

2013 SENATE INDUSTRY, BUSINESS, AND LABOR

SB 2129

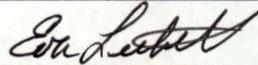
2013 SENATE STANDING COMMITTEE MINUTES

Senate Industry, Business and Labor Committee
Roosevelt Park Room, State Capitol

SB 2129
January 15, 2013
Job Number 17214

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to the state building code and accessibility standards

Minutes:

Testimony Attached

Chairman Klein opened the hearing

Senator Sorvaag: Written Testimony Attached (1).

Chairman Klein: Commented about the additional cost to install doors in businesses in the smaller communities.

Senator Sorvaag: Said that there are a lot of people struggling to get around and are trying to live a normal life without having to ask someone to hold a door. It is looked at as a tradeoff.

Senator Andrist: Commented about small community businesses having to spend the eight thousand dollars and asked why they are making this so comprehensive. Most of the businesses are putting them in on their own. He is worried about a state directive that is going to say one size fits all.

Senator Sorvaag: Said that this is only for new construction. He isn't sure if this includes remodeling of buildings, Senator Laffen would know better. What you would tell people is that, it is to help out those few that need to be helped out. They are making an effort with people with health issues and to incorporate them into the communities. It could be amended to only be for new construction.

Senator Sinner: Asked if it would be possible for a provision for a waiver, so someone could apply for a waiver.

Senator Sorvaag: Said everything is possible.

Bev Nielson, North Dakota Counsel of Education Leaders: Said they had a question about all of their school buildings, most of which are accessible. She didn't read the bill as being only for new construction and if that is the intent that should be made clear. They would

probably not object if it was just for new buildings. They are concerned for existing buildings out in some of the smaller areas that it could be a great expense for them. They do have a system in place for special needs which is a buzzer to let them in.

Chairman Klein: Said that the doors could be locked.

Bev: Said a lot of them still have signs that just say to sign in at the office, which is usually ignored.

Senator Andrist: Said a lot of the schools keep their doors locked now and wouldn't this be a fight on that account because they would have to automatically open.

Bev: Said if it was for new buildings and it became the law there would have to be something in place where they would punch a speaker which then allows you to access the automated door. It is getting to be more of a problem securing our schools.

Senator Sorvaag: Said that even if the schools are locked, they still have public activities going on where the doors would not be locked. There is still a period of time where the public would enter without the doors having to be unlocked.

Mike Rude, North Dakota Petroleum Marketers and the North Dakota Retailers Association: Said that he believes under the new requirements from ADA, (Americans Disabilities Act), that any new builds have to have these doors now.

Chairman Klein: Said if we have to be in compliance in North Dakota, we would have to follow the federal law.

Senator Sorvaag: Said that Senator Laffen, who works as an architect, researched this and said that ADA doesn't require this.

Chairman Klein closed the hearing

2013 SENATE STANDING COMMITTEE MINUTES

Senate Industry, Business and Labor Committee
Roosevelt Park Room, State Capitol

SB 2129
January 16, 2013
Job Number 17279

Conference Committee

Committee Clerk Signature

Explanation or reason for introduction of bill/resolution:

Relating to the state building code and accessibility standards

Minutes:

Discussion

Chairman Klein opened the discussion SB 2129 and asked Senator Laffen if the bill was to include remodeling or just new builds.

Senator Laffen: Said that the bill probably isn't as clear as it should be and probably would need an amendment to state that. He shared that the bill was here last session and actually passed the house and came to their side, the bill was poorly written. The trigger was public assistance or public use and that was hard to define. He promised he would bring it back in a way that he thought was more workable. What he did was clarify the public use to be the five areas of our state building code; they are listed in the bill.

It is in the building code that not all buildings have to be ADA handicapped accessible. If you are not required to be accessible this would exclude you from that piece. The last piece says if you do use a power assisted door operator it needs to meet the ADA requirements. In essence what this should say is; all new construction in the five public use areas would require putting these on the one exterior, primary access door.

There are three types of power assisted door operators. They range from \$2,000 to \$15,000. Most of the five buildings types being built today could not be built for less than a ½ million dollars and putting in a \$2,000 door into that building wasn't a lot.

Senator Sorvaag: Asked for Senator Laffen to address the issue that it's already in the American Disability Act code, that you have to have automatic doors put in.

Senator Laffen: Said that as far as he understands there is nothing in the Americans with Disabilities Act that ever requires this kind of door operator in any instance. There is a piece in there that says if you do this kind of door operator they should work in this way and that is what we reference. It was introduced by Senator Cook for a constituent in Mandan that has been working on this and thinks it is a good idea. There are a lot of people around the country that think this is a requirement and that we are just missing this but that is not the case. You could make an argument that North Dakota would be a good place to do this for the first time. I think this would be the first state but I am not sure of that. It is very cold here and a lot of air is pushed into the buildings and our buildings tend to become positive

pressured. Once that happens that outside door starts to blow open, the way we counter that is to take that door closer and ratchet it from the 15 pounds per square foot which is allowable in the ADA and crank it up to 30, 40, 50. Then it keeps the door closed and we don't lose our heat. That makes the door very hard to open for our disabled people and that is a bigger problem in North Dakota than a warmer climate area. This off sets that and you can crank the door up to 50, 60 pounds because you can push the button and it will open.

Senator Andrist: Talked about rural districts and wanted to make sure it was just for new construction.

Senator Laffen: Said that was correct and they would need to edit this to be sure but the intent was just for new buildings.

Senator Sinner: Said he would like to see in the amendment that there is a mechanism of a waiver. He was thinking of rural offices.

Senator Laffen: Said that they might allow the local building code official to do a waiver. Seventy-five percent of the state doesn't have a code official, that's where the state building code kicks in and it would default back here to the state building official. That would be one area we could look at.

In the instance of an Elevator, three sections of the state building code are exempt from this because they are not written into those five. Elevators fall under industrial use so they wouldn't be required to do this anyway. So industrial, farm, manufacturing, all of those nonpublic would be exempt.

Chairman Klein closed the discussion.

2013 SENATE STANDING COMMITTEE MINUTES

Senate Industry, Business and Labor Committee
Roosevelt Park Room, State Capitol

SB 2129
January 30, 2013
Job Number 18005

Conference Committee

Committee Clerk Signature

Explanation or reason for introduction of bill/resolution:

Relating to the state building code and accessibility standards

Minutes:

Discussion and Vote

Chairman Klein: Said the discussion is on all new buildings requiring a door opener.

Senator Laffen: Talked about the proposed amendment and it becoming a hoghouse amendment. He goes over the two amendments, attachments (1) & (2). The building types that would fall under the amendments were also mentioned. (1:10-4:30)

Discussion continues on the amendments presented and who would be exempt (4:31-7:02)

Chairman Klein: Said that they have two separate amendments, one to fix the outdated language and the second to provide for new construction and 7,500 square feet.

Senator Laffen: Said yes, but isn't sure how to divide this up for a vote.

Chairman Klein: Said they would start with 13.0239.01003.

Senator Laffen moved a do pass on amendment; 13.0239.01003.

