

Regular Session, 2014

HOUSE BILL NO. 1048

BY REPRESENTATIVES PONTI AND ORTEGO

AN ACT

To amend and reenact R.S. 40:5, 1722(B)(2), 1723(B), 1730.22(A) and (C), 1730.26, 1730.28(A)(introductory paragraph), (1), (3)(a), and (5), and 1730.29(A)(introductory paragraph), to enact R.S. 40:4(C), (D), and (E), 1730.22.1, 1730.23(I), 1730.28(D), 1730.28.1, 1730.28.2, 1730.28.3, 1730.40.1, and 1730.40.2, to repeal R.S. 40:4(A)(7), 1722(D), 1730.22.1, 1730.28(A)(3)(h), and Part XIV (Plumbing) of Title 51, comprised of LAC 51:XIV.101 through 1813, relative to the regulation of plumbing; to require the Louisiana State Uniform Construction Code Council to adopt certain provisions relative to plumbing; to provide for membership of the Louisiana State Uniform Construction Code Council; to create the Plumbing Transition Commission; to terminate the Plumbing Transition Commission; to provide relative to the duties of the state health officer and the Department of Health and Hospitals; to provide relative to the authority of local building officials; to provide relative to certain plumbing codes in instances of court orders or consent decrees; to provide for certain terms, conditions, procedures, prohibitions, requirements, and applicability of provisions relating to plumbing; to provide for effective dates; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 40:1730.22(A) and 1730.26 are hereby amended and reenacted and R.S. 40:1730.28.1, 1730.28.2, 1730.28.3, 1730.40.1, and 1730.40.2 are hereby enacted to read as follows:

§1730.22. Louisiana State Uniform Construction Code Council; membership;
function of council; meeting requirements; immunity

A. The Louisiana State Uniform Construction Code Council, hereinafter in this Part referred to as the "council", is hereby created and shall consist of ~~nineteen~~ twenty members, one of whom shall be the state health officer, or his designee. Each With the exception of the state health officer, or his designee, who shall serve by virtue of his position, each member of the council shall be appointed by the governor, subject to Senate confirmation, and shall serve at the pleasure of the governor. With the exception of the state health officer, or his designee, each ~~Each~~ term for a member of the council shall be four years where a member shall serve no more than two consecutive terms. Each member of the council shall serve without compensation but shall be reimbursed for actual expenses and mileage incurred while attending council meetings in accordance with state travel regulations promulgated by the division of administration. Reimbursement shall be limited to mileage and expenses for the attendance of twelve meetings per calendar year.

* * *

§1730.26. Adoption and promulgation of certain building codes and standards as ~~state uniform construction code~~ State Uniform Construction Code; procedures

The council shall review, adopt, modify, and promulgate the building codes referenced in R.S. 40:1730.28 and 1730.28.1 of this Part, provided that:

(1) The council shall promulgate rules and regulations to modify portions of the ~~state uniform construction code~~ State Uniform Construction Code referenced in R.S. 40:1730.28 of this Part ~~under~~ pursuant to the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. Such rules and regulations may include, but not be limited to use of certain mapping systems regarding soil testing.

(2)(a) The council shall promulgate rules and regulations to adopt portions of the State Uniform Construction Code referenced in R.S. 40:1730.28.1 pursuant to the procedures established by the Administrative Procedure Act, R.S. 49:950 et seq. Notwithstanding the provisions of R.S. 49:968(B)(12), the Senate Committee

on Commerce, Consumer Protection, and International Affairs, Senate Committee
on Health and Welfare, the House Committee on Commerce, and the House
Committee on Health and Welfare, shall have oversight of the initial adoption of the
portions of the State Uniform Construction Code referenced in R.S. 48:1730.28.1.

(b) ~~The Senate and House committees on commerce~~ Senate Committee on Commerce, Consumer Protection, and International Affairs and the House Committee on Commerce shall receive notice of intent to modify portions of the ~~state uniform construction code~~ State Uniform Construction Code and shall have oversight of any such modifications ~~under~~ pursuant to the provisions of the Administrative Procedure Act.

