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BILL



ANALYSIS

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Senate Bill 1173 (as introduced 11-8-18)
Sponsor: Senator Rick Jones
Committee: Judiciary

Date Completed: 11-26-18

CONTENT

The bill would amend the Fire Prevention Code to do the following:

- **Revise the definition of "place of public assemblage".**
- **Delete various provisions pertaining to the inspection of places of public assemblage, and certificates of maximum capacity and compliance with the Code.**
- **Require a fire chief, a certified fire inspector, or a certified public assembly fire inspector, at least annually, to inspect each place of public assemblage to determine whether it was in compliance with the Code, except as otherwise provided.**
- **Require a city, village, or township to be responsible for administration and enforcement of inspections within its political boundary, except as otherwise provided.**
- **Allow a city, village, or township responsible for administration and enforcement of inspections to contract with cities, villages, townships, fire authorities, or the county in which the local unit is located, or with a certified public assembly fire inspector, for the purpose of fulfilling the inspection requirement.**
- **Allow a city, village, or township responsible for administration and enforcement of inspections to transfer that responsibility to the Bureau.**
- **Allow a city, village, township, fire authority, county, or the Bureau of Fire Services to charge a fee for conducting inspections, and specify that the fee could not exceed the actual, reasonable cost of providing the inspection.**
- **Require the Bureau to establish a method and process for reporting and tracking information related to inspections and issuing certificates.**
- **Allow the Bureau to assume responsibility for administration and enforcement of inspections from a city, village, township, fire authority, or county that failed to meet the bill's requirements.**
- **Prohibit a place of public assemblage from being established or operated without obtaining a certificate that it was in compliance with the Code, and require the certificate to be displayed in a conspicuous location.**
- **Allow a city, village, township, fire authority, county, or the Bureau to revoke or deny and certificate, and allow them to order a place of public assemblage to cease operation until it was in compliance with the Code.**
- **Modify certain provisions pertaining to rule promulgation by the Bureau and the Department of Environmental Quality (DEQ).**

The bill would take effect on January 1, 2020. The bill also would repeal Section 21d of the Code. (Section 21d requires the Bureau of Fire Services to issue each year a certificate indicating a place of public assemblage's maximum capacity and that it is in compliance with the Code, and requires the certificate to be displayed in a conspicuous location in the place of public assemblage. Also, Section 21d specifies that if a place of public assemblage is not in compliance with the Code, the Bureau may revoke or deny the certificate, and may order the place of assemblage to cease operation until it is in compliance.)

Places of Public Assemblage

The Code defines "places of public assemblage" as a room or other space in a building if the room or other space can accommodate 50 or more individuals, including connected rooms and spaces that share a common means of entrance and egress. The term does not include a private one or two family dwelling.

The bill would delete this definition and, instead, would define "place of public assemblage" as a building or structure, or a portion thereof, used for the gathering of people for public including civic, social, or religious functions, recreation, food or drink consumption, or awaiting transportation. The term would not include a building or tenant space with an occupant load of fewer than 50 people.

Inspection

The Code requires the Bureau or, upon written request of the governing body of a city, village, township, or county and the approval of the Bureau, a fire chief, or a firefighter in uniform acting under the orders and directions of a fire chief, at least annually, to inspect each place of public assemblage to determine whether it is being maintained in compliance with the Fire Prevention Code. A place of public assemblage may not be established or operated without obtaining a certificate from the Bureau indicating its maximum capacity and that it is in compliance with the Code.

The bill would delete these provisions, and, instead, would require a fire chief, a certified fire inspector, or a certified public assembly fire inspector, at least annually, to inspect each place of public assemblage to determine whether it was being maintained in compliance with the Fire Prevention Code and the code. "Certified fire inspector" would mean an individual certified by the Bureau and employed by an organized fire department or public safety department whose job description, duties, or responsibilities include inspecting real property for fire code violations and enforcing the general fire codes of the jurisdictions in which he or she serves. "Certified public assembly inspector" would mean an individual certified by the Bureau to conduct fire safety inspections of places of public assemblage. The bill defines "code" as the edition of the International Fire Code that is published in the same year as the edition of the International Building Code adopted and referenced in Part 4 of the Construction Code Commission general rules.

Except as otherwise provided, a city, village, or township would be responsible for administration and enforcement of inspections within its political boundary.

Transfer of Inspection Responsibility

The bill would allow a city, village, or township that was responsible for administration and enforcement of inspections to enter into agreement with cities, villages, townships, fire authorities, or the county in which the city, village, or township is located, or contract with a certified public assembly fire inspector, for the purposes of fulfilling the bill's inspection requirements. The governing body of a county could by ordinance assume responsibility for

the administration and enforcement of inspections pursuant to an agreement with a city, village, or township. A county that adopted an ordinance would have to transmit a copy of it to the State Fire Marshal.

The governing body of a city, village, or township could by ordinance transfer responsibility for the administration and enforcement of inspections to the Bureau. A governing body that previously transferred responsibility to the Bureau could by ordinance assume responsibility for the administration and enforcement of inspections. A city, village, or township that adopted an ordinance would have to transmit a copy of it to the State Fire Marshal.

