

HB 428-LOCAL - AS AMENDED BY THE HOUSE

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2025 SESSION

25-0330

06/05

HOUSE BILL

428-LOCAL

AN ACT

prohibiting municipal amendments to the state building code.

SPONSORS:

Rep. Alexander Jr., Hills. 29; Rep. C. McGuire, Merr. 27; Rep. D. McGuire, Merr. 14; Rep. Osborne, Rock. 2; Rep. Sweeney, Rock. 25; Rep. Berry, Hills. 44; Rep. Warden, Hills. 39; Sen. Innis, Dist 7; Sen. Murphy, Dist 16; Sen. McConkey, Dist 3

COMMITTEE:

Executive Departments and Administration

ANALYSIS

This bill prohibits local legislative bodies from making any new changes to the state building codes.

Explanation:

Matter added to current law appears in ***bold italics***.

Matter removed from current law appears ~~[in brackets and struckthrough]~~.

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Five

AN ACT prohibiting municipal amendments to the state building code.

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

1 1 New Hampshire Building Code; Definitions. RSA 155-A:1, III is repealed and reenacted to
2 read as follows:

3 III. "Local enforcement agency" means, for a municipality as defined in RSA 672:10 that has
4 adopted an enforcement mechanism under RSA 155-A:3, the official qualified and authorized to issue
5 permits, make inspections, and enforce the laws, ordinances, and rules enacted by the state and local
6 government that establish standards and requirements applicable to the construction, alteration,
7 relocation, enlargement, replacement, repair, equipment, use and occupancy, location, maintenance,
8 removal, and demolition of every building or structure, or any appurtenances connected or attached
9 to such building or structure.

10 2 State Building Code. Amend RSA 155-A:2, III to read as follows:

11 III. To the extent that it does not conflict with any other provision of law, and except as
12 otherwise provided in this paragraph, the issuance of permits and the collection of fees pursuant to
13 the state building code is expressly reserved for counties, towns, cities, and village districts where
14 such activities have been authorized in accordance with RSA [674:51 and RSA 47:22] 155-A:3.
15 Pursuant to the state fire marshal's authority to enforce the state building code under RSA 155-A:7,
16 I, the fire marshal may establish for municipalities that do not have a building official or other
17 enforcement mechanism authorized in RSA 155-A:4, with approval of the commissioner of safety and
18 by rules adopted under RSA 541-A, fees to defray the cost of issuing building permits in accordance
19 with the state building code. Such fees shall be deposited in the fire standards and training and
20 emergency medical services fund established in RSA 21-P:12-d.

21 3 State Building Code. Amend RSA 155-A:2, VI to read as follows:

22 VI. For any municipality which has not adopted an enforcement mechanism under RSA
23 674:51, the contractor of the building, building component, or structure shall notify the state fire
24 marshal concerning the type of construction before construction begins excluding one- and 2-family
25 dwellings. Any municipality that has adopted an enforcement mechanism under RSA [674:51] **155-**
26 **A:3** may contract with a local enforcement agency or a qualified third party for these services as an
27 alternative to establishing the position of building [inspector under RSA 674:51, III(e)] **official**
28 **pursuant to RSA 155-A:3**, and such agency or third party shall have the same authority as a
29 building inspector as provided in that section.

30 4 State Building Code. Amend RSA 155-A:2, VIII to read as follows:

VIII. Nothing in this chapter shall be construed as amending, repealing, or superseding any local law, ordinance, code, or regulation, except local code requirements that are less stringent than the state building code~~[or state fire code]~~, or where expressly required by RSA ~~[674:51, or RSA 47:22]~~ **155-A:3**, and all buildings, building components, and structures shall comply with all applicable state or local building ~~[and fire code]~~ requirements, land use restrictions including, but not limited to subdivision regulations, use and location restrictions, density and dimensional limitations, or historic district laws or ordinances.

5 Local Amendments; Application. RSA 155-A:3 is repealed and reenacted to read as follows:

155-A:3 Enforcement mechanism.

I. The local legislative body, as defined in RSA 672:8, is hereby empowered and authorized to establish a local enforcement agency, as defined in RSA 155-A:1, III, to enforce the state building code adopted under RSA 155-A. The local legislative body may adopt a nationally recognized code not included in, and not inconsistent with, the state building code, except for a nationally recognized code which has the same or similar scope or purpose, as determined by the building code review board, that is included in the most recent edition of the state building code adopted under RSA 155-A:1, IV.

