

CONSENT CALENDAR

April 14, 2022

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

The Committee on Executive Departments and Administration to which was referred SB 443-FN,

AN ACT relative to municipal authority regarding the state building code. Having considered the same, report the same with the following amendment, and the recommendation that the bill OUGHT TO PASS WITH AMENDMENT.

Rep. Stephen Pearson

FOR THE COMMITTEE

COMMITTEE REPORT

Committee:	Executive Departments and Administration
Bill Number:	SB 443-FN
Title:	relative to municipal authority regarding the state building code.
Date:	April 14, 2022
Consent Calendar:	CONSENT
Recommendation:	OUGHT TO PASS WITH AMENDMENT 2022-1504h

STATEMENT OF INTENT

This legislation came about from the Study Committee on Building Codes. One of the things discovered was that keeping track of local amendments has been difficult. This Bill is very timely with a new set of codes being adopted by the State. This bill will assist both the building and trades people, and also the homeowner that does their own work. The amendment brings the fire code under this process as well as it is an integral part of the code universe. It also ensures that amendments to the codes cannot be enforced until they go through the approval process.

Vote 18-1.

Rep. Stephen Pearson
FOR THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

CONSENT CALENDAR

Executive Departments and Administration

SB 443-FN, relative to municipal authority regarding the state building code. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Stephen Pearson for Executive Departments and Administration. This legislation came about from the Study Committee on Building Codes. One of the things discovered was that keeping track of local amendments has been difficult. This Bill is very timely with a new set of codes being adopted by the State. This bill will assist both the building and trades people, and also the homeowner that does their own work. The amendment brings the fire code under this process as well as it is an integral part of the code universe. It also ensures that amendments to the codes cannot be enforced until they go through the approval process. **Vote 18-1.**

Original: House Clerk

Cc: Committee Bill File

Amendment to SB 443-FN

1 Amend the bill by replacing all after section 3 with the following:

2

3 4 Power to Amend State Building Code and Establish Enforcement Procedures. Amend RSA
4 674:51, II to read as follows:

5 II. Any such ordinance *enacted or* adopted under paragraph I by a local legislative body
6 ~~[shall be submitted to the state building code review board for informational purposes]~~ **shall not be**
7 **enforced unless confirmed by the building code review board pursuant to RSA 155-A:10,**
8 **IV(c). The procedural history of local adoption relating to published notice, public**
9 **hearing, and vote of approval shall be submitted to the board within 30 days of enactment**
10 **or adoption and prior to enforcement.**

11 5 Duties of State Fire Marshal; Review of Local Amendments Established. Amend RSA 153:4-a,
12 II to read as follows:

13 II. It shall be ~~[his]~~ **the fire marshal's** duty and responsibility to coordinate the activities of
14 his *or her* office with duly authorized city, town and village district, fire and building department
15 officials and other state and local agencies required and authorized by state statutes or local
16 ordinances to develop or enforce fire safety regulations. It shall further be the duty and
17 responsibility of the state fire marshal to assist, cooperate with, advise and counsel the officials
18 responsible as designated by local ordinance or charter for the organization and efficient operation of
19 fire departments and other fire protection organizations when held to be in the best interest of public
20 safety. **Local amendments to the state fire code shall be submitted to the state fire marshal**
21 **for review prior to enforcement. The state fire marshal shall confirm local amendments to**
22 **the state fire code are not in conflict or less restrictive than the state fire code and are**
23 **based on sound engineering practices. The state fire marshal shall confirm that the local**
24 **amendments are enacted and adopted by the local legislative body. The state fire marshal**
25 **shall publish local amendments to the state fire code.**

26 6 Effective Date. The act shall take effect January 1, 2023.

2022-1504h

AMENDED ANALYSIS

This bill provides that the building code review board shall review proposed municipal amendments to the state building code to confirm that the proposed amendments do not conflict with, and are no less stringent than, the state building code, and requires submission of local amendments prior to enforcement. The bill also requires the state fire marshal to review local amendments to the state fire code prior to enforcement and to publish local amendments to the state fire code.

