As Introduced

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H. B. No. 517

Representative Sweeney
Cosponsors: Representatives Brown, Cera, Crossman, Galonski, Ingram, Leland, Liston, Russo, Smith, K.

A BILL

To amend sections 3737.82 and 3781.10 of the Revised Code to explicitly exempt building and fire codes from certain rule review requirements.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 3737.82 and 3781.10 of the Revised Code be amended to read as follows:

Sec. 3737.82. (A) The fire marshal shall adopt a state fire code which shall consist of rules relating to all aspects of fire safety. The rules shall be the minimum standards for safeguarding life and property from fire and explosion, and the fire marshal may, in adopting these rules, incorporate by reference existing published standards as well as amendments thereto subsequently published by the same authority. The fire code shall include, but not be limited to, rules relating to the movable contents of any building, or class of buildings, the transportation, storage, location, and use of flammable or explosive materials, the procedures to be employed by persons in the event of fire, the installation and location of fire...
protection equipment, and other similar matters. The fire code may contain rules applicable to particular classes of existing buildings or structures as the use and occupancy of such buildings or structures suggest are necessary. The fire marshal may amend, modify, or repeal any rule of the state fire code.

(B) In the interest of public safety, all rules adopted pursuant to this chapter shall be exempt from section 121.95 of the Revised Code.

Sec. 3781.10. (A)(1) The board of building standards shall formulate and adopt rules governing the erection, construction, repair, alteration, and maintenance of all buildings or classes of buildings specified in section 3781.06 of the Revised Code, including land area incidental to those buildings, the construction of industrialized units, the installation of equipment, and the standards or requirements for materials used in connection with those buildings. The board shall incorporate those rules into separate residential and nonresidential building codes. The standards shall relate to the conservation of energy and the safety and sanitation of those buildings.

(2) The rules governing nonresidential buildings are the lawful minimum requirements specified for those buildings and industrialized units, except that no rule other than as provided in division (C) of section 3781.108 of the Revised Code that specifies a higher requirement than is imposed by any section of the Revised Code is enforceable. The rules governing residential buildings are uniform requirements for residential buildings in any area with a building department certified to enforce the state residential building code. In no case shall any local code or regulation differ from the state residential building code unless that code or regulation addresses subject matter not
addressed by the state residential building code or is adopted pursuant to section 3781.01 of the Revised Code.

(3) The rules adopted pursuant to this section are complete, lawful alternatives to any requirements specified for buildings or industrialized units in any section of the Revised Code. Except as otherwise provided in division (I) of this section, the board shall, on its own motion or on application made under sections 3781.12 and 3781.13 of the Revised Code, formulate, propose, adopt, modify, amend, or repeal the rules to the extent necessary or desirable to effectuate the purposes of sections 3781.06 to 3781.18 of the Revised Code.

(B) The board shall report to the general assembly proposals for amendments to existing statutes relating to the purposes declared in section 3781.06 of the Revised Code that public health and safety and the development of the arts require and shall recommend any additional legislation to assist in carrying out fully, in statutory form, the purposes declared in that section. The board shall prepare and submit to the general assembly a summary report of the number, nature, and disposition of the petitions filed under sections 3781.13 and 3781.14 of the Revised Code.

(C) On its own motion or on application made under sections 3781.12 and 3781.13 of the Revised Code, and after thorough testing and evaluation, the board shall determine by rule that any particular fixture, device, material, process of manufacture, manufactured unit or component, method of manufacture, system, or method of construction complies with performance standards adopted pursuant to section 3781.11 of the Revised Code. The board shall make its determination with regard to adaptability for safe and sanitary erection, use, or
construction, to that described in any section of the Revised Code, wherever the use of a fixture, device, material, method of manufacture, system, or method of construction described in that section of the Revised Code is permitted by law. The board shall amend or annul any rule or issue an authorization for the use of a new material or manufactured unit on any like application. No department, officer, board, or commission of the state other than the board of building standards or the board of building appeals shall permit the use of any fixture, device, material, method of manufacture, newly designed product, system, or method of construction at variance with what is described in any rule the board of building standards adopts or issues or that is authorized by any section of the Revised Code. Nothing in this section shall be construed as requiring approval, by rule, of plans for an industrialized unit that conforms with the rules the board of building standards adopts pursuant to section 3781.11 of the Revised Code.