(2)(3) The council shall review, evaluate, and update the ~~state uniform construction code~~ State Uniform Construction Code no later than five years from the date of publication of the appropriate code as provided for in R.S. 40:1730.28. The council shall submit the updated ~~state uniform construction code~~ State Uniform Construction Code to the House Committee on Commerce and the Senate Committee on Commerce, Consumer Protection, and International Affairs for oversight and approval. Additionally, the council shall provide the members of each house of the legislature a summary of the major proposed changes to the International Residential Code at the time of submission to the oversight committees.

(4) The council shall, pursuant to the Administrative Procedure Act, adopt or modify, or both, provisions of the State Uniform Construction Code to satisfy the requirements of any consent decree or order relative to maintaining or building a public sewage system which is entered in a federal court of competent jurisdiction. Such provisions shall specify in which municipalities or parishes the rules and regulations adopted pursuant to this Paragraph shall apply.

* * *

1 §1730.28.1. Mandatory adoption of plumbing provisions of certain nationally
2 recognized codes and standards; amendments; effective date

3 A. Notwithstanding R.S. 40:1730.28, the council shall evaluate, adopt, and
4 amend the latest editions of the following as part of the State Uniform Construction
5 Code:

6 (1) The International Building Code, Chapter 29-Plumbing Systems.

7 (2) The International Residential Code, Part VII-Plumbing.

8 (3) The International Plumbing Code.

9 B. The codes listed in Subsection A of this Section as adopted by the council
10 shall become effective January 1, 2016.

11 C.(1)(a) The Plumbing Transition Commission, provided for in R.S.
12 40:1730.22.1, hereinafter in this Section referred to as the "commission", may
13 provide the council with amendments to include in the plumbing provisions adopted
14 pursuant to this Section.

15 (i) The council shall include amendments in the plumbing provisions
16 adopted pursuant to this Section that are provided by the commission pursuant to
17 R.S. 40:1730.22.1(B)(2)(a).

18 (ii) The council shall vote, in accordance with the voting requirements in
19 R.S. 40:1730.28(B), on whether or not to include amendments which are provided
20 pursuant to R.S. 40:1730.22.1(B)(2)(b) in the plumbing provisions adopted pursuant
21 to this Section.

22 (b) The council shall be in receipt of all amendments from the commission
23 to be included in the plumbing provisions to be adopted pursuant to this Section by
24 June 15, 2015. The commission shall not provide any further amendments to the
25 council for the plumbing provisions adopted pursuant to this Section after June 15,
26 2015.

27 D. Nothing in this Section nor any provisions adopted pursuant to this
28 Section shall lessen the licensing qualifications and requirements provided in R.S.
29 37:1361 et seq.

1 §1730.28.2. State Uniform Construction Code; requirements and prohibitions

2 A. The State Uniform Construction Code shall:

3 (1) Require methods of back flow prevention to prevent contaminated water
4 from flowing back into the public water system.

5 (2) Prohibit plumbing vent systems using air admittance valves.

6 (3) Require that a trap seal primer valve be installed where a trap seal is
7 subject to loss by evaporation.

8 B. The council shall adopt rules and regulations in accordance with R.S.
9 40:1730.26(2)(a) to implement the provisions of this Section. Any modifications to
10 the rules and regulations adopted pursuant to this Section shall be adopted in
11 accordance with the provisions of R.S. 40:1730.26(2)(b).

12 §1730.28.3. Authority of the Department of Health and Hospitals

13 A. Nothing in this Part or any provision adopted pursuant to this Part shall
14 prohibit the Department of Health and Hospitals from the following:

15 (1) Regulating stored water temperatures through enforcement of the
16 Sanitary Code.

17 (2) Regulating medical gas and medical vacuum systems.