HOUSE COMMITTEE ON EXECUTIVE DEPARTMENTS AND ADMINISTRATION

EXECUTIVE SESSION on SB 443-FN

BILL TITLE: relative to municipal authority regarding the state building code.

DATE: April 12, 2022

LOB ROOM: 302 - 304

MOTIONS: OUGHT TO PASS WITH AMENDMENT

Moved by Rep. S. Pearson Seconded by Rep. Rhodes AM Vote: 19-0

Amendment # 2022-1426h

Moved by Rep. S. Pearson Seconded by Rep. Rhodes Vote: 19-0

MOTIONS: OUGHT TO PASS WITH AMENDMENT

Moved by Rep. Goley Seconded by Rep. McGuire AM Vote: 19-0

Amendment # 2022-1388h

Moved by Rep. S. Pearson Seconded by Rep. Goley Vote: 18-1

COMBINED BOTH AMENDMENTS - 2022-1504h

CONSENT CALENDAR: YES

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep Jaci Grote, Acting Clerk



2022 SESSION

Executive Departments and Administration

Bill #: SP2463 Motion: OTPA AM #: 1426 & 1388 Exec Session Date: 4/12

<u>Members</u>	<u>YEAS</u>	<u>Nays</u>	<u>NV</u>
McGuire, Carol M. Chairman	✓		
Rhodes, Jennifer M. Vice Chairman	✓		
Sytek, John Clerk <i>Piermonte</i>	✓		
Pearson, Stephen C.	✓		
Yakubovich, Michael	✓		
Lekas, Tony	✓		
Alliegro, Mark C.	✓		
Bailey, Glenn	✓		
Lanzara, Tom E.	✓		
Santonastaso, Matthew	✓		
Goley, Jeffrey P.	✓		
Schuett, Dianne E.	✓		
Judy, Jean L.	✓		
Schmidt, Peter B.	✓		
Marsh, William M.	✓		
Fellows, Sallie D.		✓	
Fontneau, Timothy J.	✓		
Grote, Jaci L.	✓		
O'Brien, Michael B.	✓		
TOTAL VOTE:	18	1	



2022 SESSION

Executive Departments and Administration

Bill #: SB443 Motion: adopt AM #: 1388h Exec Session Date: 4/12

<u>Members</u>	<u>YEAS</u>	<u>Nays</u>	<u>NV</u>
McGuire, Carol M. Chairman	✓		
Rhodes, Jennifer M. Vice Chairman	✓		
Sytek, John Clerk <i>Piemonte</i>	✓		
Pearson, Stephen C.	✓		
Yakubovich, Michael	✓		
Lekas, Tony	✓		
Alliegro, Mark C.	✓		
Bailey, Glenn	✓		
Lanzara, Tom E.	✓		
Santonastaso, Matthew	✓		
Goley, Jeffrey P.	✓		
Schuett, Dianne E.	✓		
Jeudy, Jean L.	✓		
Schmidt, Peter B.	✓		
Marsh, William M.	✓		
Fellows, Sallie D.	✓		
Fontneau, Timothy J.	✓		
Grote, Jaci L.	✓		
O'Brien, Michael B.	✓		
TOTAL VOTE:	19	0	



2022 SESSION

Executive Departments and Administration

Bill #: SP 443 Motion: adoption AM #: ^{1426h} ~~1426M~~ Exec Session Date: 4/12

<u>Members</u>	<u>YEAS</u>	<u>Nays</u>	<u>NV</u>
McGuire, Carol M. Chairman	✓		
Rhodes, Jennifer M. Vice Chairman	✓		
Sytek, John Clerk <u>Piedemonte, Tony</u>	✓		
Pearson, Stephen C.	✓		
Yakubovich, Michael	✓		
Lekas, Tony	✓		
Alliegro, Mark C.	✓		
Bailey, Glenn	✓		
Lanzara, Tom E.	✓		
Santonastaso, Matthew	✓		
Goley, Jeffrey P.	✓		
Schuett, Dianne E.	✓		
Jeudy, Jean L.	✓		
Schmidt, Peter B.	✓		
Marsh, William M.	✓		
Fellows, Sallie D.	✓		
Fontneau, Timothy J.	✓		
Grote, Jaci L.	✓		
O'Brien, Michael B.	✓		
TOTAL VOTE:	19	0	

HOUSE COMMITTEE ON EXECUTIVE DEPARTMENTS AND ADMINISTRATION

PUBLIC HEARING ON SB 443-FN

BILL TITLE: relative to municipal authority regarding the state building code.

