

SB 44 By Senator Hollis**KEYWORD AND SUMMARY AS IT LEFT THE SENATE**

Establishes a state uniform construction code. (gov sig)

SUMMARY OF HOUSE AMENDMENTS TO THE SENATE BILL

1. Makes various technical changes to the bill.
2. Clarifies that the enforcement of the state uniform construction code must be enforced by every municipality and parish.
3. Adds to the public policy statement that the state uniform construction code will encourage the use of construction material of the greatest durability, lower long-term costs, and provide greater storm resistance.
4. Delete requirement that the governor appoint specific representatives to the council.
5. Adds that no member of the council may receive per diem or other compensation for their duties on the council.
6. Clarifies that the council must adopt their rules in accordance with the Administrative Procedures Act.
7. Clarifies that the chairman of the council may call a meeting on his own initiative and he must call one at the request of three or more members within 14 days of the request.
8. Requires that a quorum be established prior to the taking of a vote.
9. Adds that the council and its members will be immune from personal liability for actions taken in good faith in the discharge of their responsibilities. The state will hold the council and its members harmless from all costs, damages, and attorney fees arising from claims and suits against them with respect to their responsibilities on the council.
10. Requires third party providers to be certified with the International Code Council or be a Louisiana licensed architect or engineer for purposes of the emergency provisions of proposed law and must register with the Department of Public Safety and Corrections. Once the council meets, third party providers must meet the requirements imposed by the council and must register with council.
11. Changes the effective date for purposes of the emergency provisions from 90 days to 30 days for parishes and municipalities that currently have code enforcement in place and 90 days for all other parishes and municipalities.
12. Adds part IV-Energy Conservation of International Residential Code to the list of codes that may be adopted by the council.
13. Adds "562211/562212 hazardous and solid waste landfills" and "211112 natural gas processing plants" to the list of industrial facilities exempt from the provisions of proposed law.
14. Exempts certain private outdoor recreational structures, such as a hunting or fishing camp, from the provisions of proposed law.
15. Delete requirement that a person constructing a farm structure file a written statement with the parish or municipal building official.

16. Adds requirement that a member of the council recuse himself from participation issues in which he has a real or perceived conflict of interest. The member must verbally explain the real or perceived conflict to the council.
17. Changes penalty provisions of proposed law to include that any person violating the provisions of proposed law is guilty of a misdemeanor, and upon conviction shall be, rather than may be, fined not more than \$200 or imprisoned not more than 30 days.
18. Reduces the validity of certificates of registration from two years to one year.
19. Adds that the codes adopted by the council will not become effective until January 1, 2007, except for those parishes listed in the emergency provisions.
20. Clarifies that the office of the state fire marshal may establish contract agreements with parishes, municipalities, and third party providers in order to enforce proposed law.

DIGEST OF THE SENATE BILL AS IT LEFT THE SENATE

The original instrument was prepared by Jeffery T. Oglesbee. The following digest, which does not constitute a part of the legislative instrument, was prepared by Peggy Russell.

DIGEST

Hollis (SB 44)

Proposed law provides for the state uniform construction code.

Proposed law provides for a public policy and legislative intent regarding the state uniform construction code.

Proposed law creates the "Louisiana State Uniform Construction Code Council" (hereinafter referred to as the "council.")

Proposed law requires that the council consist of 19 members who shall be appointed by the governor subject to Senate confirmation for a term of three years or until a successor is appointed as follows:

- (1) The chairperson of the House Commerce Committee or designee.
- (2) The chairperson of the Senate Commerce, Consumer Protection, and International Affairs Committee or designee.
- (3) A representative of the Louisiana Chapter of the American Institute of Architects.
- (4) A representative of the Louisiana Professional Engineering and Surveying Board.
- (5) A representative of the Louisiana Home Builders Association.
- (6) The director of the Louisiana State Hurricane Center or designee.
- (7) A representative of the Building Officials Association of Louisiana.
- (8) A representative of the Louisiana State Fire Marshal.
- (9) A representative of the Louisiana Municipal Association.
- (10) A representative of the Police Jury Association of Louisiana.

