

# MAINE STATE LEGISLATURE

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Date: 6/17/19

(Filing No. H-619)

**CRIMINAL JUSTICE AND PUBLIC SAFETY**

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**STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
129TH LEGISLATURE  
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT "A" to H.P. 629, L.D. 855, Bill, "An Act To Strengthen the Maine Uniform Building and Energy Code"

Amend the bill by striking out everything after the title and inserting the following:

**'Mandate preamble.** This measure requires one or more local units of government to expand or modify activities so as to necessitate additional expenditures from local revenues but does not provide funding for at least 90% of those expenditures. Pursuant to the Constitution of Maine, Article IX, Section 21, 2/3 of all of the members elected to each House have determined it necessary to enact this measure.

**Be it enacted by the People of the State of Maine as follows:**

**Sec. 1. 10 MRSA §9723, sub-§2,** as repealed and replaced by PL 2013, c. 424, Pt. A, §3, is amended to read:

**2. Training program standards; implementation.** The committee shall direct the training coordinator of the Division of Building Codes and Standards, established in Title 25, section 2372, to develop a training program for municipal building officials, local code enforcement officers and 3rd-party inspectors. The Department of ~~Economic and Community Development, Office of Community Development~~ Public Safety, Office of the State Fire Marshal, pursuant to Title 30-A, section 4451, subsection 3-A, shall implement the training and certification program established under this chapter.

**Sec. 2. 25 MRSA §2372, sub-§2,** as amended by PL 2011, c. 633, §9, is further amended to read:

**2. Staff.** The commissioner ~~may shall~~ shall appoint ~~or and may~~ and may remove for cause staff of the division, including:

A. A technical codes coordinator certified in building standards pursuant to Title 30-A, section 4451, subsection 2-A, paragraph E, who serves as the division director and principal administrative and supervisory employee of the board. The technical codes coordinator shall attend meetings of the board, keep records of the proceedings of the board and direct and supervise the personnel employed to carry out the duties

**COMMITTEE AMENDMENT**

1 of the board, including but not limited to providing technical support and public  
2 outreach for the adoption of the code, amendments, conflict resolutions and  
3 interpretations. Technical support and public outreach must include, but may not be  
4 limited to:

5 (1) Providing nonbinding interpretation of the code for professionals and the  
6 general public; and

7 (2) Establishing and maintaining a publicly accessible website to publish general  
8 technical assistance, code updates and interpretations and post-training course  
9 schedules; and

10 B. An office specialist to provide administrative support to the division and the  
11 board; and

12 C. A trainer to coordinate and provide training to municipal building officials, local  
13 code enforcement officers and 3rd-party inspectors.

14 **Sec. 3. 25 MRSA §2374**, as repealed and replaced by PL 2013, c. 424, Pt. A, §12,  
15 is amended to read:

16 **§2374. Uniform Building Codes and Standards Fund**

17 The Uniform Building Codes and Standards Fund, referred to in this section as "the  
18 fund," is established within the Department of Public Safety to fund the activities of the  
19 division under this chapter and the activities of the board under Title 10, chapter 1103 and  
20 ~~the Department of Economic and Community Development, Office of Community~~  
21 ~~Development under Title 30-A, section 4451, subsection 3-A.~~ Revenue for this fund is  
22 provided by the surcharge established by section 2450-A. The Department of Public  
23 Safety ~~and the Department of Economic and Community Development, Office of~~  
24 ~~Community Development~~ shall together determine an amount to be transferred annually  
25 from the fund for training and certification under Title 30-A, section 4451, subsection  
26 3-A to the Maine Code Enforcement Training and Certification Fund established in Title  
27 30-A, section 4451, subsection 3-B. The Department of Public Safety shall also deposit  
28 any permit surcharge collected under Title 30-A, section 4101-A into the fund. Any  
29 balance of the fund may not lapse, but must be carried forward as a continuing account to  
30 be expended for the same purpose in the following fiscal year.

31 **Sec. 4. 30-A MRSA §4101-A** is enacted to read:

32 **§4101-A. Permit surcharge**

33 A surcharge of \$5 is imposed on each permit issued by a municipality under this  
34 subchapter for new construction or renovation subject to the Maine Uniform Building and  
35 Energy Code adopted pursuant to Title 10, chapter 1103. The municipality shall collect  
36 the fee when issuing the permit and shall, on a schedule established by the Department of  
37 Public Safety, remit all fees collected to the Department of Public Safety, which shall  
38 deposit the fees into the Uniform Building Codes and Standards Fund established in Title  
39 25, section 2374.

