

MAINE STATE LEGISLATURE

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STATE OF MAINE
123RD LEGISLATURE
SECOND REGULAR AND FIRST SPECIAL SESSIONS



Summaries of bills, adopted amendments and laws enacted or finally passed
during the Second Regular or First Special Sessions of the 123rd Maine
Legislature coming from the

**JOINT STANDING COMMITTEE ON BUSINESS, RESEARCH
AND ECONOMIC DEVELOPMENT**

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STATE OF MAINE
123RD LEGISLATURE
SECOND REGULAR & FIRST SPECIAL SESSIONS



**LEGISLATIVE DIGEST OF BILL SUMMARIES AND
ENACTED LAWS**

This *Legislative Digest of Bill Summaries and Enacted Laws* summarizes all bills and adopted amendments and all laws enacted or finally passed during the Second Regular or First Special Sessions of the 123rd Maine Legislature.

The *Digest* is arranged alphabetically by committee, and within each committee by LD number. The committee report(s), prime sponsor and lead co-sponsor(s), if designated, are listed below each bill title. All adopted amendments are summarized and listed by paper number. A subject index is included with each committee. The appendices include a summary of relevant session statistics, an index of all bills by LD number and an index of enacted laws by law type and chapter number.

Final action on each bill is noted to the right of the bill title. The abbreviations used for various categories of final action are as follows:

<i>CON RES XXX</i>	<i>Chapter # of Constitutional Resolution passed by both Houses</i>
<i>CONF CMTE UNABLE TO AGREE</i>	<i>Committee of Conference unable to agree; bill died</i>
<i>DIED BETWEEN BODIES</i>	<i>House & Senate disagree; bill died</i>
<i>DIED IN CONCURRENCE</i>	<i>One body accepts ONTP report; the other indefinitely postpones the bill</i>
<i>DIED ON ADJOURNMENT</i>	<i>Action incomplete when session ended; bill died</i>
<i>EMERGENCY</i>	<i>Enacted law takes effect sooner than 90 days</i>
<i>FAILED EMERGENCY ENACTMENT/FINAL PASSAGE</i>	<i>Emergency bill failed to get 2/3 vote</i>
<i>FAILED ENACTMENT/FINAL PASSAGE</i>	<i>Bill failed to get majority vote</i>
<i>FAILED MANDATE ENACTMENT</i>	<i>Bill imposing local mandate failed to get 2/3 vote</i>
<i>NOT PROPERLY BEFORE THE BODY</i>	<i>Ruled out of order by the presiding officers; bill died</i>
<i>INDEF PP</i>	<i>Bill Indefinitely Postponed; bill died</i>
<i>ONTP (or Accepted ONTP report)</i>	<i>Ought Not To Pass report accepted; bill died</i>
<i>P&S XXX</i>	<i>Chapter # of enacted Private & Special Law</i>
<i>PUBLIC XXX</i>	<i>Chapter # of enacted Public Law</i>
<i>RESOLVE XXX</i>	<i>Chapter # of finally passed Resolve</i>
<i>UNSIGNED</i>	<i>Bill held by Governor</i>
<i>VETO SUSTAINED</i>	<i>Legislature failed to override Governor's Veto</i>

The effective date for non-emergency legislation enacted in the Second Regular Session (R2) is June 30, 2008. The effective date for non-emergency legislation enacted in the First Special Session (S1) is July 18, 2008.¹ The effective date for legislation enacted as an emergency measure is specified in the enacted law summary for those bills. Any bill summarized in this document having an LD number less than 1932 was a bill carried over from the First Regular Session of the 123rd Legislature.

¹ The session in which each law was enacted or finally passed (R2 or S1) is included in Appendix C.

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It also provides that a pharmacist, acting in good faith, is not prohibited from selling and dispensing any of those drugs and substances to a licensed midwife. A pharmacist, or person acting at the direction of a pharmacist, who in good faith sells and dispenses noncontrolled prescription drugs and substances to a licensed midwife is not liable for any adverse reactions caused by any method of use by the licensed midwife. A pharmacist, or person acting at the direction of a pharmacist, who makes a report to an enforcement agency is immune from any civil liability that may result from that action, including, but not limited to, any civil liability that might otherwise arise under state or local laws or rules regarding confidentiality of information. It also establishes a rebuttable presumption of good faith for pharmacists.