Senator Sorvaag seconded the motion.

Roll Call Vote: Yes - 7 No - 0

Senator Laffen moved a do pass on amendment; 13.0239.01002.

Senator Andrist seconded the motion.

Roll Call Vote: Yes - 7 No - 0

Senator Laffen moved a do pass as amended.

Senator Andrist seconded the motion.

Discussion continued on the bill and the amendments, (12:10-18:10).

Roll Call Vote: Yes - 3 No - 4

Chairman Klein: Said that failed 3 to 4.

Senator Unruh motioned a do not pass as amended.

Senator Andrist seconded the motion.

Roll Call Vote: Yes - 3 No - 4

Chairman Klein: Said that failed also.

Discussion continued on the amendments, (22:06-30:00).

Senator Sinner motioned for a do not pass as amended.

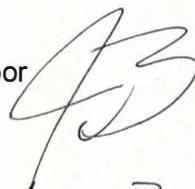
Senator Unruh seconded the motion.

Roll Call Vote: Yes - 4 No - 3 Absent: 0

Chairman Klein: Said that passed 4 to 3.

Floor Assignment: Chairman Klein

January 31, 2013


1-31-13
1012

PROPOSED AMENDMENTS TO SENATE BILL NO. 2129

Page 1, remove lines 4 through 24

Page 2, replace lines 1 through 11 with:

"SECTION 1. AMENDMENT. Section 54-21.3-04.1 of the North Dakota Century Code is amended and reenacted as follows:

54-21.3-04.1. Accessibility standards.

~~Notwithstanding section 54-21.3-04, every building or facility subject to the federal Americans with Disabilities Act of 1990 [Pub. L. 101-336; 104 Stat. 327] must conform to the accessibility standards of the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities as contained in the appendix to title 28, Code of Federal Regulations, part 36 [28 CFR 36]. State and political subdivision entities may not claim the exceptions to the requirement that elevators be installed in certain buildings as those exceptions are stated in exception 1 to section 4.1.3(5) and in section 4.1.6(1)(k)(i) in the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities found in the appendix to 28 CFR 36. A structural change to an existing state or political subdivision building or facility is not required if another method is effective in achieving compliance with regulations adopted under Public Law 101-336. For public accommodations, an alternative to a structural change in existing buildings or facilities is permitted only after it has been documented, in accordance with regulations adopted under Public Law 101-336, that a particular structural change is not readily achievable. A state agency or the governing body of a political subdivision shall require from any person preparing plans and specifications for a building or facility subject to the Americans with Disabilities Act of 1990 [Pub. L. 101-336; 104 Stat. 327], a statement that the plans and specifications are, in the professional judgment of that person, in conformance with the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities found in the appendix to 28 CFR 36, subject to the exception stated in this section. A statement of conformance must be submitted to the department of commerce division of community services for recording.~~

1. This section replaces any reference to "accessibility standards" in the state and a political subdivision's building code. Notwithstanding section 54-21.3-04, every building or facility subject to the federal Americans with Disabilities Act must conform to the accessibility standards as published by the department of justice revised regulations for titles II and III of the Americans with Disabilities Act of 1990 in the federal register on September 15, 2010. The 2010 standards are minimum requirements, both scoping and technical, for newly designed and constructed or altered state and local government facilities, public accommodations, and commercial facilities to be readily accessible to and usable by individuals with disabilities.
2. These standards include standards for state and local governments, which consist of the title II regulations at 28 CFR 35.151 and the 2004 Americans with Disabilities Act accessibility guidelines at 36 CFR, part 1191, appendices B and D; the 2010 standards for public accommodations and

commercial facilities, which consist of the title III regulations at 28 CFR, part 36, subpart D, and the 2004 Americans with Disabilities Act accessibility guidelines at 36 CFR, part 1191, appendices B and D.

3. These standards include the elevator requirements and exceptions are stated in 206.2.3; exceptions: 11 through 7.
4. All state agencies, governing bodies of a political subdivision, and controlling bodies of all public accommodations and commercial facilities shall require from the person preparing drawings and specifications for a building or facility, subject to the Americans with Disabilities Act of 1990, revised 2010, a statement referencing all applicable sections of the standards, that the drawings and specifications are in the professional judgment of that person, in conformance with 2010 Americans with Disabilities Act standards for accessible design. For all public facilities, the statement of conformance must be submitted to the controlling body before construction proceeds. A copy of the statement must be submitted to the department of commerce division of community services for recording.
5. A building constructed after July 31, 2013, in excess of seven thousand five hundred square feet [696.77 square meters], which is classified within the state building code as assembly, business, educational, instructional, or mercantile occupancy and required by the state building code to be accessible must include at the primary exterior public entrance an automatic door or power-assisted manual door that complies with the requirements of the Americans with Disabilities Act of 1990, revised 2010."

Renumber accordingly

**2013 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2129**

Senate Industry, Business, and Labor Committee

Check here for Conference Committee

Legislative Council Amendment Number 13.0239.01003

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment
 Rerefer to Appropriations Reconsider

Motion Made By Senator Laffen Seconded By Senator Sorvaag

Senators	Yes	No	Senator	Yes	No
Chairman Klein	x		Senator Murphy	x	
Vice Chairman Laffen	x		Senator Sinner	x	
Senator Andrist	x				
Senator Sorvaag	x				
Senator Unruh	x				

Total (Yes) 7 No 0

Absent 0

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

**2013 SENATE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 2129**

Senate Industry, Business, and Labor Committee

Check here for Conference Committee

Legislative Council Amendment Number 13.0239.01002

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment
 Rerefer to Appropriations Reconsider

Motion Made By Senator Laffen Seconded By Senator Andrist

Senators	Yes	No	Senator	Yes	No
Chairman Klein	x		Senator Murphy	x	
Vice Chairman Laffen	x		Senator Sinner	x	
Senator Andrist	x				
Senator Sorvaag	x				
Senator Unruh	x				

Total (Yes) 7 No 0

Absent 0

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

**2013 SENATE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 2129**

Senate Industry, Business, and Labor Committee

Check here for Conference Committee

Legislative Council Amendment Number 13.0239.01003 & 13.0239.01002

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment
 Rerefer to Appropriations Reconsider

Motion Made By Senator Laffen Seconded By Senator Andrist

Senators	Yes	No	Senator	Yes	No
Chairman Klein		x	Senator Murphy	x	
Vice Chairman Laffen	x		Senator Sinner		x
Senator Andrist		x			
Senator Sorvaag	x				
Senator Unruh		x			

Total (Yes) 3 No 4

Absent 0

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

**2013 SENATE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 2129**

Senate Industry, Business, and Labor Committee

Check here for Conference Committee

Legislative Council Amendment Number 13.0239.01003 & 13.0239.01002

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment
 Rerefer to Appropriations Reconsider

Motion Made By Senator Unruh Seconded By Senator Andrist

Senators	Yes	No	Senator	Yes	No
Chariman Klein	x		Senator Murphy		x
Vice Chairman Laffen		x	Senator Sinner		x
Senator Andrist	x				
Senator Sorvaag		x			
Senator Unruh	x				

Total (Yes) 3 No 4

Absent 0

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

**2013 SENATE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 2129**

Senate Industry, Business, and Labor Committee

Check here for Conference Committee

Legislative Council Amendment Number 13.0239.01003 & 13.0239.01002

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment
 Rerefer to Appropriations Reconsider

Motion Made By Senator Unruh Seconded By Senator Andrist

Senators	Yes	No	Senator	Yes	No
Chariman Klein	x		Senator Murphy		x
Vice Chairman Laffen		x	Senator Sinner	x	
Senator Andrist	x				
Senator Sorvaag		x			
Senator Unruh	x				

Total (Yes) 4 No 3

Absent 0

Floor Assignment Senator Klein

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2129: Industry, Business and Labor Committee (Sen. Klein, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO NOT PASS** (4 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). SB 2129 was placed on the Sixth order on the calendar.