40 **Sec. 5. 30-A MRSA §4221, sub-§1**, as amended by PL 2011, c. 655, Pt. FF, §6  
41 and affected by §16, is further amended to read:

1           **1. Appointment; compensation; removal.** In every municipality, the municipal  
2 officers shall appoint one or more inspectors of plumbing, who need not be residents of  
3 the municipality for which they are appointed. Plumbing inspectors are appointed for a  
4 term of one year or more and must be sworn and the appointment recorded as provided in  
5 section 2526, subsection 9. An individual properly appointed as plumbing inspector and  
6 satisfactorily performing the duties may continue in that capacity after the term has  
7 expired until replaced. The municipal officers shall notify the department and the  
8 Department of ~~Economic and Community Development, Office of Community~~  
9 ~~Development~~ Public Safety, Office of the State Fire Marshal of the appointment of a  
10 plumbing inspector in writing within 30 days of the appointment.

11 Compensation of plumbing inspectors is determined by the municipal officers and paid  
12 by the respective municipalities.

13 The municipal officers may remove a plumbing inspector for cause, after notice and  
14 hearing.

15           **Sec. 6. 30-A MRSA §4451**, as amended by PL 2019, c. 40, §1, is further amended  
16 to read:

17           **§4451. Training and certification for code enforcement officers**

18           **1. Certification required; exceptions.** A municipality may not employ any  
19 individual to perform the duties of a code enforcement officer who is not certified by the  
20 former State Planning Office or the Department of Economic and Community  
21 Development, Office of Community Development or the Department of Public Safety,  
22 Office of the State Fire Marshal, except that:

23           A. An individual other than an individual appointed as a plumbing inspector has 12  
24 months after beginning employment to be trained and certified as provided in this  
25 section;

26           B. Whether or not any extension is available under paragraph A, the Department of  
27 ~~Economic and Community Development, Office of Community Development~~ Public  
28 Safety, Office of the State Fire Marshal may waive this requirement for up to one  
29 year if the certification requirements cannot be met without imposing a hardship on  
30 the municipality employing the individual;

31           C. An individual may be temporarily authorized in writing by the Department of  
32 Health and Human Services, Division of Health Engineering to be employed as a  
33 plumbing inspector for a period not to exceed 12 months; and

34           D. An individual whose certification has expired or is about to expire may be  
35 temporarily authorized in writing by the Department of ~~Economic and Community~~  
36 ~~Development, Office of Community Development~~ Public Safety, Office of the State  
37 Fire Marshal to extend that individual's certification for a period not to exceed 12  
38 months in cases where the necessary training or examination is suspended under  
39 subsection 3-B, paragraph E.

40           **2. Penalty.** Any municipality that violates this section commits a civil violation for  
41 which a ~~forfeiture~~ fine of not more than \$100 may be adjudged. Each day in violation  
42 constitutes a separate offense.

1           **2-A. Code enforcement officer; definition and duties.** As used in this subchapter,  
2 "code enforcement officer" means a person certified under this section and employed by a  
3 municipality to enforce all applicable laws and ordinances in the following areas:

4           A. Shoreland zoning under Title 38, chapter 3, subchapter 1, article 2-B;

5           B. Comprehensive planning and land use under Part 2, Subpart 6-A;

6           C. Internal plumbing under chapter 185, subchapter 3;

7           D. Subsurface wastewater disposal under chapter 185, subchapter 3; and

8           E. Building standards under chapter 141; chapter 185, subchapter 1; Title 5, sections  
9 4582-B, 4582-C and 4594-F; ~~beginning June 1, 2010,~~ Title 10, chapter 1103; and  
10 Title 25, chapter 313.

11           **3. Training and certification of code enforcement officers.** In cooperation with  
12 code enforcement officer professional associations, the Maine Community College  
13 System, the Department of Environmental Protection, and the Department of Health and  
14 Human Services ~~and the Department of Public Safety~~, except as otherwise provided in  
15 paragraph H, the Department of ~~Economic and Community Development, Office of~~  
16 ~~Community Development~~ Public Safety, Office of the State Fire Marshal shall establish a  
17 continuing education program for individuals engaged in code enforcement. This  
18 program must provide training in the technical and legal aspects of code enforcement  
19 necessary for certification. The training program must include training to provide  
20 familiarity with the laws and ordinances related to the structure and practice of the  
21 municipal code enforcement office, municipal planning board and appeals board  
22 procedures, application review and permitting procedures, inspection procedures and  
23 enforcement techniques.

