

(To Resolve Conflicts)

A-Engrossed House Bill 2075

Ordered by the Senate May 24
Including Senate Amendments dated May 24 to resolve conflicts

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of Governor Theodore R. Kulongoski for State Landscape Contractors Board)

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.

Corrects erroneous terminology in landscaping statutes.

Provides that landscaping business owner who is licensed landscape contractor need not employ landscape contractor to oversee landscaping operations. Requires payment of landscape contractor license application fee. Eliminates requirement that landscape contractor examination fee be nonrefundable.

Authorizes administrator of State Landscape Contractors Board to appoint advisory and technical committees to assist board.

A BILL FOR AN ACT

1
2 Relating to landscaping; creating new provisions; and amending ORS 671.555, 671.565 and 671.570
3 and section 2, chapter 111, Oregon Laws 2007 (Enrolled House Bill 2076).

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

5 **SECTION 1. (1) To aid and advise the State Landscape Contractors Board in the per-**
6 **formance of the functions of the board, the board administrator may establish such advisory**
7 **and technical committees as the administrator considers necessary. These committees may**
8 **be continuing or temporary. The administrator shall determine the representation, mem-**
9 **bership, terms and organization of the committees and shall appoint their members. The**
10 **administrator is an ex officio member of each committee.**

11 **(2) Members of the committees are not entitled to compensation, but the board may fix**
12 **and pay to the committee members from the funds available to the board per diem and actual**
13 **and necessary travel and other expenses incurred by the committee members in the per-**
14 **formance of their official duties.**

15 **SECTION 2. ORS 671.555 is amended to read:**

16 671.555. (1) The State Landscape Contractors Board may investigate the activities of any person
17 engaged in the landscaping business to determine compliance with ORS 671.510 to 671.710.

18 (2) With the approval of the city or county, the board may conduct investigations with city or
19 county inspectors, provided that the city or county is reimbursed by the board for the costs of such
20 investigations.

21 (3) Any inspector authorized by the board to determine compliance with [*the provisions of*] ORS
22 671.510 to 671.710 [*is authorized to*] **may** require any person who is engaged in any activity regu-
23 lated by ORS 671.510 to 671.710 to demonstrate proof of compliance with the [*registration*] **licensing**

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 requirements of ORS 671.510 to 671.710. If a person who is contracting directly with the owner of
 2 the property does not demonstrate proof of compliance with the [*license*] **licensing** requirements of
 3 ORS 671.510 to 671.710, the inspector shall give notice of noncompliance to the person. The notice
 4 of noncompliance shall be in writing, shall specifically state that the person is not in compliance
 5 with the [*registration*] **licensing** requirements of ORS 671.510 to 671.710 and shall provide that un-
 6 less the person demonstrates proof of compliance within two days of the date of the notice, the in-
 7 spector may by order stop all work then being done by the person. The notice of noncompliance
 8 shall be served upon the person and shall be served upon or delivered to the owner of each property
 9 upon which the person is then performing work under contract. If more than one person is the
 10 owner of any such property, a copy of the notice need be given to only one of such persons. If after
 11 receipt of the notice of noncompliance the person fails within the two-day period specified in the
 12 notice to demonstrate proof of compliance with the [*registration*] **licensing** requirements of ORS
 13 671.510 to 671.710, the inspector is authorized to order the work stopped by notice in writing served
 14 on any persons engaged in the activity. Any person so notified shall stop such work until proof of
 15 compliance is demonstrated. However, the inspector may not order the work stopped until at least
 16 two days after the copies of the notice of noncompliance have been served upon or delivered to the
 17 owners.

18 (4) Notwithstanding subsection (3) of this section, the board may order work stopped imme-
 19 diately if the [*landscape contractor*] **landscaping business** working on a worksite [*has never regis-*
 20 *tered with the board or if the contractor*] cannot demonstrate that the [*contractor*] **business** has been
 21 [*registered*] **licensed by the board** at any time within the two years immediately preceding work
 22 on the worksite.

23 (5) The board has the power to administer oaths, issue notices and subpoenas in the name of the
 24 board, compel the attendance of witnesses and the production of evidence, hold hearings and per-
 25 form such other acts as are reasonably necessary to carry out its duties under ORS 671.510 to
 26 671.710.

27 (6) If any person fails to comply with a subpoena issued under subsection (5) of this section or
 28 refuses to testify on matters on which the person may be lawfully interrogated, the board shall
 29 compel obedience in the manner provided in ORS 183.440.

30 **SECTION 3.** ORS 671.565 is amended to read:

31 671.565. (1) Each person applying for a landscaping business license [*shall*] **must**:

32 (a) Pay to the State Landscape Contractors Board the applicable landscaping business license
 33 fee established by the board under ORS 671.650.

34 (b) **Have a landscape contractor license or** employ at least one person with a landscape con-
 35 tractor license to supervise the landscaping operation of the business.

36 (c) Submit the names of all employees who are licensed contractors.

37 (d) File with the board a form of security acceptable under ORS 671.690.

