

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1025

Introduced by Wayne, 13.

Read first time January 16, 2018

Committee: Urban Affairs

1 A BILL FOR AN ACT relating to building codes; to amend section 71-6401,
2 Reissue Revised Statutes of Nebraska, section 71-6404, Revised
3 Statutes Cumulative Supplement, 2016, and section 71-6406, Revised
4 Statutes Supplement, 2017; to create the Building Codes Advisory
5 Committee; to provide powers and duties; to change provisions
6 relating to local building and construction codes; to harmonize
7 provisions; and to repeal the original sections.
8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 71-6401, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 71-6401 Sections 71-6401 to 71-6407 and sections 4 to 6 of this act
4 shall be known and may be cited as the Building Construction Act.

5 Sec. 2. Section 71-6404, Revised Statutes Cumulative Supplement,
6 2016, is amended to read:

7 71-6404 (1) For purposes of the Building Construction Act: ~~r~~

8 (a) Committee means the Building Codes Advisory Committee; and

9 (b) Component ~~component~~ means a portion of the state building code
10 adopted by reference pursuant to section 71-6403.

11 (2) The state building code shall be the building and construction
12 standard within the state and shall be applicable:

13 (a) To all buildings and structures owned by the state or any state
14 agency; ~~and~~

15 (b) In each county, city, or village which elects to adopt the state
16 building code as its local building or construction code pursuant to
17 section 71-6406; and ~~or any component or combination of components of the~~
18 ~~state building code.~~

19 (c) In each county, city, or village which has not adopted a local
20 building or construction code pursuant to section 71-6406.

21 Sec. 3. Section 71-6406, Revised Statutes Supplement, 2017, is
22 amended to read:

23 71-6406 (1)(a) ~~(1)~~ Any county, city, or village may enact,
24 administer, or enforce a local building or construction code if or as
25 long as such county, city, or village:

26 (i) ~~(a)~~ Adopts the state building code; or

27 (ii) ~~(b)~~ Adopts a building or construction code that conforms
28 generally with the state building code.

29 (b) If a county, city, or village does not adopt a code as
30 authorized under subdivision (a) of this subsection, the state building
31 code shall apply in the county, city, or village.

1 (2) A local building or construction code shall be deemed to conform
2 generally with the state building code if it:

3 (a) Adopts a special or differing building standard by amending,
4 modifying, or deleting any portion of the state building code in order to
5 reduce unnecessary costs of construction, increase safety, durability, or
6 efficiency, establish best building or construction practices within the
7 county, city, or village, or address special local conditions within the
8 county, city, or village;

9 (b) Adopts any supplement, new edition, appendix, or component or
10 combination of components of the state building code;

11 (c) Adopts section 305 of the 2012 edition of the International
12 Building Code without the exceptions described in subdivision (1)(a) of
13 section 71-6403, chapter 13 of the 2012 edition of the International
14 Building Code, chapter 11 of the 2012 edition of the International
15 Residential Code, or section R313 of the 2012 edition of the
16 International Residential Code;

17 (d) Adopts a plumbing code, an electrical code, a fire prevention
18 code, or any other standard code as authorized under section 14-419,
19 15-905, 18-132, or 23-172; or

20 (e) Adopts a lighting and thermal efficiency ordinance, resolution,
21 code, or standard as authorized under section 81-1618.

22 (3) A local building or construction code which includes a prior
23 edition of any component or combination of components of the state
24 building code shall not be deemed to conform generally with the state
25 building code.

26 (4) A county, city, or village shall not adopt or enforce a local
27 building or construction code other than as provided by this section.

28 (5) A county, city, or village which adopts or enforces a local
29 building or construction code under this section shall regularly update
30 its code. For purposes of this section, a code shall be deemed to be
31 regularly updated if the most recently enacted state building code or a

1 code that conforms generally with the state building code is adopted by
2 the county, city, or village within two years after an update to the
3 state building code.

4 (6) A county, city, or village may adopt amendments for the proper
5 administration and enforcement of its local building or construction code
6 including organization of enforcement, qualifications of staff members,
7 examination of plans, inspections, appeals, permits, and fees. Any
8 amendment adopted pursuant to this section shall be published separately
9 from the local building or construction code.

10 (7) A county, city, or village which adopts one or more standard
11 codes as part of its local building or construction code under this
12 section shall keep at least one copy of each adopted code, or portion
13 thereof, for use and examination by the public in the office of the clerk
14 of the county, city, or village prior to the adoption of the code and as
15 long as such code is in effect.

16 (8) Notwithstanding the provisions of the Building Construction Act,
17 a public building of any political subdivision shall be built in
18 accordance with the applicable local building or construction code. Fees,
19 if any, for services which monitor a builder's application of codes shall
20 be negotiable between the political subdivisions involved, but such fees
21 shall not exceed the actual expenses incurred by the county, city, or
22 village doing the monitoring.

