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State of Minnesota  
**HOUSE OF REPRESENTATIVES**

EIGHTY-FIFTH  
SESSION

**HOUSE FILE No. 3574**

February 28, 2008

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The bill was read for the first time and referred to the Committee on Local Government and Metropolitan Affairs

1.1 A bill for an act  
1.2 relating to the State Building Code; regulating the application and enforcement of  
1.3 the State Building Code; amending Minnesota Statutes 2006, sections 16B.616,  
1.4 subdivision 4; 16B.62; 16B.71; Minnesota Statutes 2007 Supplement, section  
1.5 16B.735; repealing Minnesota Statutes 2007 Supplement, sections 16B.72;  
1.6 16B.73.

1.7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.8 Section 1. Minnesota Statutes 2006, section 16B.616, subdivision 4, is amended to read:

1.9 Subd. 4. **Enforcement.** (a) A statutory or home rule charter city that ~~is not covered~~  
1.10 ~~by the code because of action taken under section 16B.72 or 16B.73~~ does not have in  
1.11 effect an ordinance adopting the State Building Code is responsible for enforcement in the  
1.12 city of the code's requirements for bleacher safety. In all other areas where ~~the code does~~  
1.13 ~~not apply because of action taken under section 16B.72 or 16B.73~~ there is no ordinance  
1.14 in effect adopting the State Building Code, the county is responsible for enforcement of  
1.15 ~~those~~ the code's requirements for bleacher safety.

1.16 (b) Municipalities that have not adopted the code may enforce the code requirements  
1.17 for bleacher safety by either entering into a joint powers agreement for enforcement  
1.18 with another municipality that has adopted the code or contracting for enforcement with  
1.19 a qualified and certified building official or state licensed design professional to enforce  
1.20 the code.

1.21 (c) Municipalities, school districts, organizations, individuals, and other persons  
1.22 operating or owning places of public accommodation with bleachers that are subject to the  
1.23 safety requirements in subdivision 3 shall provide a signed certification of compliance  
1.24 to the commissioner by January 1, 2002. For bleachers subject to the exception in  
1.25 subdivision 3, clause (1), entities covered by this paragraph must have on file a bleacher

2.1 safety management plan and amortization schedule. The certification shall be prepared by  
2.2 a qualified and certified building official or state licensed design professional and shall  
2.3 certify that the bleachers have been inspected and are in compliance with the requirements  
2.4 of this section and are structurally sound. For bleachers owned by a school district or  
2.5 nonpublic school, the person the district or nonpublic school designates to be responsible  
2.6 for buildings and grounds may make the certification.

2.7 Sec. 2. Minnesota Statutes 2006, section 16B.62, is amended to read:

2.8 **16B.62 STATE BUILDING CODE; APPLICATION AND ENFORCEMENT.**

2.9 ~~Subdivision 1. **Municipal enforcement.** The State Building Code applies statewide~~  
2.10 ~~and supersedes the building code of any municipality. A municipality must not by~~  
2.11 ~~ordinance or through development agreement require building code provisions regulating~~  
2.12 ~~components or systems of any residential structure that are different from any provision~~  
2.13 ~~of the State Building Code. A municipality may, with the approval of the state building~~  
2.14 ~~official, adopt an ordinance that is more restrictive than the State Building Code where~~  
2.15 ~~geological conditions warrant a more restrictive ordinance. A municipality may appeal~~  
2.16 ~~the disapproval of a more restrictive ordinance to the commissioner. An appeal under~~  
2.17 ~~this subdivision is subject to the schedule, fee, procedures, cost provisions, and appeal~~  
2.18 ~~rights set out in section 16B.67. The State Building Code does not apply to agricultural~~  
2.19 ~~buildings except with respect to state inspections required or rulemaking authorized~~  
2.20 ~~by sections 103F.141, 216C.19, subdivision 8, and 326.244. All municipalities shall~~  
2.21 ~~adopt and enforce the State Building Code with respect to new construction within their~~  
2.22 ~~respective jurisdictions.~~

2.23 ~~If a city has adopted or is enforcing the State Building Code on June 3, 1977, or~~  
2.24 ~~determines by ordinance after that date to undertake enforcement, it shall enforce the~~  
2.25 ~~code within the city. A city may by ordinance and with permission of the township~~  
2.26 ~~board extend the enforcement of the code to contiguous unincorporated territory not~~  
2.27 ~~more than two miles distant from its corporate limits in any direction if the code is not~~  
2.28 ~~in effect in the territory. Where two or more noncontiguous cities which have elected to~~  
2.29 ~~enforce the code have boundaries less than four miles apart, each is authorized to enforce~~  
2.30 ~~the code on its side of a line equidistant between them. Once enforcement authority is~~  
2.31 ~~extended extraterritorially by ordinance, the authority may continue to be exercised in the~~  
2.32 ~~designated territory even though another city less than four miles distant later elects to~~  
2.33 ~~enforce the code. After the extension, the city may enforce the code in the designated area~~  
2.34 ~~to the same extent as if the property were situated within its corporate limits.~~

3.1 Enforcement of the code in an extended area outside a city's corporate limits includes  
3.2 all rules, laws, and ordinances associated with administration of the code.