DATE: April 8, 2022

LOB ROOM: 302-304 **Time Public Hearing Called to Order:** 1:00 p.m.

Time Adjourned: 1:45 p.m.

Committee Members: Reps. McGuire, Rhodes, Sytek, Yakubovich, T. Lekas, Alliegro, Bailey, Goley, P. Schmidt, Jeudy, Schuett, Fellows, Grote, O'Brien and Marsh

Bill Sponsors:

Sen. Carson

Sen. Giuda

Rep. McGuire

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

Sen. Carson, prime sponsor, introduced the bill and spoke in favor. She said that the Building Code Review Board shall review municipal amendments to see that they do not conflict with state building codes and are no less stringent. Also: that fees are not considered amendments to the code and that there would be no fee for an appeal a code violation. This bill was a result of a study committee years ago which came about because of complaints from the trades about various code conflicts. There was similar legislation but it died in an omnibus bill.

Philip Sherman, Chair of the BCRB, said that this bill was a result of hours of collaboration of many professional organizations and the BCRB with the Fire Marshall being informed along the way. He discussed the timing particulars of the bill and said that confirmation was not an approval process. He took a Committee question about whether this bill looked back or was prospective.

Rep. McGuire spoke in favor. She noted that building codes offered alternatives. Some neighboring towns used different options and this led to confusion. She said that some local ordinances may sound good but were in conflict for which a review would be desirable. She said this bill would provide transparency and consistency. She answered Committee questions concerning small towns. She said that the present building inspection procedures would not be affected by this bill.

Gary Abbott, Executive VP of Associated General Contractors pf NH, spoke in support. He said that if towns file their amendments, it would be in one location for all to see. He noted that as new updates to the state code are adopted, they could very well make old amendments null and void, he expected that there would be fewer municipal amendments. He took Committee questions.

Mr. Sherman answered a question concerning too many amendments overloading the BCRB, that many towns are too small to have the authority to make code amendments. He did not feel that the BCRB would have any problems with the review process or its timing.

Henry Zumiez representing the NH Electricians Board spoke in support. He briefly spoke of the history of codes, and went through the provisions of the bill.

Steve Rancourt, Electrical Contractors Business Association, spoke in favor. He spoke of the history of the bill and emphasized the benefit of have a central location for municipal code amendments.

Raymond Hebert, Electrical Contractor, spoke in favor. He was particularly supportive of the central location for municipal amendments.

House Remote Testify

Executive Departments and Administration Committee Testify List for Bill SB443 on 2022-04-08

Support: 2 Oppose: 0 Neutral: 0 Total to Testify: 0

Export to Excel

<u>Name</u>	<u>City, State</u> <u>Email Address</u>	<u>Title</u>	<u>Representing</u>	<u>Position</u>	<u>Testifying</u>	<u>Non-Germane</u>	<u>Signed Up</u>
Pollack, Ari	Concord, NH pollack@gcglaw.com	A Lobbyist	NH	Support	No	No	4/4/2022 11:41 AM
Giuda, Bob	Warren, NH daley.frenette@leg.state.nh.us	An Elected Official	Senate District 2	Support	No	No	4/8/2022 12:13 PM

Ari Pollack

I write on behalf of the NH Homebuilders to express the Association's support for SB443, an act relative to building codes. SB443 provides an important opportunity to review and catalogue municipal amendments to the State building codes, which sometimes conflict with State codes, go unknown and can be expensive traps for the unsuspecting. The bill does not interfere with the local legislative process, but instead requires the submission of minimal documentation to the BCRB to ensure no conflicts with statewide building and fire codes. Transparency and clear expectations help contractors better inform customers of pricing, timeframes and delivery. SB443 will assist the building trades in meeting customer expectations. The NH Homebuilders ask for your support on HB443, as amended by the Senate.