18 * * *

19 §1730.40.1. Plumbing provisions of or adopted pursuant to this Part; court orders
20 or consent decrees

21 Any order or consent decree relative to maintaining or building a public
22 sewage system which is entered in a federal court of competent jurisdiction shall
23 supercede the plumbing provisions of this Part or plumbing provisions adopted
24 pursuant to this Part.

25 §1730.40.2. Plumbing provisions; manufactured housing

26 Notwithstanding any provision to the contrary, all manufactured homes that
27 are built to federal construction standards shall only be subject to the plumbing
28 provisions in federal law. Manufactured homes shall not be subject to state plumbing
29 regulations, regardless if the manufactured home is connected to a public or private

1 sewer system; however, such connection shall be completed and maintained by a
2 Louisiana licensed plumber.

3 Section 2. R.S. 40:1730.22.1 is hereby enacted to read as follows:

4 §1730.22.1. Plumbing Transition Commission; members; purpose; procedure;
5 termination

6 A.(1) The Plumbing Transition Commission, hereinafter in this Section
7 referred to as the "commission", is hereby created and shall be composed of the
8 following members:

9 (a) A designee of the Mechanical Contractors Association of Louisiana, Inc.

10 (b) A designee of the Louisiana State Plumbing Board.

11 (c) A designee of Louisiana Associated General Contractors, Inc.

12 (d) A designee of the Louisiana Home Builders Association.

13 (e) A designee of the Louisiana AFL-CIO.

14 (f) A designee of the Building Officials of Louisiana, Inc.

15 (g) A designee of the AIA Louisiana, the Louisiana Architects Association.

16 (h) A designee of the Department of Health and Hospitals.

17 (2)(a) Each of the entities named in Subparagraphs(1)(a) through (h) of this
18 Subsection shall submit the name of the entity's designee to the chairman of the
19 council on or before September 1, 2014.

20 (b) The members of the commission shall not be subject to Senate
21 confirmation.

22 (c) The term of each member shall end on January 1, 2016.

23 (d) A vacancy shall be filled in the same manner as the original appointment.

24 B.(1) The primary function of the commission shall be to provide
25 amendments to the codes delineated in R.S. 40:1730.28.1(A)(1) through (3) to the
26 council in order to address plumbing issues that the Louisiana State Plumbing Code
27 [Part XIV (Plumbing) of the State Sanitary Code] addresses, but for which the codes
28 delineated in R.S. 40:1730.28.1(A)(1) through (3) do not address.

29 (2) A vote on proposed amendments shall only take place when a quorum
30 of the commission members are present. Six members shall constitute a quorum.

(a) The commission shall provide amendments to the council that have been approved by a majority vote of the total members of the commission present and voting and those amendments shall be included in the plumbing provisions adopted by the council pursuant to R.S. 40:1728.1.

(b) Should a vote on an amendment result in a tie, the amendment shall be provided to the council which shall then vote on whether or not to include the amendment in the plumbing provisions adopted pursuant to R.S. 40:1728.1.

(3) The council shall be in receipt of all amendments by June 15, 2015. The commission shall not provide any further amendments to the council after June 15, 2015.

C.(1) The first meeting of the commission shall be called by the chairman of the council and held no later than October 1, 2014. At this meeting, the commission shall elect from its members a chairman and vice chairman.

(2) A meeting of the commission may be called by the chairman of the commission on his own initiative and shall be called by him at the request of three or more members of the commission within fourteen days of such request.

(3) Each member of the commission shall be notified by the chairman of the commission in writing of the time and place of the meeting at least seven days before the meeting.

(4) Each meeting of the commission shall be open to the public and any official decision of the commission shall be made only by a vote of a majority of the commission members.