Page 1, remove lines 4 through 24

Page 2, replace lines 1 through 11 with:

"SECTION 1. AMENDMENT. Section 54-21.3-04.1 of the North Dakota Century Code is amended and reenacted as follows:

54-21.3-04.1. Accessibility standards.

~~Notwithstanding section 54-21.3-04, every building or facility subject to the federal Americans with Disabilities Act of 1990 [Pub. L. 101-336; 104 Stat. 327] must conform to the accessibility standards of the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities as contained in the appendix to title 28, Code of Federal Regulations, part 36 [28 CFR 36]. State and political subdivision entities may not claim the exceptions to the requirement that elevators be installed in certain buildings as those exceptions are stated in exception 1 to section 4.1.3(5) and in section 4.1.6(1)(k)(i) in the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities found in the appendix to 28 CFR 36. A structural change to an existing state or political subdivision building or facility is not required if another method is effective in achieving compliance with regulations adopted under Public Law 101-336. For public accommodations, an alternative to a structural change in existing buildings or facilities is permitted only after it has been documented, in accordance with regulations adopted under Public Law 101-336, that a particular structural change is not readily achievable. A state agency or the governing body of a political subdivision shall require from any person preparing plans and specifications for a building or facility subject to the Americans with Disabilities Act of 1990 [Pub. L. 101-336; 104 Stat. 327], a statement that the plans and specifications are, in the professional judgment of that person, in conformance with the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities found in the appendix to 28 CFR 36, subject to the exception stated in this section. A statement of conformance must be submitted to the department of commerce division of community services for recording.~~

1. This section replaces any reference to "accessibility standards" in the state and a political subdivision's building code. Notwithstanding section 54-21.3-04, every building or facility subject to the federal Americans with Disabilities Act must conform to the accessibility standards as published by the department of justice revised regulations for titles II and III of the Americans with Disabilities Act of 1990 in the federal register on September 15, 2010. The 2010 standards are minimum requirements, both scoping and technical, for newly designed and constructed or altered state and local government facilities, public accommodations, and commercial facilities to be readily accessible to and usable by individuals with disabilities.
2. These standards include standards for state and local governments, which consist of the title II regulations at 28 CFR 35.151 and the 2004 Americans with Disabilities Act accessibility guidelines at 36 CFR, part 1191, appendices B and D; the 2010 standards for public accommodations and commercial facilities, which consist of the title III regulations at 28 CFR, part 36, subpart D, and the 2004 Americans with Disabilities Act accessibility guidelines at 36 CFR, part 1191, appendices B and D.

3. These standards include the elevator requirements and exceptions are stated in 206.2.3; exceptions: 11 through 7.
4. All state agencies, governing bodies of a political subdivision, and controlling bodies of all public accommodations and commercial facilities shall require from the person preparing drawings and specifications for a building or facility, subject to the Americans with Disabilities Act of 1990, revised 2010, a statement referencing all applicable sections of the standards, that the drawings and specifications are in the professional judgment of that person, in conformance with 2010 Americans with Disabilities Act standards for accessible design. For all public facilities, the statement of conformance must be submitted to the controlling body before construction proceeds. A copy of the statement must be submitted to the department of commerce division of community services for recording.
5. A building constructed after July 31, 2013, in excess of seven thousand five hundred square feet [696.77 square meters], which is classified within the state building code as assembly, business, educational, instructional, or mercantile occupancy and required by the state building code to be accessible must include at the primary exterior public entrance an automatic door or power-assisted manual door that complies with the requirements of the Americans with Disabilities Act of 1990, revised 2010."

Renumber accordingly

2013 HOUSE INDUSTRY, BUSINESS AND LABOR

SB 2129

2013 HOUSE STANDING COMMITTEE MINUTES

House Industry, Business and Labor Committee
Peace Garden Room, State Capitol

SB 2129
March 13, 2013
Job 19812

Conference Committee

Committee Clerk Signature

Explanation or reason for introduction of bill/resolution:

Relating to the state building code and accessibility standards

Minutes:

Attachments 1, 2

Committee called to order.

Roll call taken.

Hearing opened.

1:08 **Senator Lonnie Laffen, District 43:** Introduced bill. Refer to written testimony, attachment 1.

5:37 **Representative Becker:** Question regarding adjustments to pounds of pressure.

6:04 **Senator Laffen:** Game example of positive pressure. Explained why owners may adjust pounds of pressure on door to keep air pressure from holding the doors open.

6:55 **Representative Frantsvog:** Question regarding effective date, building permits, and date of construction. Question about requirements for situations in which a building permit is taken out before the effective date but the building is not completed until after the effective date.

7:33 **Senator Laffen:** We did not specifically deal with that. It would not take much effort to add in something regarding buildings previously contracted and under instruction.

7:59 **Representative Sukut:** Question about grandfathering out existing buildings

8:16 **Senator Laffen:** They are grandfathered out.

8:21 **Chairman Keiser:** If they are replacing a door or doing a substantial remodel which would have to meet new codes, would they have to meet these standards ?

8:55 **Senator Laffen:** No.

Support:

9:08 **Senator Ron Sorvaag, District 45:** Voiced support of the bill. Spoke about the exemptions. Related personal experiences and examples. We will be one of the first states to mandate this.

11:38 **Bonnie Staiger, executive vice president for the American Institute of Architects:** Voiced support of bill. Suggested technical amendment for page 3, line 3. We believe there is no such thing as an *instructional* occupancy in the building code. We believe it should read *institutional*, meaning hospitals and nursing homes.

12:58 **Linda Miller, care giver for the State of North Dakota:** Read testimony from Frances Herauf, attachment 2.

15:26 **Frances Herauf, Mandan citizen:** Spoke of experiences with trying to get this requirement into the building code. Made recommendation for fine in cases where these doors are not put in during the building process or a remodel.

17:39 **Chairman Keiser:** Thank you for your perseverance and willingness to champion this.

17:17 **Frances Herauf:** If it does not pass, I will be back. This is important.

Opposition:

Neutral:

Hearing closed.

18:38 **Representative N. Johnson moved for an amendment** to change the word on page 3, line 3, from *instructional* to *institutional*. Representative Sukut seconded the motion.