3.3 A city which, on June 3, 1977, had not adopted the code may not commence  
3.4 enforcement of the code within or outside of its jurisdiction until it has provided written  
3.5 notice to the commissioner, the county auditor, and the town clerk of each town in which  
3.6 it intends to enforce the code. A public hearing on the proposed enforcement must be  
3.7 held not less than 30 days after the notice has been provided. Enforcement of the code  
3.8 by the city outside of its jurisdiction commences on the first day of January in the year  
3.9 following the notice and hearing.

3.10 Municipalities may provide for the issuance of permits, inspection, and enforcement  
3.11 within their jurisdictions by means which are convenient, and lawful, including by means  
3.12 of contracts with other municipalities pursuant to section 471.59, and with qualified  
3.13 individuals. The other municipalities or qualified individuals may be reimbursed by  
3.14 retention or remission of some or all of the building permit fee collected or by other means.  
3.15 In areas of the state where inspection and enforcement is unavailable from qualified  
3.16 employees of municipalities, the commissioner shall train and designate individuals  
3.17 available to carry out inspection and enforcement on a fee basis. Nothing in this section  
3.18 prohibits a municipality from adopting ordinances relating to zoning, subdivision, or  
3.19 planning unless the ordinance conflicts with a provision of the State Building Code that  
3.20 regulates components or systems of any residential structure.

3.21 Subd. 1a. **Application.** The State Building Code is the standard that applies  
3.22 statewide for the construction, reconstruction, alteration, and repair of buildings and other  
3.23 structures of the type governed by the code. The State Building Code supersedes the  
3.24 building code of any municipality. The State Building Code does not apply to agricultural  
3.25 buildings except with respect to state inspections required or rulemaking authorized by  
3.26 sections 103F.141; 216C.19, subdivision 9; and 326.244.

3.27 Subd. 1b. **Municipal enforcement.** (a) If, as of January 1, 2007, a municipality  
3.28 has in effect an ordinance adopting the State Building Code, that municipality must  
3.29 continue to administer and enforce the State Building Code within its jurisdiction. The  
3.30 municipality is prohibited from repealing its ordinance adopting the State Building Code.  
3.31 This paragraph does not apply to municipalities with a population of less than 2,500  
3.32 according to the last federal census.

3.33 (b) If a municipality is not required by paragraph (a) to administer and enforce the  
3.34 State Building Code, the municipality may choose to administer and enforce the State  
3.35 Building Code within its jurisdiction by adopting the code by ordinance.

4.1           (c) A municipality must not by ordinance, or through development agreement,  
4.2 require building code provisions regulating components or systems of any structure that  
4.3 are different from any provision of the State Building Code. A municipality may, with  
4.4 the approval of the state building official, adopt an ordinance that is more restrictive  
4.5 than the State Building Code where geological conditions warrant a more restrictive  
4.6 ordinance. A municipality may appeal the disapproval of a more restrictive ordinance  
4.7 to the commissioner. An appeal under this subdivision is subject to the schedule, fee,  
4.8 procedures, cost provisions, and appeal rights set out in section 16B.67.

4.9           (d) A city may by ordinance and with permission of the township board extend the  
4.10 administration and enforcement of the code to contiguous unincorporated territory not  
4.11 more than two miles distant from its corporate limits in any direction if the code is not  
4.12 already administered and enforced in the territory. Where two or more noncontiguous  
4.13 cities, which have elected to administer and enforce the code, have boundaries less than  
4.14 four miles apart, each is authorized to enforce the code on its side of a line equidistant  
4.15 between them. Once enforcement authority is extended extraterritorially by ordinance, the  
4.16 authority may continue to be exercised in the designated territory even though another  
4.17 city less than four miles distant later elects to enforce the code. After the extension, the  
4.18 city may enforce the code in the designated area to the same extent as if the property  
4.19 were situated within its corporate limits. Enforcement of the code in an extended area  
4.20 outside a city's corporate limits includes all rules, laws, and ordinances associated with  
4.21 administration of the code.

