

June 1, 2009

To All Urban Counties:

Today, the House and Senate passed a bill that allows Texas counties limited authority to enforce building codes in the unincorporated area.

HB 2833 by Rep. Marisa Marquez (D – El Paso) & Senator Eliot Shapleigh (D – El Paso) allows counties with a population of more than 100 to enforce the international building code.

The bill is permissive in two different areas: 1) A county doesn't have to engage in the building code enforcement, and 2) it does not have to spend money on enforcement.

The bill requires builders to construct homes to the International Building Code (IBC) if the county has adopted a resolution requiring them to follow the IBC. The counties would not have inspection authority or responsibility; instead the builder is required to obtain three inspections during different phases of the construction and submit a certificate of compliance with the county. Failure to obtain the inspections is a Class C misdemeanor and a county may also file for an injunction against a builder who does not file the required reports.

The need for building code authority became important at this stage in the legislative session because of the legislature's decision to abolish the Texas Residential Construction Commission. Abolishing the TRCC means that statewide building codes will also be eliminated, including building codes outside city jurisdiction.

When TRCC was created, it was argued that it would eliminate the need for counties to get code enforcement authority, since TRCC would handle enforcement in the unincorporated areas. Elimination of TRCC without providing counties with additional authority would have left the unincorporated areas completely unregulated.

The bill, as originally written, gave El Paso County authority to enforce the international building code. It was amended to expand the authority to all counties after TRCC was eliminated. In the face of a potential point of order (making a local bill into a statewide bill is prohibited under House rules), a population bracket was included to exclude all counties of less than 100 people.

One negative provision of the bill is that it does not allow counties to charge a fee to enforce the codes.

The bill first passed with a vote of 72-71, but that count was changed to 74-69 after various members changed their votes in the House journal.

While the authority granted in HB 2833 is limited, it will be the first time counties will have the authority to enforce building codes.

Please contact me if I can be of assistance on this or any other matter.

Veronica Trevino
Program Manager
Texas Conference of Urban Counties