Voice vote to adopt amendment carried.

19:10 **Representative Beadle:** Requested hold. Will seek clarification regarding page 2, lines 10-12. In testimony, it was indicated that the intention was not to apply to remodeled properties. The bill uses the word *or altered* and I want clarification about whether that encompasses all remodels.

Bill will be held.

2013 HOUSE STANDING COMMITTEE MINUTES

House Industry, Business and Labor Committee
Peace Garden Room, State Capitol

SB 2129
March 13, 2013, afternoon
Job 19880

Conference Committee

Committee Clerk Signature

Explanation or reason for introduction of bill/resolution:

Relating to the state building code and accessibility standards

Minutes:

Attachment 1, proposed amendment

Representative Sukut: Reviewed bill, including amendment adopted by committee at the conclusion of the hearing.

1:34 **Representative Beadle:** Distributed proposed amendment 13.0239.02001, attachment 1. Spoke about change in verbiage regarding newly designed and constructed buildings. Spoke about other wording adjustments regarding date. The proposed amendment also contains the word change adopted by the committee at the conclusion of the hearing from *instructional* to *institutional*.

3:09 **Representative Beadle moves amendment 13.0239.02001. Seconded by Representative Gruchalla.**

3:23 **Representative N. Johnson:** Did that answer the question of whether they start the design before July 31, 2013, that it is included, or does the building have to be completed?

3:37 **Representative Beadle:** Since it says newly designed and constructed after that date, the implication is that it would be for projected that were started at that time. If you are currently in a project right now, you would not have to make that switch.

3:57 **Representative N. Johnson:** Question regarding projects started shortly before effective date

4:06 **Representative Beadle:** The belief is that if you started building prior to July 31, 2013, you would follow the statute as it currently is.

4:28 **Voice vote on adoption of amendment 13.0239.02001, attachment 1. Motion carries.**

Representative Sukut **moved a Do Pass as Amended;** Representative Boschee seconded.

4:50 **Representative Louser:** I asked the bill sponsor for clarification. On a large multi-use professional building with tenants in spaces under the designated square footage, because there is not a single main entrance, it is there interpretation that each of those entries would have to comply.

6:12 **Chairman Keiser:** Comment on mandate. Reference to testimony regarding tax incentives. Comment on cost of maintenance and repair.

7:25 **Representative Becker:** References Representative Louser's clarification. Voiced concern regarding business with small square footage within a strip mall.

7:56 **Chairman Keiser:** We can hold the bill and get an amendment drafted to address that issue. Our intention is that when you have a public space that gets beyond a certain point, this is not that difficult.

Representative Sukut **withdraws motion**; Representative Boschee withdraws second.

8:34 **Chairman Keiser:** Will hold. Asked Representative Sukut and Representative Louser to visit with sponsors about how to address situation brought up regarding multi-use buildings.

2013 HOUSE STANDING COMMITTEE MINUTES

House Industry, Business and Labor Committee
Peace Garden Room, State Capitol

SB 2129
March 18, 2013
Job 20070

Conference Committee

Committee Clerk Signature

Explanation or reason for introduction of bill/resolution:

Relating to the state building code and accessibility standards

Minutes:

Proposed amendment, attachment 1

Chairman Keiser: Reviewed bill and summarized question raised by Representative Louser.

Representative Sukut distributed and explained proposed amendment, 13.0239.02002, attachment 1.

Representative Sukut **moved the adoption of amendment** 13.0239.02002, attachment 1. Representative Kreun seconded the motion.

Voice vote on amendment 13.0239.02002. **Motion carried.**

Representative Sukut: Have we already adopted Representative Beadle's amendment, 13.0239.02001?

Various committee members confirmed that their notes indicate that Representative Beadle's amendment had been adopted.

Chairman Keiser: So now we have SB 2129 with two amendments. What are the wishes of the committee?

Representative Sukut **moves a Do Pass on SB 2129 as Amended.** Seconded by Representative Boschee.

Roll call vote on motion for a Do Pass as Amended. Motion carries.

Yes = 10

No = 5

Absent = 0

Carrier: Representative Sukut

March 18, 2013

YK
3/18/13

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2129

Page 3, line 1, replace "A building constructed after" with "After"

Page 3, line 1, after the second underscored comma insert "a newly designed and constructed building"

Page 3, line 2, remove the underscored comma

Page 3, line 3, replace "instructional" with "institutional"

Page 3, line 7, after the underscored period insert "If a multiple unit building does not have a primary exterior public entrance, an individual unit within that building is not required to include an automatic door or power-assisted manual door unless that individual unit is in excess of seven thousand five hundred square feet [696.77 square meters]."

Renumber accordingly

Date: 3-13-13 am
 Roll Call Vote #: 1

**2013 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 2/29**

House Industry, Business, and Labor Committee

Legislative Council Amendment Number _____

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment
 Rerefer to Appropriations Reconsider Consent Calendar

Motion Made By Johnson Seconded By Sukut

Representatives	Yes	No	Representatives	Yes	No
Chairman George Keiser			Rep. Bill Amerman		
Vice Chairman Gary Sukut			Rep. Joshua Boschee		
Rep. Thomas Beadle			Rep. Edmund Gruchalla		
Rep. Rick Becker			Rep. Marvin Nelson		
Rep. Robert Frantsvog					
Rep. Nancy Johnson					
Rep. Jim Kasper					
Rep. Curtiss Kreun					
Rep. Scott Louser					
Rep. Dan Ruby					
Rep. Don Vigasaa					

Total Yes _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

*to change word on page 3
 from instruction to institutional
 No written Amendments*

Date: 3-13-13 pm

Roll Call Vote #: 1

2013 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 21201

House Industry, Business, and Labor Committee

Legislative Council Amendment Number _____

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment ^{.02001}

Rerefer to Appropriations Reconsider Consent Calendar

Motion Made By Beadle Seconded By Gruchalla

Representatives	Yes	No	Representatives	Yes	No
Chairman George Keiser			Rep. Bill Amerman		
Vice Chairman Gary Sukut			Rep. Joshua Boschee		
Rep. Thomas Beadle			Rep. Edmund Gruchalla		
Rep. Rick Becker			Rep. Marvin Nelson		
Rep. Robert Frantsvog					
Rep. Nancy Johnson					
Rep. Jim Kasper					
Rep. Curtiss Kreun					
Rep. Scott Louser					
Rep. Dan Ruby					
Rep. Don Vigesaa					

Vote

Total Yes _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Date: 3-13-13pm

Roll Call Vote #: 2

**2013 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2129**

House Industry, Business, and Labor Committee

Legislative Council Amendment Number 13.0239.02001

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment
 Rerefer to Appropriations Reconsider Consent Calendar

