has adopted the code or contracting for enforcement with a qualified and certified building official or state licensed design professional to enforce the code.

(c) Municipalities, school districts, organizations, individuals, and other persons operating or owning places of public accommodation with bleachers that are subject to the safety requirements in subdivision 3 shall provide a signed certification of compliance to the commissioner by January 1, 2002. For bleachers subject to the exception in

subdivision 3, clause (1), entities covered by this paragraph must have on file a bleacher safety management plan and amortization schedule. The certification shall be prepared by a qualified and certified building official or state licensed design professional and shall certify that the bleachers have been inspected and are in compliance with the requirements of this section and are structurally sound. For bleachers owned by a school district or nonpublic school, the person the district or nonpublic school designates to be responsible for buildings and grounds may make the certification.

Sec. 3. Minnesota Statutes 2006, section 16B.62, is amended to read:

16B.62 STATE BUILDING CODE; APPLICATION AND ENFORCEMENT.

~~Subdivision 1. **Municipal enforcement.** The State Building Code applies statewide and supersedes the building code of any municipality. A municipality must not by ordinance or through development agreement require building code provisions regulating components or systems of any residential structure that are different from any provision of the State Building Code. A municipality may, with the approval of the state building official, adopt an ordinance that is more restrictive than the State Building Code where geological conditions warrant a more restrictive ordinance. A municipality may appeal the disapproval of a more restrictive ordinance to the commissioner. An appeal under this subdivision is subject to the schedule, fee, procedures, cost provisions, and appeal rights set out in section 16B.67. The State Building Code does not apply to agricultural buildings except with respect to state inspections required or rulemaking authorized by sections 103F.141, 216C.19, subdivision 8, and 326.244. All municipalities shall adopt and enforce the State Building Code with respect to new construction within their respective jurisdictions.~~

~~If a city has adopted or is enforcing the State Building Code on June 3, 1977, or determines by ordinance after that date to undertake enforcement, it shall enforce the code within the city. A city may by ordinance and with permission of the township board extend the enforcement of the code to contiguous unincorporated territory not more than two miles distant from its corporate limits in any direction if the code is not in effect in the territory. Where two or more noncontiguous cities which have elected to enforce the code have boundaries less than four miles apart, each is authorized to enforce the code on its side of a line equidistant between them. Once enforcement authority is extended extraterritorially by ordinance, the authority may continue to be exercised in the designated territory even though another city less than four miles distant later elects to enforce the code. After the extension, the city may enforce the code in the designated area to the same extent as if the property were situated within its corporate limits.~~

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~~Enforcement of the code in an extended area outside a city's corporate limits includes all rules, laws, and ordinances associated with administration of the code.~~

~~A city which, on June 3, 1977, had not adopted the code may not commence enforcement of the code within or outside of its jurisdiction until it has provided written notice to the commissioner, the county auditor, and the town clerk of each town in which it intends to enforce the code. A public hearing on the proposed enforcement must be held not less than 30 days after the notice has been provided. Enforcement of the code by the city outside of its jurisdiction commences on the first day of January in the year following the notice and hearing.~~

~~Municipalities may provide for the issuance of permits, inspection, and enforcement within their jurisdictions by means which are convenient, and lawful, including by means of contracts with other municipalities pursuant to section 471.59, and with qualified individuals. The other municipalities or qualified individuals may be reimbursed by retention or remission of some or all of the building permit fee collected or by other means. In areas of the state where inspection and enforcement is unavailable from qualified employees of municipalities, the commissioner shall train and designate individuals available to carry out inspection and enforcement on a fee basis. Nothing in this section prohibits a municipality from adopting ordinances relating to zoning, subdivision, or planning unless the ordinance conflicts with a provision of the State Building Code that regulates components or systems of any residential structure.~~

Subd. 1a. **Application.** The State Building Code is the standard that applies statewide for the construction, reconstruction, alteration, and repair of buildings and other structures of the type governed by the code. The State Building Code supersedes the building code of any municipality. The State Building Code does not apply to agricultural buildings except with respect to state inspections required or rulemaking authorized by sections 103F.141; 216C.19, subdivision 9; and 326.244.

