

Senate Bill 1032

Sponsored by JOINT COMMITTEE ON WAYS AND MEANS

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**.

Exempts agencies from fee approval for fees anticipated in legislative budget process. Authorizes increase in certain fees that were temporarily reduced.

Declares emergency, effective July 1, 2007.

A BILL FOR AN ACT

1
2 Relating to agency fees; creating new provisions; amending ORS 291.050 and 291.055; and declaring
3 an emergency.

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

5 **SECTION 1.** ORS 291.050 is amended to read:

6 291.050. As used in ORS 291.050 to 291.060:

7 (1) "Fee" means an amount imposed and collected by a state agency to defray or recover the
8 costs of administering the law involved in providing a service to the public and used by the state
9 agency to carry out or enforce a law under its jurisdiction. "Fee" does not include:

10 (a) Fines, [*and*] civil penalties or [*any*] court judgments.

11 (b) **Proceeds from** the sale of products or charges for rents, leases or other real estate [*trans-*
12 *action costs*] **transactions.**

13 (c) Interest and other charges for bonding and loan transactions.

14 (d) Charges levied by one state agency on another state agency.

15 (e) **Copying charges for public records as defined in ORS 192.410.**

16 (f) **Charges for attendance at informational seminars.**

17 (2) "Products" means goods and publications purchased voluntarily that have a commercial
18 value. [*"Products" includes copying charges for public records as defined in ORS 192.410 and the*
19 *conducting of informational seminars.*] "Products" does not include [*services or*] licenses or permits
20 issued by state agencies.

21 (3) "State agency" means every state officer, board, commission, department, institution, branch
22 or agency of the state government that is subject to the provisions of ORS 291.201 to 291.222 and
23 291.230 to 291.260. "State agency" includes the Legislative Assembly, including legislative commit-
24 tees and service agencies, the Secretary of State, the State Treasurer and the Judicial Department.
25 "State agency" does not include a commodity commission established under ORS 576.051 to 576.455
26 or the Oregon Beef Council created under ORS 577.210.

27 **SECTION 2.** ORS 291.055 is amended to read:

28 291.055. (1) Notwithstanding any other law that grants to a state agency the authority to es-
29 tablish fees, all new state agency fees or fee increases adopted after July 1 of any odd-numbered
30 year:

31 (a) Are not effective for agencies in the executive department of government unless approved

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 in writing by the Director of the Oregon Department of Administrative Services;

2 (b) Are not effective for agencies in the judicial department of government unless approved in
3 writing by the Chief Justice of the Supreme Court;

4 (c) Are not effective for agencies in the legislative department of government unless approved
5 in writing by the President of the Senate and the Speaker of the House of Representatives;

6 (d) Shall be reported by the state agency to the Oregon Department of Administrative Services
7 within 10 days of their adoption; and

8 (e) Are rescinded on July 1 of the next following odd-numbered year, or on adjournment sine
9 die of the regular session of the Legislative Assembly meeting in that year, whichever is later, un-
10 less otherwise authorized by enabling legislation setting forth the approved fees.

11 (2) This section does not apply to:

12 (a) Any tuition or fees charged by the State Board of Higher Education and state institutions
13 of higher education.

14 (b) Taxes or other payments made or collected from employers for unemployment insurance re-
15 quired by ORS chapter 657 or premium assessments required by ORS 656.612 and 656.614 or contri-
16 butions and assessments calculated by cents per hour for workers' compensation coverage required
17 by ORS 656.506.

18 (c) Fees or payments required for:

19 (A) Health care services provided by the Oregon Health and Science University, by the Oregon
20 Veterans' Homes and by other state agencies and institutions pursuant to ORS 179.610 to 179.770.

21 (B) Assessments and premiums paid to the Oregon Medical Insurance Pool established by ORS
22 735.614 and 735.625.

23 (C) Copayments and premiums paid to the Oregon medical assistance program.

24 (D) Assessments paid to the Office of Private Health Partnerships under section 12, chapter 727,
25 Oregon Laws 2005.

26 (d) Fees created or authorized by statute that have no established rate or amount but are cal-
27 culated for each separate instance for each fee payer and [*the fee assessed is*] **are** based on actual
28 cost of services provided.

29 (e) State agency charges on employees for benefits and services.

30 (f) Any intergovernmental charges.

31 (g) Forest protection district assessment rates established by ORS 477.210 to 477.265 and the
32 Oregon Forest Land Protection Fund fees established by ORS 477.760.

33 (h) State Department of Energy assessments required by ORS 469.421 (8) and 469.681.

34 (i) Any charges established by the State Parks and Recreation Director in accordance with ORS
35 565.080 (3).

36 (j) Assessments on premiums charged by the Insurance Division of the Department of Consumer
37 and Business Services pursuant to ORS 731.804 or fees charged by the Division of Finance and
38 Corporate Securities of the Department of Consumer and Business Services to banks, trusts and
39 credit unions pursuant to ORS 706.530 and 723.114.

40 (k) Public Utility Commission operating assessments required by ORS 756.310 or charges paid
41 to the Residential Service Protection Fund required by chapter 290, Oregon Laws 1987.

42 (L) Fees charged by the Housing and Community Services Department for intellectual property
43 pursuant to ORS 456.562.

