

1 IN THE SENATE

BY FAIKS

2 SPONSOR SUBSTITUTE FOR SENATE BILL NO. 300
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to building, construction, and
7 safety codes; consolidating building regulation;
8 transferring certain functions to the Department of
9 Commerce and Economic Development; and providing for
10 an effective date."

11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

12 * Section 1. PURPOSE. The purpose of this Act is to better serve the
13 public and increase efficiency and cost effectiveness of state government
14 by adopting uniform building, construction, and safety codes; establishing
15 a procedure for periodic revisions and updates of uniform building, con-
16 struction, and safety codes; establishing an appeals procedure for vio-
17 lations of uniform building, construction, and safety codes; and consol-
18 idating governmental functions relating to adoption and enforcement of
19 building, construction, and safety codes into the Department of Commerce
20 and Economic Development.

21 * Sec. 2. TRANSFER OF AUTHORITY. (a) The authority to adopt, amend,
22 and enforce building, construction, and safety codes is transferred to the
23 Department of Commerce and Economic Development from the Department of
24 Labor.

25 (b) The responsibility for inspection of recreational devices under
26 AS 05.20 is transferred to the Department of Commerce and Economic Develop-
27 ment from the Department of Labor.

28 (c) The responsibility for issuing certificates of fitness under
29 AS 18.62 is transferred to the Department of Commerce and Economic

1 Development from the Department of Labor.

2 (d) The division of fire prevention and its statutory powers and
3 duties are transferred to the Department of Commerce and Economic Develop-
4 ment from the Department of Public Safety. The responsibility for state
5 fire prevention and protection functions and for the regulation of fire-
6 works is transferred to the Department of Commerce and Economic Development
7 from the Department of Public Safety.

8 (e) The authority to adopt and enforce regulations governing access
9 to public buildings and facilities by the physically handicapped, aged, and
10 infirmed is transferred to the Department of Commerce and Economic Develop-
11 ment from the Department of Transportation and Public Facilities.

12 (f) The authority to adopt and enforce regulations governing thermal
13 and lighting energy standards for public and private buildings is trans-
14 ferred to the Department of Commerce and Economic Development from the
15 Department of Transportation and Public Facilities and the Department of
16 Community and Regional Affairs.

17 * Sec. 3. AS 18 is amended by adding a new chapter to read:

18 CHAPTER 61. BUILDING, CONSTRUCTION, AND SAFETY CODES.

19 Sec. 18.61.010. ADOPTION OF BUILDING, CONSTRUCTION, AND SAFETY
20 CODES. (a) The Department of Commerce and Economic Development shall
21 adopt by regulation the following codes as the minimum building,
22 construction, and safety criteria for the state:

23 (1) Uniform Administrative Code, published by the Interna-
24 tional Conference of Building Officials;

25 (2) Uniform Building Code, published by the International
26 Conference of Building Officials;

27 (3) Uniform Fire Code, published by the International
28 Conference of Building Officials and Western Fire Chiefs Association;

29 (4) Uniform Mechanical Code, published by the International

- 1 Conference of Building Officials and the International Association of
2 Plumbing and Mechanical Officials;
- 3 (5) Uniform Plumbing Code, published by the International
4 Association of Plumbing and Mechanical Officials;
- 5 (6) Uniform Solar Energy Code, published by the Interna-
6 tional Association of Plumbing and Mechanical Officials;
- 7 (7) Uniform Swimming Pool, Spa and Hot Tub Code, published
8 by the International Association of Plumbing and Mechanical Officials;
- 9 (8) Uniform Sign Code, published by the International
10 Conference of Building Officials;
- 11 (9) Uniform Code for the Abatement of Dangerous Buildings,
12 published by the International Conference of Building Officials;
- 13 (10) Uniform Federal Accessibility Standard (41 C.F.R.
14 101-19.6, Appendix A);
- 15 (11) Energy Conservation in New Buildings (ASHREA/IES 90);
- 16 (12) National Electrical Code (ANSI/NFPA 70), published by
17 the National Fire Protection Association;
- 18 (13) National Electrical Safety Code (ANSI C2), adopted by
19 the American National Standards Institute;
- 20 (14) Safety Code for Elevators and Escalators (ANSI/ASME
21 A17.1), published by the American Society of Mechanical Engineers;
- 22 (15) Boiler Construction Code, published by the American
23 Society of Mechanical Engineers;
- 24 (16) Safety Code for Aerial Passenger Tramways, B77.1;
- 25 (17) other building, construction, and safety codes or
26 standards that the department finds necessary to protect the public
27 health, safety, and welfare.
- 28 (b) The department shall adopt the latest edition of each code
29 listed in (a) of this section by the end of the calendar year

1 following the calendar year in which the latest edition of the code is
2 published.