4.22           (e) A city cannot commence administration and enforcement of the code outside of  
4.23 its jurisdiction until it has provided written notice to the commissioner, the county auditor,  
4.24 and the town clerk of each town in which it intends to administer and enforce the code.  
4.25 A public hearing on the proposed administration and enforcement must be held not less  
4.26 than 30 days after the notice has been provided. Administration and enforcement of  
4.27 the code by the city outside of its jurisdiction commences on the first day of January in  
4.28 the year following the notice and hearing.

4.29           (f) A municipality that has adopted the State Building Code may administer and  
4.30 enforce it by any means that are convenient and lawful, including entering into contracts  
4.31 with other municipalities under section 471.59 and with qualified individuals. The other  
4.32 municipalities or qualified individuals may be reimbursed by retention or remission of  
4.33 some or all of the building permit fee collected or by other means. If a municipality has  
4.34 adopted the State Building Code but there are no qualified employees of the municipality  
4.35 available to carry out inspection and enforcement, the commissioner shall train and  
4.36 designate individuals available to carry out inspection and enforcement on a fee basis.

5.1 (g) Nothing in this subdivision prohibits a municipality from adopting ordinances  
 5.2 relating to zoning, subdivision, or planning unless the ordinance conflicts with a provision  
 5.3 of the State Building Code that regulates components or systems of any structure.

5.4 Subd. 2. **Enforcement by state building official.** If the commissioner determines  
 5.5 that a municipality that has adopted the State Building Code is not properly administering  
 5.6 and enforcing the ~~State Building Code as provided in section 16B.71~~ code, or if the  
 5.7 commissioner determines that any municipality that is required by law to enforce  
 5.8 any provision of the State Building Code is not properly enforcing that provision, the  
 5.9 commissioner may have the administration and enforcement in the involved municipality  
 5.10 undertaken by the state building official or by another building official certified by the  
 5.11 state. The commissioner shall notify the affected municipality in writing immediately  
 5.12 upon making the determination, and the municipality may challenge the determination  
 5.13 as a contested case before the commissioner pursuant to the Administrative Procedure  
 5.14 Act. ~~In municipalities not properly administering and enforcing the State Building Code,~~  
 5.15 ~~and in municipalities who determine not to administer and enforce the State Building~~  
 5.16 ~~Code, the commissioner shall have administration and enforcement undertaken by~~  
 5.17 ~~the state building official or by another inspector certified by the state.~~ In carrying out  
 5.18 administration and enforcement under this subdivision, the commissioner shall apply any  
 5.19 optional provision of the State Building Code adopted by the municipality. A municipality  
 5.20 adopting any optional code provision shall notify the state building official within 30 days  
 5.21 of its adoption. The commissioner shall determine appropriate fees to be charged for  
 5.22 the administration and enforcement service rendered. Any cost to the state arising from  
 5.23 the state administration and enforcement of the State Building Code shall be borne by  
 5.24 the subject municipality.

5.25 Sec. 3. Minnesota Statutes 2006, section 16B.71, is amended to read:

5.26 **16B.71 PERMIT FEES, TO WHOM APPLICABLE.**

5.27 ~~Municipal building officials~~ If a municipality has adopted the State Building Code,  
 5.28 the municipality's building official shall administer and enforce the State Building  
 5.29 Code with respect to all subject structures constructed within ~~their~~ the municipality's  
 5.30 jurisdiction, including all buildings constructed by municipalities other than the state;  
 5.31 ~~as defined in section 16B.60~~; and the University of Minnesota. These governmental  
 5.32 bodies shall pay the building permit fees and surcharges that the inspecting municipality  
 5.33 customarily imposes for its administration and enforcement of the code.

6.1 Sec. 4. Minnesota Statutes 2007 Supplement, section 16B.735, is amended to read:

6.2 **16B.735 ENFORCEMENT OF REQUIREMENTS FOR DISABLED**  
6.3 **PERSONS WITH DISABILITIES.**

6.4 A statutory or home rule charter city that ~~is not covered by~~ does not have in effect  
6.5 an ordinance adopting the State Building Code because of action taken under section  
6.6 ~~16B.72 or 16B.73~~ is responsible for enforcement in the city of the State Building Code's  
6.7 requirements for disabled persons ~~with disabilities~~. In all other areas where there is no  
6.8 ordinance in effect adopting the State Building Code does not apply because of action  
6.9 ~~taken under section 16B.72 or 16B.73~~, the county is responsible for enforcement of ~~those~~  
6.10 the State Building Code's requirements for disabled persons.

6.11 Sec. 5. **REPEALER.**

6.12 Minnesota Statutes 2007 Supplement, sections 16B.72; and 16B.73, are repealed.