

CHAPTER 242  
SB 443-FN - FINAL VERSION

03/17/2022 0819s  
21Apr2022... 1504h

2022 SESSION

22-3031  
05/08

SENATE BILL ***443-FN***

AN ACT relative to municipal authority regarding the state building code.

SPONSORS: Sen. Carson, Dist 14; Sen. Giuda, Dist 2; Rep. McGuire, Merr. 29

COMMITTEE: Executive Departments and Administration

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AMENDED ANALYSIS

This bill provides that the building code review board shall review proposed municipal amendments to the state building code to confirm that the proposed amendments do not conflict with, and are no less stringent than, the state building code, and requires submission of local amendments prior to enforcement. The bill also requires the state fire marshal to review local amendments to the state fire code prior to enforcement and to publish local amendments to the state fire code.

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Explanation: Matter added to current law appears in ***bold italics***.  
Matter removed from current law appears ~~[in brackets and struck through.]~~  
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Twenty Two*

AN ACT relative to municipal authority regarding the state building code.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

1 242:1 New Hampshire Building Code; Local Amendments; Application. Amend RSA 155-A:3, I to  
2 read as follows:

3 I. The municipality may adopt local amendments to the state building code [~~which do not prohibit~~  
4 ~~minimum implementation and enforcement of the state building code~~] *pursuant to RSA 674:51. The*  
5 *issuance of permits and the collection of fees pursuant RSA 155-A:2, III and issuance of permits and*  
6 *certificates of occupancy pursuant to RSA 155-A:2, IV shall not be considered amendments to the building*  
7 *code and shall not be subject to RSA 674:51, II.*

8 242:2 Enforcement Authority; Building Code Violation; Fee to Appeal Decision of Local Enforcement  
9 Agency Prohibited. Amend RSA 155-A:7, IV to read as follows:

10 IV. All local enforcement agencies and selectmen and the state fire marshal in those  
11 communities without a local enforcement agency shall provide information on the local and state appeals  
12 process when issuing a building permit or notice of violation. *No fee shall be required to appeal a notice*  
13 *of violation or other decision of a code official.*

14 242:3 State Building Code Review Board; List of Municipal Amendments to Building Code and Fire  
15 Code. Amend RSA 155-A:10, IV to read as follows:

16 IV. The board shall meet to review and assess the application of the state building code and shall  
17 recommend legislation, as the board deems necessary, to amend the requirements of the state building  
18 code in order to provide consistency with the application of other laws, rules, or regulations, to avoid  
19 undue economic impacts on the public by considering the cost of such amendments, and to promote  
20 public safety and best practices.

21 (a) The board [~~may recommend adoption of~~] *shall review* a newer version of a code that has  
22 been published for [~~at least~~] 2 years, and shall provide a summary of all significant changes, cost  
23 estimates of these changes, and documentation of the need for the change in [~~the~~] *any* recommended  
24 legislation.

25 (b) *Statewide* amendments to the [~~codes~~] *state building code* shall be reviewed and approved  
26 by the board, then submitted annually to the legislature for ratification by the adoption of appropriate  
27 legislation before they become effective.

28 (c) *Municipal amendments: municipalities shall submit proposed amendments to the state*  
29 *building code to the board for review and confirmation prior to adoption. Municipalities may submit*  
30 *proposed language to the board for an advisory opinion at any time. Cities shall submit the final proposed*  
31 *building code amendment no later than 90 days before final adoption. Towns shall submit the final*  
32 *proposed building code amendment no later than 10 days after the conclusion of the final public hearing.*

1 *Municipal submissions shall include the final text for each amendment. The board shall act to review and*  
2 *confirm proposed municipal amendments within 90 days of submission for cities, and 45 days for towns.*  
3 *Failure of the board to act within these timeframes shall constitute a confirmation of the municipal*  
4 *amendment. The board's review shall be limited to a confirmation that the local amendment does not*  
5 *establish requirements conflicting with, or less stringent than, the requirements of the state building code,*  
6 *and to verify with the state fire marshal that there is no conflict with the fire code.*

7 (d) *Once an amendment is approved by the legislative body, the municipality shall submit*  
8 *documentation to the building code review board within 30 days, pursuant to subparagraph (c), that the*  
9 *public hearing was properly noticed and held, and that the provision was adopted by the local legislative*  
10 *body.*

11 (e) The board may hear appeals of final decisions of any local building code board of appeals  
12 established under RSA 674, provided that the appeal shall be based on a claim that the intent of the code  
13 or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of the code do  
14 not fully apply, or there is an alternative construction. The board shall not have authority to waive or grant  
15 variances to requirements of the code.

16 [(d)] (f) Amendments adopted by municipalities *and confirmed by the board* shall be  
17 published by the board *after notification of adoption is received from the municipality.*

18 242:4 Power to Amend State Building Code and Establish Enforcement Procedures. Amend RSA  
19 674:51, II to read as follows:

20 II. Any such ordinance *enacted or* adopted under paragraph I by a local legislative body [~~shall be~~  
21 ~~submitted to the state building code review board for informational purposes]~~ *shall not be enforced unless*  
22 *confirmed by the building code review board pursuant to RSA 155-A:10, IV(c). The procedural history of*  
23 *local adoption relating to published notice, public hearing, and vote of approval shall be submitted to the*  
24 *board within 30 days of enactment or adoption and prior to enforcement.*

25 242:5 Duties of State Fire Marshal; Review of Local Amendments Established. Amend RSA 153:4-a,  
26 II to read as follows:

27 II. It shall be [~~his~~] *the fire marshal's* duty and responsibility to coordinate the activities of his *or her*  
28 office with duly authorized city, town and village district, fire and building department officials and other  
29 state and local agencies required and authorized by state statutes or local ordinances to develop or  
30 enforce fire safety regulations. It shall further be the duty and responsibility of the state fire marshal to  
31 assist, cooperate with, advise and counsel the officials responsible as designated by local ordinance or  
32 charter for the organization and efficient operation of fire departments and other fire protection  
33 organizations when held to be in the best interest of public safety. *Local amendments to the state fire*  
34 *code shall be submitted to the state fire marshal for review prior to enforcement. The state fire marshal*  
35 *shall confirm local amendments to the state fire code are not in conflict or less restrictive than the state*  
36 *fire code and are based on sound engineering practices. The state fire marshal shall confirm that the*  
37 *local amendments are enacted and adopted by the local legislative body. The state fire marshal shall*  
38 *publish local amendments to the state fire code.*

39 242:6 Effective Date. The act shall take effect January 1, 2023.

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- Page 3 -

Approved: June 17, 2022  
Effective Date: January 01, 2023