D. The commission provided for in this Section shall cease to exist and have
no authority as of January 1, 2016.

Section 3. R.S. 40:5, 1722(B)(2), 1723(B), 1730.22(C), 1730.28(A)(introductory paragraph), (1), (3)(a), and (5), and 1730.29(A)(introductory paragraph) are hereby amended and reenacted and R.S. 40:4(C), (D), and (E), 1730.23(I), and 1730.28(D) are hereby enacted to read as follows:

§4. Sanitary Code

* * *

C. In all cases of conflict between rules and regulations promulgated pursuant to this Section and the International Plumbing Code, International Building Code, Chapter 29-Plumbing Systems, or the International Residential Code, Part VII-Plumbing, as adopted and promulgated by the Louisiana State Uniform Construction Code Council, the provisions of the International Plumbing Code, International Building Code, Chapter 29-Plumbing Systems, or the International Residential Code, Part VII-Plumbing shall be used.

D. Nothing in this Section shall permit the state health officer acting through the office of public health of the Department of Health and Hospitals to establish rules, regulations, policies, or interpretations that supercede or circumvent, or seek to supercede or circumvent the International Plumbing Code, the International Building Code, Chapter 29-Plumbing Systems, or the International Residential Code, Part VII-Plumbing, as adopted and promulgated by the Louisiana State Uniform Construction Code Council. The building official for the parish, municipality, or regional planning commission, as authorized in R.S. 40:1730.24 and appointed pursuant to R.S. 40:1730.25, or a qualified building code enforcement officer designated by the building official, shall have the authority to enforce the plumbing provisions adopted pursuant to Part IV-A, State Uniform Construction Code, Chapter 8 of this Title.

E. The Louisiana State Plumbing Code [Part XIV (Plumbing) of the State Sanitary Code] as amended by the state health officer acting through the office of public health of the Department of Health and Hospitals shall be null, void, and unenforceable on and after January 1, 2016.

* * *

§5. General powers and jurisdiction

A. The state health officer and the office of public health of the Department of Health and Hospitals shall have exclusive jurisdiction, control, and authority:

(1) To isolate or quarantine for the care and control of communicable disease within the state.

1 (2) To take such action as is necessary to accomplish the subsidence and
2 suppression of diseases of all kinds in order to prevent their spread.

3 (3) To enforce a sanitary code for the entire state containing provisions for
4 the improvement and amelioration of the hygienic and sanitary conditions of the
5 state.

6 (4) To enact provisions regulating the standards of health and decency and
7 building regulations of all prisons, jails, lock-ups, and camps where prisoners are
8 detained or confined.

9 (5) To supervise, inspect, and issue sanitation permits for water supplies,
10 slaughterhouses, cold storage plants, all places of public accommodation, and the
11 handling and control of hygienic conditions with respect to all food.

12 (6) To take such action as may be authorized by the administrator of the
13 Environmental Protection Agency under the federal Safe Drinking Water Act of
14 1974, as amended.

15 (7) To make all sanitary inspections and provide for the issuance of health
16 permits.

17 (8) Over the enforcement of controls and issuance of permits for the
18 distribution and handling of dangerous drugs.

19 (9) Over the treatment and disposal of municipal or domestic sewage.

20 (10) Over the reporting of communicable diseases.

21 (11) Over the gathering, keeping, reporting, and tabulating of vital and
22 mortuary records and statistics for all parishes of the state.

23 (12) Over the providing of facilities for vaccination.

24 (13) To assist in the supervision and operation of parish and municipal health
25 units and departments.

26 (14) Over the regulation of the carriage and transportation of persons,
27 freight, and dead bodies brought into the state or transported through or in the state
28 as they may affect public health.

29 (15) Over the sanitary inspection of meat, milk, and other products which
30 may affect public health and safety.

1 (16) Over the sanitary conditions required at any public gathering or
2 meeting.

3 (17) Over the adoption of rules and regulations regarding public health,
4 sanitary, and hygienic subjects, including those for standards governing noxious
5 odors.

6 (18) To promulgate rules and regulations in accordance with the
7 Administrative Procedure Act to establish a fee schedule, based on ability to pay or
8 eligibility for third party reimbursement, for services provided by the handicapped
9 children's services program and maternal and child health programs in the office of
10 public health.

11 (19) To conduct health inspections and issue health permits through state
12 employed licensed sanitarians, or by licensed sanitarians of parish health units or
13 departments.

