

Building and Energy Code

Item 1: Add an Energy Seat on Building Code Council

Status: *Legislation drafted, seeking bill Sponsors and Supporters*

NCBPA seeks to add an energy efficiency/renewable energy/clean energy seat to the NC Building Code Council via amendment to existing legislation ([GS 143-136](#)). Currently, 17 Governor-appointed members make up the BCC but none work in the clean energy industry (broadly). In the past several years, the most difficult issues addressed by the BCC have related to residential and commercial energy code. Without an industry representative on the code council, improvements to minimum code standards and proper vetting of code issues related to energy efficiency, renewable energy and clean energy are missed. As North Carolina moves towards a great focus on these topics in homes and buildings ahead of our next code cycles in 2021 for commercial and 2024 for residential, it is important to provide energy expertise on the council.

Proposal: NCBPA seeks to replace an existing seat on the council with an “energy contractor or consultant” seat OR add the seat on its own or with another (to keep an odd number on the council). If two seats are needed, NCBPA recommends an additional seat of “Building Envelope Consultant” or “Building Commissioning Contractor”, both of which are similarly underrepresented on the BCC.

Draft Legislation:

Insert a new seat as number 17 (for a total of 18 seats), replace a current seat or add two additional seats, with one being this energy seat:

(17) One energy contractor or consultant involved in the design, development, installation or service of energy efficiency and renewable energy products and services.

Item 2: Modify 2018's Residential Garage Energy Efficiency Exemption

Status: *Finalizing language, seeking bill Sponsors and Supporters*

Modify [2018's HB 573 “Business and Regulatory Changes”](#) that exempts all attached and detached residential garages from meeting any energy efficiency requirements in code. NCBPA and its member companies are concerned that this exemption reaches far too broadly by eliminating important energy efficiency measures currently used in attached garages connected to living spaces. Energy efficiency measures including air sealing, thermal barriers and others prevent toxic chemicals and liquids from making their ways into living spaces on the side, above or below attached garages. This legislation creates an unhealth and unsafe living environment for new North Carolina homes and circumvented the NC Building Code Council and the NC Department of Insurance, whose role includes protecting the health and safety of North Carolina residents.

Proposal: NCBPA seeks to amend this legislation to specify that energy efficiency requirements are not needed for detached garages (no changes) but that for attached garages, the exemption only applies to walls, ceilings, floors and other components of the thermal envelope (code-built wall structure) that are not in direct contact with living spaces on the side, bottom or above.

Draft Legislation (changes in red):

EXEMPT RESIDENTIAL GARAGES FROM ENERGY EFFICIENCY CODES SECTION 2.(a) G.S. 143-138 is amended by adding a new subsection to read: "(b19) Exclusion From Energy Efficiency Code Requirements for Residential Garages. – The Council shall provide for an exemption for detached garages located on the same lot as a dwelling and any wall, ceiling, floor or other component or system of the thermal envelope that is not directly attached a dwelling in attached garages located on the same lot as a dwelling from any requirements in the energy efficiency standards pursuant to Chapter 11 of the North Carolina Residential Code for One- and Two-Family Dwellings and Chapter 4 of the North Carolina Energy Conservation Code." SECTION 2.(b) This section becomes effective October 1, 2018.

Item 3: Modify or Repeal Existing Commercial Building Energy Code Exemption

Status: Finalizing language, seeking bill Sponsors and Supporters

NCBPA seeks to modify or repeal 2013's [House Bill 201](#) that exempts some existing commercial buildings from NC's new 2018 commercial energy code. This legislation created a loophole in energy efficiency standards for new additions to commercial buildings with a certificate of occupancy dated prior to January 1, 2012. Under this legislation, any building or new addition to an existing building with a certificate of occupancy dated prior to January 1, 2012 may choose to adhere to the energy efficiency standards in either the 2012 North Carolina Building Code or the 2009 North Carolina Building Code. Permits cannot be denied or revoked for failing to meet these code requirements. And, building owners cannot increase the building area by more than 150% to qualify for the exemption.

Proposal: NCBPA seeks to repeal this legislation or modify it so that the new 2018 code is not ignored for new additions to existing commercial buildings constructed starting January 1, 2019.

Draft Legislation (changes in red):

~~Section 3. No permit shall be denied or revoked, certificate of compliance denied, order to correct violations issued, stop order issued, defect noted, building condemned, order to take corrective action issued, judicial action brought, or any other action be made under Part 4 of Article 18 of Chapter 153A or Part 5 of Article 19 of Chapter 160A of the General Statutes because of a violation of the 2012 North Carolina State Building Code Energy Conservation Code if it would not also be a violation of the 2009 North Carolina State Building Code Energy Conservation Code or a violation of the energy conservation part of the 2012 North Carolina State Building Code Residential Code if it would not also be a violation of the 2009 North Carolina State Building Code Residential Code.~~

Item 4: Modify or Repeal an Energy Code Exemption for New Commercial Buildings

Status: Finalizing language, seeking bill Sponsors and Supporters

NCBPA seeks to modify or repeal legislation similar to [Senate Bill 131, Regulatory Reform Act of 2016-2017](#) that exempts some new commercial buildings from energy code requirements and may lead to a similar exemption related to the new 2018 NC Energy Code. This legislation exempts new commercial buildings designated as Factory Group F, Storage Group S, or Utility/Miscellaneous Group U from minimum energy code requirements in the 2012 NC Energy Conservation Code, 2012 Building Code and 2015 NC Existing Building Code. While the primary target of this legislation is factories, warehouses, storage facilities and other miscellaneous buildings, the legislation allows for offices and other administrative areas to be exempt from minimum energy code requirements if they exist within a building with a primary designation of F, S, or U.