24           H. If funding is not available to support the training and certification program  
25 authorized under this subsection, the Department of ~~Economic and Community~~  
26 ~~Development, Office of Community Development~~ Public Safety, Office of the State  
27 Fire Marshal shall discontinue training and certification activities related to laws and  
28 ordinances referenced in subsection 2-A, paragraphs A and B and shall adopt by  
29 routine technical rules under Title 5, chapter 375, subchapter 2-A a program to  
30 register code enforcement officers that meet training and education qualifications.  
31 The Department of ~~Economic and Community Development, Office of Community~~  
32 ~~Development~~ Public Safety, Office of the State Fire Marshal shall publish the list of  
33 persons registered for code enforcement who have submitted evidence of required  
34 qualifications. Persons registered under this paragraph must meet the requirements  
35 for training and certification under this subchapter. The Department of ~~Economic~~  
36 ~~and Community Development, Office of Community Development~~ Public Safety,  
37 Office of the State Fire Marshal shall consult with the Department of Health and  
38 Human Services for the purposes of carrying out training and certification activities  
39 related to laws and ordinances referenced in subsection 2-A, paragraphs C and D.  
40 Within one month of discontinuation of training and certification under this  
41 paragraph, the Department of ~~Economic and Community Development, Office of~~  
42 ~~Community Development~~ Public Safety, Office of the State Fire Marshal shall report  
43 to the joint standing committee of the Legislature having jurisdiction over  
44 appropriations and financial affairs and the joint standing committee of the

1 Legislature having jurisdiction over state and local government matters a  
2 recommendation for funding the training and certification program or for further  
3 changes in program requirements.

4 **3-A. Training and certification of inspectors in the Maine Uniform Building and**  
5 **Energy Code.** In accordance with the training and certification requirements developed  
6 pursuant to Title 10, section 9723, the Department of ~~Economic and Community~~  
7 ~~Development, Office of Community Development~~ Public Safety, Office of the State Fire  
8 Marshal shall provide the training necessary to certify municipal building officials, local  
9 code enforcement officers and 3rd-party inspectors.

10 **3-B. Maine Code Enforcement Training and Certification Fund.** The Maine  
11 Code Enforcement Training and Certification Fund, referred to in this section as "the  
12 fund," is established as a nonlapsing fund to support training and certification programs  
13 administered by the Department of ~~Economic and Community Development, Office of~~  
14 ~~Community Development~~ Public Safety, Office of the State Fire Marshal for code  
15 enforcement officers, local plumbing inspectors, municipal building officials and 3rd-  
16 party inspectors in accordance with this subchapter.

17 A. ~~Beginning July 1, 2009, and each year thereafter on~~ On July 1st of each year, the  
18 funds identified in section 4215, subsection 4 for training and certifying local  
19 plumbing inspectors must be transferred to the fund.

20 B. ~~Beginning July 1, 2009, and each year thereafter on~~ On July 1st of each year, the  
21 funds identified in Title 25, section 2374 for training and certifying municipal  
22 building officials, local code enforcement officers and 3rd-party inspectors must be  
23 transferred to the fund.

24 C. The Department of ~~Economic and Community Development, Office of~~  
25 ~~Community Development~~ Public Safety, Office of the State Fire Marshal shall place  
26 in the fund any money it receives from grants to support the requirements of this  
27 subchapter.

28 D. Funds related to code enforcement training and certification may be expended  
29 only in accordance with allocations approved by the Legislature and solely for the  
30 administration of this subchapter. Any balance remaining in the fund at the end of  
31 any fiscal year may not lapse but must be carried forward to the next fiscal year.

32 E. If the fund does not contain sufficient money to support the costs of the training  
33 and certification provided for in this subchapter, the Department of ~~Economic and~~  
34 ~~Community Development, Office of Community Development~~ Public Safety, Office  
35 of the State Fire Marshal may suspend all or reduce the level of training and  
36 certification activities.

37 **4. Examination.** The Department of ~~Economic and Community Development,~~  
38 ~~Office of Community Development~~ Public Safety, Office of the State Fire Marshal shall  
39 conduct at least one examination each year to examine candidates for certification at a  
40 time and place designated by it. The Department of ~~Economic and Community~~  
41 ~~Development, Office of Community Development~~ Public Safety, Office of the State Fire  
42 Marshal may conduct additional examinations to carry out the purposes of this  
43 subchapter.