Motion Made By Sukut Seconded By Boschee

Representatives	Yes	No	Representatives	Yes	No
Chairman George Keiser			Rep. Bill Amerman		
Vice Chairman Gary Sukut			Rep. Joshua Boschee		
Rep. Thomas Beadle			Rep. Edmund Gruchalla		
Rep. Rick Becker			Rep. Marvin Nelson		
Rep. Robert Frantsvog					
Rep. Nancy Johnson					
Rep. Jim Kasper					
Rep. Curtiss Kreun					
Rep. Scott Louser					
Rep. Dan Ruby					
Rep. Don Vigasaa					

Total Yes _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

*motion
withdrawn*

Date: 3-18-13
 Roll Call Vote #: 1

**2013 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 2129**

House Industry, Business, and Labor Committee

Legislative Council Amendment Number _____

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment ⁰²⁰⁰²
 Rerefer to Appropriations Reconsider Consent Calendar

Motion Made By Sukut Seconded By Kreun

Representatives	Yes	No	Representatives	Yes	No
Chairman George Keiser			Rep. Bill Amerman		
Vice Chairman Gary Sukut			Rep. Joshua Boschee		
Rep. Thomas Beadle			Rep. Edmund Gruchalla		
Rep. Rick Becker			Rep. Marvin Nelson		
Rep. Robert Frantsvog					
Rep. Nancy Johnson					
Rep. Jim Kasper					
Rep. Curtiss Kreun					
Rep. Scott Louser					
Rep. Dan Ruby					
Rep. Don Vigesaa					

Total Yes _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Date: 3-18-13
 Roll Call Vote #: 2

**2013 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 2129**

House Industry, Business, and Labor Committee

Legislative Council Amendment Number 13.0239.02003

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment
 Rerefer to Appropriations Reconsider Consent Calendar

Motion Made By Sukut Seconded By Boschee

Representatives	Yes	No	Representatives	Yes	No
Chairman George Keiser		✓	Rep. Bill Amerman	✓	
Vice Chairman Gary Sukut	✓		Rep. Joshua Boschee	✓	
Rep. Thomas Beadle		✓	Rep. Edmund Gruchalla	✓	
Rep. Rick Becker	✓		Rep. Marvin Nelson	✓	
Rep. Robert Frantsvog	✓				
Rep. Nancy Johnson	✓				
Rep. Jim Kasper		✓			
Rep. Curtiss Kreun	✓				
Rep. Scott Louser	✓				
Rep. Dan Ruby		✓			
Rep. Don Vigesaa		✓			

Total Yes 10 No 5

Absent 0

Floor Assignment Sukut

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2129, as engrossed: Industry, Business and Labor Committee (Rep. Keiser, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (10 YEAS, 5 NAYS, 0 ABSENT AND NOT VOTING). Engrossed SB 2129 was placed on the Sixth order on the calendar.

Page 3, line 1, replace "A building constructed after" with "After"

Page 3, line 1, after the second underscored comma insert "a newly designed and constructed building"

Page 3, line 2, remove the underscored comma

Page 3, line 3, replace "instructional" with "institutional"

Page 3, line 7, after the underscored period insert "If a multiple unit building does not have a primary exterior public entrance, an individual unit within that building is not required to include an automatic door or power-assisted manual door unless that individual unit is in excess of seven thousand five hundred square feet [696.77 square meters]."

Renumber accordingly

2013 CONFERENCE COMMITTEE

SB 2129

2013 SENATE STANDING COMMITTEE MINUTES

Senate Industry, Business and Labor Committee
Roosevelt Park Room, State Capitol

SB 2129
April 8, 2013
Job Number 20967

Conference Committee

Committee Clerk Signature

Eva Lubelt

Explanation or reason for introduction of bill/resolution:

Relating to the state building code and accessibility standards

Minutes:

Discussion

Chairman Klein: Opened the conference committee on SB 2129 and the roll was taken. Senator Klein, Senator Andrist, Senator Murphy and Representative Sukut, Representative Louser and Representative Marvin Nelson were present.

Chairman Klein: Said the bill did not pass in committee but did pass on the Senate floor. One of the reasons they did not concur was Mr. Bjornson from legislative council suggested that they take a look at the amendment. When it came back from the House the issues weren't corrected, it came back with the same language. Senator Laffen and I went to legislative council and after visiting with John Bjornson it was decided that he would correct what he believes is conflicts. He went over the changes that will be made and suggested they come back after the amendments are done. He closed the conference committee.

2013 SENATE STANDING COMMITTEE MINUTES

Senate Industry, Business and Labor Committee
Roosevelt Park Room, State Capitol

SB 2129
April 9, 2013
Job Number 21017

Conference Committee

Committee Clerk Signature

Eva Liebelt

Explanation or reason for introduction of bill/resolution:

Relating to the state building code and accessibility standards

Minutes:

Discussion and Amendment

Chairman Klein: Called the conference committee to order on SB 2129 and the roll was taken. Senator Klein, Senator Andrist, Senator Murphy, Representative Sukut, Representative Louser and Representative Marvin Nelson were present.

Chairman Klein: He handed out an amendment, attached (1). Basically what we struck was all that language that the Senate put in. He went over the amendment.

Representative Sukut: Said the amendments are actually the amendments that the House put on the bill. The wrong version was amended and the only change is reinserting the overstrike part.

Chairman Klein: That is the one if you have a strip mall.

Representative Sukut: Yes. Why are we going back to the 1990 ADA accessibility guidelines rather than moving forward. That is what the new part does, it at least moves forward to the 2010. When you read through both sides there is a lot of duplication between the two of them. It appears to me that we are just upgrading the standards to the current standards which are 2010, rather than 1990.

Chairman Klein: There are parts in here that do conflict with the words - notwithstanding. You already have that in another section. Whatever we do in North Dakota still has to comply with the federal ADA, no matter which version we use, 1990 or the 2010.

Discussion continued on the standards in affect and if they are going back to the 1990 accessibility standards or are using the 2010. It was decided to have John Bjornson come and explain the amendment.

John Bjornson, Legislative Council: Asked what the question was.

Representative Sukut: Replacing the ADA parts, in looking at these they are quite similar except the front side has to do with the accessibility standards dated at 1990 and it appears when we get to the current part on the second sheet, a lot of it is the same except it has the updated accessibility standards from September 15, 2010. We're wondering why we are going back to the 1990 standards. We will be governed under the 2010.

John Bjornson: Said the ADA was adopted in 1990 and there have been additional standards set by rule. He said it is in his view repetitive in either case. They can at least update the repetitiveness. (9:53-12:42)

Representative Sukut: Asked if they did the update would they stay with the amended version as it is.

John Bjornson: I would hope if you did stay with the amended version we could have the opportunity to clean it up a little bit. The language was difficult to understand and probably was overly detailed in some respects. It could be easier to read and less detailed. (13:07-14:15)

Chairman Klein: If we remove the overstrike, per your amendments and remove that section 1, 2, 3; the building codes of the state of North Dakota will have to continue to be up to date following ADA requirements whether it says 2010 or 1990. It doesn't change the fact that construction moving forward always has to comply and be in conformity with ADA standards. Do we really need this because we have to comply by this whether it says it here or not?

John Bjornson: I tend to agree. (15:10-16:10)

Chairman Klein: Said he does see some conflicts and concerns. We aren't trying to shift anything around or move anything to a different standard than what they've been doing by following all the ADA requirements.

