

## LEGISLATIVE BILL 377

Approved by the Governor June 9, 1993

Introduced by Health and Human Services Committee:

Wesely, 26, Chairperson; Byars, 30; Day, 19;  
Dierks, 40; Horgan, 4; Rasmussen, 20; Vrtiska, 1

AN ACT relating to public buildings and facilities; to amend sections 32-226, 32-438, 72-1119, 72-1120, 72-1121, and 72-1122, Reissue Revised Statutes of Nebraska, 1943, and sections 81-502 and 81-505.01, Revised Statutes Supplement, 1992; to change provisions relating to access to polling places; to require the State Fire Marshal to establish standards and specifications; to create the Accessibility Advisory Committee; to provide for membership, powers, and duties; to provide for an additional fee; to eliminate the Public Buildings Safety Advisory Committee, provisions relating to standards for public buildings, and penalty provisions; to harmonize provisions; and to repeal the original sections, and also sections 72-1101 to 72-1118, 72-1123, and 72-1124, Reissue Revised Statutes of Nebraska, 1943.

Be it enacted by the people of the State of Nebraska,

Section 1. That section 32-226, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

32-226. The county shall provide all necessary election supplies, materials, equipment, and services for the registration of voters, for the conduct of elections, and for every incidental ~~purposes~~ purpose connected with registration or elections in accordance with the County Purchasing Act. The election commissioner shall select and appoint the places of registration and the polling place for each district and cause the same to be fitted up, warmed, lighted, and cleaned.

The election commissioner shall take whatever action is necessary to provide voter access in compliance with the federal Americans with Disabilities Act of 1990, as amended. ~~that individuals with physical mobility limitations shall have unobstructed access to the polling place and to at least one polling booth in each polling place. At least one polling booth shall be accessible to a person in a wheelchair.~~ The election commissioner shall certify the number of precincts which will be used and the number which are accessible to all voters and the polling places ninety days prior to each election. No polling place in the county shall be inaccessible to individuals with physical mobility limitations disabilities. ~~A waiver of the requirements of this section may be granted upon the showing of the election official's good faith efforts to comply with this section and may be granted only with the written approval of the Secretary of State. The Secretary of State shall, by rule or~~

~~regulation, develop criteria or standards for good faith compliance and waivers. The Secretary of State may appoint an advisory committee of not less than three persons who shall meet at the request of the Secretary of State and provide advice in the development of waiver criteria and standards. The advisory committee shall consist of at least one architect and one disabled person and the members of the committee shall not receive any remuneration or expenses. An approved waiver shall be valid for only one election. Prior to a request for a waiver from the Secretary of State, the county clerk or election commissioner shall submit to the county board at a public meeting a list of all precincts needing a waiver. For the purposes of this section, election shall mean any primary, municipal, joint, or general election and shall include any school election.~~

The polling place or places shall be located in the most public, orderly, and convenient place or places available therefor, and the expense thereof shall be a county charge. The expense of holding and conducting, separately, any city, municipality, metropolitan utilities district, school district, or other political subdivision election shall be charged to and paid by the city, municipality, metropolitan utilities district, school district, or other political subdivision holding the election. In the event that all or any two or more of the last-named elections are held jointly, then the election commissioner is hereby empowered to definitely fix and certify to each of such bodies joining in such joint election the portion of the total expense which each shall bear, and upon such certification the city, municipality, metropolitan utilities district, school district, or other political subdivision shall contribute and pay to the county treasurer the share so certified. The county board shall draw warrants in payment of the election expense.

Sec. 2. That section 32-438, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

32-438. (1) Except as provided in section 32-226 and in subsection (2) of this section, the county boards of the several counties shall designate the polling places and the county shall provide each polling place designated by them with a sufficient number of places, booths, or compartments; which shall be furnished with such supplies, supplemental aids, and services as will ~~and conveniences as shall~~ enable the voter conveniently to prepare his or her ballot for voting and in which electors may secretly mark their ballots. In precincts required by law to have the counting election board, the county shall provide an enclosed compartment, supplemental aids, and services for the use of the counting board.

(2) When there is no structure within the precinct suitable for use as a polling place, the county board may designate a polling place outside the precinct and convenient thereto which shall be supplied with supplies and conveniences and provided with voting booths or compartments and an enclosed compartment for use of the counting board as are other polling places.