- (11) A representative of the Louisiana Department of Facility Planning.
- (12) A representative of the general public.
- (13) A disabled person.
- (14) A representative of the property, casualty insurance industry.
- (15) A representative of the electrical industry who is a master electrician.
- (16) A representative of the mechanical or gas industry who is a master mechanic.
- (17) A representative of the Louisiana Association of Plumbing Heating Cooling Contractors who is a master plumber.
- (18) A representative of the Manufactured Housing Association.
- (19) A representative of the Louisiana Realtors Association.

Proposed law provides that the primary function of the council is to review and adopt the state uniform construction code, provide for training and education of code officials, and to accept requests for amendments to the code, except the Louisiana State Plumbing Code.

Proposed law requires the council to elect a chairman and vice chairman from its membership. The chairman may call a meeting and must call a meeting at the request of three or more members of the council. A majority of the members will constitute a quorum and all official decisions must be approved by a two-thirds vote of the members present at the meeting.

Proposed law requires all municipalities and parishes to enforce the codes provided for in proposed law and which are not in conflict with the Federal Department of Housing and Urban Development's regulations regarding manufactured housing construction.

Proposed law provides that neither the performance of any enforcement procedure nor any provisions of building code shall be construed as a warranty or guarantee by an enforcement agency as to durability or fitness or as a warranty or guarantee that the structure or improvement or materials, equipment, or method of construction used therein is or will be free from defects, will perform in a particular way, is fit for a particular purpose, or will last in any particular way.

Proposed law allows municipalities and parishes to establish agreements with other governmental entities or certified third party providers in order to issue permits and enforce the state uniform construction code as required by proposed law. Further requires each parish or municipality to appoint a certified building official or contract with other governmental entities or certified third party providers. Further provides that a parish or municipality may use the services of a certified building inspection in lieu of a certified building official until January 1, 2010.

Proposed law authorizes a commercial or residential contractor to establish agreements with certified third party providers to inspect and enforce the state uniform construction code and requires that such a provider be certified by the International Code Council and registered with the Louisiana State Uniform Code Council.

Proposed law requires the council to review, adopt, modify, and promulgate the building codes provided for in proposed law. Further requires the council to promulgate rules and regulations portions of the state uniform construction code pursuant to the provisions of the Administrative Procedure Act and oversight by the House Commerce Committee and the Senate Commerce, Consumer Protection, and International Affairs Committee as provided for by the Administrative Procedure Act.

Proposed law requires that the state uniform construction code must be updated by the council every three years.

Proposed law requires that the parishes of Calcasieu, Cameron, Iberia, Jefferson, Lafouche, Orleans, Plaquemines, St. Bernard, St. Tammany, Terrebone, and Vermilion shall enforce, on an emergency basis, all wind and flood mitigation requirements prescribed by the 2003 International Building Code and the 2003 International Residential Code, as modified and amending Section 301.2.1.1(2) to replace "Southern Building Code Congress International Standard for Hurricane Resistant Residential Construction (SSTD 10)" with the Guidelines for Hurricane Resistant Construction as published by the Institute for Business and Home Safety, 2005.

Proposed law further requires that the emergency wind and flood mitigation requirements remain in full force and effect until the council adopts the latest editions of both the International Building Code and the International Residential Code, as modified.

Proposed law requires each affected municipality and parish to enforce the emergency wind and flood mitigation requirement in accordance with the provisions of proposed law. In the event a municipality or parish is unable to enforce these provisions within 90 days of enactment of proposed law, the Department of Public Safety and Corrections shall enforce them as long as they remain in effect.

Proposed law requires the council to adopt by reference and amend only the latest editions of the following as the state uniform construction code:

- (1) International Building Code and the standards referenced in that code for regulation of construction within this state. The appendices of that code may be adopted as needed, but the specific appendix or appendices must be referenced by name or letter designation at the time of adoption.
- (2) International Existing Building Code and the standards referenced in that code for regulation of construction within this state. The appendices of that code may be adopted as needed, but the specific appendix or appendices must be referenced by name or letter designation at the time of adoption.
- (3) International Residential Code, not including parts I-Administrative, IV-Energy Conservation, V-Mechanical, VII-Plumbing and VIII-Electrical. The applicable standards referenced in that code are included for regulation of construction within this state. The appendices of that code may be adopted as needed, but the specific appendix or appendices must be referenced by name or letter designation at the time of adoption, with the exception of Appendix J, Existing Buildings and Structures, which is hereby adopted by this reference. For the purposes of this Part, IRC R301.2.1.1 (Design Criteria) will be amended as follows and only apply to the International Residential Code, 2003 edition:
 - (a) Amendment of R301.2.1.1 Design Criteria
 - (b) Item 6, the American Concrete Institute, *Guide to Concrete Masonry Residential Construction in High Winds Areas*, will be added.
 - (c) Item 7, Institute for Business & Home Safety, *Optional Code-plus Fortified for Safer Living*, will be added.
 - (d) Item 8, Federal Alliance for Same Homes, *Optional Code-plus Blueprint for Safety*, will be added.
- (4) International Mechanical Code and the standards referenced in that code for regulation of construction within this state. The appendices of the code provided in this Paragraph may be adopted as needed, but the specific appendix or appendices must be referenced by name or letter designation at the time of adoption.

- (5) The Louisiana State Plumbing Code, not including Chapter 27-Electrical and Chapter 29 - Plumbing Systems as amended by the state health officer acting through the office of public health of the Department of Health and Hospitals
- (6) International Fuel Gas Code and the standards referenced in that code for regulation of construction within this state. The appendices of the code provided in this Paragraph may be adopted as needed, but the specific appendix or appendices must be referenced by name or letter designation at the time of adoption.
- (7) National Electric Code.

Proposed law requires the council to meet and adopt the latest versions of the codes referred to above within six months following enactment of proposed law.

Proposed law does not apply to the construction or improvement of the following types of industrial facilities as defined or classified pursuant to the 1997 North American Industry Classification System (NAICS):

- (1) 22111 electric power generation.
- (2) 321 wood products manufacturing.
- (3) 322 paper manufacturing.
- (4) 324 petroleum and coal products manufacturing.
- (5) 325 chemical manufacturing.
- (6) 326 plastics and rubber products manufacturing.
- (7) 331 primary metals manufacturing.
- (8) 422710 bulk stations and materials.
- (9) 486110 crude oil pipelines.
- (10) 486910 refined petroleum products pipelines.
- (11) 486210 natural gas pipelines.
- (12) 486990 other pipelines.

Proposed law provides that in order to qualify as a farm structure, the person owning the property, shall, prior to construction, file a written statement with the parish or municipal official responsible for enforcing the building code which states that the structure is being constructed as a farm structure and sets forth the purpose and intended use of the proposed structure or addition.

Proposed law allows the local building official to enjoin further construction of a project as provided for by local ordinance upon a violation of the building codes or regulations adopted pursuant to the provisions of proposed law. Further provides that the municipal, district, parish attorney or the attorney general may apply for additional injunctive relief in the district court of the parish where the violation occurred.

Proposed law allows the governing authority of a parish or municipality to impose fees necessary to implement and continue the provisions of proposed law and further provides that the provisions of proposed law are cumulative to other local ordinances.

Proposed law requires that building must be inspected in accordance with the codes in effect for the locality on the date of the issuance of the original building permit.

Proposed law requires the Louisiana State Uniform Construction Code Council to:

- (1) Register building code enforcement officers pursuant to the provisions of proposed law.
- (2) Conduct hearings and proceedings as necessary to implement the provisions of proposed law and promulgate regulations pursuant to the provisions of the Administrative Procedure Act for the proper enforcement of proposed law.
- (3) Keep a record of its hearings and proceedings and to keep a register of applications for certificates of registration. The council must publish at least annually the approved applications.

Proposed law provides that the council and its members shall be subject to the Open Meetings Law, the Public Records Law, and the Code of Government Ethics.

Proposed law allows the council to issue certificates of registration without application to building code enforcement officers employed in code enforcement on the effective date of proposed law. This registration for building code officials is valid for 4 years and the registration for residential building code inspectors is valid for 6 months. Both registration may be renewed.

Proposed law requires that upon initial employment by a parish, municipality, or other political subdivision an individual must be granted a provisional certificate of registration without examination for a specified time period. A provisional certificate of registration may not be renewed.

Proposed law allows the council to order persons violating the provisions of proposed law to refrain from the conduct and may also apply to the district court of the parish in which the violation occurs for injunctive relief.