Committee Amendment "B" (H-936)

This amendment is the minority report of the committee. The amendment replaces the bill and authorizes midwives certified by an international certification agency to possess and administer a limited number of noncontrolled prescription drugs and substances in the course of the practice of midwifery, including oxygen; oxytocin, excluding the oxytocic drug methergine, for the sole purpose of postpartum control of maternal hemorrhaging; vitamin K; eye prophylaxis; and local anesthetics or numbing agents for repair of lacerations. It requires midwives to report the use of the antihemorrhagic medication to the maternal and child health division of the Department of Health and Human Services, Maine Center for Disease Control and Prevention.

It provides that a pharmacist, acting in good faith, is not prohibited from selling and dispensing any of those drugs and substances to a midwife. A pharmacist, or person acting at the direction of a pharmacist, who in good faith sells and dispenses noncontrolled prescription drugs and substances to a midwife is not liable for any adverse reactions caused by any method of use by the midwife. A pharmacist, or person acting at the direction of a pharmacist, who makes a report to an enforcement agency is immune from any civil liability that may result from that action, including, but not limited to, any civil liability that might otherwise arise under state or local laws or rules regarding confidentiality of information. It also establishes a rebuttable presumption of good faith for pharmacists.

Enacted Law Summary

Public Law 2007, chapter 669 authorizes certified professional midwives to possess and administer a limited number of noncontrolled prescription drugs and substances in the course of the practice of midwifery, including oxygen; oxytocin, excluding the oxytocic drug methergine, for the sole purpose of postpartum control of maternal hemorrhaging; vitamin K; eye prophylaxis; and local anesthetics or numbing agents for repair of lacerations. It requires midwives to report the use of the antihemorrhagic medication to the maternal and child health division of the Department of Health and Human Services, Maine Center for Disease Control and Prevention.

The law provides that a pharmacist, acting in good faith, is not prohibited from selling and dispensing any of those drugs and substances to a midwife. A pharmacist, or person acting at the direction of a pharmacist, who in good faith sells and dispenses noncontrolled prescription drugs and substances to a midwife is not liable for any adverse reactions caused by any method of use by the midwife. In addition, a pharmacist, or person acting at the direction of a pharmacist, who makes a report to an enforcement agency is immune from any civil liability that may result from that action, including, but not limited to, any civil liability that might otherwise arise under state or local laws or rules regarding confidentiality of information. The law also establishes a rebuttable presumption of good faith for pharmacists.

LD 2257 An Act To Establish a Uniform Building and Energy Code

PUBLIC 699

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP-AM MAJ OTP-AM MIN	H-1005 SMITH N H-983

Joint Standing Committee on Business, Research and Economic Development

This bill defines a uniform statewide building and energy code, known as the Maine Uniform Building and Energy Code, that will replace all building and energy codes adopted by state agencies and municipalities. It establishes the Technical Building Codes and Standards Board in the Department of Public Safety, which will amend, update and adopt the code. The board will also identify and resolve conflicts between the code and other building-related codes, publish conflict resolutions on the Internet within 30 days, establish a process for considering amendments suggested by municipalities and citizens and ensure that training and certification for municipal building inspectors is readily available, affordable and accessible. The board may appoint technical advisory groups to make recommendations on specific code issues.

It also establishes the Division of Building Codes and Standards in the Department of Public Safety in the Office of the State Fire Marshal to provide administrative and technical support. The division will include a technical codes coordinator to provide technical support to the board, a training coordinator to establish a training program for building inspectors and an office specialist to provide administrative support for the board and division staff.

Enforcement of the code will be carried out by local building inspectors in municipalities of more than 2,000 residents, and these municipalities are considered the authority having jurisdiction over matters of local code enforcement. Enforcement of the code in municipalities with fewer than 2,000 residents is optional. Funding for the board, the division and training expenses for building inspectors will be provided from a surcharge on fire and life safety code plan review fees through the Office of State Fire Marshal and standards plan reviews for commercial and public buildings. All funding is to be deposited into a Department of Public Safety dedicated revenue fund called the Uniform Building Codes and Standards Fund.

Committee Amendment "A" (H-983)

This amendment is the majority report of the committee.