1           **5. Certification standards.** The Department of ~~Economic and Community~~  
2 ~~Development, Office of Community Development~~ Public Safety, Office of the State Fire  
3 Marshal shall adopt routine technical rules under Title 5, chapter 375, subchapter 2-A to  
4 establish the qualifications, conditions and licensing standards and procedures for the  
5 certification and recertification of individuals as code enforcement officers. A code  
6 enforcement officer need only be certified in the areas of actual job responsibilities. The  
7 rules established under this subsection must identify standards for each of the areas of  
8 training under subsection 2-A, in addition to general standards that apply to all code  
9 enforcement officers.

10           **6. Certification; terms; revocation.** The Department of ~~Economic and Community~~  
11 ~~Development, Office of Community Development~~ Public Safety, Office of the State Fire  
12 Marshal shall certify individuals as to their competency to successfully enforce  
13 ordinances and other land use regulations and permits granted under those ordinances and  
14 regulations and shall issue certificates attesting to the competency of those individuals to  
15 act as code enforcement officers. Certificates issued by the former State Planning Office  
16 or, the Department of Economic and Community Development, Office of Community  
17 Development or the Department of Public Safety, Office of the State Fire Marshal are  
18 valid for 6 years unless revoked by the District Court. An examination is not required for  
19 recertification of code enforcement officers. The Department of ~~Economic and~~  
20 ~~Community Development, Office of Community Development~~ Public Safety, Office of  
21 the State Fire Marshal shall recertify a code enforcement officer if the code enforcement  
22 officer successfully completes at least 12 hours of approved training in each area of job  
23 responsibility during the 6-year certification period.

24           A. The District Court may revoke the certificate of a code enforcement officer, in  
25 accordance with Title 4, chapter 5, when it finds that:

- 26           (1) The code enforcement officer has practiced fraud or deception;
- 27           (2) Reasonable care, judgment or the application of a duly trained and  
28 knowledgeable code enforcement officer's ability was not used in the  
29 performance of the duties of the office; or
- 30           (3) The code enforcement officer is incompetent or unable to perform properly  
31 the duties of the office.

32           B. Code enforcement officers whose certificates are invalidated under this subsection  
33 may be issued new certificates provided that they are newly certified as provided in  
34 this section.

35           **7. Other professions unaffected.** This subchapter may not be construed to affect or  
36 prevent the practice of any other profession.

37           **Sec. 7. 30-A MRSA §4452, sub-§7,** as amended by PL 2011, c. 655, Pt. FF, §9  
38 and affected by §16, is further amended to read:

39           **7. Natural resources protection laws.** A code enforcement officer, authorized by a  
40 municipality to represent that municipality in District Court and certified by the former  
41 State Planning Office or the Department of Economic and Community Development,  
42 Office of Community Development or the Department of Public Safety, Office of the  
43 State Fire Marshal under section 4453 as familiar with court procedures, may enforce the

1 provisions of Title 38, section 420-C, Title 38, chapter 3, subchapter 1, article 5-A and  
 2 Title 38, chapter 13-D by instituting injunctive proceedings or by seeking civil penalties  
 3 in accordance with Title 38, section 349, subsection 2.

4 **Sec. 8. 30-A MRSA §4453, first ¶**, as amended by PL 2011, c. 655, Pt. FF, §10  
 5 and affected by §16, is further amended to read:

6 The Department of ~~Economic and Community Development, Office of Community~~  
 7 ~~Development~~ Public Safety, Office of the State Fire Marshal shall establish certification  
 8 standards and a program to certify familiarity with court procedures for the following  
 9 individuals:

10 **Sec. 9. Appropriations and allocations.** The following appropriations and  
 11 allocations are made.

12 **ECONOMIC AND COMMUNITY DEVELOPMENT, DEPARTMENT OF**  
 13 **Community Development Block Grant Program 0587**  
 14 Initiative: Deallocates funds due to the responsibility for the training and certification of  
 15 code enforcement officers being transferred to the Department of Public Safety.