(D) The board shall recommend rules, codes, and standards to help carry out the purposes of section 3781.06 of the Revised Code and to help secure uniformity of state administrative rulings and local legislation and administrative action to the bureau of workers' compensation, the director of commerce, any other department, officer, board, or commission of the state, and to legislative authorities and building departments of counties, townships, and municipal corporations, and shall recommend that they audit those recommended rules, codes, and standards by any appropriate action that they are allowed pursuant to law or the constitution.

(E)(1) The board shall certify municipal, township, and county building departments, the personnel of those building departments, persons described in division (E)(7) of this
section, and employees of individuals, firms, the state, or

corporations described in division (E)(7) of this section to

exercise enforcement authority, to accept and approve plans and

specifications, and to make inspections, pursuant to sections

3781.03, 3791.04, and 4104.43 of the Revised Code.

(2) The board shall certify departments, personnel, and

persons to enforce the state residential building code, to

enforce the nonresidential building code, or to enforce both the

residential and the nonresidential building codes. Any

department, personnel, or person may enforce only the type of

building code for which certified.

(3) The board shall not require a building department, its

personnel, or any persons that it employs to be certified for

residential building code enforcement if that building

department does not enforce the state residential building code. The board shall specify, in rules adopted pursuant to Chapter

119. of the Revised Code, the requirements for certification for

residential and nonresidential building code enforcement, which

shall be consistent with this division. The requirements for

residential and nonresidential certification may differ. Except

as otherwise provided in this division, the requirements shall

include, but are not limited to, the satisfactory completion of

an initial examination and, to remain certified, the completion

of a specified number of hours of continuing building code

education within each three-year period following the date of

certification which shall be not less than thirty hours. The

rules shall provide that continuing education credits and

certification issued by the council of American building

officials, national model code organizations, and agencies or

entities the board recognizes are acceptable for purposes of

this division. The rules shall specify requirements that are
consistent with the provisions of section 5903.12 of the Revised Code relating to active duty military service and are compatible, to the extent possible, with requirements the council of American building officials and national model code organizations establish.

(4) The board shall establish and collect a certification and renewal fee for building department personnel, and persons and employees of persons, firms, or corporations as described in this section, who are certified pursuant to this division.

(5) Any individual certified pursuant to this division shall complete the number of hours of continuing building code education that the board requires or, for failure to do so, forfeit certification.

(6) This division does not require or authorize the board to certify personnel of municipal, township, and county building departments, and persons and employees of persons, firms, or corporations as described in this section, whose responsibilities do not include the exercise of enforcement authority, the approval of plans and specifications, or making inspections under the state residential and nonresidential building codes.

(7) Enforcement authority for approval of plans and specifications and enforcement authority for inspections may be exercised, and plans and specifications may be approved and inspections may be made on behalf of a municipal corporation, township, or county, by any of the following who the board of building standards certifies:

(a) Officers or employees of the municipal corporation, township, or county;
(b) Persons, or employees of persons, firms, or
corporations, pursuant to a contract to furnish architectural,
ing工程, or other services to the municipal corporation,
township, or county;

(c) Officers or employees of, and persons under contract
with, a municipal corporation, township, county, health
district, or other political subdivision, pursuant to a contract
to furnish architectural, engineering, or other services;

(d) Officers or employees of the division of industrial
compliance in the department of commerce pursuant to a contract
authorized by division (B) of section 121.083 of the Revised
Code.

(8) Municipal, township, and county building departments
have jurisdiction within the meaning of sections 3781.03,
3791.04, and 4104.43 of the Revised Code, only with respect to
the types of buildings and subject matters for which they are
certified under this section.

(9) A certified municipal, township, or county building
department may exercise enforcement authority, accept and
approve plans and specifications, and make inspections pursuant
to sections 3781.03, 3791.04, and 4104.43 of the Revised Code
for a park district created pursuant to Chapter 1545. of the
Revised Code upon the approval, by resolution, of the board of
park commissioners of the park district requesting the
department to exercise that authority and conduct those
activities, as applicable.

