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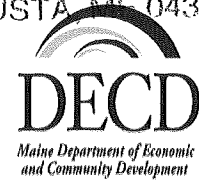
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STATE OF MAINE  
DEPARTMENT OF ECONOMIC  
AND COMMUNITY DEVELOPMENT



PAUL R. LEPAGE  
GOVERNOR

GEORGE C. GERVAIS  
COMMISSIONER

March 22, 2013

To: Senator Dawn Hill, Representative Margaret Rotundo and  
Members of the Joint Standing Committee on Appropriations and Financial Affairs

From: Commissioner George Gervais, DECD  
Commissioner Walter Whitcomb, DACF

**Re: Code Enforcement Officer Training and Certification Program**

Pursuant to Public Law 2011, Chapter 655, please find attached a report on the status of the integration of the training and certification of code enforcement officers into the Department of Economic and Community Development (DECD).

On July 1, 2012, one full-time position along with existing responsibilities moved from the former State Planning Office to the Department of Economic and Community Development. The duties of this position specifically relate to the coordination of training and certification of certain municipal officials. This position has never worked with the Department in the past and the duties of this position are not comparable to any program within the department. Since joining the department in July, this position has conducted its program independently of any department staff.

The attached report details the duties of this position and the various departments involved. While this position does not have a direct correlation with the Department of Economic and Community Development, we feel that as currently constructed, the position does not belong entirely in one department.

Funding for this position is also a great concern. Currently the Department of Economic and Community Development receives funding from the Department of Public Safety, Fire Marshall's Office through a portion of building permit fees and from the Department of Agriculture, Conservation and Forestry, Maine Coastal Program through federal funds. The federal funds are affected by reductions and require a one hundred percent general fund match. These two sources of funding only cover the salary of the position, leaving no funds to coordinate the necessary training.

I, along with Commissioner Whitcomb, welcome the opportunity to discuss this program with you, at your convenience.

Cc: LCRED Committee

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## REPORT PURSUANT TO PL 2011 CHAPTER 655

### **P.L. 2011 Chapter 655:**

**Sec. FF-15. Report on implementation.** The Commissioner of Economic and Community Development and the Commissioner of Agriculture, Conservation and Forestry shall report to the Joint Standing Committee on Appropriations and Financial Affairs on the status of the integration of the training and certification of code enforcement officers into the Department of Economic and Community Development. The report must include any recommended changes to the original implementation plans and any necessary implementing legislation.

The **Code Enforcement Officer Training and Certification Program** (Title 30-A §4451) exists to provide a centralized location for the coordination of training, registration and certification of municipal and local code enforcement officers and private sector third party code enforcement officers and inspectors.

A “Code Enforcement Officer” is defined as a person certified (according to Title 30-A §4451) and employed by a municipality to enforce all applicable laws and ordinances in the following areas:

- a) Shoreland Zoning (Title 38 chapter 3, subchapter 1, article 2-B)
- b) Comprehensive Planning and Land Use (Part 2, Subpart 6-A)
- c) Internal Plumbing (Chapter 185, subchapter 3)
- d) Subsurface Wastewater Disposal (Chapter 185, subchapter 3)
- e) Building Standards (Chapter 141; chapter 185, subchapter 1; Title 5, sections 4582-B, 4582-C and 4594-F; and Title 10, chapter 1103 and Title 25, chapter 313)

**Program Staffing:** The Program is administered by one full-time Code Enforcement Training Coordinator position (Planner II, Range 22).

**Duties:** Approximate time spent on program administration:

1. Coordinate basic training in all 13 certification areas at least one time a year – 40%
2. Offer certification exams at least six times a year – 40%
3. Ensure compliance with Title 30-A – 20%

The Code Enforcement Training Coordinator is responsible for approving outside training, securing facilities for training, notification and registration of participants, securing speakers and instructors, and preparing and copying of materials. The Code Enforcement Training Coordinator maintains a database of approximately 7,000 individuals and ensures contact hours and certifications are current. This database is also updated to include certifications issued by the Department of Health and Human Services and Department of Professional and Financial Regulations.

Examinations are offered quarterly with curricula developed and maintained by the Code Enforcement Training Coordinator to ensure compliance with current statutes.

Statistical, financial and narrative reports are required to draw federal funds pursuant to an MOU with the Maine Coastal Program at the Department of Agriculture, Conservation and Forestry.

**Certifications:** The audiences for the certification programs are as follows:

1. CEOs: Municipal Code Enforcement Officers (land use regulations) = 332
2. LPs: Local Plumbing Inspectors = 391
3. MBOs: Municipal Building Officials (building code-MUBEC) = 208 (89 Municipalities)
4. TPis: private sector Third-Party Inspectors = 188

**Training:**

The State is required to provide training at **NO COST** to CEOs employed by a municipality (Title 30-A §4451).

Costs for training are kept minimal by using free training space, and utilizing state employees from the Land Use Planning, Permitting and Compliance Division at the Department of Agriculture, Conservation and Forestry; Division of Environmental Health at the Department of Health and Human Services; the Department of Environmental Protection and from the Department of Professional and Financial Regulation.

An attorney is retained to conduct the required legal issues training. Northern Maine Development Corporation (NMDC) and Washington County Council of Governments (WCCOG) proctor exams in their respective areas.

The State contracts with the Kennebec Valley Community College to develop the Building Code Training at a cost of \$11,000 annually.

**Funding:**

The Code Enforcement Officer Training and Certification Program has no general fund appropriation. The program is administered by Other Special Revenues with the salary of the Planner II position currently funded by a transfer from two other departments:

Department of Public Safety - \$35,948 (FY13 Actual)

The Fire Marshall's Office contributes funding it receives from commercial building permit fees to cover training provided to municipal officials for building code enforcement officers and third party inspectors.

