

House Bill 2620

Sponsored by Representative SCHAUFLER (Pre-session filed.)

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**.

Requires Department of Consumer and Business Services and municipality that assumes responsibility for administering and enforcing building and specialty codes to charge one-third of fee for permit upon issuing permit, one-third when construction of building or installation of equipment begins and one-third when construction or installation is complete. Prohibits municipality from charging amount other than amount of fee specified at time municipality issued permit.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to fees for building permits; creating new provisions; amending ORS 455.020 and 455.210;
3 and declaring an emergency.

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

5 **SECTION 1.** ORS 455.020 is amended to read:

6 455.020. (1) This chapter is enacted to enable the Director of the Department of Consumer and
7 Business Services to promulgate a state building code to govern the construction, reconstruction,
8 alteration and repair of buildings and other structures and the installation of mechanical devices
9 and equipment [*therein*] **within the buildings and other structures**, and to require the correction
10 of unsafe conditions caused by earthquakes in existing buildings. The state building code shall es-
11 tablish uniform performance standards providing reasonable safeguards for health, safety, welfare,
12 comfort and security of the residents of this state who are occupants and users of buildings, and
13 [*will*] provide for the use of modern methods, devices, materials, techniques and practicable maxi-
14 mum energy conservation.

15 (2) The rules adopted [*pursuant to*] **under** this chapter [*shall*] **must** include structural
16 standards[;], standards for the installation and use of mechanical, heating and ventilating devices
17 and equipment[;] and standards for prefabricated structures[; *and shall*]. **The standards also**
18 **must**, subject to ORS 455.210, prescribe reasonable fees for [*the issuance of*] **issuing** building permits
19 and similar documents, inspections and plan review services by the Department of Consumer and
20 Business Services. The department may also establish, by rule, the amount of [*any fee pertaining*] **a**
21 **fee that pertains** to the state building code or [*any*] **a** specialty code that is authorized by statute,
22 but for which an amount is not specified by statute.

23 (3) This chapter does not affect the statutory jurisdiction and authority of the Workers' Com-
24 pensation Board, under ORS chapter 654, to promulgate occupational safety and health standards
25 relating to places of employment, and to administer and enforce all state laws, regulations, rules,
26 standards and lawful orders requiring places of employment to be safe and healthful.

27 (4)(a) This chapter and any specialty code does not limit the authority of a municipality to enact
28 regulations providing for:

29 (A) Local administration of the state building code;

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 (B) Local appeal boards;

2 (C) Fees and other charges, **except that fees for building permits are subject to restrictions**
 3 **set forth in ORS 455.210 as to the portion of the fee that is payable upon issuance, upon the**
 4 **commencement of construction and upon the completion of construction;**

5 (D) Abatement of nuisances and dangerous buildings;

6 (E) Enforcement through penalties, stop-work orders or other means; or

7 (F) Minimum health, sanitation and safety standards for governing the use of structures for
 8 housing, except where the power of municipalities to enact [*any such*] regulations is expressly
 9 withheld or otherwise provided for by statute.

10 (b) [*Pursuant to the regulation of dangerous buildings,*] A municipality **in order to regulate**
 11 **dangerous buildings** may adopt seismic rehabilitation plans that provide for phased completion of
 12 repairs that are designed to provide improved life safety but that may be less than the standards for
 13 new buildings.

14 **SECTION 2.** ORS 455.210 is amended to read:

15 455.210. (1)(a) Fees [*shall*] **must** be prescribed as required by ORS 455.020 for plan review and
 16 permits [*issued by*] **that** the Department of Consumer and Business Services **issues** for [*the con-*
 17 *struction, reconstruction, alteration and repair of*] **constructing, reconstructing, altering and re-**
 18 **pairing** prefabricated structures, [*and of*] buildings and other structures and [*the installation of*]
 19 **installing** mechanical heating and ventilating devices and equipment. The fees may not exceed 130
 20 percent of the fee schedule printed in the “Uniform Building Code,” 1979 Edition, and in the “Uni-
 21 form Mechanical Code,” 1979 Edition, both published by the International Conference of Building
 22 Officials. Fees are not effective until approved by the Oregon Department of Administrative Ser-
 23 vices.

