

A-Engrossed
House Bill 2478

Ordered by the House May 8
Including House Amendments dated May 8

Sponsored by Representative SCHAUFLER

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.

[Requires that municipality assuming building inspection program have population of at least 35,000. Applies to programs for which Director of Department of Consumer and Business Services receives notification of program assumption from municipality on or after January 2, 2008.]

[Restates grounds for Department of Consumer and Business Services assumption of municipal building programs.]

Provides that municipality may not assume responsibility for administering and enforcing building inspection program unless, prior to assumption, municipality is subject to statute governing selective municipal building inspection programs or responsibility for program is being assumed from Department of Consumer and Business Services.

Establishes that provisions do not apply to assumption of building inspection programs on or after July 1, 2010.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to building inspection programs; creating new provisions; amending ORS 455.148; and de-
3 claring an emergency.

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

5 **SECTION 1.** ORS 455.148 is amended to read:

6 455.148. (1)(a) A municipality that assumes the administration and enforcement of a building in-
7 spection program *[on or after January 1, 2002,]* shall administer and enforce the program for all of
8 the following:

9 (A) The state building code, as defined in ORS 455.010, except as set forth in paragraph (b) of
10 this subsection;

11 (B) Manufactured structure installation requirements under ORS 446.155, 446.185 (1) and 446.230;

12 (C) Manufactured dwelling parks and mobile home parks under ORS chapter 446;

13 (D) Park and camp programs regulated under ORS 455.680;

14 (E) Tourist facilities regulated under ORS 446.310 to 446.350;

15 (F) Manufactured dwelling alterations regulated under ORS 446.155; and

16 (G) Manufactured structure accessory buildings and structures under ORS 446.253.

17 (b) A building inspection program of a municipality may not include:

18 (A) Boiler and pressure vessel programs under ORS 480.510 to 480.670;

19 (B) Elevator programs under ORS 460.005 to 460.175;

20 (C) Amusement ride regulation under ORS 460.310 to 460.370;

21 (D) Prefabricated structure regulation under ORS chapter 455;

22 (E) Manufacture of manufactured structures programs under ORS 446.155 to 446.285, including

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 the administration and enforcement of federal manufactured dwelling construction and safety stan-
2 dards adopted under ORS 446.155 or the National Manufactured Housing Construction and Safety
3 Standards Act of 1974;

4 (F) Licensing and certification, or the adoption of statewide codes and standards, under ORS
5 chapter 446, 447, 455, 479 or 693; or

6 (G) Review of plans and specifications as provided in ORS 455.685.

7 (2) A municipality that administers a building inspection program as allowed under this section
8 shall do so for periods of four years. The Department of Consumer and Business Services shall adopt
9 rules to adjust time periods for administration of a building inspection program to allow for vari-
10 ations in the needs of the department and participants.

11 (3) When a municipality administers a building inspection program, the governing body of the
12 municipality shall, unless other means are already provided, appoint a person to administer and
13 enforce the building inspection program, who shall be known as the building official. A building of-
14 ficial shall, in the municipality for which appointed, attend to all aspects of code enforcement, in-
15 cluding the issuance of all building permits. Two or more municipalities may combine in the
16 appointment of a single building official for the purpose of administering a building inspection pro-
17 gram within their communities.

18 (4)(a) By January 1 of the year preceding the expiration of the four-year period described in
19 subsection (2) of this section, the governing body of the municipality shall notify the Director of the
20 Department of Consumer and Business Services and, if the municipality is not a county, notify the
21 county whether the municipality will continue to administer and enforce the building inspection
22 program after expiration of the four-year period.

23 (b) Notwithstanding the January 1 date set forth in paragraph (a) of this subsection, the director
24 and the municipality and, if the municipality is not a county, the county may by agreement extend
25 that date to no later than March 1.

26 (5) If a city does not notify the director, or notifies the director that it will not administer the
27 building inspection program, the county or counties in which the city is located shall administer and
28 enforce the county program within the city in the same manner as the program is administered and
29 enforced outside the city, except as provided by subsection (6) of this section.