16	<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2019-20</b>	<b>2020-21</b>
17	All Other	(\$30,000)	(\$30,000)
18			
19	<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<u>(\$30,000)</u>	<u>(\$30,000)</u>

20	<b>ECONOMIC AND COMMUNITY</b>		
21	<b>DEVELOPMENT, DEPARTMENT OF</b>		
22	<b>DEPARTMENT TOTALS</b>	<b>2019-20</b>	<b>2020-21</b>
23			
24	<b>OTHER SPECIAL REVENUE FUNDS</b>	(\$30,000)	(\$30,000)
25			
26	<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<u>(\$30,000)</u>	<u>(\$30,000)</u>

27 **PUBLIC SAFETY, DEPARTMENT OF**  
 28 **Division of Building Codes and Standards Z073**  
 29 Initiative: Provides funding for one Public Safety Inspector III position, one Public Safety  
 30 Inspector II position and related costs to coordinate and administer code enforcement  
 31 training.

32	<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2019-20</b>	<b>2020-21</b>
33	POSITIONS - LEGISLATIVE COUNT	2,000	2,000
34	Personal Services	\$165,106	\$172,822
35	All Other	\$35,127	\$35,214



1	Capital Expenditures	\$34,416	\$0
2			
3	OTHER SPECIAL REVENUE FUNDS TOTAL	<u>\$234,649</u>	<u>\$208,036</u>
4	<b>PUBLIC SAFETY, DEPARTMENT OF</b>		
5	<b>DEPARTMENT TOTALS</b>	<b>2019-20</b>	<b>2020-21</b>
6			
7	OTHER SPECIAL REVENUE FUNDS	\$234,649	\$208,036
8			
9	DEPARTMENT TOTAL - ALL FUNDS	<u>\$234,649</u>	<u>\$208,036</u>
10	<b>SECTION TOTALS</b>	<b>2019-20</b>	<b>2020-21</b>
11			
12	OTHER SPECIAL REVENUE FUNDS	\$204,649	\$178,036
13			
14	SECTION TOTAL - ALL FUNDS	<u>\$204,649</u>	<u>\$178,036</u>
15			

16 Amend the bill by relettering or renumbering any nonconsecutive Part letter or  
 17 section number to read consecutively.

18 **SUMMARY**

- 19 This amendment makes the following changes to the bill:
- 20 1. It increases the municipal permit surcharge from \$3 to \$5 and specifies that the  
 21 surcharge only applies to permits for new construction or renovations that are subject to  
 22 the Maine Uniform Building and Energy Code.
- 23 2. It transfers administration of code enforcement officer training from the  
 24 Department of Economic and Community Development, Office of Community  
 25 Development to the Department of Public Safety, Office of the State Fire Marshal.
- 26 The amendment also adds a mandate preamble and an appropriations and allocations  
 27 section.

28 **FISCAL NOTE REQUIRED**  
 29 (See attached)



# 129th MAINE LEGISLATURE

LD 855

LR 537(02)

## An Act To Strengthen the Maine Uniform Building and Energy Code

Fiscal Note for Bill as Amended by Committee Amendment *A(H-619)*

Committee: Criminal Justice and Public Safety

Fiscal Note Required: Yes

### Fiscal Note

State Mandate - Exempted

	FY 2019-20	FY 2020-21	Projections FY 2021-22	Projections FY 2022-23
<b>Appropriations/Allocations</b>				
Other Special Revenue Funds	\$204,649	\$178,036	\$183,220	\$188,560
<b>Revenue</b>				
Other Special Revenue Funds	\$203,280	\$203,280	\$203,280	\$203,280

#### State Mandates

##### Required Activity

Requires municipalities to assess, collect and remit fees associated with new construction and renovation projects subject to the Maine Uniform Building and Energy Code.

##### Unit Affected

Municipality

##### Local Cost

Moderate limited scope

Pursuant to the Mandate Preamble, the two-thirds vote of all members elected to each House exempts the State from the constitutional requirement to fund 90% of the additional costs.

#### Fiscal Detail and Notes

The bill transfers administration of code enforcement officer training from the Department of Economic and Community Development to the Department of Public Safety and establishes a surcharge on building permits. The bill includes Other Special Revenue Funds allocations of \$234,649 in fiscal year 2019-20 and \$208,036 in fiscal year 2020-21 to the Department of Public Safety for one Public Safety Inspector III, one Public Safety Inspector II and related costs to coordinate and administer code enforcement training. Other Special Revenue Funds revenue to the Department of Public Safety will increase by \$203,280 beginning in fiscal year 2019-20 from the surcharge on new construction and renovation.

This bill also includes Other Special Revenue Funds deallocations of \$30,000 per year beginning in fiscal year 2019-20 to the Community Development Block Grant Program within the Department of Economic and Community Development (DECD) due to the responsibility of administering the Maine Code Enforcement Training and Certification Fund being transferred from DECD to the Department of Public Safety.