



## **H.B. 403**

124th General Assembly  
(As Introduced)

**Reps. Kilbane, Olman, Latta, Carano, G. Smith, Webster, Otterman, White, Allen, Patton, Lendrum, Hartnett**

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### **BILL SUMMARY**

- Creates a statewide uniform building code.
- Increases the size of the Board of Building Standards from ten to 13 members.
- Creates the Buildings Officials and Code Administrators Building Standards Advisory Committee within the Department of Commerce.
- Creates the Building Code Interpretation Committee within the Department of Commerce.

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### **CONTENT AND OPERATION**

#### **Background**

Chapters 3781. and 3791. of the Revised Code authorize the Board of Building Standards to adopt rules requiring that places of resort, assembly, education, entertainment, lodging, dwelling, trade, manufacture, repair, storage, traffic, or occupancy used by the public be so constructed and maintained as to ensure they are safe and sanitary for their intended use and occupancy. Pursuant to this authority, the Board has adopted various rules compiled in the Ohio Basic Building Code (OBBC). By statute, the OBBC does not apply to single-, two-, and three-family dwelling houses that are not constructed as industrialized units or to certain family day-care homes or certain agricultural buildings. Additionally, as a general matter, the OBBC does not apply retroactively except in the case where the General Assembly has mandated that any new requirements apply, such as in the case with the retrofitting of fire suppression systems in nursing and rest homes and day-care centers. Two other instances where an owner must "bring a building up" to current OBBC rules, with specified exceptions, are: (1) when an existing

building is altered, added to, or renovated, or (2) usually when there is a change in the intended use of a building caused from a renovation.

### **Board of Building Standards**

#### **Composition**

Currently, the Board of Building Standards is comprised of ten members appointed by the Governor with the advice and consent of the Senate.

The bill adds the following three members: one licensed heating, ventilating, and air conditioning contractor, one licensed electrical contractor, and one representative of employers who are manufacturers who have their primary manufacturing premises in Ohio. Under the bill, the Director of Commerce is required to appoint these three members to the Board of Building Standards within 90 days after the bill's effective date. The initial appointees serve from the date of appointment until October 13, 2005, and thereafter serve four-year terms commencing on October 14 and ending on October 13 as specified in existing law. (Sec. 3781.07; Section 3.)

#### **Statewide uniform standards**

Under current law, the Board of Building Standards is required to adopt rules that set forth the lawful minimum requirements specified for buildings or industrialized units under the purview of the Board. Under the bill, the Board is required to adopt rules that establish statewide uniform standards and requirements, rather than minimum guidelines. (Secs. 3781.10(A) and 3781.11(A)(1).)

Under current law, the rules of the Board supersede and govern any order, standard, or rule of the Division of Industrial Compliance in the Department of Commerce, Division of the Fire Marshal, the Department of Health, and counties and townships in all cases where the orders, standards, or rules are in conflict with the rules of the Board. There is an exception for rules or orders issued by the Fire Marshal addressing fireworks, which prevail over rules, orders, or standards of the Board in the event of a conflict. The bill adds that the rules of the Board also supercede any order, standard, or rule of a municipal corporation in conflict with the Board's rules as well as any rule, order, or standard that addresses the same subject matters as the rules of the Board. (Sec. 3781.11(B).)

Under current law, the Building Standards Law (R.C. Chapters 3781. and 3791.) does not prevent the legislative authority of a municipal corporation from making further and additional rules that are not in conflict with the Building Standards Law or with rules adopted by the Board of Building Standards (sec.



3781.01). The bill qualifies this authority of a municipal corporation by stipulating that such rules may extend only to matters not addressed by the rules of the Board of Building Standards (sec. 3781.01).

Under current law, wherever in Chapters 3781. and 3791. of the Revised Code or rules or regulations adopted pursuant to those chapters, particular fixtures, devices, materials, systems, method of manufacture, product of a manufacturing process, or methods or manners of construction or installation are described, the description prescribes *minimum* standards of safety and sanitary conditions exemplified by those particular fixtures, devices, materials, systems, method of manufacture, product of a manufacturing process, or methods or manners of construction or installation. Where the use of another fixture, device, material, system, industrialized unit, newly designed product, or method, or manner of construction or installation is desired which is at variance with what is described in those chapters, that use is permissible, if the other fixture, device, material, system, manufactured component or unit, product, method, or manner of construction complies with performance standards as determined by the Board. Under the bill, those standards are no longer minimum, but rather, the Board's rules prescribe uniform standards for statewide application. (Sec. 3781.18.)