Archived: Thursday, May 19, 2022 9:57:04 AM
From: [Ari Pollack](#)
Sent: Monday, April 4, 2022 11:43:40 AM
To: ~House Executive Departments and Administration
Subject: SB443
Importance: Normal

Dear Chair McGuire and Members of House ED&A-

I write on behalf of the NH Homebuilders to express the Association's support for SB443, an act relative to building codes. SB443 provides an important opportunity to review and catalogue municipal amendments to the State building codes, which sometimes conflict with State codes, go unknown and can be expensive traps for the unsuspecting. The bill does not interfere with the local legislative process, but instead requires the submission of minimal documentation to the BCRB to ensure no conflicts with statewide building and fire codes.

Transparency and clear expectations help contractors better inform customers of pricing, timeframes and delivery. SB443 will assist the building trades in meeting customer expectations.

The NH Homebuilders ask for your support on HB443, as amended by the Senate.

Thank you.

Ari Pollack
Registered Lobbyist for the NH Homebuilders

Ari B. Pollack, Esq.

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SB 443-FN - AS AMENDED BY THE SENATE

03/17/2022 0819s

2022 SESSION

22-3031
05/08

SENATE BILL **443-FN**

AN ACT relative to municipal authority regarding the state building code.

SPONSORS: Sen. Carson, Dist 14; Sen. Giuda, Dist 2; Rep. McGuire, Merr. 29

COMMITTEE: Executive Departments and Administration

AMENDED ANALYSIS

This bill provides that the building code review board shall review proposed municipal amendments to the state building code to confirm that the proposed amendments do not conflict with, and are no less stringent than, the state building code. The bill also clarifies that fee schedules are not considered amendments to the code and that no fee shall be required to appeal a notice of code violation.

Explanation: Matter added to current law appears in *bold italics*.
Matter removed from current law appears [~~in brackets and struck through~~].
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Two

AN ACT relative to municipal authority regarding the state building code.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 New Hampshire Building Code; Local Amendments; Application. Amend RSA 155-A:3, I to
2 read as follows:

3 I. The municipality may adopt local amendments to the state building code [~~which do not~~
4 ~~prohibit minimum implementation and enforcement of the state building code~~] *pursuant to RSA*
5 *674:51. The issuance of permits and the collection of fees pursuant RSA 155-A:2, III and*
6 *issuance of permits and certificates of occupancy pursuant to RSA 155-A:2, IV shall not be*
7 *considered amendments to the building code and shall not be subject to RSA 674:51, II.*

8 2 Enforcement Authority; Building Code Violation; Fee to Appeal Decision of Local Enforcement
9 Agency Prohibited. Amend RSA 155-A:7, IV to read as follows:

10 IV. All local enforcement agencies and selectmen and the state fire marshal in those
11 communities without a local enforcement agency shall provide information on the local and state
12 appeals process when issuing a building permit or notice of violation. *No fee shall be required to*
13 *appeal a notice of violation or other decision of a code official.*

14 3 State Building Code Review Board; List of Municipal Amendments to Building Code and Fire
15 Code. Amend RSA 155-A:10, IV to read as follows:

16 IV. The board shall meet to review and assess the application of the state building code and
17 shall recommend legislation, as the board deems necessary, to amend the requirements of the state
18 building code in order to provide consistency with the application of other laws, rules, or regulations,
19 to avoid undue economic impacts on the public by considering the cost of such amendments, and to
20 promote public safety and best practices.

21 (a) The board [~~may recommend adoption of~~] *shall review* a newer version of a code that
22 has been published for [~~at least~~] 2 years, and shall provide a summary of all significant changes, cost
23 estimates of these changes, and documentation of the need for the change in [~~the~~] *any* recommended
24 legislation.

25 (b) *Statewide* amendments to the [~~codes~~] *state building code* shall be reviewed and
26 approved by the board, then submitted annually to the legislature for ratification by the adoption of
27 appropriate legislation before they become effective.

