

House Bill 2018

Sponsored by Representative BARNHART; Representative HOLVEY, Senator WALKER

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Increases limit on fees imposed by local government for implementing local community right to know regulatory program.

A BILL FOR AN ACT

1
2 Relating to local community right to know regulatory programs; amending ORS 453.370.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1.** ORS 453.370 is amended to read:

5 453.370. (1) In order to maintain and ensure the effectiveness of state programs established un-
6 der ORS 453.307 to 453.414, as well as to ensure the effectiveness of local efforts, a local government
7 may establish, enforce or enact a local community right to know regulatory program provided that
8 the local program complies with the requirements of this section.

9 (2) To the extent that a local program is supported in whole or in part by fees, those fees may
10 be set, imposed or assessed only by the local government that is implementing the local program.
11 Such fees are allowed only to the extent not otherwise prohibited or limited by law. Such fees:

12 (a) Shall be adopted by ordinance as a fee schedule, after notice and public hearing; and

13 (b) May not exceed [*\$2,000*] **\$10,000** for any single facility in any calendar year.

14 (3)(a) All local community right to know regulatory program enforcement, including but not
15 limited to penalties, may be imposed only by a local fire official or a board established by the local
16 government to implement the local community right to know regulatory program.

17 (b) Penalties for violations of a **local** community right to know regulatory program may not ex-
18 ceed \$1,000 per day and shall be assessed according to a schedule adopted by the local government
19 after notice and public hearing. Except when a local government has reasonable grounds to find that
20 an employer willfully and knowingly avoided compliance with the local program, and as long as the
21 employer submits the required information within 30 days following a written notification of non-
22 compliance, penalties shall be suspended if the employer has no history of violating the local pro-
23 gram.

24 (4) **In order to establish, enforce or enact a local community right to know regulatory**
25 **program**, after notice and public hearing, the local government must determine that:

26 (a) Existing reporting to local, state or federal agencies is inadequate to meet the needs and
27 concerns of the local government;

28 (b) The state or federal government does not collect data that will provide substantially the
29 same information desired by the local government;

30 (c) The local government has asked the appropriate state agency to operate the program desired
31 by the local government and the state agency has not committed to do so within 180 days;

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.
New sections are in **boldfaced** type.

1 (d) The Department of Environmental Quality, the State Fire Marshal and the Department of
 2 Human Services have had an opportunity to comment on the proposed program and the local gov-
 3 ernment has responded to those comments; and

4 (e) The local government has provided an opportunity for written and oral public comment on
 5 the proposed program.

6 (5) Any local government that [*operates*] **establishes, enforces or enacts** a local community
 7 right to know regulatory program shall:

8 (a) Provide for an opportunity to report data electronically;

9 (b) Place data reported under the program on the Internet with instructions for the general
 10 public that explain the organization of the data; and

11 (c) Keep records of data usage and otherwise document interest in the collected data.

12 (6) Data and other information presented under a local community right to know regulatory
 13 program:

14 (a) Shall clearly distinguish, where appropriate, public health interpretations from the raw data;

15 (b) May, where feasible, indicate specifically which hazardous substances and toxic substances
 16 are being released into the local air, water and land; and

17 (c) Shall include locations where a person may obtain epidemiological statistics related to health
 18 effects of the hazardous substances and toxic substances, if available.

19 (7) For any hazardous substance or toxic substance that a local government proposes to require
 20 an employer to report under a local community right to know regulatory program established pur-
 21 suant to this section, the local government shall:

22 (a) Seek written and oral public comment and provide written notice to interested parties prior
 23 to adoption as a reporting requirement[. *The local government must*];

24 (b) Provide the public with an opportunity to comment on the appropriateness of reporting on
 25 the proposed hazardous substance or toxic substance, including but not limited to commenting on
 26 health and environmental considerations, economic concerns and feasibility of compliance[. *The local*
 27 *government shall*]; **and**

28 (c) Consider the comments before adopting a list or making additions to a list of hazardous
 29 substances and toxic substances to be reported.

30 (8) In administering a local community right to know regulatory program, a local government
 31 shall establish procedures to exempt, when reasonable, an entity from all or part of the local pro-
 32 gram for the purpose of protecting trade secrets or where the local government determines that the
 33 operations of the entity pose little or no risk to the public health or the environment.

34 (9) Except as [*prohibited*] **required** by federal or state law, a local program may not differentiate
 35 between public and private employers.

36 (10) Nothing in this section [*shall*] **may** be construed to limit the authority of a local govern-
 37 ment to:

38 (a) Distribute information collected under the state Community Right to Know and Protection
 39 Act; or

40 (b) Adopt or enforce a local ordinance, rule or regulation strictly necessary to comply with:

41 (A) The Uniform Building Code as adopted and amended by the Director of the Department of
 42 Consumer and Business Services;

43 (B) A uniform fire code; or

44 (C) Any requirement of a state or federal statute, rule or regulation, including but not limited
 45 to those controlling hazardous substances, toxic substances or other environmental contaminants.