24 (b) **The Department of Consumer and Business Services shall collect one-third of the**
 25 **total amount of the fee charged under subsection (1) of this section at the time the depart-**
 26 **ment issues a permit, one-third when construction on the prefabricated structure, building**
 27 **or other structure begins or when installation of the mechanical heating and ventilating de-**
 28 **VICES and equipment begins and one-third when construction on the prefabricated structure,**
 29 **building or other structure is complete or installation of the mechanical heating or venti-**
 30 **lation devices or equipment is complete.**

31 (2) Notwithstanding subsection (1) of this section, the maximum fee the Director of the Depart-
 32 ment of Consumer and Business Services may prescribe for a limited plan review for fire and life
 33 safety as required under ORS 479.155 [*shall be*] **is** 40 percent of the prescribed permit fee.

34 (3)(a) A municipality may adopt by ordinance or regulation [*such fees as may be*] **fees that are**
 35 **necessary and reasonable to provide for** [*the administration and enforcement of any*] **administering**
 36 **and enforcing a** specialty code or codes for which the municipality has assumed responsibility un-
 37 der ORS 455.148 or 455.150. A municipality shall give the director notice of the proposed adoption
 38 of a new or increased fee under this subsection. The municipality shall give the notice to the di-
 39 rector at the time the municipality provides the opportunity for public comment under ORS 294.160
 40 regarding the fee or, if the proposed fee is contained in an estimate of municipal budget resources,
 41 at the time notice of the last budget meeting is published in a newspaper under ORS 294.401.

42 (b) **A municipality shall collect one-third of the total amount of the fee charged under**
 43 **the authority of paragraph (a) of this subsection at the time the municipality issues a permit,**
 44 **one-third when construction or installation begins on the structure, building, device or**
 45 **equipment that is subject to the permit and one-third when construction or installation of**

1 **the structure, building, device or equipment is complete. Except as otherwise provided in this**
 2 **section, after the municipality issues the permit, the municipality may not for the purpose**
 3 **of administering or enforcing a specialty code or codes for which the municipality has as-**
 4 **sumed responsibility under ORS 455.148 or 455.150 impose a surcharge, collect an additional**
 5 **amount for overtime or otherwise collect an amount other than the fee specified for the**
 6 **permit at the time the municipality issued the permit.**

7 [(b)] (c) Ten or more persons or an association with 10 or more members may appeal the
 8 adoption of a fee described in this subsection to the Director of the Department of Consumer and
 9 Business Services. The persons or association must file the appeal no later than 60 days after the
 10 director receives notice of the proposed adoption of the fee from the municipality under paragraph
 11 (a) of this subsection. However, if the municipality failed to give notice to the director, **the persons**
 12 **or the association may file** an appeal [*may be filed*] with the director within one year after
 13 adoption of the new or increased fee. Upon receiving a timely appeal, the director shall, after notice
 14 to affected parties and hearing, review the municipality's fee adoption process and the costs of ad-
 15 ministering and enforcing the specialty code or codes referred to in paragraph (a) of this subsection.
 16 The director shall approve the fee if the director [*feels*] **determines that** the fee is necessary and
 17 reasonable. If the director does not approve the fee upon appeal, the fee is not effective. The appeal
 18 process provided in this paragraph does not apply to fees that have been submitted for a vote and
 19 approved by a majority of the electors voting on the question.

20 [(c)] (d) **A municipality shall use** fees collected [*by a municipality*] under this subsection [*shall*
 21 *be used for the administration and enforcement of*] **to administer and enforce** a building inspection
 22 program for which the municipality has assumed responsibility under ORS 455.148 or 455.150.

23 [(d)] (e) For purposes of paragraph [(b)] (c) of this subsection, in determining whether a fee is
 24 reasonable the director shall consider whether:

25 (A) The fee is the same amount as or closely approximates the amount of the fee [*charged by*]
 26 other municipalities of a similar size and geographic location **charge** for the same level of service;

27 (B) The fee is calculated with the same or a similar calculation method as the fee [*charged by*]
 28 other municipalities **charge** for the same service;

29 (C) The fee is the same type as the fee [*charged by*] other municipalities **charge** for the same
 30 level of service; and

31 (D) The municipality, in adopting the fee, complied with ORS 294.160, 294.361 and 294.401 and
 32 this section and standards [*adopted by*] the director **adopted** under ORS 455.148 (11) or 455.150 (11).