Proposed law requires any person practicing as a building code enforcement officer to be registered as provided for by proposed law and must apply upon a form prescribed by the council. Further provides that the penalty for who is not registered and who violates the provisions of the uniform building code shall be guilty of a misdemeanor and upon conviction, may be fined not more than \$200 or imprisoned for not more than 30 days. Each day a violation continues shall be considered as a separate offense

Proposed law requires applicants to furnish satisfactory proof to the council of a valid certification by a recognized code organization or testing agency in the general or special capacity in which he desires to be registered. The council may suspend or revoke certificates of registration upon any violation of proposed law following notice and a hearing consistent with the provisions of the Administrative Procedure Act.

Proposed law provides that a certificate of registration is valid for two years and expires on July first of every other year unless renewed before that date. Renewal of a certificate of registration must be determined by the council to ensure that the applicant meets the continued education requirements promulgated by the council.

Proposed law allows the state fire marshal to establish contract agreements with municipalities or parishes in order to provide permitting and code enforcement as provided for in proposed law. Further clarifies that the provisions of proposed law do not prevent the state fire marshal from meeting his other statutory and regulatory responsibilities.

Proposed law clarifies that the provisions of the proposed law shall not prevent the state health officer from enforcing the plumbing regulation of the Public Health -Sanitary Code.

Proposed law requires that any insurer who makes application to the Louisiana Rating Commission for a rate filing shall provide details as to what discount or reduced rate will be given to insureds who comply with the uniform construction code.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Adds R.S. 22:1407(J) and R.S. 40:1730.21 - 1730.39; repeals R.S. 40:1725 - 1730.1)

Summary of Amendments Adopted by Senate

Senate Floor Amendments to engrossed bill.

1. Adds the requirement that council members shall be subject to Senate confirmation.
2. Specifies that the council member representing the plumbing industry shall be a representative of the Louisiana Association of Plumbing Heating Cooling Contractors.
3. Adds a waiver of liability for an agency performing enforcement of building codes or for any provision of a building code relative to the construction of any building, structure, or improvement to immovable property.
4. Adds authorization for a commercial or residential contractor to establish an agreement with a certified third party provider to prove inspection and enforcement of the uniform construction code if the provider is certified by the International Code Council and registered with the Louisiana State Uniform Code Council.
5. Adds the authorization for a parish or municipality to use a certified building inspector in lieu of a certified building official for enforcement of the building code until 2010.
6. Changes the responsibility of the council to review, adopt, modify and promulgate the building codes from permissive to mandatory.
7. Changes the general reference to parishes which shall be required to enforce wind and flood mitigation requirements to specify that the included parishes shall be Calcasieu, Cameron, Iberia, Jefferson, Lafouche, Orleans, Plaquemines, St. Bernard, St. Tammany, Terrebone, and Vermillion.
8. Changes the time period in which parishes and municipalities are required to enforce emergency wind and flood mitigation before intervention of the DPS&C from 30 days to 90 days.
9. Deletes references to various codes which are no longer in effect.
10. Adds the following facilities to those types of industrial facilities which are exempted from the provisions of the state uniform construction code:
 - (a) 422710 bulk station sand materials.
 - (b) 486110 crude oil pipelines.
 - (c) 486910 refined petroleum products pipelines.
 - (d) 486210 natural gas pipelines.
 - (e) 486990 other pipelines.
11. Adds provision making the council and its members subject to the Open Meetings Law, the Public Records Law, and the Code of Governmental Ethics.

12. Changes the period of validity of registration from 2 years for building code enforcement officers to 4 years for building code officials and 6 months for building code inspectors.
13. Adds penalties for an individual who is not registered as a code enforcement officer and who violates the provisions of the uniform construction code and provides that, if convicted, the individual shall be guilty of a misdemeanor and may be fined not more than \$200 or imprisoned for not more than 30 days.
14. Clarifies that nothing in the uniform construction code shall prevent the state health officer from enforcing the plumbing regulations of the Public Health - Sanitary Code.
15. Adds the requirement that any insurer making an application for a rate filing to the Louisiana Rating Commission shall provide details as to what discount or reduced rate will be given to insured who comply with the uniform construction code.

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