(3) All polling places shall be so modified or relocated to architecturally ~~barrier-free~~ accessible buildings to provide unobstructed

access to such polling places by individuals with physical ~~mobility limitations~~ disabilities. At least one polling booth shall be so constructed as to provide easy access for individuals with physical disabilities. ~~mobility limitations, and shall accommodate a wheelchair.~~ The modifications required by this section may be of a temporary nature to provide such unobstructed access only on voting day and only if the location is in a religious or private club facility as exempt by the federal Americans with Disabilities Act of 1990, as amended. The county clerk shall certify the number of precincts which will be used ~~and the number which are accessible to all voters~~ ninety days prior to each election, and (1) ~~by August 1, 1978, not more than thirty percent of the polling places in a county shall be inaccessible.~~ (2) ~~at any election to be held in 1980; not more than fifteen percent of the polling places in the county shall be inaccessible, and~~ (3) ~~at any election to be held in 1984 and thereafter, no polling place in the county shall be inaccessible. A waiver of the percentage requirements of this section may be granted upon the showing of the county clerk's good faith efforts to comply with the provisions of this section and may be granted only with the written approval of the Secretary of State. The provisions of section 32-226 regarding waiver standards and criteria shall apply to this section. For the purposes of this section, election shall mean any school, primary, municipal, joint, or general election, and shall include any school election.~~

(4) Standards for polling places shall include any applicable standards developed by the State Fire Marshal Public Buildings Safety Advisory Committee for access to public buildings, ~~under the provisions of sections 72-1101 to 72-1124.~~

(5) ~~In any publication in which information is given of the location of polling places, special notations shall be made as to which polling places are accessible.~~

Sec. 3. That section 72-1122, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

~~72-1122. The Public Buildings Safety Advisory Committee~~ State Fire Marshal, with the advice of the Accessibility Advisory Committee, shall adopt and promulgate standards, specifications, and exclusions ~~may promulgate and implement codes pursuant to sections 72-1101 to 72-1119 which are consistent with the most current~~ the uniform building codes guidelines and standards set by the American Standards Association, Inc. federal Americans with Disabilities Act of 1990, as amended, for (1) buildings and facilities which are newly constructed for first occupancy and (2) alterations of existing buildings and facilities used by the public. For purposes of this section, alterations of an existing building or facility used by the public shall include remodeling, renovation, rehabilitation, reconstruction, historic restoration, changes or rearrangement in structural parts or elements, and changes or rearrangements in the plan or configuration of the height of walls or partitions. Normal maintenance, reroofing, painting, wallpapering, asbestos removal, or changes to mechanical and electrical systems shall not be considered alterations.

Sec. 4. That section 72-1119, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

~~72-1119. The responsibility for enforcement of sections 72-1101 to 72-1119 the standards and specifications adopted pursuant to section 3 of this act for (1) buildings and facilities which are newly constructed for first occupancy and (2) alterations of existing buildings and facilities used by the public shall lie with the State Fire Marshal or the appropriate officials of the governing bodies of the state government and its political subdivisions responsible for the review and approval of the building plans. When plans are being reviewed for both building code and fire code regulations, the officials responsible for building code review shall be responsible for enforcement of such sections section. When plans are being reviewed solely for fire code regulations, the State Fire Marshal or his or her designee shall be responsible for enforcement of such sections section. No official of any governing body of the state government or its political subdivisions responsible for such enforcement shall approve or authorize an occupancy permit unless such building or facility complies with the standards and specifications prescribed by such sections section. Any unauthorized departure from such the standards and specifications established by the State Fire Marshal pursuant to such section may be corrected by full compliance with such standards and specifications within ninety one hundred twenty days after discovery of such departure. Failure to correct an unauthorized departure from such standards and specifications shall result in denial or revocation of the occupancy permit for the building or facility.~~

Sec. 5. That section 72-1120, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

~~72-1120. (1) For the purposes of providing, in an advisory capacity only, technical assistance to the State Fire Marshal (a) to aid in establishing standards and specifications in accordance with the Accessibility Guidelines of the federal Americans with Disabilities Act of 1990, as amended, for (i) buildings and facilities which are newly constructed for first occupancy and (ii) alterations of existing buildings and facilities used by the public and (b) on individual cases of accessibility problems arising under the standards and specifications established pursuant to section 3 of this act, and any other advice the State Fire Marshal deems necessary to carry out his or her duties pursuant to such act or section, advising authorities in matters pertaining to performance of duties and compliance with standards and specifications required by the provisions of sections 72-1101 to 72-1119, there is hereby established the Public Buildings Safety Advisory Accessibility Advisory Committee composed of five ten members.~~

~~(2) The Such committee shall consist of the following members who shall be skilled and knowledgeable in the area of accessibility standards and functional disability limitations: (1) (a) An architect, (2) the State Fire Marshal, (3) (b) the state building administrator or his or her authorized representative, (4) (c) a construction contractor, and (5) a representative of individuals who are~~

physically handicapped; (d) four persons with a disability in one of each of the following categories: (i) Vision; (ii) hearing; (iii) cognitive; and (iv) mobility, (e) two persons responsible for local building code enforcement, one from a community of less than fifty thousand inhabitants and one from a community of fifty thousand inhabitants or more, and (f) one person experienced in real property management. The members shall be appointed by the Governor within two months after July 12, 1974, and shall serve for a term of four years thirty days after the effective date of this act. The members shall serve for terms of four years, except that of the members first appointed, the architect and two of the persons with a disability shall serve for terms of three years and the other two persons with a disability shall serve for terms of two years. As the term of each member expires, a successor shall be appointed from the same category as the person whose term expired for a term of four years.