**Building Officials and Code Administrators Building Standards Advisory Committee**

The bill creates a Building Officials and Code Administrators Building Standards Advisory Committee (hereafter "Advisory Committee") within the Department of Commerce. The Advisory Committee consists of seven members appointed by the Director of Commerce within 90 days after the bill's effective date. The terms of the initial appointees are staggered so that one member is appointed for an initial term of one year, two members are appointed for an initial term of two years, and two are appointed for an initial term of three years. Two members are not accounted for in the bill with respect to initial appointments. After initial terms of office end, subsequent terms are three years, with each term ending on the same day of the same month as the term that it succeeds. Each member holds office from the date of appointment until the end of the term for which the member is appointed. Members may be reappointed. The Director of Commerce fills vacancies in the same manner provided for in the initial appointments. Any member appointed to fill a vacancy occurring prior to the expiration date of the term for which the member's predecessor was appointed shall hold office as a member for the remainder of that term. A member is required to continue in office subsequent to the expiration of the member's term until the member's successor takes office or until a period of 60 days has elapsed, whichever occurs first.

The bill requires that of the members appointed to the Advisory Committee, at least one must be certified as a fire safety inspector and at least one member must be a certified local building department official. All members are required to have recognized expertise and experience developing, administering, or enforcing state building codes. Not more than two members are allowed to represent the same "subcategory subject code contained in the Ohio Building Code."

Members of the Advisory Committee do not receive compensation, but do receive their actual and necessary expenses incurred in the performance of their official duties as members. The Director of Commerce is required to provide the Advisory Committee with administrative staff and supplies that the Director determines to be necessary.

The Advisory Committee is required to attend national or regional meetings of Building Officials and Code Administrators International, Incorporated and of the International Code Council, and to serve as representatives of Ohio at those meetings. The Advisory Committee also is required to participate in initiatives as directed by the Board of Building Standards and to make recommendations to the Board concerning the Ohio Building Code, as the Advisory Committee determines necessary. The bill exempts the Advisory Committee from the provisions of the Sunset Review Commission. (Sec. 3781.071.)

### **Building Code Interpretation Committee**

The bill creates a Building Code Interpretation Committee (hereafter "Interpretation Committee") within the Department of Commerce. The Interpretation Committee consists of seven members appointed by the Director of Commerce within 90 days after the bill's effective date. Initial appointments to the Interpretation Committee are made in the same manner as initial appointments to the Advisory Committee. After the initial appointments to the Interpretation Committee expire, terms of office are for three years, with each term ending on the same day of the same month as the term it succeeds. The bill contains the same provisions for filling of vacancies as it contains for the Advisory Committee. (*See above, "**Building Officials and Code Administrators Building Standards Advisory Committee.**"*)

Of the members appointed to the committee, at least one must be certified as a fire safety inspector and at least one member must be a certified local building department official. All members are required to have recognized expertise and experience developing, administering, or enforcing state building codes. Not more than two members may represent the same "subcategory subject code contained in the Ohio Building Code."

Members of the Interpretation Committee do not receive compensation, but do receive their actual and necessary expenses incurred in the performance of their official duties as members. The Director of Commerce is required to provide the Interpretation Committee with administrative staff and supplies that the Director determines to be necessary. Like the Advisory Committee, the Interpretation Committee is not subject to review by the Sunset Review Committee.

The Interpretation Committee is required to do all of the following:

(1) With the oversight of the Board of Building Standards, provide guidance concerning and interpretation of the Ohio Building Code, upon request, to any contractor, design professional, building inspector, or building official;

(2) Provide the board with suggested amendments to the Ohio Building Code when the committee determines that amendments are advisable;

(3) Maintain a written record of all requests the committee receives for interpretation of the Ohio Building Code, all advisory information the committee provides, and related information that includes interpretations, enforcement orders, and variances rendered by local building departments;

(4) Make the records described in (3) readily available upon request by the public;

(5) Any other duties assigned by the Board. (Sec. 3781.072.)

### **Plumbing**

Under current law, plumbing standards and methods prescribed in local regulations may not be less than those prescribed in the Building Standards Law and rules adopted pursuant to it.

The bill eliminates the reference to plumbing standards and methods prescribed in local regulations to remain consistent with the statewide uniform regulations set forth in the bill. (Sec. 3703.01(C).)

### **Intent**

An intent clause is included in the bill expressing that it is the intent of the General Assembly that the provisions of the bill, creating a uniform building code, are general laws created in the exercise of the state's police power, arising out of matters of statewide concern, and are designed for the health, safety, and welfare of construction design professionals and contractors, their employees, and the public. (Section 4.)

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## HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	10-16-01	p. 926

H0403-I.124/jc