44 **(m) New or increased fees that are anticipated in the legislative budgeting process for**
45 **an agency, revenues from which are included, explicitly or implicitly, in the legislatively**

1 **adopted budget for the agency.**

2 (3)(a) Fees temporarily decreased for competitive or promotional reasons or because of unex-
3 pected and temporary revenue surpluses may be *[restored to their normal level]* **increased to not**
4 **more than their prior level without compliance with subsection (1) of this section** if, at the
5 time the fee is decreased, the state agency specifies the following:

6 (A) The reason for the fee decrease; and

7 (B) The conditions under which the fee will be *[restored to its normal]* **increased to not more**
8 **than its prior** level.

9 (b) Fees that are decreased for reasons other than those described in paragraph (a) of this sub-
10 section may not be subsequently increased except as allowed by ORS 291.050 to 291.060 and 294.160.

11 **SECTION 3.** ORS 291.055, as amended by section 15, chapter 727, Oregon Laws 2005, and sec-
12 tion 24e, chapter 744, Oregon Laws 2005, is amended to read:

13 291.055. (1) Notwithstanding any other law that grants to a state agency the authority to es-
14 tablish fees, all new state agency fees or fee increases adopted after July 1 of any odd-numbered
15 year:

16 (a) Are not effective for agencies in the executive department of government unless approved
17 in writing by the Director of the Oregon Department of Administrative Services;

18 (b) Are not effective for agencies in the judicial department of government unless approved in
19 writing by the Chief Justice of the Supreme Court;

20 (c) Are not effective for agencies in the legislative department of government unless approved
21 in writing by the President of the Senate and the Speaker of the House of Representatives;

22 (d) Shall be reported by the state agency to the Oregon Department of Administrative Services
23 within 10 days of their adoption; and

24 (e) Are rescinded on July 1 of the next following odd-numbered year, or on adjournment sine
25 die of the regular session of the Legislative Assembly meeting in that year, whichever is later, un-
26 less otherwise authorized by enabling legislation setting forth the approved fees.

27 (2) This section does not apply to:

28 (a) Any tuition or fees charged by the State Board of Higher Education and state institutions
29 of higher education.

30 (b) Taxes or other payments made or collected from employers for unemployment insurance re-
31 quired by ORS chapter 657 or premium assessments required by ORS 656.612 and 656.614 or contri-
32 butions and assessments calculated by cents per hour for workers' compensation coverage required
33 by ORS 656.506.

34 (c) Fees or payments required for:

35 (A) Health care services provided by the Oregon Health and Science University, by the Oregon
36 Veterans' Homes and by other state agencies and institutions pursuant to ORS 179.610 to 179.770.

37 (B) Assessments and premiums paid to the Oregon Medical Insurance Pool established by ORS
38 735.614 and 735.625.

39 (C) Copayments and premiums paid to the Oregon medical assistance program.

40 (d) Fees created or authorized by statute that have no established rate or amount but are cal-
41 culated for each separate instance for each fee payer and *[the fee assessed is]* **are** based on actual
42 cost of services provided.

43 (e) State agency charges on employees for benefits and services.

44 (f) Any intergovernmental charges.

45 (g) Forest protection district assessment rates established by ORS 477.210 to 477.265 and the

1 Oregon Forest Land Protection Fund fees established by ORS 477.760.

2 (h) State Department of Energy assessments required by ORS 469.421 (8) and 469.681.

3 (i) Any charges established by the State Parks and Recreation Director in accordance with ORS
4 565.080 (3).

5 (j) Assessments on premiums charged by the Insurance Division of the Department of Consumer
6 and Business Services pursuant to ORS 731.804 or fees charged by the Division of Finance and
7 Corporate Securities of the Department of Consumer and Business Services to banks, trusts and
8 credit unions pursuant to ORS 706.530 and 723.114.

9 (k) Public Utility Commission operating assessments required by ORS 756.310 or charges paid
10 to the Residential Service Protection Fund required by chapter 290, Oregon Laws 1987.

11 (L) Fees charged by the Housing and Community Services Department for intellectual property
12 pursuant to ORS 456.562.

13 **(m) New or increased fees that are anticipated in the legislative budgeting process for**
14 **an agency, revenues from which are included, explicitly or implicitly, in the legislatively**
15 **adopted budget for the agency.**

16 (3)(a) Fees temporarily decreased for competitive or promotional reasons or because of unex-
17 pected and temporary revenue surpluses may be *[restored to their normal level]* **increased to not**
18 **more than their prior level without compliance with subsection (1) of this section** if, at the
19 time the fee is decreased, the state agency specifies the following:

20 (A) The reason for the fee decrease; and

21 (B) The conditions under which the fee will be *[restored to its normal]* **increased to not more**
22 **than its prior** level.

23 (b) Fees that are decreased for reasons other than those described in paragraph (a) of this sub-
24 section may not be subsequently increased except as allowed by ORS 291.050 to 291.060 and 294.160.

25 **SECTION 4. (1) ORS 291.055 (2)(m) first applies to agency fees adopted on or after July**
26 **1, 2007, that are adopted in conformance with legislative discussions of the budget adopted**
27 **for the agency for the biennium beginning July 1, 2007.**

28 **(2) The amendments to ORS 291.055 (3)(a) by sections 2 and 3 of this 2007 Act apply to**
29 **agency fees increased in accordance with ORS 291.055 (3)(a) on or after July 1, 2007.**

30 **SECTION 5. This 2007 Act being necessary for the immediate preservation of the public**
31 **peace, health and safety, an emergency is declared to exist, and this 2007 Act takes effect**
32 **July 1, 2007.**