Subd. 1b. **Municipal enforcement.** (a) If, as of January 1, 2008, a municipality has in effect an ordinance adopting the State Building Code, that municipality must continue to administer and enforce the State Building Code within its jurisdiction. The municipality is prohibited from repealing its ordinance adopting the State Building Code. This paragraph does not apply to municipalities with a population of less than 2,500 according to the last federal census that are located outside of a metropolitan county, as defined in section 473.121, subdivision 4.

(b) If a municipality is not required by paragraph (a) to administer and enforce the State Building Code, the municipality may choose to administer and enforce the State Building Code within its jurisdiction by adopting the code by ordinance.

6.1 (c) A municipality must not by ordinance, or through development agreement,
6.2 require building code provisions regulating components or systems of any structure that
6.3 are different from any provision of the State Building Code. A municipality may, with
6.4 the approval of the state building official, adopt an ordinance that is more restrictive
6.5 than the State Building Code where geological conditions warrant a more restrictive
6.6 ordinance. A municipality may appeal the disapproval of a more restrictive ordinance
6.7 to the commissioner. An appeal under this subdivision is subject to the schedule, fee,
6.8 procedures, cost provisions, and appeal rights set out in section 16B.67.

6.9 (d) A city may by ordinance and with permission of the township board extend the
6.10 administration and enforcement of the code to contiguous unincorporated territory not
6.11 more than two miles distant from its corporate limits in any direction if the code is not
6.12 already administered and enforced in the territory. Where two or more noncontiguous
6.13 cities, which have elected to administer and enforce the code, have boundaries less than
6.14 four miles apart, each is authorized to enforce the code on its side of a line equidistant
6.15 between them. Once enforcement authority is extended extraterritorially by ordinance, the
6.16 authority may continue to be exercised in the designated territory even though another
6.17 city less than four miles distant later elects to enforce the code. After the extension, the
6.18 city may enforce the code in the designated area to the same extent as if the property
6.19 were situated within its corporate limits. Enforcement of the code in an extended area
6.20 outside a city's corporate limits includes all rules, laws, and ordinances associated with
6.21 administration of the code.

6.22 (e) A city cannot commence administration and enforcement of the code outside of
6.23 its jurisdiction until it has provided written notice to the commissioner, the county auditor,
6.24 and the town clerk of each town in which it intends to administer and enforce the code.
6.25 A public hearing on the proposed administration and enforcement must be held not less
6.26 than 30 days after the notice has been provided. Administration and enforcement of
6.27 the code by the city outside of its jurisdiction commences on the first day of January in
6.28 the year following the notice and hearing.

6.29 (f) A municipality may enforce the State Building Code by any means that are
6.30 convenient and lawful, including entering into contracts with other municipalities under
6.31 section 471.59 and with qualified individuals. The other municipalities or qualified
6.32 individuals may be reimbursed by retention or remission of some or all of the building
6.33 permit fee collected or by other means. If a municipality has no qualified employees
6.34 of the municipality or other municipalities or qualified individuals available to carry
6.35 out inspection and enforcement, the commissioner shall train and designate individuals
6.36 available to carry out inspection and enforcement. The commissioner may be reimbursed

for the inspection by retention or remission of some or all of the building permit fee collected or by other means.

(g) Nothing in this subdivision prohibits a municipality from adopting ordinances relating to zoning, subdivision, or planning unless the ordinance conflicts with a provision of the State Building Code that regulates components or systems of any structure.

Subd. 2. **Enforcement by state building official.** If the commissioner determines that a municipality that has adopted the State Building Code is not properly administering and enforcing the ~~State Building Code as provided in section 16B.71~~ code, or if the commissioner determines that any municipality that is required by subdivision 1b to enforce any provision of the State Building Code is not properly enforcing that provision, the commissioner may have the administration and enforcement in the involved municipality undertaken by the state building official or by another building official certified by the state. The commissioner shall notify the affected municipality in writing immediately upon making the determination, and the municipality may challenge the determination as a contested case before the commissioner pursuant to the Administrative Procedure Act. ~~In municipalities not properly administering and enforcing the State Building Code, and in municipalities who determine not to administer and enforce the State Building Code, the commissioner shall have administration and enforcement undertaken by the state building official or by another inspector certified by the state.~~ In carrying out administration and enforcement under this subdivision, the commissioner shall apply any optional provision of the State Building Code adopted by the municipality. A municipality adopting any optional code provision shall notify the state building official within 30 days of its adoption. The commissioner shall determine appropriate fees to be charged for the administration and enforcement service rendered. Any cost to the state arising from the state administration and enforcement of the State Building Code shall be borne by the subject municipality where a fee has been collected by the municipality.

