

1 Committee of Conference Report on HB 244, updating and recodifying the municipal enforcement of
2 the building and fire code.

3
4 Recommendation:

5 That the House recede from its position of nonconcurrency with the Senate amendment, and
6 concur with the Senate amendment, and

7 That the Senate and House adopt the following new amendment to the bill as passed by the
8 Senate, and pass the bill as so amended:

9
10 Amend the bill by replacing sections 5 and 6 with the following:

11
12 5 Enforcement Mechanism; Local Enforcement Agency. Amend RSA 155-A:3, I to read as
13 follows:

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

21 6 Local Amendments; Application. Amend RSA 155-A:3, III(b)-(d) to read as follows:

22 (b) Provision for the establishment of a building code board of appeals as provided in
23 RSA ~~[673:1, V; 673:3, IV; and 673:5]~~ **155-A:3-d**.

24 (c) Provision for the establishment of the position of building official as provided in RSA
25 ~~[673:1]~~ **155-A:3, III(d)**.

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

27 (1) Accept and review appropriate ~~[design]~~ **construction** documents;

28 (2) Issue building permits as provided in RSA ~~[676:11-13]~~ **155-A:4**;

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

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

32
33 Amend RSA 155-A:3-i, I as inserted by section 9 of the bill by replacing it with the following:

34

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1 I. Notice shall be given for the time and place of each public hearing held under RSA 155-
2 A:3-f through 3-h at least 10 calendar days before the hearing. The notice required under this
3 section shall not include the day notice is posted or the day of the public hearing. Notice of each
4 public hearing shall be published in a paper of general circulation in the municipality and shall be
5 posted in at least 2 public places. Any person owning property in the municipality may request
6 notice of all public hearings on proposed amendments to the building code ordinance, and the
7 municipality shall provide notice, at no cost to the person, electronically or by first class mail.

8
9 Amend RSA 155-A:4, VII as inserted by section 11 of the bill by replacing it with the following:

10
11 VII. The building official shall comply with RSA 674:30, if applicable.

12
13 Amend RSA 155-A:8-c, II as inserted by section 14 of the bill by replacing it with the following:

14
15 II. No local building code citation as set forth in this section shall be served unless the
16 defendant has first been given written notice of the violation by the municipality. If the notice
17 involves or includes a decision which may be appealed to the building code board of appeals pursuant
18 to RSA 155-A:3-d, such notice shall set forth a reasonable period, as provided by the rules of the
19 respective board, in no case less than 7 days, within which such appeal shall be filed after receipt of
20 the written notice, and the citation shall not be served until after the end of such period. If such an
21 appeal is filed, further proceedings shall be governed by RSA 155-A:3-d.

22
23 Amend the bill by replacing section 19 with the following:

24
25 19 Inspectors. Amend RSA 319-C:5, V to read as follows:

26 V. A state, city, or town building ~~[inspector]~~ **official** or code enforcement officer appointed
27 by the administrative authority of the state, city, or town, who performs electrical inspections
28 authorized in accordance with RSA 155-A:2, IV, RSA 155-A:2, VI, ~~[RSA 47:22,]~~ or RSA ~~[674:51]~~ **155-**
29 **A:3** shall have the authority to check the license or identification card issued under this chapter.

30
31 Amend the bill by replacing section 21 with the following:

32
33 21 Exemptions. Amend RSA 356-A:3, I-a(b)(4)(C) to read as follows:

34 (C) Appointed a building ~~[inspector]~~ **official** pursuant to RSA ~~[673:1, III]~~ **155-**
35 **A:3**.

36
37 Amend the bill by replacing sections 29-30 with the following:

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1 29 Appeals Where There is a Zoning Ordinance. Amend the introductory paragraph of RSA
2 674:13, I to read as follows:

3 I. Any zoning ordinance adopted pursuant to RSA 674:16 shall provide that the board of
4 adjustment created under a local zoning ordinance and having the power to make variances or
5 exceptions in zoning regulations shall have the further power, in specific cases and by vote of a
6 majority of its members, upon an appeal filed with it by the owner of any such land, to ~~grant a~~
7 **remove the prohibition on a building** permit based on considerations of justice and equity for a
8 building or structure, or part thereof, in a mapped-street location shown on the official map, in any
9 case in which the board of adjustment finds, upon the evidence and arguments presented to it upon
10 appeal:

11 30 Appeals Where There is a Zoning Ordinance. Amend RSA 674:13, II to read as follows:

12 II. In the event that the board of adjustment decides to authorize or ~~issue~~ **remove the**
13 **prohibition on** a building permit in such case, it shall have the power to specify the exact location,
14 ground area to be used or occupied, height, and other reasonable details and conditions of extent and
15 character, and also the duration of the building, or part hereof, permitted. Such requirements shall
16 be designed to promote the health, convenience, safety, or general welfare of and shall inure to the
17 benefit of the municipality. The board of adjustment shall ~~refuse a~~ **prohibit the issuance of a**
18 **building** permit if the applicant will not be substantially damaged by placing the applicant's
19 building outside the mapped-street location.