II. Amendments to the state building code implementing the issuance of permits and the collection of fees pursuant to RSA 155-A:2, III, and the issuance of permits and certificates of occupancy pursuant to RSA 155-A:2, IV, or other administrative functions shall be reserved for the municipalities, provided they are not less stringent than the state building code and confirmed pursuant to RSA 155-A:3, IV. No amendments to the technical requirements of the state building code are permitted. Municipal amendments to technical requirements of the state building code are permitted if the state building code is more than 2 editions behind the published model codes included in the state building code, provided they are not less stringent than the state building code and confirmed pursuant to RSA 155-A:3, IV.

III. At a minimum, the municipality shall ensure by ordinance that implementation and enforcement includes:

(a) The date of the first enactment of any building code regulations in the municipality and of each subsequent amendment thereto.

(b) Provision for the establishment of a building code board of appeals as provided in RSAs 673:1, V; 673:3, IV; and 673:5.

(c) Provision for the establishment of the position of building official as provided in RSA 673:1.

(d) The building official shall have the authority to:

(1) Accept and review appropriate design documents;

(2) Issue building permits as provided in RSA 676:11-13;

(3) Perform inspections as may be necessary to assure compliance with the state building code; and

(4) Issue any certificates of occupancy as enacted pursuant to paragraph IV.

(e) A schedule of fees, or a provision authorizing the governing body to establish fees, to be charged for building permits, inspections, and for any certificate of occupancy enacted pursuant to paragraph IV.

IV. The regulations adopted pursuant to paragraph I may include a requirement for a certificate of occupancy to be issued prior to the use or occupancy of any building or structure that is erected, remodeled, or undergoes a change or expansion of use subsequent to the effective date of such requirement. The municipality shall be responsible for implementation and enforcement of the requirement under this paragraph.

V. Municipal Employees and Departments.

(a) The provisions of this chapter shall not be construed to restrict or encumber the local governing body's authority relative to the appointment, removal, or duties of municipal employees and the organization of municipal departments.

(b) Any provision of the state building code that conflicts with existing local ordinances, regulations, policies, practices, or procedures regarding the appointment, removal, or duties of municipal employees and the organization of municipal departments shall not apply, provided that the ordinances, regulations, policies, practices, or procedures do not prevent effective enforcement of the state building code.

VI. Any ordinance adopted under paragraph II by a local legislative body shall be submitted to the state building code review board for review and confirmation.

VII. The state building code established in RSA 155-A shall be effective in all municipalities, as defined in RSA 672:10, in the state, without further local modification, except as permitted by this section, and shall be enforced as provided in RSA 155-A:7. Notwithstanding any other provision of law, no local legislative body shall enact or enforce any ordinance, adopt or enforce any rule, or implement any regulation that amends, overrides, or deviates from the state building code, or addresses any subject included in the state building code, except as otherwise permitted by this section or other statute, on or after the effective date of this section. All municipalities with an enforcement mechanism shall enforce and comply fully with the state building code without further local modification, except as otherwise permitted by this section or other statute.

VIII(a). Local amendments and codes adopted pursuant to paragraph III prior to July 1, 2024, and the procedural history of adoption under RSA 155-A:10 shall be submitted for review to the building code review board for confirmation that such additional amendments are not inconsistent with or less stringent than, nor intended to replace, the requirements of the most recent edition of the building code adopted under RSA 155-A. No local amendment shall be enforced if it has not been submitted to the building code review board within 60 days of the effective date of this

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paragraph. Upon the withholding of confirmation of a submitted local amendment by the state building code review board, the amendment shall not be enforced.

(b) Any such ordinance enacted or adopted pursuant to paragraph III on or after July 1, 2024, shall not be enforced unless confirmed by the building code review board pursuant to RSA 155-A:10, IV(c). The procedural history of local adoption relating to published notice, public hearing, and vote of approval shall be submitted to the board within 30 days of enactment or adoption and prior to enforcement.

IX. No municipality or local land use board, as defined in RSA 672:7, shall enforce any ordinance, regulation, code, or administrative practice requiring the installation of automatic fire suppression sprinklers in any new or existing detached one- or two-family dwelling unit in a structure used only for residential purposes, or in existing buildings that contain, or will contain, no more than four dwelling units, unless fire sprinklers are existing or are required by a nonresidential occupancy. Notwithstanding any provision of law to the contrary, no municipality or local land use board shall enforce any existing ordinance, regulation, code, or administrative practice requiring the installation or use of automatic fire suppression sprinklers in any manufactured housing unit, as defined in RSA 674:31, situated in a manufactured housing park, as defined in RSA 205-A:1, II. Nothing in this paragraph shall affect the ability of an applicant for a local land use permit to include the installation of fire suppression sprinklers pursuant to RSA 674:36, IV, or affect the validity or enforceability of such inclusion.