Sec. 6. That section 72-1121, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

~~72-1121.~~ The ~~committee~~ Accessibility Advisory Committee shall organize by selecting a chairperson and such other officer or officers as it may deem necessary and shall establish rules to govern its procedures. Any vacancy occurring in the committee shall be filled in the manner in which original appointments are made. Any person so named to fill a vacancy shall have the same qualifications as his or her immediate predecessor. No person shall receive any compensation for service rendered as a member of such committee but shall be reimbursed for his or her actual and necessary expenses as provided in sections 81-1174 to 81-1177, ~~for state employees.~~

The committee shall meet at such times as the business of such committee shall require and at such place as may be established by its chairperson. ~~Six, but in no case shall the committee meet fewer than three times annually. Three~~ members shall constitute a quorum for the transaction of business. ~~No member of the committee shall participate in any hearing in which he or she has an interest in the subject matter.~~

Sec. 7. That section 81-502, Revised Statutes Supplement, 1992, be amended to read as follows:

81-502. (1) It shall be the duty of the State Fire Marshal, under authority of the Governor:

(a) To enforce all laws of the state relating to the suppression of arson and investigation of the cause, origin, and circumstances of fires;

(b) To promote safety and reduce loss by fire;

(c) To make an investigation for fire safety of the premises and facilities of:

(i) Liquor establishments for which a license or renewal of a license is sought, upon request of the Nebraska Liquor Control Commission, pursuant to section 53-119.01;

(ii) Licensed child care facilities or applicants for licenses for child care facilities, upon request by the Department of Social Services, pursuant to section 71-1903;

(iii) Licensed providers of early childhood programs or applicants for licenses to provide such programs, upon request of the Department of Social Services, pursuant to section 71-1913. The State Fire Marshal shall report the results of the investigation to the department within thirty days after receipt of the request from the department;

(iv) Licensed hospitals, skilled nursing facilities, intermediate care facilities, or other facilities or institutions which are mentioned in subdivision (1) of section 71-2017 or applicants for licenses for such facilities or institutions, upon request by the Department of Health, pursuant to section 71-2022; and

(v) Mobile home parks for which a license or renewal of a license is sought, upon request of the Department of Health, pursuant to section 71-4635; and

(d) After a careful study and investigation of relevant data bearing thereon, to adopt, promulgate, alter, and enforce rules and regulations covering:

(i) The prevention of fires;

(ii) The storage, sale, and use of flammable liquids, combustibles, and fireworks;

(iii) Electric wiring and heating, protection equipment devices, materials, furnishings, and other safeguards within the structure necessary to promote safety and reduce loss by fire, and the means and adequacy of exits, in case of fire, in assembly, educational, institutional, residential, mercantile, office, storage, and industrial-type occupancies as such structures are defined in the National Fire Protection Association, Pamphlet Number 101, and associated pamphlets, and all other buildings, structures, and enclosures in which numbers of persons congregate from time to time for any purpose whether privately or publicly owned;

(iv) Design, construction, location, installation, and operation of equipment for storing, handling, and utilization of liquefied petroleum gases, specifying the odorization of such gases and the degree thereof;

(v) Chemicals, prozolin plastics, X-ray nitrocellulose films, or any other hazardous material that may now or hereafter exist; and

(vi) Tanks used for the storage of regulated substances pursuant to the Petroleum Products and Hazardous Substances Storage and Handling Act; and

(vii) Accessibility standards and specifications adopted pursuant to section 3 of this act.

(2) The State Fire Marshal may enter into contracts with private individuals or other agencies, boards, commissions, or governmental bodies for the purpose of carrying out his or her duties and responsibilities pursuant to sections 81-502 to 81-552 and 81-5,115 to 81-5,146.

(3) The State Fire Marshal may delegate the authority set forth in this section to qualified local fire prevention personnel. The State Fire Marshal may overrule a decision, act, or policy of the local fire prevention personnel. When the State Fire Marshal overrules the local

personnel, such local personnel may follow the appeals procedure established by sections 81-502.01 to 81-502.03. Such delegation of authority may be revoked by the State Fire Marshal for cause upon thirty days' notice after a hearing.