30 (6) If a county does not notify the director, or notifies the director that it will not administer
31 and enforce a building inspection program, the director shall contract with a municipality or other
32 person or use such state employees or state agencies as are necessary to administer and enforce a
33 building inspection program, and permit or other fees arising therefrom shall be paid into the Con-
34 sumer and Business Services Fund created by ORS 705.145 and credited to the account responsible
35 for paying the expenses thereof. A state employee may not be displaced as a result of using contract
36 personnel.

37 (7)(a) The governing body of a municipality may commence responsibility for the administration
38 and enforcement of a building inspection program beginning July 1 of any year by notifying the di-
39 rector no later than January 1 of the same year and obtaining the director's approval of an as-
40 sumption plan as described in subsection (11)(c) of this section.

41 **(b) Notwithstanding paragraph (a) of this subsection, a municipality may not assume re-**
42 **sponsibility for administering and enforcing a building inspection program within the**
43 **municipality unless:**

44 **(A) Prior to the assumption, the municipality is subject to ORS 455.150; or**

45 **(B) Responsibility for the program is being assumed from the department.**

1 (8) The department shall adopt rules to require the governing body of each municipality assum-
2 ing or continuing a building inspection program under this section to submit a written plan with the
3 notice required under subsection (4) or (7) of this section. If the department is the governing body,
4 the department shall have a plan on file. The plan must specify how cooperation with the State Fire
5 Marshal or a designee of the State Fire Marshal will be achieved and how a uniform fire code will
6 be considered in the review process of the design and construction phases of buildings or structures.

7 (9) A municipality that administers and enforces a building inspection program pursuant to this
8 section shall recognize and accept the performances of state building code activities by businesses
9 and persons authorized under ORS 455.457 to perform the activities as if the activities were per-
10 formed by the municipality. A municipality is not required to accept an inspection, a plan or a plan
11 review that does not meet the requirements of the state building code.

12 (10) The department or a municipality that accepts an inspection or plan review as required by
13 this section by a person licensed under ORS 455.457 has no responsibility or liability for the activ-
14 ities of the licensee.

15 (11) In addition to the requirements of ORS 455.100 and 455.110, the director shall regulate
16 building inspection programs that municipalities assume on or after January 1, 2002. Regulation
17 under this subsection shall include but not be limited to:

18 (a) Creating building inspection program application and amendment requirements and proce-
19 dures;

20 (b) Granting or denying applications for building inspection program authority and amendments;

21 (c) Requiring a municipality assuming a building inspection program to submit with the notice
22 given under subsection (7) of this section an assumption plan that includes, at a minimum:

23 (A) A description of the intended availability of program services, including proposed service
24 agreements for carrying out the program during at least the first two years;

25 (B) Demonstration of the ability and intent to provide building inspection program services for
26 at least two years;

27 (C) An estimate of proposed permit revenue and program operating expenses;

28 (D) Proposed staffing levels; and

29 (E) Proposed service levels;

30 (d) Reviewing procedures and program operations of municipalities;

31 (e) Creating standards for efficient, effective, timely and acceptable building inspection pro-
32 grams;

33 (f) Creating standards for justifying increases in building inspection program fees adopted by a
34 municipality;

35 (g) Creating standards for determining whether a county or department building inspection
36 program is economically impaired in its ability to reasonably continue providing the program
37 throughout a county, if another municipality is allowed to provide a building inspection program
38 within the same county; and

39 (h) Enforcing the requirements of this section.

40 (12) The department may assume administration of a building inspection program:

41 (a) During the pendency of activities under ORS 455.770;

42 (b) If a municipality abandons or is no longer able to administer the building inspection program;
43 and

44 (c) If a municipality fails to substantially comply with any provision of this section or of ORS
45 455.465, 455.467 and 455.469.

1 (13) A municipality that abandons or otherwise ceases to administer a building inspection pro-
2 gram that the municipality assumed under this section may not resume the administration or
3 enforcement of the program for at least two years. The municipality may resume the administration
4 and enforcement of the abandoned program only on July 1 of an odd-numbered year. Prior to re-
5 suming the administration and enforcement of the program, the municipality must follow the notifi-
6 cation procedure set forth in subsection (7) of this section.