(10) Certification shall be granted upon application by
the municipal corporation, the board of township trustees, or
the board of county commissioners and approval of that
application by the board of building standards. The application shall set forth:

(a) Whether the certification is requested for residential or nonresidential buildings, or both;

(b) The number and qualifications of the staff composing the building department;

(c) The names, addresses, and qualifications of persons, firms, or corporations contracting to furnish work or services pursuant to division (E)(7)(b) of this section;

(d) The names of any other municipal corporation, township, county, health district, or political subdivision under contract to furnish work or services pursuant to division (E)(7) of this section;

(e) The proposed budget for the operation of the building department.

(11) The board of building standards shall adopt rules governing all of the following:

(a) The certification of building department personnel and persons and employees of persons, firms, or corporations exercising authority pursuant to division (E)(7) of this section. The rules shall disqualify any employee of the department or person who contracts for services with the department from performing services for the department when that employee or person would have to pass upon, inspect, or otherwise exercise authority over any labor, material, or equipment the employee or person furnishes for the construction, alteration, or maintenance of a building or the preparation of working drawings or specifications for work within the jurisdictional area of the department. The department shall
provide other similarly qualified personnel to enforce the residential and nonresidential building codes as they pertain to that work.

(b) The minimum services to be provided by a certified building department.

(12) The board of building standards may revoke or suspend certification to enforce the residential and nonresidential building codes, on petition to the board by any person affected by that enforcement or approval of plans, or by the board on its own motion. Hearings shall be held and appeals permitted on any proceedings for certification or revocation or suspension of certification in the same manner as provided in section 3781.101 of the Revised Code for other proceedings of the board of building standards.

(13) Upon certification, and until that authority is revoked, any county or township building department shall enforce the residential and nonresidential building codes for which it is certified without regard to limitation upon the authority of boards of county commissioners under Chapter 307. of the Revised Code or boards of township trustees under Chapter 505. of the Revised Code.

(F) In addition to hearings sections 3781.06 to 3781.18 and 3791.04 of the Revised Code require, the board of building standards shall make investigations and tests, and require from other state departments, officers, boards, and commissions information the board considers necessary or desirable to assist it in the discharge of any duty or the exercise of any power mentioned in this section or in sections 3781.06 to 3781.18, 3791.04, and 4104.43 of the Revised Code.
(G) The board shall adopt rules and establish reasonable fees for the review of all applications submitted where the applicant applies for authority to use a new material, assembly, or product of a manufacturing process. The fee shall bear some reasonable relationship to the cost of the review or testing of the materials, assembly, or products and for the notification of approval or disapproval as provided in section 3781.12 of the Revised Code.

(H) The residential construction advisory committee shall provide the board with a proposal for a state residential building code that the committee recommends pursuant to division (D)(1) of section 4740.14 of the Revised Code. Upon receiving a recommendation from the committee that is acceptable to the board, the board shall adopt rules establishing that code as the state residential building code.

(I)(1) The committee may provide the board with proposed rules to update or amend the state residential building code that the committee recommends pursuant to division (E) of section 4740.14 of the Revised Code.

(2) If the board receives a proposed rule to update or amend the state residential building code as provided in division (I)(1) of this section, the board either may accept or reject the proposed rule for incorporation into the residential building code. If the board does not act to either accept or reject the proposed rule within ninety days after receiving the proposed rule from the committee as described in division (I)(1) of this section, the proposed rule shall become part of the residential building code.

(J) The board shall cooperate with the director of job and family services when the director promulgates rules pursuant to
section 5104.05 of the Revised Code regarding safety and sanitation in type A family day-care homes.

(K) The board shall adopt rules to implement the requirements of section 3781.108 of the Revised Code.

(L) In the interest of public safety, all rules adopted by the board pursuant to this chapter shall be exempt from section 121.95 of the Revised Code.

Section 2. That existing sections 3737.82 and 3781.10 of the Revised Code are hereby repealed.