Proposal: Repeal this legislation or prevent a new exemption that would apply to the 2018 NC Energy Code.

Draft Legislation (changes in red):

~~SECTION 1.4. G.S. 143-138 is amended by adding a new subsection to read: "(b18) Exclusion From Energy Efficiency Code Requirements for Certain Use and Occupancy Classifications.—The Council shall provide for an exemption from any requirements in the energy efficiency standards pursuant to Chapter 13 of the 2012 North Carolina Building Code and the 2012 Energy Conservation Code, and any subsequent amendments to the Building Code and Energy Conservation Code, for the following use and occupancy classifications pursuant to Chapter 3 of the 2012 North Carolina Building Code: Section 306, Factory Group F; Section 311, Storage Group S; and Section 312, Utility and Miscellaneous Group U. This exclusion shall apply to the entire floor area of any structure for which the primary use or occupancy is listed herein."~~

Item 5: Enable Health and Safety Review for Building Code Changes Originating from Legislature

Status: Finalizing language, seeking bill Sponsors and Supporters

NCBPA seeks to implement a health and safety review step to be performed by the NC Building Code Council to support situations in which the Legislature circumvents the Building Code Council by passing legislation with potential impacts to health and safety of residents, workers, animals, the environment, etc. NCBPA and other stakeholders are very concerned that the Legislature can override code in cases like this one that raise concerns about health and safety. With this issue, energy efficiency requirements including proper blocking, air sealing and ventilation help separate the residential garage space – and chemicals that are often stored there – from the living space. NCBPA is unaware of any review process or consideration given to this issue.

Proposal: Implement a 90-day review period for the Building Code Council to adequately review and provide recommendations on health and safety issues related to legislation impacting code.

Draft Legislation:

Legislation impacting any part of North Carolina's building code is subject to a 90-day review period whereby the North Carolina Building Code Council will perform a thorough review of any health and safety impacts to residents, workers, animals, the environment and other possible groups impacted.

The Building Code Council will report back to the Senate and House Building Codes Committees (TBD) with the findings of their review and any recommendations related to changes to the language. The Committees will review these findings and recommendations and make a ruling, each, as to whether or not the current language shall be implemented as-is or if the legislation needs to be re-written or repealed. Any changes to the legislation undertaken will initiate another 90-day review period and the process repeats itself. If the Building Code Council does not report back to the Committees within the 90-day review period, or they do not find any issues with the legislation, the legislation takes affect according to the timeline included, so long as the 90-day review period remains.

State Regulations and Programs

Item 6: Increase Energy and Water Savings Goals for Public Buildings

Status: Bill drafting complete, will be introduced by Rep. Szoka

NCBPA seeks to increase the energy and water savings goals for public buildings to 40% and 30% respectively by 2025. NCBPA seeks to pass amendments to [2007's SB 668](#) that may include:

- Increase the energy and water use reduction goals for state-owned buildings from the initial target of 30% and 20% by 2015 to 40% and 30% (respectively) by 2025.
- Leave the 2003 - 2004 baseline benchmark dates related to the savings goals as-is but update the references to code standards to reflect current North Carolina energy, plumbing, electrical and other related codes.
- Make necessary updates to reflect current departments and programs related to the State Energy Office, DEQ and others.
- Repeal a prior 2017 amendment that changed the annual reporting period to two years, changing it back to one.
- Incorporate energy and water savings requirements for state-leased buildings.
- Incorporate air sealing and duct sealing as approved energy conservation measures.
- Include a directive that state buildings will be retrofitted (if existing) or be built with (if new) energy and water metering devices to support the future monitoring of building-level energy and water usage.

Draft Legislation: Contact NCBPA for these references.

Item 7: Modify Commercial and Industrial EE Opt-Out Allowance

Status: Analysis underway – no legislative action needed

NCBPA seeks to amend the Commercial and Industrial Energy Efficiency Opt-Out Allowance created in [2007's Senate Bill 3 "REPS" law](#) to increase energy savings and lower utility rates. Currently, roughly 60% of eligible customers and more than 75% of those in the industrial sector choose to opt-out from paying the higher utility rate inclusive of Demand Side Management/Energy Efficiency riders by self-certifying that they have performed an energy audit or energy efficiency improvement of some type at some point in time (there is not definition or requirement of either). Currently, the state

has no way to verify that companies in this sector, which consumes 25% - 50% of the state's energy usage, are performing real energy audits or energy efficiency projects that contribute to energy savings.