14 (20) Over those functions of the state provided by law relating to
15 environmental quality and pollution control which are related to the public health and
16 which are specifically assigned to the department by statute.

17 (21)(a) To conduct health, safety, and sanitation inspections, through state
18 employed licensed sanitarians, of any place upon receipt of a complaint that the
19 department determines shows appropriate and sufficient grounds to indicate a health
20 hazard or sanitary code violation may exist, regardless of whether such place is
21 licensed or not, or otherwise regulated.

22 (b) In order to comply with the provisions of Subparagraph (a) of this
23 Paragraph, a licensed sanitarian may, if necessary, seek and obtain an appropriate
24 order or warrant from the state district court for the judicial district in which the
25 place to be inspected is located to enter, examine, and inspect such place for a health
26 hazard or sanitary code violation.

27 B. Nothing in this Section shall grant or be interpreted as to grant the state
28 health officer or the office of public health of the Department of Health and
29 Hospitals the authority to supercede the authority of municipalities or parishes to
30 enforce the State Uniform Construction Code provided for in Part IV-A of Chapter

8 of this Title. The building official for the parish, municipality, or regional planning commission, as authorized in R.S. 40:1730.24 and appointed pursuant to R.S. 40:1730.25, or a qualified building code enforcement officer designated by the building official, shall have the authority to enforce the plumbing provisions adopted pursuant to Part IV-A of Chapter 8 of this Title.

* * *

§1722. Louisiana Building Code

* * *

B. The Louisiana Building Code shall consist of the following designated and described codes and standards:

* * *

(2) ~~Part XIV (Plumbing) of the State Sanitary Code as promulgated by the secretary of the Department of Health and Hospitals. The International Plumbing Code, the International Building Code, Chapter 29-Plumbing Systems, and the International Residential Code, Part VII-Plumbing.~~

* * *

§1723. Administration; exception

* * *

B. However, nothing contained herein shall affect the state fire marshal and his jurisdiction on matters of life safety and related areas as provided by Part III of Chapter 7 of this Title, ~~and the secretary of the Department of Health and Hospitals shall administer the provisions of Part XIV(Plumbing) of the State Sanitary Code.~~

* * *

§1730.22. Louisiana State Uniform Construction Code Council; membership; function of council; meeting requirements; immunity

* * *

C. The primary function of the council is to review and adopt the ~~state uniform construction code~~ State Uniform Construction Code, provide for training and education of code officials, and accept all requests for amendments of the code; ~~except the Louisiana State Plumbing Code [Part XIV (Plumbing) of the State~~

1 ~~Sanitary Code~~. Specifically, the council shall establish the requirements and
2 process for the certification and continuing education of code enforcement officers,
3 code enforcement inspectors, and building officials and determine if any
4 amendments to the state uniform construction code are justified. If the council
5 determines that an amendment is justified, it may enact such an amendment after a
6 finding on the record that the modification provides a reasonable degree of public
7 health, safety, affordability, and welfare. The council shall adopt rules in accordance
8 with the Administrative Procedure Act in order to implement the provisions of this
9 Part.

10 * * *

11 §1730.23. Enforcement of building codes by municipalities and parishes

12 * * *

13 I. The building official for the parish, municipality, or regional planning
14 commission, as authorized in R.S. 40:1730.24 and appointed pursuant to R.S.
15 40:1730.25, or a qualified building code enforcement officer designated by the
16 building official, shall have the authority to enforce the plumbing provisions adopted
17 pursuant to this Part.

18 * * *

19 §1730.28. Mandatory adoption of certain nationally recognized codes and standards
20 as the state uniform construction code; adoption by reference

21 A. Except as provided in Subsection C of this Section, the council shall
22 evaluate, adopt, and amend only the latest editions of the following as the ~~state~~
23 ~~uniform construction code~~ State Uniform Construction Code:

24 (1) International Building Code, not including Parts I-Administrative,
25 Chapter 11-Accessibility, and Chapter 27-Electrical ~~and Chapter 29-Plumbing~~
26 ~~Systems~~. The applicable standards referenced in that code are included for
27 regulation of construction within this state. The appendices of that code may be
28 adopted as needed, but the specific appendix or appendices shall be referenced by
29 name or letter designation at the time of adoption.