1. It amends the membership of the Technical Building Codes and Standards Board in the Department of Public Safety.
2. It provides the board with the authority to resolve conflicts only between the Maine Uniform Building and Energy Code and the fire and life safety codes.
3. It requires the board to adopt rules in accordance with the Maine Administrative Procedure Act necessary to carry out its duties.
4. It requires the board on December 31st of each calendar year beginning in 2010 to report to the joint standing committee of the Legislature having jurisdiction over business, research and economic development matters any proposals for proposed conflict resolutions for codes and standards referenced in the Maine Revised Statutes, Title 10, section 9725, subsections 2 to 7; proposals to improve the efficiency and effectiveness of those codes and standards; and alternative methods of funding for the board to create an equitable source of revenue.
5. It changes the establishment of the Division of Building Codes and Standards in the Department of Public Safety, instead establishing it as an independent bureau within the Department of Public Safety.
6. It amends the energy efficiency building standards laws to incorporate the standards of the Maine Uniform Building and Energy Code.
7. It provides that, beginning July 1, 2010, the Maine Uniform Building and Energy Code must be enforced in a municipality that has more than 2,000 residents and that has adopted any building code by August 1, 2008. Beginning July 1, 2012, the Maine Uniform Building and Energy Code must be enforced in a municipality that has more than 2,000 residents and that has not adopted any building code by August 1, 2008. It provides that the Maine Uniform Building and Energy Code be enforced through inspections that comply with the code through any of the following means: (A) municipally appointed building officials and local code enforcement officers; (B) interlocal agreements with other municipalities that share the use of building officials certified in building standards pursuant

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to Title 10, section 9723; (C) contractual agreements with county or regional authorities that share the use of building officials certified in building standards pursuant to Title 10, section 9723; and (D) reports from 3rd-party inspectors certified pursuant to Title 10, section 9723 submitted to the building official prior to obtaining a certificate of occupancy in Title 25, section 2357 that are obtained pursuant to independent contractual arrangements between the building owner and 3rd-party inspector or the municipality and 3rd-party inspector.

8. It replaces the term "inspector of buildings" with "building official."

9. It adds a definition for "3rd-party inspector" and requires the board to develop a training program for municipal building officials, local code enforcement officers and 3rd-party inspectors.

10. It clarifies that the Executive Department, State Planning Office is responsible for implementing the training and certification program established by the board.

11. It adds an appropriations and allocations section.

Committee Amendment "B" (H-984)

This amendment is the minority report of the committee.

1. It establishes the Maine Uniform Building Code and removes references in the code to the International Energy Conservation Code and the Maine model radon standard for new residential construction set forth in the Maine Revised Statutes, Title 25, section 2466 and associated rules.

2. It amends the membership of the Technical Building Codes and Standards Board in the Department of Public Safety.

3. It provides the board with the authority to resolve conflicts only between the Maine Uniform Building Code and the fire and life safety codes.

4. It requires the board to adopt rules in accordance with the Maine Administrative Procedure Act necessary to carry out its duties and sunsets the duties of the board in January 2012.

5. It requires the board on December 31st of each calendar year beginning in 2010 to report to the joint standing committee of the Legislature having jurisdiction over business, research and economic development matters any proposals for proposed conflict resolutions for codes and standards referenced in Title 10, section 9725, subsections 2 to 7; proposals to improve the efficiency and effectiveness of those codes and standards; and alternative methods of funding for the board to create an equitable source of revenue.

6. It changes the establishment of the Division of Building Codes and Standards in the Department of Public Safety, instead establishing it as an independent bureau within the Department of Public Safety.

7. It removes mandatory enforcement of the Maine Uniform Building Code and provides that municipalities may choose to enforce the Maine Uniform Building Code through inspections that comply with the code through any of the following means: (A) building officials and local code enforcement officers; (B) interlocal agreements with other municipalities that share the use of building officials certified in building standards pursuant to Title 10, section 9723; (C) contractual agreements with county or regional authorities that share the use of building officials certified in building standards pursuant to Title 10, section 9723; and (D) reports from 3rd-party inspectors certified pursuant to Title 10, section 9723 submitted to the building official that are obtained pursuant to independent contractual arrangements between the building owner and 3rd-party inspector or the municipality and 3rd-party inspector.

8. It sunsets the surcharge on plan review fees in January 2012.

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9. It replaces the term "inspector of buildings" with "building official."
10. It adds a definition for "3rd-party inspector" and requires the board to develop a training program for municipal building officials, local code enforcement officers and 3rd-party inspectors.
11. It clarifies that the Executive Department, State Planning Office is responsible for implementing the training and certification program established by the board.
12. It adds an appropriations and allocations section.
13. It adds a report on local enforcement efforts from the board to the joint standing committee of the Legislature having jurisdiction over business, research and economic development matters by December 1, 2013.

House Amendment "A" (H-996)

This amendment directs the Technical Building Codes and Standards Board, in adopting and amending the Maine Uniform Building and Energy Code, to ensure that nontraditional or experimental construction, including straw bale and earth berm construction, and building materials from sawmills and lumber yards are permissible under the code. This amendment also specifies that the requirements of the Maine Uniform Building and Energy Code do not apply to post and beam and timber frame construction.