Sec. 4. Minnesota Statutes 2006, section 16B.71, is amended to read:

16B.71 PERMIT FEES, TO WHOM APPLICABLE.

~~Municipal building officials~~ If a municipality is enforcing the State Building Code,
the municipality's building official shall administer and enforce the State Building Code with respect to all subject structures constructed within ~~their~~ the municipality's jurisdiction, including all buildings constructed by municipalities other than the state, ~~as defined in section 16B.60~~, and the University of Minnesota. These governmental bodies shall pay the building permit fees and surcharges that the inspecting municipality customarily imposes for its administration and enforcement of the code.

Sec. 5. Minnesota Statutes 2007 Supplement, section 16B.735, is amended to read:

**16B.735 ENFORCEMENT OF REQUIREMENTS FOR DISABLED
PERSONS ~~WITH DISABILITIES~~.**

A statutory or home rule charter city that ~~is not covered by~~ does not have in effect an ordinance adopting the State Building Code because of action taken under section 16B.72 or 16B.73 is responsible for enforcement in the city of the State Building Code's requirements for disabled persons ~~with disabilities~~. In all other areas where there is no ordinance in effect adopting the State Building Code ~~does not apply because of action taken under section 16B.72 or 16B.73~~, the county is responsible for enforcement of ~~those~~ the State Building Code's requirements for disabled persons.

Sec. 6. **REPEALER.**

Minnesota Statutes 2007 Supplement, sections 16B.72; and 16B.73, are repealed.

16B.72 REFERENDA ON STATE BUILDING CODE IN NONMETROPOLITAN COUNTIES.

Notwithstanding any other provision of law to the contrary, a county that is not a metropolitan county as defined by section 473.121, subdivision 4, may provide, by a vote of the majority of its electors residing outside of municipalities that have adopted the State Building Code before January 1, 1977, that no part of the State Building Code except the building requirements for persons with disabilities, the requirements for bleacher safety, and the requirements for elevator safety applies within its jurisdiction.

The county board may submit to the voters at a regular or special election the question of adopting the building code. The county board shall submit the question to the voters if it receives a petition for the question signed by a number of voters equal to at least five percent of those voting in the last general election. The question on the ballot must be stated substantially as follows:

"Shall the State Building Code be adopted in County?"

If the majority of the votes cast on the proposition is in the negative, the State Building Code does not apply in the subject county, outside home rule charter or statutory cities or towns that adopted the building code before January 1, 1977, except the building requirements for persons with disabilities, the requirements for bleacher safety, and the requirements for elevator safety do apply.

Nothing in this section precludes a municipality or town that has not adopted the State Building Code from adopting and enforcing by ordinance or other legal means the State Building Code within its jurisdiction.

16B.73 STATE BUILDING CODE IN MUNICIPALITIES UNDER 2,500; LOCAL OPTION.

The governing body of a municipality whose population is less than 2,500 may provide that the State Building Code, except the requirements for persons with disabilities, the requirements for bleacher safety, and the requirements for elevator safety, will not apply within the jurisdiction of the municipality, if the municipality is located in whole or in part within a county exempted from its application under section 16B.72. If more than one municipality has jurisdiction over an area, the State Building Code continues to apply unless all municipalities having jurisdiction over the area have provided that the State Building Code, except the requirements for persons with disabilities, the requirements for bleacher safety, and the requirements for elevator safety, does not apply within their respective jurisdictions. Nothing in this section precludes a municipality or town from adopting and enforcing by ordinance or other legal means the State Building Code within its jurisdiction.