The Bureau could assume responsibility for administration and enforcement of inspections from a city, village, township, fire authority, or county that failed to meet the bill's requirements. The State Fire Marshal would have to notify in writing the governing body of the city, village, township, fire authority, or county that the Bureau would assume responsibility for administration and enforcement of inspections, of the reasons why the Bureau was assuming responsibility, and of the effective date on which the Bureau was assuming responsibility.

Inspection Fee

Under the bill, a city, village, township, fire authority, county, or the Bureau, if responsible for performing inspections, could establish and charge a fee for conducting them. The fee could not exceed the actual, reasonable cost of providing the inspection for which the fee were charged.

Inspection Reporting & Tracking

The bill would require the Bureau to establish by rule a method and process for reporting and tracking information related to inspecting places of public assemblage and issuing certificates. A city, village, township, fire authority, or county responsible for administration and enforcement of inspections would have to participate in the method and process established by the Bureau and would have to provide the Bureau with information it considered necessary to fulfill the bill's requirements.

Certificate of Compliance

Under the bill, a place of public assemblage could not be established or operated without obtaining a certificate indicating that it was in compliance with the Fire Prevention Code and the code. The certificate would have to be displayed in a conspicuous location in the place of public assemblage.

A city, village, township, fire authority, county, or the Bureau, as applicable, would have to issue a certificate annually to a place of public assemblage that was in compliance with the Code and the code. The city, village, township, fire authority, county, or Bureau could establish and charge a fee for issuing the certificate not to exceed the actual, reasonable cost of issuing the certificate.

If the place of public assemblage were not being maintained in compliance with the Code and the code, a city, village, township, fire authority, county, or the Bureau could revoke or deny the certificate, and could order the place of public assemblage to cease operation until it was in compliance.

Nothing in the bill would prevent a city, village, township, fire authority, or county from enforcing an ordinance prescribing requirements for places of public assemblage that were not less stringent than the bill's requirements.

Bureau Rule Promulgation

The Code requires the Bureau to promulgate rules pertaining to fire safety requirements for the construction, operation, or maintenance of all of the following:

- Schools and dormitories, including State-supported schools, colleges, and universities and school, college, and university dormitories.
- State-owned or -leased buildings.
- A public health facility or agency as defined in Section 20106 of the Public Health Code.
- Places of public assemblage.

(Under Section 20106 of the Public Health Code, "health facility or agency", except as provided in Section 20115, means: a) an ambulance operation, aircraft transport operation, nontransport prehospital life support operation, or medical fire response service; 2) a county medical care facility; c) a freestanding surgical outpatient facility; d) a health maintenance organization; e) a home for the aged; f) a hospital; g) a nursing home; h) a hospice; i) a hospice residence; or j) a facility or agency listed above located in a university, college, or other educational institution. Section 20115 allows the Department of Licensing and Regulatory Affairs to promulgate rules to further define the term.)

Instead of "places of public assemblage", the bill would refer to the storage, transportation, and handling of liquefied petroleum gas and for the storage, noncommercial transportation, and handling of other hazardous materials to the extent authorized by Federal law.

DEQ Rule Promulgation

Under the Code, consistent with Executive Reorganization Order No. 1997-2, the Department of Environment Quality must promulgate rules pertaining to the following:

- Fire safety requirements for the construction, operation, and maintenance of dry cleaning establishments that use flammable liquids.
- The storage, transportation, and handling of liquefied petroleum gas and for the storage, noncommercial transportation, and handling of other hazardous materials to the extent authorized by Federal law.

The bill, instead, would require the DEQ to promulgate rules pertaining *only* to fire safety requirements for the construction, operation, and maintenance of dry cleaning establishments that use flammable liquids.

MCL 29.1 et al.

Legislative Analyst: Stephen Jackson

FISCAL IMPACT

The bill would not have a significant impact on the Department of Licensing and Regulatory Affairs. The Bureau of Fire Services does not currently conduct annual inspections of places of public assemblage as required by statute due to a lack of funding. The Department estimates that if the State did conduct these inspections, the cost could be as high as \$40.0 million per year under the current definition of places of public assemblage. The Department expects that the revised definition would result in an overall reduction in the number of

locations requiring inspection; however, the current number of locations that would meet this new definition is unknown.

The bill likely would have a negative fiscal impact on local units of government, but the extent of the impact is unknown. The bill would require each local unit to assume responsibility from the Bureau of Fire Services for inspecting and issuing certificates to places of public assemblage. However, the bill would allow a local unit of government to transfer the responsibility to the Bureau, or for the Bureau to take over responsibility in certain circumstances. It also would allow each local unit or the Bureau of Fire Services to charge a fee to cover the costs associated with inspecting and issuing certificates. The fiscal impact on any given local unit and on the State would depend on the characteristics of the local units that transferred responsibility to the Bureau and whether the fees charged were enough to cover the associated costs.

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.