3 (c) The department may amend, supplement, or delete provisions
4 of a code listed in (a) of this section, as necessary to make the code
5 applicable to conditions existing in the state.

6 Sec. 18.61.020. ADOPTION AND ENFORCEMENT OF CODES BY MUNICIPALI-
7 TIES. (a) Except as otherwise provided, adoption of a code under
8 AS 18.61.010 is not intended to preempt administration or enforcement
9 of a building, construction, or safety code adopted by ordinance by a
10 municipality.

11 (b) If a municipality chooses to regulate activities within its
12 boundaries that are subject to a building, construction, or safety
13 code adopted by the department under AS 18.61.010, the municipality
14 shall adopt by ordinance the code adopted by the department. The
15 municipality may amend the code if the amended code is not less strin-
16 gent than that adopted by the department.

17 Sec. 18.61.030. CERTIFICATES OF COMPETENCY FOR CODE ENFORCEMENT
18 PERSONNEL. The administrative official shall require that a person
19 authorized to enforce a code adopted under AS 18.61.010 hold an appro-
20 priate certificate of competency and maintain competency through
21 continuing education.

22 Sec. 18.61.040. BUILDING REGULATIONS BOARD. (a) There is
23 created the Building Regulations Board in the department.

24 (b) The board consists of 11 persons who are appointed by the
25 governor and who serve at the pleasure of the governor. The members
26 of the board shall be

27 (1) an architect experienced in the design of commercial
28 and industrial structures;

29 (2) an architect experienced in the design of residential

- 1 structures;
- 2 (3) a mechanical engineer;
- 3 (4) an electrical engineer;
- 4 (5) a civil engineer experienced in structural design;
- 5 (6) a general contractor experienced in the construction of
- 6 commercial and industrial structures;
- 7 (7) a general contractor experienced in the construction of
- 8 residential structures;
- 9 (8) a mechanical contractor;
- 10 (9) an electrical administrator;
- 11 (10) a fire protection consultant; and
- 12 (11) a public member.

13 (c) Members of the board serve a term of three years. A member

14 of the board serves until a successor is appointed. An appointment to

15 fill a vacancy on the board is for the remainder of the unexpired

16 term. Members of the board serve without compensation but are enti-

17 tled to per diem and travel expenses authorized by law for boards

18 under AS 39.20.180.

19 (d) The board shall

- 20 (1) recommend modifications to building, construction, and
- 21 safety codes adopted by the department under AS 18.61.010;
- 22 (2) serve as a hearing board under AS 18.61.050;
- 23 (3) adopt regulations under the Administrative Procedure
- 24 Act (AS 44.62) governing the conduct of hearings before the board and
- 25 hearing committees.

26 (e) The administrative official is an ex officio, nonvoting

27 member of the board and serves as secretary to the board.

28 Sec. 18.61.050. HEARINGS. (a) A person who is denied a permit

29 or issued a notice of violation under a code adopted under

1 AS 18.61.010 may appeal the denial of the permit or notice of viola-
2 tion to the board within 15 calendar days after the denial of the
3 permit or the notice of violation is affirmed by the administrative
4 official. The appeal shall be in writing.

5 (b) The board shall hear the appeal within 35 calendar days
6 after the appeal is received by the board, unless the appellant re-
7 quests a later date. The board shall issue an oral decision on the
8 appeal at the conclusion of the hearing and a written decision within
9 15 calendar days after the conclusion of the hearing.

10 (c) If the board affirms the decision of the administrative
11 official, the appellant shall immediately comply with the decision of
12 the board.

13 Sec. 18.61.060. EXPEDITED HEARING. (a) If time is of the
14 essence, a person who is denied a permit or issued a notice of vio-
15 lation under a code adopted under AS 18.61.010 may appeal the denial
16 of the permit or notice of violation to the board and request an
17 expedited hearing by a hearing committee within eight calendar days
18 after the denial of the permit or the notice of violation is affirmed
19 by the administrative official. The appeal and request for an ex-
20 pedited hearing shall be in writing.

21 (b) A hearing committee consists of three appointed members of
22 the board, two of whom shall be knowledgeable about the codes that are
23 relevant to the appeal.

24 (c) If the board grants the request for an expedited hearing,
25 the board shall appoint the hearing committee and the hearing commit-
26 tee shall hold the hearing within eight calendar days after the appeal
27 and request for an expedited hearing is received by the board. The
28 hearing committee shall issue an oral decision on the appeal at the
29 conclusion of the hearing and a written decision within eight calendar

1 days after the hearing.