7 **SECTION 2.** ORS 455.148, as amended by section 1 of this 2007 Act, is amended to read:

8 455.148. (1)(a) A municipality that assumes the administration and enforcement of a building in-
9 spection program shall administer and enforce the program for all of the following:

10 (A) The state building code, as defined in ORS 455.010, except as set forth in paragraph (b) of
11 this subsection;

12 (B) Manufactured structure installation requirements under ORS 446.155, 446.185 (1) and 446.230;

13 (C) Manufactured dwelling parks and mobile home parks under ORS chapter 446;

14 (D) Park and camp programs regulated under ORS 455.680;

15 (E) Tourist facilities regulated under ORS 446.310 to 446.350;

16 (F) Manufactured dwelling alterations regulated under ORS 446.155; and

17 (G) Manufactured structure accessory buildings and structures under ORS 446.253.

18 (b) A building inspection program of a municipality may not include:

19 (A) Boiler and pressure vessel programs under ORS 480.510 to 480.670;

20 (B) Elevator programs under ORS 460.005 to 460.175;

21 (C) Amusement ride regulation under ORS 460.310 to 460.370;

22 (D) Prefabricated structure regulation under ORS chapter 455;

23 (E) Manufacture of manufactured structures programs under ORS 446.155 to 446.285, including
24 the administration and enforcement of federal manufactured dwelling construction and safety stan-
25 dards adopted under ORS 446.155 or the National Manufactured Housing Construction and Safety
26 Standards Act of 1974;

27 (F) Licensing and certification, or the adoption of statewide codes and standards, under ORS
28 chapter 446, 447, 455, 479 or 693; or

29 (G) Review of plans and specifications as provided in ORS 455.685.

30 (2) A municipality that administers a building inspection program as allowed under this section
31 shall do so for periods of four years. The Department of Consumer and Business Services shall adopt
32 rules to adjust time periods for administration of a building inspection program to allow for vari-
33 ations in the needs of the department and participants.

34 (3) When a municipality administers a building inspection program, the governing body of the
35 municipality shall, unless other means are already provided, appoint a person to administer and
36 enforce the building inspection program, who shall be known as the building official. A building of-
37 ficial shall, in the municipality for which appointed, attend to all aspects of code enforcement, in-
38 cluding the issuance of all building permits. Two or more municipalities may combine in the
39 appointment of a single building official for the purpose of administering a building inspection pro-
40 gram within their communities.

41 (4)(a) By January 1 of the year preceding the expiration of the four-year period described in
42 subsection (2) of this section, the governing body of the municipality shall notify the Director of the
43 Department of Consumer and Business Services and, if the municipality is not a county, notify the
44 county whether the municipality will continue to administer and enforce the building inspection
45 program after expiration of the four-year period.

1 (b) Notwithstanding the January 1 date set forth in paragraph (a) of this subsection, the director
2 and the municipality and, if the municipality is not a county, the county may by agreement extend
3 that date to no later than March 1.

4 (5) If a city does not notify the director, or notifies the director that it will not administer the
5 building inspection program, the county or counties in which the city is located shall administer and
6 enforce the county program within the city in the same manner as the program is administered and
7 enforced outside the city, except as provided by subsection (6) of this section.

8 (6) If a county does not notify the director, or notifies the director that it will not administer
9 and enforce a building inspection program, the director shall contract with a municipality or other
10 person or use such state employees or state agencies as are necessary to administer and enforce a
11 building inspection program, and permit or other fees arising therefrom shall be paid into the Con-
12 sumer and Business Services Fund created by ORS 705.145 and credited to the account responsible
13 for paying the expenses thereof. A state employee may not be displaced as a result of using contract
14 personnel.

15 (7)[(a)] The governing body of a municipality may commence responsibility for the administration
16 and enforcement of a building inspection program beginning July 1 of any year by notifying the di-
17 rector no later than January 1 of the same year and obtaining the director's approval of an as-
18 sumption plan as described in subsection (11)(c) of this section.