House Amendment "B" (H-1005)

This amendment directs the Technical Building Codes and Standards Board, in adopting and amending the Maine Uniform Building and Energy Code, to ensure that nontraditional or experimental construction, including straw bale and earth berm construction, and building materials from local sawmills are permissible under the code. This amendment also specifies that the requirements of the Maine Uniform Building and Energy Code do not apply to post and beam and timber frame construction.

Enacted Law Summary

Public Law 2007, chapter 699 establishes a uniform statewide building and energy code, known as the Maine Uniform Building and Energy Code and provides express limitations on municipal home rule authority. It provides that, beginning July 1, 2010, the Maine Uniform Building and Energy Code must be enforced in a municipality that has more than 2,000 residents and that has adopted any building code by August 1, 2008. Beginning July 1, 2012, the Maine Uniform Building and Energy Code must be enforced in a municipality that has more than 2,000 residents and that has not adopted any building code by August 1, 2008. The Maine Uniform Building and Energy Code must be enforced through inspections that comply with the code through any of the following means: (A) municipally appointed building officials and local code enforcement officers; (B) interlocal agreements with other municipalities that share the use of building officials certified in building standards; (C) contractual agreements with county or regional authorities that share the use of building officials certified in building standards; and (D) reports from 3rd-party inspectors certified pursuant to Title 10, section 9723 submitted to the building official prior to obtaining a certificate of occupancy in Title 25, section 2357 that are obtained pursuant to independent contractual arrangements between the building owner and 3rd-party inspector or the municipality and 3rd-party inspector.

The law establishes the Technical Building Codes and Standards Board in the Department of Public Safety. The board is responsible for amending, updating and adopting the code and resolving conflicts between the code and the fire and life safety codes. The board must establish a process for considering amendments to the code and adopt rules in accordance with the Administrative Procedures Act that are necessary to carry out its duties. The board is responsible for establishing training and certification program standards for municipal building officials, local code enforcement officers and 3rd-party inspectors. The State Planning Office is responsible for implementing the training and certification program established by the board.

Beginning in 2010, the board is required to provide an annual report to the joint standing committee of the Legislature having jurisdiction over business, research and economic development matters on the following:

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proposals for proposed conflict resolutions for codes and standards referenced in the Maine Revised Statutes, Title 10, section 9725, subsections 2 to 7; proposals to improve the efficiency and effectiveness of those codes and standards; and alternative methods of funding for the board to create an equitable source of revenue. The board, in adopting and amending the Maine Uniform Building and Energy Code, is required to ensure that nontraditional or experimental construction, including straw bale and earth berm construction, and building materials from local sawmills are permissible under the code. The requirements of the code do not apply to post and beam and timber frame construction, nor do they apply to log homes or manufactured housing.

The law also creates the Bureau of Building Codes and Standards as an independent bureau within the Department of Public Safety to provide administrative and technical support to the board. The bureau includes a technical codes coordinator to provide technical support to the board and an office specialist to provide administrative support for the bureau and board.

The law establishes the Uniform Building Codes and Standards Fund within the Department of Public Safety to provide funding for the board, bureau and the State Planning Office for training expenses. Revenue for the fund will be provided from a surcharge on fire and life safety code plan review fees through the Office of State Fire Marshal and standards plan reviews for commercial and public buildings.

LD 2264 An Act To Encourage Energy Conservation by the Maine State Housing Authority Pursuant to the State Government Evaluation Act Review

PUBLIC 645

Sponsor(s)

Committee Report

Amendments Adopted

OTP-AM

H-1004

This bill provides the Maine State Housing Authority with the authority to encourage and provide incentives to individuals and entities that conserve energy; support and participate in markets that reward energy conservation and use the proceeds from this participation to support affordable housing programs under its jurisdiction; and create and administer programs that encourage individuals and entities to conserve energy.

Committee Amendment "A" (H-1004)

This amendment clarifies that, in carrying out its authority to support and participate in markets that reward energy conservation, the Maine State Housing Authority may use resources derived from any source except the conservation program fund established by the Public Utilities Commission pursuant to the Maine Revised Statutes, Title 35-A, section 3211-A, subsection 5.

Enacted Law Summary

Public Law 2007, chapter 645 provides the Maine State Housing Authority with the following authority: (1) to encourage and provide incentives to individuals and entities that conserve energy; (2) to support and participate in markets that reward energy conservation and use the proceeds from this participation to support affordable housing programs under its jurisdiction; and (3) create and administer programs that encourage individuals and entities to conserve energy. The law clarifies that, in carrying out its authority to support and participate in markets that reward energy conservation, the Maine State Housing Authority may use resources derived from any source except the conservation program fund established by the Public Utilities Commission pursuant to the Maine Revised Statutes, Title 35-A, section 3211-A, subsection 5.