23 Sec. 4. (1) The Building Codes Advisory Committee is created. The
24 committee shall consist of:

25 (a) Thirteen voting members appointed by the Governor with the
26 approval of the Legislature; and

27 (b) The following nonvoting, ex officio members:

28 (i) The State Fire Marshal or his or her designee;

29 (ii) The Director of the State Energy Office or his or her designee;

30 (iii) The Executive Director of the State Electrical Division or his
31 or her designee;

1 (iv) The Executive Director of the Board of Engineers and Architects
2 or his or her designee; and

3 (v) The Director of the Nebraska State Historical Society or his or
4 her designee.

5 (2) The voting members of the committee shall consist of:

6 (a) Three representatives of home builders' associations in
7 Nebraska, each from a different congressional district;

8 (b) Three local code officials, each from a different congressional
9 district;

10 (c) Two representatives of commercial construction associations, one
11 of whom must have experience related to large-scale projects and one of
12 whom must have experience related to medium-scale to small-scale
13 projects;

14 (d) A representative of the planning department of a city of the
15 metropolitan class;

16 (e) A representative of the planning department of a city of the
17 primary class;

18 (f) A representative of the planning department of a city of the
19 first class, city of the second class, or village;

20 (g) A professional engineer as defined in section 81-3422; and

21 (h) An architect as defined in section 81-3404.

22 (3) The Governor shall appoint the initial voting members of the
23 committee on or before September 1, 2018, and shall designate seven of
24 the initial members to serve two-year terms and six of the initial
25 members to serve four-year terms. Terms of the initial members shall
26 begin on October 1, 2018. Their successors shall be appointed for four-
27 years terms. In the event of a vacancy, the Governor shall appoint a
28 member to fill the vacancy, subject to the approval of the Legislature.
29 Any person appointed to fill a vacancy shall meet the same eligibility
30 requirements as the person whose position is vacant and shall be
31 appointed for the unexpired term.

1 Sec. 5. (1) The voting members of the committee shall annually
2 elect a chairperson.

3 (2) The committee shall meet at least once annually at the call of
4 the chairperson. A quorum of more than one-half of the members shall be
5 required at any meeting at which recommendations to the Legislature are
6 adopted.

7 (3) Members of the committee shall receive no compensation for their
8 services on the committee but may be reimbursed for actual and necessary
9 expenses incurred in performing their duties as provided in sections
10 81-1174 to 81-1177. The Board of Engineers and Architects shall provide
11 staff support for the committee, and the expenses of the committee shall
12 be part of the budget of the Board of Engineers and Architects.

13 Sec. 6. (1) Upon the publication of a new edition of any component
14 of the state building code, the committee shall review such new edition
15 and make a recommendation to the Legislature on whether such new edition
16 or any portion thereof should be adopted as a component of the state
17 building code.

18 (2) Upon the written request of the Chairperson of the Urban Affairs
19 Committee of the Legislature, the Building Codes Advisory Committee shall
20 review any edition of any component of the state building code, any other
21 standard code, or any portion thereof and make a recommendation to the
22 Legislature on whether such edition, standard code, or portion thereof
23 should be adopted as a component of the state building code.

24 (3) As part of a review under subsection (1) or (2) of this section,
25 the committee may consult with experts in the fields of architecture,
26 structural engineering, mechanical engineering, commercial construction,
27 home building, energy efficiency, sustainability, fire suppression,
28 electrical engineering, plumbing, insurance, and heating, ventilation,
29 and air conditioning and other relevant fields as necessary.

30 (4) In developing recommendations under subsection (1) or (2) of
31 this section, the committee shall consider:

1 (a) The purpose of the state building code as outlined in section
2 71-6402;

3 (b) The potential impacts of adopting a new edition of any component
4 of the state building code or other standard code, including impacts on
5 building safety and durability, cost of construction, energy efficiency,
6 and use of modern construction materials and methods;

7 (c) The number of counties, cities, and villages that have adopted
8 the new edition of any component of the state building code or other
9 standard code as part of their local building or construction code;

10 (d) The time elapsed since the most recently enacted state building
11 code or the relevant components of the most recently enacted state
12 building code were published and adopted; and

13 (e) The extent to which other states have adopted newer editions of
14 any component of the state building code or other standard codes as part
15 of their statewide building codes.

16 (5) The committee shall not review rules and regulations adopted and
17 promulgated under section 81-2104 constituting the state electrical code,
18 rules and regulations adopted and promulgated under section 81-502
19 constituting the state fire code, the Nebraska Energy Code adopted under
20 section 81-1611, or plumbing codes adopted under section 18-132, 18-1915,
21 or 23-172, except to the extent such codes, rules, or regulations
22 interact with the components of the state building code, new editions of
23 components of the state building code, or any other standard code
24 submitted for review under subsection (2) of this section.

25 (6) Upon adoption of a recommendation to the Legislature under
26 subsection (1) or (2) of this section, the committee shall submit a
27 report to the Governor, the Clerk of the Legislature, and the Chairperson
28 of the Urban Affairs Committee of the Legislature that includes the
29 recommendation and any related findings. The reports submitted to the
30 Legislature shall be submitted electronically.

31 Sec. 7. Original section 71-6401, Reissue Revised Statutes of

- 1 Nebraska, section 71-6404, Revised Statutes Cumulative Supplement, 2016,
- 2 and section 71-6406, Revised Statutes Supplement, 2017, are repealed.