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**Advocacy Digest | January 18, 2022**

**Brad Boycks, Executive Director**

**Bill to Allow Locals to Exceed Uniform Dwelling Code (UDC) Introduced**

Recently, companion bills were introduced that would allow local municipalities the ability to approve stretch codes for both residential and commercial buildings that could exceed the Unform Dwelling Code and the Commercial Building Code.

The bills establish a stretch energy code working group at DSPS to come up with energy codes that exceed the energy code that local units of government may adopt by ordinance. These standards would very likely far exceed current energy standard in the UDC and the commercial building code.

It is interesting to note the criteria laid out in the bill for who can be on the stretch energy code working group; a DSPS employee, an industry leader in deep clean energy, a nonprofit leader focused on scaling climate change solutions, and a representative from a municipality that has a climate action plan. There is no mention of any member of this working group that has actually designed or built a building.

The lead authors of these bills are Representative Gary Hebl of Sun Prairie and Senator Melissa Agard of Madison.

WBA has registered against both bills and will be requesting that they not get a hearing in both the senate and assembly committees.

**Help Fight Barriers to Housing**

As you are likely aware, with your membership comes a voice to local, state, and national government. We are here to help your business thrive and to positively enact change for the homebuilding industry. Too often we hear from members about the roadblocks that you face at a local and state level, and we want (and need) to do something about it.

In partnership with the Wisconsin Institute for Law and Liberty (WILL), we are sending you this survey on [Government Barriers to Affordable Housing](https://wisbuild.us17.list-manage.com/track/click?u=4b652b5dc1419566a54a97e7a&id=76bc089b62&e=fab4d3a601). The results of the survey will help us better understand the role that local and state government play in the process of home building. WILL hopes to quantify the costs of many of the barriers we experience in the home building industry, which can serve as a driver of reform in future years. The survey should take approximately 5-10 minutes to complete, and your responses will be kept confidential.

Your participation is very important, as we want the results to reflect as many members as possible. The survey will be open until early February, but please take a few minutes to fill it out as soon as possible. We look forward to your participation as it will provide much-needed information and data to help us enact change on a local and state level moving forward.

**FROM NAHB:** [**Supreme Court Blocks OSHA Vaccine Mandate for Large Employers**](https://nahbnow.com/2022/01/supreme-court-blocks-osha-vaccine-mandate-for-large-employers/)

The U.S. Supreme Court today voted 6-3 to block the Biden administration from enforcing a COVID-19 vaccine or testing mandate for employers with at least 100 workers.

In issuing its decision, the Supreme Court stated that “OSHA has never before imposed such a mandate. Nor has Congress. Indeed, although Congress has enacted significant legislation ad­dressing the COVID–19 pandemic, it has declined to enact any measure similar to what OSHA has promulgated here.”

“The Supreme Court ruling shows that OSHA clearly exceeded its authority by attempting to force more than 84 million workers to get COVID-19 vaccinations or compel them to submit to regular testing,” said NAHB Chairman Chuck Fowke. “NAHB strongly supports the efforts of the federal government to get as many Americans vaccinated as possible and has [actively encouraged](https://www.nahb.org/advocacy/industry-issues/safety-and-health/covid-19-vaccine-awareness-week-in-construction) our members to make vaccines available to their workers. But using OSHA as the primary mechanism for this effort exceeds its statutory authority as a workplace safety agency.”

NAHB filed a Petition for Review challenging OSHA’s rule and is pleased with the Supreme Court decision, especially since it indicated that OSHA has the authority to “set workplace safety standards, not broad public health measures.”

NAHB’s main objection was that OSHA failed to take into consideration whether the employees of certain industries, such as home building, were more or less at risk from COVID. The Supreme Court recognized this problem, explaining that OSHA’s rule “operates as a blunt instrument. It draws no distinctions based on industry or risk of exposure to COVID–19.”

Builders Should Still Be Prepared

However, the Supreme Court today merely granted a stay while the case is decided before the Sixth Circuit Court of Appeals. In other words, home builders and other businesses with at least 100 employers do not need to comply with OSHA’s vaccine and testing mandate while the case is under consideration by the Sixth Circuit Court of Appeals. NAHB will participate in these proceedings.

Even if the Sixth Circuit later rules that the OSHA vaccine and testing mandate may move forward, the Supreme Court could step in later to overrule such a decision.

What this means is that residential construction firms should still prepare to comply with the OSHA vaccine and testing mandate in the coming months in the unlikely event that the vaccine and testing mandate gets reinstated. The best way to prepare is to be flexible and for employers to have a written plan in place for vaccination and testing.

NAHB has [published resources](https://www.nahb.org/advocacy/public-toolkits/covid-19-vaccination-and-testing-emergency-temporary-standard-toolkit) to help larger home builders in this endeavor.

Finally, regardless of the outcome of the litigation on this issue, members still need to protect their workers from workplace hazards, including COVID-19 and remember that OSHA currently has a COVID-19 National Emphasis Program in place as well as enforcement authority under the General Duty Clause.

The Supreme Court also issued a separate decision today that would allow a vaccine mandate for certain health care workers to go into effect nationwide.