33 (4) Notwithstanding any other provision of this chapter:

34 (a) For the purpose of partially defraying state administrative costs, there is imposed a sur-
 35 charge in the amount of four percent of the total permit fees or, if the applicant chooses to pay an
 36 hourly rate instead of purchasing a permit, four percent of the total hourly charges collected.

37 (b) For the purpose of partially defraying state inspection costs, there is imposed a surcharge
 38 in the amount of two percent of the total permit fees or, if the applicant chooses to pay an hourly
 39 rate instead of purchasing a permit, two percent of the total hourly charges collected.

40 (c) For the purpose of defraying the cost of administering and enforcing the state building code,
 41 there is imposed a surcharge on permit fees and on hourly charges collected instead of permit fees.
 42 The surcharge may not exceed one percent of the total permit fees or, if the applicant chooses to
 43 pay an hourly rate instead of purchasing a permit, one percent of the total hourly charges collected.

44 (d) For the purpose of defraying the cost of developing and administering the electronic building
 45 codes information system described in ORS 455.095 and 455.097, there is imposed a surcharge in the

1 amount of five percent on permit fees, or if the applicant chooses to pay an hourly rate instead of
 2 purchasing a permit, five percent of the total hourly charges collected. However, the department
 3 may adopt rules to waive a portion of the surcharge imposed under this paragraph if the department
 4 determines that the amount collected by the surcharge imposed under this paragraph exceeds the
 5 actual cost to the department of developing and administering the electronic building codes infor-
 6 mation system described in ORS 455.095 and 455.097.

7 (5) Municipalities shall collect and remit surcharges imposed under subsection (4) of this section
 8 to the director as provided in ORS 455.220.

9 (6) The director shall adopt administrative rules to allow reduced fees for review of plans that
 10 have been previously reviewed.

11 **SECTION 3.** ORS 455.210, as amended by section 6, chapter 69, Oregon Laws 2007, is amended
 12 to read:

13 455.210. (1)(a) Fees [*shall*] **must** be prescribed as required by ORS 455.020 for plan review and
 14 permits [*issued by*] **that** the Department of Consumer and Business Services **issues** for [*the con-*
 15 *struction, reconstruction, alteration and repair of*] **constructing, reconstructing, altering and re-**
 16 **pairing** prefabricated structures, [*and of*] buildings and other structures and [*the installation of*]
 17 **installing** mechanical heating and ventilating devices and equipment. The fees may not exceed 130
 18 percent of the fee schedule printed in the “Uniform Building Code,” 1979 Edition, and in the “Uni-
 19 form Mechanical Code,” 1979 Edition, both published by the International Conference of Building
 20 Officials. Fees are not effective until approved by the Oregon Department of Administrative Ser-
 21 vices.

22 **(b) The Department of Consumer and Business Services shall collect one-third of the**
 23 **total amount of the fee charged under subsection (1) of this section at the time the depart-**
 24 **ment issues a permit, one-third when construction on the prefabricated structure, building**
 25 **or other structure begins or when installation of the mechanical heating and ventilating de-**
 26 **VICES and equipment begins and one-third when construction on the prefabricated structure,**
 27 **building or other structure is complete or installation of the mechanical heating or venti-**
 28 **lation devices or equipment is complete.**

29 (2) Notwithstanding subsection (1) of this section, the maximum fee the Director of the Depart-
 30 ment of Consumer and Business Services may prescribe for a limited plan review for fire and life
 31 safety as required under ORS 479.155 [*shall be*] **is** 40 percent of the prescribed permit fee.

32 (3)(a) A municipality may adopt by ordinance or regulation [*such fees as may be*] **fees that are**
 33 necessary and reasonable to provide for [*the administration and enforcement of any*] **administering**
 34 **and enforcing a** specialty code or codes for which the municipality has assumed responsibility un-
 35 der ORS 455.148 or 455.150. A municipality shall give the director notice of the proposed adoption
 36 of a new or increased fee under this subsection. The municipality shall give the notice to the di-
 37 rector at the time the municipality provides the opportunity for public comment under ORS 294.160
 38 regarding the fee or, if the proposed fee is contained in an estimate of municipal budget resources,
 39 at the time notice of the last budget meeting is published in a newspaper under ORS 294.401.