28 (c) *Municipal amendments: municipalities shall submit proposed amendments*
29 *to the state building code to the board for review and confirmation prior to adoption.*
30 *Municipalities may submit proposed language to the board for an advisory opinion at any*
31 *time. Cities shall submit the final proposed building code amendment no later than 90*

1 *days before final adoption. Towns shall submit the final proposed building code*
 2 *amendment no later than 10 days after the conclusion of the final public hearing.*
 3 *Municipal submissions shall include the final text for each amendment. The board shall*
 4 *act to review and confirm proposed municipal amendments within 90 days of submission*
 5 *for cities, and 45 days for towns. Failure of the board to act within these timeframes shall*
 6 *constitute a confirmation of the municipal amendment. The board's review shall be*
 7 *limited to a confirmation that the local amendment does not establish requirements*
 8 *conflicting with, or less stringent than, the requirements of the state building code, and to*
 9 *verify with the state fire marshal that there is no conflict with the fire code.*

10 (d) *Once an amendment is approved by the legislative body, the municipality*
 11 *shall submit documentation to the building code review board within 30 days, pursuant to*
 12 *subparagraph (c), that the public hearing was properly noticed and held, and that the*
 13 *provision was adopted by the local legislative body.*

14 (e) *The board may hear appeals of final decisions of any local building code board of*
 15 *appeals established under RSA 674, provided that the appeal shall be based on a claim that the*
 16 *intent of the code or the rules legally adopted thereunder have been incorrectly interpreted, the*
 17 *provisions of the code do not fully apply, or there is an alternative construction. The board shall not*
 18 *have authority to waive or grant variances to requirements of the code.*

19 ~~(d)~~ (f) *Amendments adopted by municipalities and confirmed by the board shall be*
 20 *published by the board after notification of adoption is received from the municipality.*

21 4 *Power to Amend State Building Code and Establish Enforcement Procedures. Amend RSA*
 22 *674:51, II to read as follows:*

23 II. *Any such ordinance enacted or adopted under paragraph I by a local legislative body*
 24 ~~*[shall be submitted to the state building code review board for informational purposes]*~~ *shall not be*
 25 *enforced unless confirmed by the building code review board pursuant to RSA 155-A:10,*
 26 *IV(c). The procedural history of local adoption relating to published notice, public*
 27 *hearing, and vote of approval shall be submitted to the board within 30 days of enactment*
 28 *or adoption.*

29 5 *Effective Date. This act shall take effect January 1, 2023.*

SB 443-FN- FISCAL NOTE
AS INTRODUCED

AN ACT relative to municipal authority regarding the state building code.

FISCAL IMPACT: State County Local None

STATE:	Estimated Increase / (Decrease)			
	FY 2022	FY 2023	FY 2024	FY 2025
Appropriation	\$0	\$0	\$0	\$0
Revenue	\$0	\$0	\$0	\$0
Expenditures	\$0	\$72,000	\$71,000	\$74,000
Funding Source:	<input checked="" type="checkbox"/> General <input type="checkbox"/> Education <input type="checkbox"/> Highway <input type="checkbox"/> Other			

METHODOLOGY:

The Department of Safety states this bill would require the building code review board to approve local amendments to the state building code prior to their adoption and enforcement and requires the board to maintain and publish a catalog of local amendments to the state building code and state fire code. This bill also would require the state fire marshal to approve local amendments to the state fire code prior to their adoption and enforcement and requires the fire marshal, with assistance of the board of fire control, to maintain and publish a catalog of local fire safety codes and ordinances. The bill prohibits municipalities from imposing a fee to appeal the decision of a code compliance official.

The Department assumes the bill will require additional work within the Division of Fire Safety, Board of Fire Control and Building Code Review Board to review, approve and catalog local amendments. The Department indicates an additional full-time Program Assistant II would be needed to perform the following duties:

- Coordinate, collect, maintain and process the local amendments.
- Work with the local municipalities to collect the information and work with the State Fire Marshal, Board of Fire Control and Building Code Review Board to process the reviews and approvals.
- Establish, publish and maintain the necessary catalog of approved amendments.

The cost of a full-time Program Assistant II position will be \$72,000 in FY 2023, \$71,000 in FY 2024 and \$74,000 in FY 2024. This cost includes salary, benefits and necessary equipment.

The bill does not make an appropriation or authorize an additional position.

It is assumed that any fiscal impact would occur after FY 2022.

AGENCIES CONTACTED:

Department of Safety, Division of Fire Safety