Department of Agriculture, Conservation and Forestry - \$19,332 (FY13 Actual)

The Maine Coastal Program provides funding from a federal grant it receives from the National Oceanic and Atmospheric Administration (NOAA) to cover the training provided to municipal code enforcement officers for land use regulation training in Maine's coastal towns. These federal funds require a 1:1 match. An MOU for the period of January 2013 to June 2013 was executed by DACF and DECD for \$19,332.

Funding to cover All Other expenses relating to the office administration, trainer fees, facility charges or certifications and mailings comes from fees paid by private sector third-party building code inspectors. From 1/1/12 to present Revenue from this source has totaled \$3,150.

**Note:** FY13 expenses have been supplemented with remaining ARRA funds (\$37,239) transferred from the State Planning Office at the end of Fiscal Year 2012.

## **DEPARTMENT OF ECONOMIC & COMMUNITY DEVELOPMENT**

### **STATUS OF INTEGRATION**

The employee transferred from the former State Planning Office to DECD in mid-June, 2012 and resumed the duties of the position without interruption.

The employee was statutorily assigned to the Office of Community Development within DECD. This office is completely funded by federal funds and its duties are to administer the federal Housing and Urban Development (HUD) grant fund programs. The six person unit in the Office of Community Development does not have the funding source or available resources to provide assistance to this program.

The responsibilities of the position do not align with any responsibilities currently performed by staff in DECD. There has been no interaction between the position and the Office of Community Development or other offices within the department as DECD does not have any regulatory functions.

DECD does not have staff available to train in this position to cover vacations, etc., or the ability to provide financial support should funding not materialize from agency transfers or third party inspector registrations.

### **FUNDING ISSUES**

Funding is a primary issue for this program beginning in FY14. There is not enough ongoing funding from Third Party Inspectors to sustain the programmatic and training costs.

The Maine Coastal Program at the Department of Agriculture, Conservation and Forestry justifies the provision of federal funds to support the Code Enforcement Training Coordinator position because part of the mission of that program is to ensure that sound planning and enforcement decisions are made by coastal municipal officials, i.e. coastal resources are adequately protected. The draft application for Federal Funds in FY14 includes 50% of the Code Enforcement Training Coordinator position. Decisions on future funding will be based, in part, on year-end level-of-effort information and the availability of funding.

The remaining 50% of the employee's salary comes from a transfer from the Uniform Building Codes and Standards Fund at the Department of Public Safety, Fire Marshall's Office.

A statutory requirement exists (30-A Section 4215) that a portion of plumbing inspector permit fees be provided through funding at DHHS but a reduction in revenues over the years has not made any funds available to the former State Planning Office or DECD.

## OPTIONS FOR THE FUTURE OF THIS PROGRAM

The delay in submitting this report has been a result of many conversations and meetings with the various departments in State Government who regulate the functions for which this position coordinates training. Some of the training certifications cross departments but mostly they are separate.

We did research other states and could not find a similar program that coordinated the training and certification into one state level program. Following are some options discussed during the past several months:

### **1. The Position Remains at DECD**

The issues identified previously regarding the integration of this position at DECD, still remain. However, if it is determined that a consolidated certification for these certain municipal officials is a desired function then an established source of funding should be identified either as general fund appropriation or a permanent transfer from sources prescribed in statute.

There is a statutory reference relating to lack of supporting funds (Title 30-A §4451, Sub-§ 3-B (E)) which states:

*E. If the fund does not contain sufficient money to support the costs of the training and certification provided for in this subchapter, the Department of Economic and Community Development, Office of Community Development may suspend all or reduce the level of training and certification activities.*

Statute also states that no municipality can employ a person who has not been certified. Therefore instituting a “no funds” policy will directly impact the municipalities. It is our understanding that this clause was implemented several years ago at State Planning when funding was non-existent and training was suspended for a year.

**OPTION #1: A general fund appropriation to cover the costs of the position would then allow for the contributing agencies to cover the expenses of their programs specific training and certification costs.**

### **2. Return Training and Certification to Respective Regulatory Departments**

The primary reason for this approach was lack of funding. None of the departments were able to identify any increase in the funding currently provided.

Because the position facilitates training for various departments, it was determined that there was no “one place” that these functions should exist in the current form.

Conversations with the Departments of Agriculture, Conservation and Forestry, Public Safety and Health and Human Services have resulted in a consensus, that absent a coordinated program each department would need to absorb the duties within the current regulatory functions.

**OPTION #2: The position would be eliminated and training coordination and certifications would return to the regulatory agencies to be coordinated by existing technical staff.**

## FY2013 BUDGET

	<u>Budget</u>	<u>Actual</u>
<b>REVENUES</b> (thru 3/15/13)		
Department of Public Safety – Transfer	\$ 35,948	\$ 17,323*
Department of ACF – Transfer	30,000	0**
Third Party Instructors Training		3,150
<b>Total FY13 Revenues</b>	<b>\$ 65,948</b>	<b>\$ 20,473</b>
 Transfer from SPO (ARRA Funds)		
<b>Remaining FY12 Funds</b>		<b>\$ 37,239</b>
<b>TOTAL AVAILABLE REVENUES:</b>		<b>\$ 57,712</b>

<b>EXPENSES</b> (thru 3/15/13)		
Personal Services - Planner II Position	\$ 61,210	-\$44,135
All Other Expenses	41,256	-12,178
<b>Total Expenses</b>	<b>\$102,466</b>	<b>-\$56,313</b>

<b>CURRENT ACCOUNT BALANCE:</b>	<b>\$ 1,399</b>
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\*Remaining transfer requested from Public Safety

\*\*MOU with ACF signed 3/19/13 to request Federal drawdown and transfer in FY13 of \$19,332