38 (e) File with the board a certificate of public liability, personal injury and property damage in-
 39 surance covering the work of the landscaping business that is subject to ORS 671.510 to 671.710 for
 40 an amount not less than \$100,000.

41 (f) Indicate, as set forth in ORS 670.600, the basis under which the applicant qualifies as an in-
 42 dependent contractor.

43 (2) At the time of application for a license, for renewal of a license in active status or for return
 44 of a license to active status, the landscaping business shall provide evidence satisfactory to the
 45 board that the public liability, personal injury and property damage insurance required by sub-

1 section (1)(e) of this section is in effect. During a license period, the landscaping business shall
2 provide, to the extent required by the board, satisfactory evidence of continued public liability,
3 personal injury and property damage insurance coverage.

4 **SECTION 4.** ORS 671.570 is amended to read:

5 671.570. Each person applying for a landscape [*contractor's*] **contractor** license [*shall*] **must:**

6 (1) Pay to the State Landscape Contractors Board the **license** fee required by ORS 671.650.
7 [*and:*]

8 (2) **Pay a nonrefundable application fee.**

9 [(1)] (3) **Pay an examination fee and** pass an examination, which [*shall be offered*] **the board**
10 **shall offer** at least once each six months, [*by the board*] to determine the fitness of the applicant
11 for licensing. [*and have:*]

12 (4)(a) **Have**, within 10 years before the day the application for a license is made, at least:

13 (A) Twenty-four months of employment with a [*landscape contractor*] **landscaping business**; or

14 (B) Twelve months of employment with a [*landscape contractor*] **landscaping business** and one
15 full year of training in an area related to landscaping at an accredited school or college; or

16 (b) [*Proven*] **Prove** to the satisfaction of the board by test and experience that the applicant is
17 qualified.

18 [(2)] (5) Be employed by a landscaping business if performing landscaping work.

19 [(3) *Pay a nonrefundable examination fee.*]

20 **SECTION 5.** Section 2, chapter 111, Oregon Laws 2007 (Enrolled House Bill 2076), is amended
21 to read:

22 **Sec. 2.** (1) Notwithstanding ORS 671.570, the State Landscape Contractors Board may issue a
23 probationary landscape contractor license to a person who does not meet the training and experi-
24 ence qualifications set forth in ORS 671.570. To obtain a probationary landscape contractor license,
25 the person must:

26 (a) Pay a nonrefundable application fee;

27 (b) Pay an examination fee;

28 (c) Pay to the board the landscape [*contractor's*] **contractor** license fee required by ORS 671.650;
29 and

30 (d) Pass all sections of the examination described in ORS 671.570 within 12 months after first
31 taking the examination.

32 (2) Two or more years after receiving a probationary landscape contractor license, a
33 probationary landscape contractor may obtain removal from probationary status and issuance of a
34 landscape [*contractor's*] **contractor** license if the probationary landscape contractor presents the
35 board with proof that the probationary landscape contractor has done any of the following:

36 (a) Completed at least 24 months of employment with a licensed landscaping business under the
37 direct supervision of a landscape contractor.

38 (b) Provided supervision described in ORS 671.540 (15) or 671.565 (1)(b) for at least 24 months
39 as the owner or employee of a licensed landscaping business that, during that period:

40 (A) Filed and maintained with the board a bond, letter of credit or deposit in the amount of
41 \$15,000; and

42 (B) Performed landscaping work only on landscaping projects where the amount charged by the
43 landscaping business for work on the project during any 12-month period did not exceed \$15,000.

44 (c) Actively operated for at least 24 months as a construction contractor licensed under ORS
45 chapter 701.

1 (3) Except as provided in this section and ORS 671.560 and as the board may provide by rule,
2 a probationary landscape contractor licensed under this section is for all purposes a landscape
3 contractor licensed under ORS 671.560.

4 **SECTION 6. If House Bill 2076 becomes law, section 4 of this 2007 Act (amending ORS**
5 **671.570) is repealed and ORS 671.570, as amended by section 4, chapter 111, Oregon Laws 2007**
6 **(Enrolled House Bill 2076), is amended to read:**

7 671.570. (1) Each person applying for a landscape [*contractor's*] **contractor** license must:

8 (a) Pay a nonrefundable application fee.

9 (b) Pay an examination fee.

10 (c) Pay to the State Landscape Contractors Board the landscape [*contractor's*] **contractor** li-
11 cense fee required by ORS 671.650.

12 (d) Pass an examination, which the board shall offer at least once each six months, to determine
13 the fitness of the applicant for licensing and within 10 years before the day the application for a
14 license is made:

15 (A) Have at least 24 months of employment with a [*landscape contracting*] **landscaping** business;
16 or

17 (B) Have at least 12 months of employment with a [*landscape contracting*] **landscaping** business
18 and one full year of training in an area related to landscaping at an accredited school or college.

19 (e) Be employed by, or own, a landscaping business if performing landscaping work.

20 (2) Notwithstanding subsection (1) of this section, the board may adopt rules allowing a person
21 who does not meet the education and experience requirements in subsection (1)(d) of this section to
22 substitute other education and experience that demonstrate the fitness of the person for licensing
23 as a landscape contractor.

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