(4) The State Fire Marshal, first assistant fire marshal, and deputies shall have such other powers and perform such other duties as are set forth in sections 81-501.01 to 81-531 and as may be conferred and imposed by law.

(5) The rules and regulations adopted and promulgated pursuant to subdivision (1)(d) of this section may conform generally to the standards recommended by the National Fire Protection Association, Pamphlet Number 101, known as the Life Safety Code, and associated pamphlets, but not when doing so would impose an unduly severe or costly burden without substantially contributing to the safety of persons or property. This section and the rules and regulations adopted and promulgated pursuant to subdivision (1)(d) of this section shall apply to existing as well as new buildings, structures, and enclosures. Such rules and regulations shall also apply to sites or structures in public ownership listed on the National Register of Historic Places but without destroying the historic quality thereof.

(6) Plans for compliance with the rules and regulations adopted and promulgated pursuant to subdivision (1)(d) of this section shall be reviewed by the State Fire Marshal.

Sec. 8. That section 81-505.01, Revised Statutes Supplement, 1992, be amended to read as follows:

81-505.01. (1) The State Fire Marshal shall establish and assess fees not to exceed the actual costs for the performance of services by the State Fire Marshal or by qualified local fire prevention personnel to whom the State Fire Marshal has delegated authority to perform such services. Prior to establishing or altering such fees, the State Fire Marshal shall hold a public hearing on the question of the adoption of or change in fees. Notice of such hearing shall be given at least thirty days prior thereto (a) by publication in a newspaper having general circulation in the state and (b) by notifying in writing the head of any agency or department having jurisdiction over facilities that would be subject to the fees. Fees for services performed by the State Fire Marshal shall be paid to the State Fire Marshal and shall be deposited in the state treasury and credited to the State Fire Marshal Cash Fund. Fees for services performed by local fire prevention personnel shall be paid directly to the office of the local fire prevention personnel.

(2) The fee for inspection for fire safety of any premises or facility pursuant to section 81-502 shall be not less than fifteen nor more than fifty dollars and shall be paid by the licensee or applicant for a license. The fee for inspection for fire safety of the same premises or facility made within twelve months after the last prior inspection shall be not less than fifteen nor more than one hundred dollars and shall be paid by the licensee or applicant for a license. The fees for inspection for fire safety of foster family homes as defined in section 71-1902 may be paid by

the Department of Social Services.

(3) The fee for providing investigation reports to insurance companies shall not exceed three dollars for each report provided. The State Fire Marshal may charge an amount not to exceed the actual cost of preparation for any other approved information release.

(4)(a) Except as provided in subdivision (b) of this subsection, the fee for reviewing plans, blueprints, and shop drawings to determine compliance with rules and regulations adopted and promulgated pursuant to section 81-502 shall be assessed according to the following schedule:

TOTAL VALUE OF PROPOSED STRUCTURE OR IMPROVEMENT	FEE
\$1 - \$5,000	\$5.00
\$5,001 - \$25,000	\$5.00 for the first \$5,000.00 plus \$2.00 for each additional \$5,000.00 or fraction thereof.
\$25,001 - \$50,000	\$15.00 for the first \$25,000.00 plus \$2.00 for each additional \$5,000.00 or fraction thereof.
\$50,001 - \$100,000	\$25.00 for the first \$50,000.00 plus \$1.00 for each additional \$5,000.00 or fraction thereof.
\$100,001 - \$200,000	\$35.00 for the first \$100,000.00 plus \$1.00 for each additional \$10,000.00 or fraction thereof.
\$200,001 or more	\$50.00 for the first \$200,000.00 plus \$1.00 for each additional \$10,000.00 or fraction thereof, except that the total fee shall not exceed \$100.00.

(b) The fees set out in subdivision (a) of this subsection shall not be assessed or collected by any political subdivision to which the State Fire Marshal has delegated the authority to conduct such review and which reviews plans, blueprints, or shop drawings to determine compliance with such political subdivision's own fire safety regulations. Nothing in this subdivision shall be construed to prohibit such political subdivision from assessing or collecting a fee set by its governing board for such review.

(c) An additional fee equal to fifty percent of the fee charged pursuant to subdivision (a) of this subsection shall be assessed for reviewing plans, blueprints, and shop drawings to determine compliance with the accessibility standards and specifications adopted pursuant to section 3 of this act, except that the additional fee assessed pursuant to this



subdivision shall not exceed two hundred fifty dollars.

Sec. 9. That original sections 32-226, 32-438, 72-1119, 72-1120, 72-1121, and 72-1122, Reissue Revised Statutes of Nebraska, 1943, and sections 81-502 and 81-505.01, Revised Statutes Supplement, 1992, and also sections 72-1101 to 72-1118, 72-1123, and 72-1124, Reissue Revised Statutes of Nebraska, 1943, are repealed.