Representative Louser: Do we even have to have this part of it in code at all since the building codes have to conform to the ADA standards anyway?

John Bjornson: That was my question and no one has told me yes or no. The state building code is administered by the department of commerce and they have an advisory committee that helps them develop the building code. The local officials are the real experts on this.

Representative Louser: Do we have any conflict with the 7500 square feet that we are attempting to add in ADA?

John Bjornson: Said he doesn't know. This would be more of an additional standard it wouldn't be necessary to put it into law.

Chairman Klein: Said that the ADA doesn't require door openers and we are going beyond the ADA standards in America in providing this. We will be the only state. The 7500 was a little self-serving but that is how we got to that point because as you look at the smaller

communities most buildings aren't much larger than that. That is why we have to put that in here because ADA standards do not require automatic door openers.

Representative Marvin Nelson: When I look at the current law, the very first part of it talks about you having to conform but after that most of what is there really are things where you don't. (19:43-23:12)

Chairman Klein: The subcommittee with Representative Nelson, Representative Sukut will work with John Bjornson and fix that. I am good with leaving it the way it was before the Senate amended it, other than page three. We will adjourn.

2013 SENATE STANDING COMMITTEE MINUTES

Senate Industry, Business and Labor Committee
Roosevelt Park Room, State Capitol

SB 2129
April 10, 2013
Job Number 21061

Conference Committee

Committee Clerk Signature

Eva Leibel

Explanation or reason for introduction of bill/resolution:

Relating to the state building code and accessibility standards

Minutes:

Discussion

Chairman Klein: Called the conference committee to order and the clerk took the roll. Senator Klein, Senator Andrist, Senator Murphy, Representative Sukut, Representative Louser and Representative Marvin Nelson were present.

Representative Sukut: The report from the subcommittee is going to be enlightened by John Bjornson.

John Bjornson, Legislative Council: Said he visited with a building officer to see if there was any other interpretation of that overstruck language than what he had yesterday, which was he had no idea whether this was in the law. He got the same response from the building official that said it was telling them to conform to federal law, which they are already subject to because it's federal law. The language that was in the law was being reinserted in the engrossed version. (:30-5:19)

Chairman Klein: So we would keep all of the overstrike and get rid of everything that existed on page one and then leave number four. Is that where we are at?

John Bjornson: And five if that is your desire.

Chairman Klein: Five we all understand.

John Bjornson: That is correct. If four and five became one and two under this section and then we would change the caption that says accessibility standards. Maybe add in powered assisted doors. (5:58-6:38)

Chairman Klein: Committee the intern will work with John in drafting amendments that would address that issue but continue to leave number five as the House amended it.

Discussion continued on what needs to be done on the amendments and Senator Laffen addressed the committee and explained how the bill came to them.

Chairman Klein: We will adjourn and reschedule.

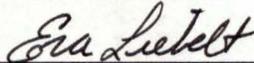
2013 SENATE STANDING COMMITTEE MINUTES

Senate Industry, Business and Labor Committee
Roosevelt Park Room, State Capitol

SB 2129
April 12, 2013
Job Number 21142

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to the state building code and accessibility standards

Minutes:

Amendment and Vote

Chairman Klein: Called the conference committee to order on SB 2129 and the clerk took the roll. Senator Klein, Senator Andrist, Senator Murphy, Representative Sukut, Representative Louser and Representative Marvin Nelson were present.

Chairman Klein: Said Senator Laffen is here to explain the amendments, where he came up with them and how this is going to be better.

Senator Laffen: Said he had a chance to talk to a couple of architects who deal a lot with ADA sections within their architecture firms. He understands what the first section does now and has a new amendment. He went over the amendment, Amendment Attached (1). (:35-5:09)

Senator Andrist: Asked if a small town had very loose building permit requirements to begin with.....what happens if someone wants to build a building and inadvertently doesn't know about this, nor does the city council. Where is the person who catches this and makes sure it is done?

Senator Laffen: Said in the bigger cities it is easier because they have building code officials that catch some of this but ninety percent of what is missed is not caught by building officials either. They don't catch it until they walk out on the site and see it. They will sometimes say it needs to be fixed and sometimes it goes without notice.

Senator Andrist: Said that gives him a reasonable comfort level that there is no gotcha effect in here. Most small towns aren't going to build buildings over 7500 square feet to begin with.

Representative Sukut: Made the motion that the House recedes from the House amendments and the engrossed SB 2129 is amended as follows, 13.0239.02005.

Senator Murphy: Seconded the motion.

Senate Industry, Business and Labor Committee
SB 2129
April 12, 2013
Page 2

Roll Call Vote: Yes - 6 No - 0 Absent - 0

House Carrier: Representative Sukut

Senator Carrier: Senator Laffen was appointed by the committee to carry for the Senate.

April 10, 2013

1 of 2
4/12/13
TO

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2129

That the House recede from its amendments as printed on page 898 of the Senate Journal and page 990 of the House Journal and that Engrossed Senate Bill No. 2129 be amended as follows:

Page 1, remove lines 4 through 24

Page 2, remove lines 1 through 30

Page 3, replace lines 1 through 7 with:

"SECTION 1. AMENDMENT. Section 54-21.3-04.1 of the North Dakota Century Code is amended and reenacted as follows:

54-21.3-04.1. Accessibility standards - Automatic doors.

1. Notwithstanding section 54-21.3-04, every building or facility subject to the federal Americans with Disabilities Act of 1990 [Pub. L. 101-336; 104 Stat. 327] must conform to the ~~accessibility standards of the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities 2010~~ Americans with Disabilities Act standards for accessible design as contained in the appendix to title 28, Code of Federal Regulations, ~~part~~ parts 35 and 36 [28 CFR 35 and 36]. State and political subdivision entities may not claim the exceptions to the requirement that elevators be installed in certain buildings as those exceptions are stated in exception 1 to section 4.1.3(5) and in section 4.1.6(1)(k)(i) in the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities found in the appendix to 28 CFR 36. A structural change to an existing state or political subdivision building or facility is not required if another method is effective in achieving compliance with regulations adopted under Public Law 101-336. For public accommodations, an alternative to a structural change in existing buildings or facilities is permitted only after it has been documented, in accordance with regulations adopted under Public Law 101-336, that a particular structural change is not readily achievable.
2. A state agency or the governing body of a political subdivision shall require from any ~~person~~individual preparing plans and specifications for a building or facility subject to the Americans with Disabilities Act of 1990 [Pub. L. 101-336; 104 Stat. 327], a statement that the plans and specifications are, in the professional judgment of that ~~person~~individual, in conformance with the Americans with Disabilities Act ~~Accessibility Guidelines for Buildings and Facilities found in the appendix to 28 CFR 36,~~ subject to the exception stated in this section standards for accessible design as provided under subsection 1. A statement of conformance must be submitted to the department of commerce division of community services for recording.
3. After July 31, 2013, a newly designed and constructed building in excess of seven thousand five hundred square feet [696.77 square meters] which is classified within the state building code as assembly, business,

2 of 2

educational, institutional, or mercantile occupancy and required by the state building code to be accessible must include at the primary exterior public entrance an automatic door or power-assisted manual door that complies with the requirements of the Americans with Disabilities Act of 1990, revised 2010. If a multiple unit building does not have a primary exterior public entrance, an individual unit within that building is not required to include an automatic door or power-assisted manual door unless that individual unit is in excess of seven thousand five hundred square feet [696.77 square meters]."