19 [(b) *Notwithstanding paragraph (a) of this subsection, a municipality may not assume responsibility*
20 *for administering and enforcing a building inspection program within the municipality unless:]*

21 [(A) *Prior to the assumption, the municipality is subject to ORS 455.150; or]*

22 [(B) *Responsibility for the program is being assumed from the department.*]

23 (8) The department shall adopt rules to require the governing body of each municipality assum-
24 ing or continuing a building inspection program under this section to submit a written plan with the
25 notice required under subsection (4) or (7) of this section. If the department is the governing body,
26 the department shall have a plan on file. The plan must specify how cooperation with the State Fire
27 Marshal or a designee of the State Fire Marshal will be achieved and how a uniform fire code will
28 be considered in the review process of the design and construction phases of buildings or structures.

29 (9) A municipality that administers and enforces a building inspection program pursuant to this
30 section shall recognize and accept the performances of state building code activities by businesses
31 and persons authorized under ORS 455.457 to perform the activities as if the activities were per-
32 formed by the municipality. A municipality is not required to accept an inspection, a plan or a plan
33 review that does not meet the requirements of the state building code.

34 (10) The department or a municipality that accepts an inspection or plan review as required by
35 this section by a person licensed under ORS 455.457 has no responsibility or liability for the activ-
36 ities of the licensee.

37 (11) In addition to the requirements of ORS 455.100 and 455.110, the director shall regulate
38 building inspection programs that municipalities assume on or after January 1, 2002. Regulation
39 under this subsection shall include but not be limited to:

40 (a) Creating building inspection program application and amendment requirements and proce-
41 dures;

42 (b) Granting or denying applications for building inspection program authority and amendments;

43 (c) Requiring a municipality assuming a building inspection program to submit with the notice
44 given under subsection (7) of this section an assumption plan that includes, at a minimum:

45 (A) A description of the intended availability of program services, including proposed service

1 agreements for carrying out the program during at least the first two years;

2 (B) Demonstration of the ability and intent to provide building inspection program services for
3 at least two years;

4 (C) An estimate of proposed permit revenue and program operating expenses;

5 (D) Proposed staffing levels; and

6 (E) Proposed service levels;

7 (d) Reviewing procedures and program operations of municipalities;

8 (e) Creating standards for efficient, effective, timely and acceptable building inspection pro-
9 grams;

10 (f) Creating standards for justifying increases in building inspection program fees adopted by a
11 municipality;

12 (g) Creating standards for determining whether a county or department building inspection
13 program is economically impaired in its ability to reasonably continue providing the program
14 throughout a county, if another municipality is allowed to provide a building inspection program
15 within the same county; and

16 (h) Enforcing the requirements of this section.

17 (12) The department may assume administration of a building inspection program:

18 (a) During the pendency of activities under ORS 455.770;

19 (b) If a municipality abandons or is no longer able to administer the building inspection program;
20 and

21 (c) If a municipality fails to substantially comply with any provision of this section or of ORS
22 455.465, 455.467 and 455.469.

23 (13) A municipality that abandons or otherwise ceases to administer a building inspection pro-
24 gram that the municipality assumed under this section may not resume the administration or
25 enforcement of the program for at least two years. The municipality may resume the administration
26 and enforcement of the abandoned program only on July 1 of an odd-numbered year. Prior to re-
27 suming the administration and enforcement of the program, the municipality must follow the notifi-
28 cation procedure set forth in subsection (7) of this section.

29 **SECTION 3. (1) The amendments to ORS 455.148 by section 1 of this 2007 Act apply to the**
30 **assumption of building inspection programs on or after July 1, 2007. If this 2007 Act takes**
31 **effect after July 1, 2007, a municipality that does not qualify under ORS 455.148 (7)(b) as set**
32 **forth in section 1 of this 2007 Act and that assumed a building inspection program on July**
33 **1, 2007, shall return responsibility for the program to the transferring municipality on the**
34 **effective date of this 2007 Act.**

35 **(2) The amendments to ORS 455.148 by section 2 of this 2007 Act apply to the assumption**
36 **of building inspection programs on or after July 1, 2010.**

37 **SECTION 4. This 2007 Act being necessary for the immediate preservation of the public**
38 **peace, health and safety, an emergency is declared to exist, and this 2007 Act takes effect**
39 **on its passage.**

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