20
21 Amend the bill by replacing section 41 with the following:

22
23 41 New Hampshire Building Code; State Building Code. Amend RSA 155-A:2, IV to read as
24 follows:

25 IV. Except for buildings owned by the state, the community college system of New
26 Hampshire, or the university system, the issuance of permits and certificates of occupancy pursuant
27 to the state building code is expressly reserved for counties, towns, cities, and village districts. The
28 state fire marshal shall issue permits, conduct inspections, and issue certificates of occupancy for
29 buildings owned by the state, the community college system of New Hampshire, and the university
30 system. Nothing in this section shall prohibit the state fire marshal from contracting with or
31 authorizing a local enforcement agency or other qualified third party for these services, provided the
32 fees for such services are paid for by the applicant. Any municipality that has adopted an
33 enforcement mechanism under RSA ~~[674:51]~~ **155-A:3** alternatively may request the services of the
34 state fire marshal under the state building permit system, including issuance of permits, conducting
35 inspections, and issuance of certificates of occupancy, for buildings or projects owned by the counties,
36 town, cities, or village districts, if a project requires specialized knowledge of the fire marshal or due
37 to staffing limitations of the municipality. Nothing in this section shall require the state fire

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1 marshal to accept a project under the state building permit system when requested by a
2 municipality.

3
4 Amend the bill by replacing section 45 with the following:

5
6 45 Method of Enactment in Certain Towns and Village Districts. Amend RSA 675:3, VII to read
7 as follows:

8 VII. If the town or village district has adopted an official ballot for the election of its
9 respective officers, the issue as to the adoption of the proposed **zoning** ordinance **or historic**
10 **district ordinance** [~~building code~~] or amendment shall be presented to the voters of the town or
11 village district by having the town or village district clerk prepare an official ballot separate from the
12 official ballot used to elect town or village district officers which shall include the following question,
13 or by including the following question on the official ballot as prepared by the town or village district
14 clerk:

15 "Are you in favor of the adoption of the zoning ordinance[~~]~~ **or** historic district ordinance[~~or building~~
16 ~~code~~] (or amendment to the existing town (village district) zoning ordinance[~~]~~ **or** historic district
17 ordinance[~~or building code~~]) as proposed by the planning board?" In the event that there shall be
18 more than a single proposed amendment to be submitted to the voters at any given meeting, the
19 issue as to the several amendments shall be put in the following manner: "Are you in favor of the
20 adoption of Amendment No. ___ as proposed by the planning board for the town (village district)
21 zoning ordinance (historic district ordinance [~~or building code~~]) as follows: (Here insert topical
22 description of substance of amendment.)?" If such action is to be taken at a meeting other than the
23 one at which officers are to be elected, the clerk shall prepare a special ballot containing the question
24 or questions above stated, and the meeting shall open not later than noon and shall remain open at
25 least 8 hours. If such action is to be taken at a meeting in a town or village district which has not
26 adopted an official ballot, the clerk may prepare a special ballot likewise separate from the ballot
27 used to elect town or village district officers for the use of voters in voting on the question. If a
28 majority of the voters present and voting on any question as herein provided shall vote in the
29 affirmative, the ordinance or amendment thereto shall be declared to have been adopted. When
30 submitting any question to the voters under this section, there shall be 2 squares printed after the
31 question, one with the word "yes" beside it and another with the word "no" beside it.

32
33 Amend the bill by inserting after section 62 the following and renumbering the original sections 63-
34 64 to read as 64-65, respectively:

35
36 63 New Hampshire Building Code; Definitions. Amend RSA 155-A:1, III to read as follows:

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1 III. "Local enforcement agency" means, for a municipality as defined in RSA [~~672:10~~] **155-**
2 **A:1, XI** that has adopted an enforcement mechanism under RSA 155-A:3, the official qualified and
3 authorized to issue permits, make inspections, and enforce the laws, ordinances, and rules enacted
4 by the state and local government that establish standards and requirements applicable to the
5 construction, alteration, relocation, enlargement, replacement, repair, equipment, use and
6 occupancy, location, maintenance, removal, and demolition of every building or structure, or any
7 appurtenances connected or attached to such building or structure.

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The signatures below attest to the authenticity of this Report on HB 244, updating and recodifying the municipal enforcement of the building and fire code.

Conferees on the Part of the Senate

Conferees on the Part of the House

Sen. Gray, Dist. 6

Rep. Layon, Rock. 13

Sen. Lang, Dist. 2

Rep. Slottje, Hills. 13

Sen. Reardon, Dist. 15

Rep. Dargie, Hills. 43

Rep. DeRoy, Straf. 3