Renumber accordingly

Date: 4/12/2013

Roll Call Vote: #1

**2013 SENATE CONFERENCE COMMITTEE
ROLL CALL VOTES**

BILL/RESOLUTION NO. **2129** as (re) engrossed

Senate Industry, Business and Labor Committee

- Action Taken**
- SENATE accede to House Amendments
 - SENATE accede to House Amendments and further amend
 - HOUSE recede from House amendments
 - HOUSE recede from House amendments and amend as follows
 - Unable to agree**, recommends that the committee be discharged and a new committee be appointed

Motion Made by: Representative Sukut Seconded by: Senator Murphy

Senators	4/12	Yes	No	Representatives	4/12	Yes	No
Klein	✓	x		Sukut	✓	x	
Andrist	✓	x		Louser	✓	x	
Murphy	✓	x		Nelson	✓	x	
Total Senate Vote		3		Total Rep. Vote		3	

Vote Count Yes: 6 No: 0 Absent: 0

Senate Carrier Senator Laffen House Carrier Rep. Sukut

LC Number 13.0239 . 02005 of amendment

LC Number _____ of engrossment

Note: Senator Laffen was appointed the carrier for the Senate

REPORT OF CONFERENCE COMMITTEE

SB 2129, as engrossed: Your conference committee (Sens. Klein, Andrist, Murphy and Reps. Sukut, Louser, M. Nelson) recommends that the **HOUSE RECEDE** from the House amendments as printed on SJ page 898, adopt amendments as follows, and place SB 2129 on the Seventh order:

That the House recede from its amendments as printed on page 898 of the Senate Journal and page 990 of the House Journal and that Engrossed Senate Bill No. 2129 be amended as follows:

Page 1, remove lines 4 through 24

Page 2, remove lines 1 through 30

Page 3, replace lines 1 through 7 with:

"SECTION 1. AMENDMENT. Section 54-21.3-04.1 of the North Dakota Century Code is amended and reenacted as follows:

54-21.3-04.1. Accessibility standards - Automatic doors.

1. ~~Notwithstanding section 54-21.3-04, every building or facility subject to the federal Americans with Disabilities Act of 1990 [Pub. L. 101-336; 104 Stat. 327] must conform to the accessibility standards of the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities 2010 Americans with Disabilities Act standards for accessible design as contained in the appendix to title 28, Code of Federal Regulations, part parts 35 and 36 [28 CFR 35 and 36]. State and political subdivision entities may not claim the exceptions to the requirement that elevators be installed in certain buildings as those exceptions are stated in exception 1 to section 4.1.3(5) and in section 4.1.6(1)(k)(i) in the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities found in the appendix to 28 CFR 36. A structural change to an existing state or political subdivision building or facility is not required if another method is effective in achieving compliance with regulations adopted under Public Law 101-336. For public accommodations, an alternative to a structural change in existing buildings or facilities is permitted only after it has been documented, in accordance with regulations adopted under Public Law 101-336, that a particular structural change is not readily achievable.~~
2. A state agency or the governing body of a political subdivision shall require from any ~~person~~individual preparing plans and specifications for a building or facility subject to the Americans with Disabilities Act of 1990 [Pub. L. 101-336; 104 Stat. 327], a statement that the plans and specifications are, in the professional judgment of that ~~person~~individual, in conformance with the Americans with Disabilities Act ~~Accessibility Guidelines for Buildings and Facilities found in the appendix to 28 CFR 36, subject to the exception stated in this section~~standards for accessible design as provided under subsection 1. A statement of conformance must be submitted to the department of commerce division of community services for recording.
3. After July 31, 2013, a newly designed and constructed building in excess of seven thousand five hundred square feet [696.77 square meters] which is classified within the state building code as assembly, business, educational, institutional, or mercantile occupancy and required by the state building code to be accessible must include at the primary exterior public entrance an automatic door or power-assisted manual door that complies with the requirements of the Americans with Disabilities Act of 1990, revised 2010. If a multiple unit building does not have a primary

exterior public entrance, an individual unit within that building is not required to include an automatic door or power-assisted manual door unless that individual unit is in excess of seven thousand five hundred square feet [696.77 square meters]."

Renumber accordingly

Engrossed SB 2129 was placed on the Seventh order of business on the calendar.

2013 TESTIMONY

SB 2129

Senate Industry, Business, and Labor Committee

Jan. 15, 2012

Testimony Senator Ronald Sorvaag Senate Bill 2129

Mr. Chairman and members of the Industry, Business, and Labor Committee, under present building codes you do not have to install a automatic or power assisted door opener when building a new buildings. With North Dakota being a cold climate, we push a lot of air into our buildings, creating a positive air pressure that causes our doors to actually blow open and lose heat. The current solution is to ratchet up the pull on the door closer making it difficult to open, not only our disabled citizens, but many other citizens.

Senate Bill 2129 purpose is to make access to newly constructed buildings easier for disabled citizens, seniors and the general public. 2129 requires that any building falling in the state building code as assembly, business, educational, instructional, or mercantile, which is most buildings that the public would generally access, must have an automatic door or power-assisted manual door. The door opener would only be required at the primary public entrance.

Design and specifications of the door would have to meet Americans with Disabilities Act requirements.



Senator Ronald Sorvaag

January 25, 2013

PROPOSED AMENDMENTS TO SENATE BILL NO. 2129

Page 1, remove lines 7 through 24

Page 2, replace lines 1 through 11 with:

- "1. This section replaces any reference to "accessibility standards" in the state and a political subdivision's building code. Notwithstanding section 54-21.3-04, every building or facility subject to the federal Americans with Disabilities Act must conform to the accessibility standards as published by the department of justice revised regulations for titles II and III of the Americans with Disabilities Act of 1990 in the federal register on September 15, 2010. The 2010 standards are minimum requirements-- both scoping and technical--for newly designed and constructed or altered state and local government facilities, public accommodations, and commercial facilities to be readily accessible to and usable by individuals with disabilities.
2. These standards include standards for state and local governments, which consist of the title II regulations at 28 CFR 35.151 and the 2004 Americans with Disabilities Act accessibility guidelines at 36 CFR part 1191, appendices B and D; the 2010 standards for public accommodations and commercial facilities, which consist of the title III regulations at 28 CFR part 36, subpart D, and the 2004 Americans with Disabilities Act accessibility guidelines at 36 CFR part 1191, appendices B and D.
3. These standards include the elevator requirements and exceptions are stated in 206.2.3; exceptions: 11 through 7.
4. All state agencies, governing bodies of a political subdivision and controlling bodies of all public accommodations and commercial facilities shall require from the person preparing drawings and specifications for a building or facility, subject to the Americans with Disabilities Act of 1990, revised 2010, a statement referencing all applicable sections of the standards, that the drawings and specifications are in the professional judgment of that person, in conformance with 2010 Americans with Disabilities Act standards for accessible design. The statement of conformance must be submitted to the controlling body before construction proceeds; for all public facilities. A copy of the statement must be submitted to the department of commerce division of community services for recording.
5. A building classified within the state building code as assembly, business, educational, instructional, or mercantile occupancy and required by the state building code to be accessible must include at the primary exterior public entrance an automatic door or power assisted manual door that complies with the requirements of the Americans with Disabilities Act of 1990 revised 2010."