30 * * *

(3)(a) International Residential Code, not including ~~Parts I-Administrative, Part I-Administration VII-Plumbing, and VIII-Electrical~~. The applicable standards referenced in that code are included for regulation of construction within this state. The enforcement of such standards shall be mandatory only with respect to new construction, reconstruction, additions to homes previously built to the International Residential Code, and extensive alterations; however, a municipality, parish, or regional planning commission may enforce Appendix J of the code at its option. The appendices of that code may be adopted as needed, but the specific appendix or appendices ~~must~~ shall be referenced by name or letter designation at the time of adoption, with the exception of Appendix J, Existing Buildings and Structures, which shall not be adopted by the council and may be adopted and enforced only at the option of a parish, municipality, or regional planning commission. For the purposes of this Part, IRC R301.2.1.1 (Design Criteria) shall be amended as follows and shall apply only to the International Residential Code, 2003 edition:

* * *

(5) ~~The Louisiana State Plumbing Code [Part XIV (Plumbing) of the state Sanitary Code] as amended by the state health officer acting through the office of public health of the Department of Health and Hospitals. Nothing in this Part shall be construed so as to prevent the state health officer from enforcing Part XIV (Plumbing) of the state Sanitary Code the enforcement of which is his statutory and regulatory responsibility. The International Plumbing Code. The appendices of that code may be adopted as needed, but the specific appendix or appendices shall be referenced by name or letter designation at the time of adoption.~~

* * *

D.(1) The state health officer may provide the council with recommended amendments to the plumbing provisions adopted pursuant to this Section. All recommended amendments provided to the council by the state health officer shall be presented to the council for review. The council shall review recommended amendments and vote on whether or not to include such amendments as part of the

State Uniform Construction Code at the next regularly scheduled meeting of the council, but no sooner than thirty days after receipt.

(2) Nothing in this Section nor any provisions adopted pursuant to this Section shall lessen the licensing qualifications and requirements provided in R.S. 37:1361 et seq.

§1730.29. Regulation of construction or improvement of industrial facilities

A. ~~Excluding the applicable requirements of the Louisiana State Plumbing Code~~ the International Plumbing Code, the provisions of this Part shall not apply to the construction or improvement inside the secured or fenced confines of the following types of industrial facilities that are engaged in activities defined or classified under one or more of the following subsectors, industry groups, or industries of the 2012 North American Industry Classification System (NAICS):

* * *

Section 4. R.S. 40:4(A)(7), 1722(D), and 1730.28(A)(3)(h) are hereby repealed in their entirety.

Section 5. R.S. 40:1730.22.1 is hereby repealed in its entirety.

Section 6. Part XIV (Plumbing) of Title 51, comprised of LAC 51:XIV.101 through 1813, as amended by the state health officer acting through the office of public health of the Department of Health and Hospitals, is hereby repealed in its entirety. A copy of this Act shall be transmitted to the Office of the State Register, the secretary of the Department of Health and Hospitals, the state health officer, and the administrator of the Louisiana Uniform Construction Code Council. The Office of the State Register is directed to have the repeal of this Part printed and incorporated into the Louisiana Administrative Code following the effective date of the repeal.

Section 7. Sections 3, 4, 5, and 6 of this Act shall become effective on January 1, 2016.

Section 8. This Section and Sections 1, 2, and 7 of this Act shall become effective upon signature by the governor or, if not signed by the governor, upon expiration of the time for bills to become law without signature by the governor, as provided by Article III, Section

1 18 of the Constitution of Louisiana. If vetoed by the governor and subsequently approved
2 by the legislature, this Act shall become effective on the day following such approval.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____