2 (d) If the board denies the request for an expedited hearing,
3 the board shall hear the appeal under AS 18.61.050.

4 Sec. 18.61.070. JUDICIAL REVIEW. The department or a person
5 aggrieved by the decision of the board or a hearing committee may
6 petition for review in the superior court.

7 Sec. 18.61.190. DEFINITIONS. In this chapter

8 (1) "administrative official" means the person designated
9 by the commissioner of commerce and economic development to enforce
10 the codes;

11 (2) "code" means a building, construction, or safety code
12 or standard adopted under AS 18.61.010;

13 (3) "department" means the Department of Commerce and
14 Economic Development.

15 * Sec. 4. AS 05.20.020 is amended to read:

16 Sec. 05.20.020. DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT
17 [LABOR] TO INSPECT DEVICES. The Department of Commerce and Economic
18 Development [LABOR] is responsible for the inspection of devices.

19 * Sec. 5. AS 05.20.120(1) is amended to read:

20 (1) "department" means the Department of Commerce and
21 Economic Development [LABOR];

22 * Sec. 6. AS 18.05.040(b) is amended to read:

23 (b) A regulation may not be adopted under (a) of this section
24 that duplicates, conflicts with, or is inconsistent with the plumbing
25 codes adopted under AS 18.61.010 [AS 18.60.705 - 18.60.740].

26 * Sec. 7. AS 18.62.010 is amended to read:

27 Sec. 18.62.010. CERTIFICATE OF FITNESS REQUIRED. In connection
28 with work performed subject to the electrical codes and plumbing codes
29 adopted under AS 18.61.010 [STANDARDS ESTABLISHED IN AS 18.60.580 AND

1 AS 18.60.705], a person may not be employed without a certificate of
2 fitness to perform the work [, EXCEPT THAT A CERTIFICATE OF FITNESS
3 MAY NOT BE REQUIRED OF EMPLOYEES OF AN ELECTRIC UTILITY THAT DOES NOT
4 HAVE WITHIN ITS SERVICE AREA ANY PORTION OF A CITY OR UNIFIED MUNICI-
5 PALITY HAVING MORE THAN 2,500 POPULATION].

6 * Sec. 8. AS 18.62.030 is amended to read:

7 Sec. 18.62.030. ACCOUNTING FOR FEES [FEE. WHEN SUBMITTING AN
8 APPLICATION, AN APPLICANT SHALL PAY A FEE OF \$40 FOR A CERTIFICATE
9 VALID FOR ONE YEAR OR \$75 FOR A CERTIFICATE VALID FOR THREE YEARS].
10 The commissioner of administration shall separately account for cer-
11 tificate of fitness fees that the department [DEPARTMENT OF LABOR]
12 deposits in the general fund. The annual estimated balance in the
13 account may be used by the legislature to make appropriations to the
14 department to carry out the purposes of this chapter.

15 * Sec. 9. AS 18.62.070 is repealed and reenacted to read:

16 Sec. 18.62.070. PERSONS REQUIRED TO OBTAIN CERTIFICATE. (a) A
17 person engaged in a trade subject to the electrical codes adopted
18 under AS 18.61.010 shall first obtain a certificate of fitness from
19 the department.

20 (b) A person engaged in a trade subject to the plumbing codes
21 adopted under AS 18.61.010 shall first obtain a certificate of fitness
22 from the department.

23 * Sec. 10. AS 18.62 is amended by adding a new section to read:

24 Sec. 18.62.090. DEFINITION. In this chapter "department" means
25 the Department of Commerce and Economic Development.

26 * Sec. 11. AS 18.70.081 is amended to read:

27 Sec. 18.70.081. APPROVAL OF FIRE PROTECTION SYSTEMS. Before
28 October 30 of each year the department [DEPARTMENT OF PUBLIC SAFETY]
29 shall prepare and make available a list of approved fire protection

1 systems to the Department of Community and Regional Affairs [, THE
2 DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT,] and the public.

3 * Sec. 12. AS 18.70.100(a) is amended to read:

4 (a) A person who violates a [ANY] provision of AS 18.70.010 -
5 18.70.100 or the published regulations or orders adopted under those
6 sections [IT] from which an [NO] appeal has not been taken within 30
7 days after the issuance of a final order is [, SEVERALLY, FOR EACH
8 VIOLATION,] guilty of a misdemeanor, and is punishable by a fine of
9 not more than \$500, or by imprisonment for not more than six months,
10 or by both. A person aggrieved by a final order of the department
11 [DEPARTMENT OF PUBLIC SAFETY] may appeal to the superior court within
12 30 days after the issuance of the order. The imposition of one pen-
13 alty for a violation does not excuse the violation and a person guilty
14 of a violation shall correct the violation within a reasonable time.
15 [WHEN NOT OTHERWISE SPECIFIED, EACH 10 DAYS THAT A PROHIBITED CONDI-
16 TION IS MAINTAINED IS A SEPARATE OFFENSE.]