Renumber accordingly

(2)

13.0239.01002
Title.

Prepared by the Legislative Council staff for
Senator Laffen
January 24, 2013

PROPOSED AMENDMENTS TO SENATE BILL NO. 2129

Page 2, line 7, after the first "building" insert "constructed after July 31, 2013, in excess of seven thousand five hundred square feet [696.77 square meters], which is"

Renumber accordingly

SB2129 - TESTIMONY TO THE HOUSE IBL COMMITTEE
MARCH 13, 2013
LONNIE J. LAFFEN, SENATOR, DISTRICT 43

① 3-13-2013
SB 2129^{Am}

Chairman Keiser & members of the House IBL Committee:

SB2129 may not be an old friend but it is a friend. It started in your chamber last session and you passed it over to the Senate with a 94-0 vote. I had some problems with how it would be implemented and asked that we re-work it this session so we killed it on our side and here we are today.

The bill would require Power Assisted Door Operators to be installed on at least one single leaf of the main front door, for all new public buildings over 7,500 s.f. constructed after July 31, 2013. The issue is that it is very difficult for our handicapped citizens to gain access into our North Dakota buildings, as I will explain later in my testimony, and this bill will make that easier.

There are basically three types of Power Assisted Door Operators; the bi-parting doors you see at Target or Wal-Mart (\$10K), the push plate type, where you push the button and the door swings open for you (\$5K) and what we call the "Stanley" version - where you pull the handle a little bit and then the door simply takes over on its own (\$2K).

There are several differences from the bill you passed last session. The last version of this bill only required these operators for retail entities. I thought it was hypocritical for us to single out retailers and not include this requirement on our own state buildings. So this version includes all public buildings in our state building code including, assembly, business, educational, instructional and mercantile. The bill exempts all the other classifications in our building code including agricultural, manufacturing, industrial, residential etc.

This bill also exempts buildings under 7,500 s.f., which would likely include around 90% of the buildings in our smaller rural communities. In my hometown of Wimbledon, the last building larger than 7,500 s.f. was constructed in 1959. A building of 7,500 s.f. would cost in neighborhood of \$1.5M.

Last session's version also had a complicated qualifier related to whether the project had received "public assistance" which the designers, who actually have to implement this bill, would never have been able to figure out.

Power Assisted Door Operators are not required by the Americans with Disabilities Act. The ADA requires doors to be able to be opened with a pull pressure of 15 lbs. Herein lies the reason this bill makes sense for North Dakota. ADA does not take into

account that 15 lbs. does not work in North Dakota. We live in the coldest climate in the country. We pump a lot of air into our buildings to create a positive interior pressure. We do this to insure that leaks expel a bit of warm air rather than suck a lot of cold. A building under negative air pressure in North Dakota would be extremely uncomfortable as cold air pours in through every seam. Unfortunately for our front door - this positive pressure means that it is going to stand open at 15 lbs. of pull pressure. What do building operators do? They crank up the closer to keep that door closed and that means it's very difficult to open from a wheelchair. I would guess that every door in ND is likely set at twice the allowance established by ADA. Enforcing this is futile as the option is having the door stand open during the winter.

Mr. Chairman - everything I have spoken to is contained on page 3 of the bill. The other changes on pages 1-2 are simply housekeeping. Those changes update out of date language to North Dakota's ADA laws as required by the Federal Government.

Mr. Chairman: This bill is the idea of a Mandan citizen and he is here today as well to give his testimony.

Thank you for your time.

Hello, I'm Frances Herauf of Mandan.

② 3-13-2013 Am
SB 2129

I have used a wheelchair since 1973 when I was a passenger in a car accident. In the words of Martin Luther King, Jr., "I have a dream." It's time for freedom for all disabled people and anyone who has to fight with doors. We feel like we're locked out and can't go where we want. No one asked to be in this situation and you never know when you or a loved one might need a wheelchair. What would the public do if grocery stores took out their electric doors? They would know how we feel.

It's been twenty years since the Disability Act has passed. Look at all the buildings that have been built or remodeled since then. Only a few have electric doors. Many have not improved their accessibility. This bill should be revised to include all new construction and remodeling. An electric door is a benefit to many, including the elderly, people with small children or a stroller, and delivery people. It's a way to honor our disabled veterans. They fought for us—they shouldn't have to fight doors. Businesses would have customers who couldn't shop there before, and they would get tax credit to help with the expense. Businesses who have added electric doors don't know how they got by without them. I've talked to people all over the United States, including Boston and Iowa, and they ask ^{why} we're so far behind. We're not in the '60's anymore. We've entered a new century. It's time to make this change. Thank you.

13.0239.02001
Title.

① 3-13-13pm

Prepared by the Legislative Council staff for
Representative Beadle
March 13, 2013

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2129

Page 3, line 1, replace "A building constructed after" with "After"

Page 3, line 1, after the second underscored comma insert "a newly designed and constructed building"

Page 3, line 2, remove the underscored comma

Page 3, line 3, replace "instructional" with "institutional"

Renumber accordingly

13.0239.02002
Title.

① 3-18-2013

Prepared by the Legislative Council staff for
Representative Sukut

March 14, 2013

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2129

Page 3, line 3, replace "instructional" with "institutional"

Page 3, line 7, after the underscored period insert "If a multiple unit building does not have a primary exterior public entrance, an individual unit within that building is not required to include an automatic door or power-assisted manual door unless that individual unit is in excess of seven thousand five hundred square feet [696.77 square meters]."

Renumber accordingly

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2129

That the House recede from its amendments as printed on page 898 of the Senate Journal and page 990 of the House Journal and that Engrossed Senate Bill No. 2129 be amended as follows:

Page 1, after line 6, insert:

"1."

Page 1, remove the overstrike over lines 7 through 24

Page 2, remove the overstrike over lines 1 through 3

Page 2, remove lines 4 through 30

Page 3, line 1, replace "5." with "2."

Page 3, line 1, replace "A building constructed after" with "After"

Page 3, line 1, after the second underscored comma insert "a newly designed and constructed building"

Page 3, line 3, replace "instructional" with "institutional"

Page 3, line 7, after the underscored period insert "If a multiple unit building does not have a primary exterior public entrance, an individual unit within that building is not required to include an automatic door or power-assisted manual door unless that individual unit is in excess of seven thousand five hundred square feet [696.77 square meters]."

Renumber accordingly