Proposal:

- Narrow the scope of customers that are eligible to opt-out that currently applies to commercial customers with annual consumption of 1,000,000 kWh or greater and all industrial customers.
- Require customers in this sector to report annually their energy usage, plans for EE projects, completed EE projects and results from EE projects to NCDEQ, NCUC (currently tracks opt-outs) or other (TBD) so that the state government is able to verify that EE investment is taking place at these customers' businesses and to identify how additional support could be provided. Do so in such a way that the company-level data would not be accessible to other public or private entities.
- Increase the stringency of current provisions that allow a customer to meet the opt-out allowances by performing energy audits or energy efficiency improvements but that do not include any firm details regarding the timeline for when the improvements were performed, the type of audit or improvements to be performed, or the results of the exemption activity.
- Establish two-years of state funding for nonprofit entities [NC Clean Energy Technology Center](#), the [NCSU Industrial Assessment Center](#), NC Central's Energy Center and [Advanced Energy](#) to advertise and offer free energy audits and support services to small and mid-sized companies in this sector to increase the identification of high return/low-cost energy saving opportunities and encourage their opt-in and participation in energy efficiency programs. Ensure that the work of these organizations is not reported or able to be accessed publicly.

Draft Legislation: Contact NCBPA for these references.

Item 8: Enable Commercial PACE Legislation

Status: *On hold, pending constitutional review*

NCBPA seeks to enable [2017's C-PACE legislation SB493](#) that is currently held up due to belief by Treasurer's Office that the fundamental role of local governments' participation in the program is a credit risk or debt obligation, which is disallowed by the NC Constitution.

Proposal: NCBPA seeks to obtain a favorable opinion from the Treasurer's Office on the constitutionality of this legislation in order to re-start its legislative pathway during the 2019 session.

Draft Legislation:

Visit NCBPA's website to see the current bill draft: <http://buildingnc.org/resources/policy/cpace/>.

Utility Energy Efficiency Requirements

Item 9: Increase EE Requirements for All Utilities

Status: *Analysis underway – no legislative action needed*

Increase Utility Energy Efficiency Requirements as a Percentage of Net Electricity Retail Sales via new legislation. Introduce new legislation to:

- Require regulated utilities including Duke Energy to account for at least 2% of their net annual electricity sales through demand side energy efficiency measures and programs by 2022 with increasing amounts in three-year periods (not via REPS).
- Require non-regulated utilities including co-ops and munis to also meet energy efficiency requirements.

Proposal: NCBPA continues to work on this proposal and welcomes feedback from interested legislators and stakeholders.

Draft Legislation:

Regulated electric public utilities operating in North Carolina must implement demand side energy efficiency measures and programs for North Carolina customers (all ratepayer types) that account for the following percentages of prior year North Carolina retail electricity sales, as measured by total kilowatt hours:

| Calendar Year | Energy Efficiency Requirement |
|---------------------|--|
| 2022 | 2% of 2021 North Carolina retail electricity sales |
| 2025 | 3% of 2024 North Carolina retail electricity sales |
| 2028 | 4% of 2027 North Carolina retail electricity sales |
| 2031 and thereafter | 5% of 2030 North Carolina retail electricity sales |

Non-regulated electric public utilities operating in North Carolina must implement demand side energy efficiency measures and programs for North Carolina customers (all ratepayer types) that account for the following percentages of prior year North Carolina retail electricity sales, as measured by total kilowatt hours:

| Calendar Year | Energy Efficiency Requirement |
|---------------------|---|
| 2022 | 0.25% of 2021 North Carolina retail electricity sales |
| 2025 | 0.75% of 2024 North Carolina retail electricity sales |
| 2028 | 1.5% of 2027 North Carolina retail electricity sales |
| 2031 and thereafter | 2% of 2030 North Carolina retail electricity sales |

Energy savings may be applied towards utilities compliance with NC REPS law.

Item 10: Modernize Regulated Utility EE Cost Effectiveness Testing

Status: *Legislation with bill drafting, holding to introduce as stakeholder discussions are underway on non-legislative pathway*

Require Modernization of Regulated Utility Energy Efficiency Cost Effectiveness Testing via new legislation. This legislation is similar to [House Bill 4425](#) introduced in South Carolina in 2017.

Proposal: NCBPA seeks to modernize how regulated utilities in North Carolina calculate the costs and benefits of energy efficiency programs by directing the Utilities Commission, Public Staff and stakeholders to follow a 6 – 12 month process outlined in the [National Standard Practice Manual](#).

Draft Legislation:

The North Carolina Utilities Commission will establish a rule to develop a 'Resource Value Test' following guidelines set out in the National Standard Practice Manual published by the National Efficiency Screening Project. The Commission and Public Staff will work collaboratively with regulated utilities and industry stakeholders to identify and recommend statutory changes that modernize and improve how regulated utilities in North Carolina account for the cost effectiveness of utility energy efficiency programs.