17 * Sec. 13. AS 18.70 is amended by adding a new section to read:

18 Sec. 18.70.990. DEFINITIONS. In this chapter "department" means
19 the Department of Commerce and Economic Development.

20 * Sec. 14. AS 29.10.200 is amended by adding a new paragraph to read:

21 (49) AS 18.61.020 (building, construction, and safety code
22 adoption and enforcement)

23 * Sec. 15. AS 35.10.015(a) is amended to read:

24 (a) The Department of Commerce and Economic Development [DE-
25 PARTMENT] shall prepare, adopt, and enforce regulations governing the
26 construction of public buildings and facilities by or for the state,
27 including the University of Alaska, and its political subdivisions,
28 whether financed in whole or in part by federal funds, to ensure that
29 public buildings and facilities are accessible to, and usable by, the

1 physically handicapped, aged, or infirm. The regulations of the
2 department must conform to a standard comparable to applicable pro-
3 visions of federal law, regulations, and standards.

4 * Sec. 16. AS 35.10.015(b) is amended to read:

5 (b) The Department of Transportation and Public Facilities
6 [DEPARTMENT] shall develop and maintain an inventory of all public
7 buildings and facilities with respect to their compliance with the
8 regulations adopted under (a) of this section. The Department of
9 Transportation and Public Facilities [DEPARTMENT] shall make an annual
10 report to the governor and the legislature describing work performed
11 in the preceding calendar year to upgrade public buildings and facili-
12 ties to conform with the regulations. In addition, the Department of
13 Transportation and Public Facilities [DEPARTMENT] shall develop cost
14 estimates and recommended priorities for the upgrading of public
15 buildings and facilities that do not conform with the regulations
16 adopted under (a) of this section and shall include these estimates
17 and the recommended priorities in the annual report to the governor
18 and the legislature.

19 * Sec. 17. AS 35.10.015(e) is amended to read:

20 (e) After June 25, 1976, a [NO] public building or facility in
21 the state may not be planned, designed, financed, constructed, opened
22 to public use, or otherwise placed in operation unless it meets the
23 standards established under (a) of this section. If the standards for
24 a public building or facility are not provided for in federal law,
25 regulation, or standards, the Department of Commerce and Economic
26 Development [DEPARTMENT] shall determine the extent of, and adopt
27 regulations setting the standards for, access to and use of the public
28 building or facility by the physically handicapped, aged, or infirm.

29 * Sec. 18. AS 39.50.200(b) is amended by adding a new paragraph to

1 read:

2 (49) Building Regulations Board (AS 18.61.040).

3 * Sec. 19. AS 44.33.020 is amended by adding new paragraphs to read:

4 (30) adopt and enforce building, construction, and safety
5 codes;

6 (31) adopt and enforce energy conservation standards for
7 buildings.

8 * Sec. 20. AS 44.62.330(a) is amended by adding a new paragraph to
9 read:

10 (55) Building Regulations Board (AS 18.61.040).

11 * Sec. 21. AS 46.11.010 is amended to read:

12 Sec. 46.11.010. THERMAL AND LIGHTING ENERGY STANDARDS FOR PUBLIC
13 BUILDINGS. (a) All public facilities of the state [, THE CONSTRU-
14 TION OF WHICH BEGINS AFTER JULY 1, 1980,] shall be designed to comply
15 with the thermal and lighting energy standards adopted by the Depart-
16 ment of Commerce and Economic Development [TRANSPORTATION AND PUBLIC
17 FACILITIES] under AS 44.33.020 [AS 44.42.020(a)(14)].

18 (b) By June 30, 1988, all public facilities of the state exist-
19 ing on July 1, 1980, shall be modified, to the extent economically
20 feasible, to comply with the thermal and lighting energy standards
21 adopted by the Department of Commerce and Economic Development [TRANS-
22 PORTATION AND PUBLIC FACILITIES] under AS 44.33.020 [AS 44.42.-
23 020(a)(14)].

24 * Sec. 22. AS 46.11.900(9) is amended to read:

25 (9) "thermal and lighting energy standards" means the
26 thermal and lighting energy standards established by the American
27 Society of Heating, Refrigeration, and Air Conditioning Engineers as
28 revised

29 [(A)] by the commissioner of commerce and economic

1 development [TRANSPORTATION AND PUBLIC FACILITIES UNDER AS 44.-
2 42.020(a)] for public facilities and [; OR

3 (B) BY THE COMMISSIONER OF COMMUNITY AND REGIONAL
4 AFFAIRS] for buildings and structures that are not public facil-
5 ities.