X. No county, city, town, village district, local land use board, or other subdivision of this state shall adopt any ordinance, regulation, code, or administrative practice that prohibits or restricts a person or entity from installing a safe and commercially available heating or other energy system of their choice, or from engaging the services of an energy provider of their choice to install, connect, or resupply such energy system. In this paragraph, "energy provider" means a qualified and licensed distributor of oil, propane, natural gas, or other company or entity that supplies energy or related services to the public.

6 Local Amendments; Application. Amend RSA 155-A:4, II to read as follows:

II. In municipalities that have adopted an enforcement mechanism pursuant to RSA ~~[674:51 and RSA 47:22]~~ **155-A:3**, the permit under this section shall conform to the locally adopted process. No permit shall be issued that would not result in compliance with the state building code~~and state fire code~~.

7 Local Amendments; Application. Amend RSA 155-A:7, I to read as follows:

I. The local enforcement agency appointed pursuant to RSA ~~[674:51 or RSA 47:22]~~ **155-A:3** shall have the authority to enforce the provisions of the state building code and the local fire chief shall have the authority to enforce the provisions of the state fire code, provided that where there is no local enforcement agency or contract with a qualified third party pursuant to RSA 155-A:2, VI, the state fire marshal or the state fire marshal's designee may enforce the provisions of the state

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building code and the state fire code, subject to the review provisions in RSA 155-A:10, upon written request of the municipality.

8 Local Amendments; Application. Amend RSA 155-A:10, IV(c) – (f) to read as follows:

(c) Municipal ~~[amendments]~~ **ordinances**: municipalities shall submit proposed ~~[amendments]~~ **ordinances** to the state building code ~~[pursuant to RSA 155-A:3]~~ to the board for review and confirmation prior to adoption. Municipalities may submit proposed language to the board for an advisory opinion at any time. Cities shall submit ~~[the]~~ final proposed ~~[building code amendments]~~ **ordinances** no later than 90 days before final adoption. Towns shall submit ~~[the]~~ final proposed ~~[amendments]~~ **ordinances** no later than 10 days after the conclusion of the final public hearing. Municipal submissions shall include the final text for each ~~[amendments]~~ **ordinance**. The board shall act to review and confirm proposed municipal ~~[amendments]~~ **ordinances** within 90 days of submission for cities, and 45 days for towns. Failure of the board to act within these time frames shall constitute a confirmation of the municipal ~~[amendments]~~ **ordinances**. The board's review shall be limited to a confirmation that the local ~~[amendments]~~ **ordinance** complies with RSA ~~[674:51 or RSA 47:22]~~ **155-A:3**, and a verification with the state fire marshal that there is no conflict with the fire code.

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

(e) [Repealed.]

(f) ~~[amendments]~~ **Ordinances** adopted by municipalities, submitted to the board ~~[under the provisions of RSA 674:51, II this chapter]~~, and confirmed by the board, shall be published by the board after notification of adoption is received from the municipality.

9 General Requirements. Amend RSA 155-A:11-b, I to read as follows:

I. The board shall hear appeals of final decisions of any local building code board of appeals established under **RSA 155-A:3 and** RSA 674.

10 General Requirements. Amend RSA 674:34, II to read as follows:

II. Appeals of decisions of any local building code board of appeals shall be made within 30 days of the board's decision to the state building code review board as outlined under RSA ~~[155-A:10, IV(e)]~~ **155-A:11-b**.

11 General Requirements. Amend RSA 675:1, II to read as follows:

II. Zoning ordinances proposed under RSA 674:16 **and** historic district ordinances proposed under RSA 674:46 shall be adopted in accordance with the procedures required under RSA **675:2 through 675:5**.

12 Repeal. The following are repealed:

I. RSA 47:22, relative to the municipalities' grant of power.

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- 1 II. RSA 674:51, relative to the local land use planning board and their power to amend state
- 2 building codes and establish enforcement procedures.
- 3 13 Effective Date. This act shall take effect January 1, 2027.