6 * Sec. 23. Notwithstanding AS 18.62.030, as amended by sec. 8 of this
7 Act, a certificate of fitness issued before the effective date of this
8 section is valid for the term for which the certificate was issued.

9 * Sec. 24. The revisor of statutes shall

10 (1) delete "Department of Public Safety" and insert "department"
11 in AS 18.70.020, 18.70.030, 18.70.040, 18.70.050, 18.70.060, 18.70.070,
12 18.70.080, 18.70.090, 18.70.100(b), 18.70.310(a), 18.70.310(b), 18.70.-
13 310(c), and 18.70.310(d);

14 (2) delete "Public Safety" and insert "Commerce and Economic
15 Development" in AS 18.70.010; AS 18.72.050(2); and AS 29.35.500(a) and
16 29.35.530(a);

17 (3) delete "public safety" and insert "commerce and economic
18 development" in AS 18.70.080(b); and

19 (4) delete "community and regional affairs" and insert "commerce
20 and economic development" in AS 46.11.040(3)(B).

21 * Sec. 25. AS 18.60.850, AS 18.70.300, and AS 44.42.020(a)(14) are
22 repealed.

23 * Sec. 26. AS 18.60.180, 18.60.190, 18.60.200, 18.60.210, 18.60.220,
24 18.60.230, 18.60.240, 18.60.250, 18.60.260, 18.60.270, 18.60.280, 18.60.-
25 290, 18.60.300, 18.60.310, 18.60.320, 18.60.330, 18.60.340, 18.60.350,
26 18.60.360, 18.60.370, 18.60.390, and 18.60.395 are repealed.

27 * Sec. 27. AS 18.60.580, 18.60.590, 18.60.600, 18.60.610, 18.60.620,
28 18.60.630, 18.60.640, 18.60.650, 18.60.660, 18.60.670, 18.60.675, 18.60.-
29 680, 18.60.685, 18.60.690, and 18.60.695 are repealed.

1 * Sec. 28. AS 18.60.705, 18.60.710, 18.60.715, 18.60.720, 18.60.725,
2 18.60.730, 18.60.735, and 18.60.740 are repealed.

3 * Sec. 29. AS 18.60.750, 18.60.755, 18.60.760, 18.60.765, 18.60.770,
4 18.60.775, and 18.60.780 are repealed.

5 * Sec. 30. AS 18.60.800 and 18.60.820 are repealed.

6 * Sec. 31. SAVINGS CLAUSE. Litigation, hearings, investigations, and
7 other proceedings under a law amended or repealed by this Act, or in con-
8 nection with functions transferred by this Act, continue in effect and may
9 be continued and completed notwithstanding a transfer or amendment or
10 repeal provided for by this Act. Regulations adopted under authority of a
11 law amended, transferred, or repealed by this Act remain in effect for the
12 term adopted or until repealed or otherwise amended under provisions of
13 this Act.

14 * Sec. 32. EFFECTIVE DATE. (a) Sections 1 - 5, 11 - 22, 24, 25, and
15 31 of this Act take effect July 1, 1988.

16 (b) Section 26 of this Act takes effect on the effective date of
17 regulations adopting the Boiler Construction Code under AS 18.61.010, as
18 enacted by sec. 3 of this Act.

19 (c) Section 27 of this Act takes effect on the effective date of
20 regulations adopting the National Electrical Code and the National Elec-
21 trical Safety Code under AS 18.61.010, as enacted by sec. 3 of this Act.

22 (d) Sections 6 and 28 of this Act take effect on the effective date
23 of regulations adopting the Uniform Plumbing Code under AS 18.61.010, as
24 enacted by sec. 3 of this Act.

25 (e) Section 29 of this Act takes effect on the effective date of
26 regulations adopting the Uniform Building Code under AS 18.61.010, as
27 enacted by sec. 3 of this Act.

28 (f) Section 30 of this Act takes effect on the effective date of
29 regulations adopting the Safety Code for Elevators and Escalators under

1 AS 18.61.010, as enacted by sec. 3 of this Act.

2 (g) Sections 7 - 10 and 23 of this Act take effect on the effective
3 date of regulations adopting the Uniform Administrative Code under AS 18.-
4 61.010, as enacted by sec. 3 of this Act, the effective date of sec. 27 of
5 this Act, or the effective date of sec. 28 of this Act, whichever is
6 latest.