40 **(b) A municipality shall collect one-third of the total amount of the fee charged under**
 41 **the authority of paragraph (a) of this subsection at the time the municipality issues a permit,**
 42 **one-third when construction or installation begins on the structure, building, device or**
 43 **equipment that is subject to the permit and one-third when construction or installation of**
 44 **the structure, building, device or equipment is complete. Except as otherwise provided in this**
 45 **section, after the municipality issues the permit, the municipality may not for the purpose**

1 **of administering or enforcing a specialty code or codes for which the municipality has as-**
 2 **sumed responsibility under ORS 455.148 or 455.150 impose a surcharge, collect an additional**
 3 **amount for overtime or otherwise collect an amount other than the fee specified for the**
 4 **permit at the time the municipality issued the permit.**

5 [(b)] (c) Ten or more persons or an association with 10 or more members may appeal the
 6 adoption of a fee described in this subsection to the Director of the Department of Consumer and
 7 Business Services. The persons or association must file the appeal no later than 60 days after the
 8 director receives notice of the proposed adoption of the fee from the municipality under paragraph
 9 (a) of this subsection. However, if the municipality failed to give notice to the director, **the persons**
 10 **or the association may file** an appeal [*may be filed*] with the director within one year after
 11 adoption of the new or increased fee. Upon receiving a timely appeal, the director shall, after notice
 12 to affected parties and hearing, review the municipality's fee adoption process and the costs of ad-
 13 ministering and enforcing the specialty code or codes referred to in paragraph (a) of this subsection.
 14 The director shall approve the fee if the director [*feels*] **determines that** the fee is necessary and
 15 reasonable. If the director does not approve the fee upon appeal, the fee is not effective. The appeal
 16 process provided in this paragraph does not apply to fees that have been submitted for a vote and
 17 approved by a majority of the electors voting on the question.

18 [(c)] (d) **A municipality shall use** fees collected [*by a municipality*] under this subsection [*shall*
 19 *be used for the administration and enforcement of*] **to administer and enforce** a building inspection
 20 program for which the municipality has assumed responsibility under ORS 455.148 or 455.150.

21 [(d)] (e) For purposes of paragraph [(b)] (c) of this subsection, in determining whether a fee is
 22 reasonable the director shall consider whether:

23 (A) The fee is the same amount as or closely approximates the amount of the fee [*charged by*]
 24 other municipalities of a similar size and geographic location **charge** for the same level of service;

25 (B) The fee is calculated with the same or a similar calculation method as the fee [*charged*] by
 26 other municipalities **charge** for the same service;

27 (C) The fee is the same type as the fee [*charged by*] other municipalities **charge** for the same
 28 level of service; and

29 (D) The municipality, in adopting the fee, complied with ORS 294.160, 294.361 and 294.401 and
 30 this section and standards [*adopted by*] the director **adopted** under ORS 455.148 (11) or 455.150 (11).

31 (4) Notwithstanding any other provision of this chapter:

32 (a) For the purpose of partially defraying state administrative costs, there is imposed a sur-
 33 charge in the amount of four percent of the total permit fees or, if the applicant chooses to pay an
 34 hourly rate instead of purchasing a permit, four percent of the total hourly charges collected.

35 (b) For the purpose of partially defraying state inspection costs, there is imposed a surcharge
 36 in the amount of two percent of the total permit fees or, if the applicant chooses to pay an hourly
 37 rate instead of purchasing a permit, two percent of the total hourly charges collected.

38 (c) For the purpose of defraying the cost of administering and enforcing the state building code,
 39 there is imposed a surcharge on permit fees and on hourly charges collected instead of permit fees.
 40 The surcharge may not exceed one percent of the total permit fees or, if the applicant chooses to
 41 pay an hourly rate instead of purchasing a permit, one percent of the total hourly charges collected.

42 (5) Municipalities shall collect and remit surcharges imposed under subsection (4) of this section
 43 to the director as provided in ORS 455.220.

44 (6) The director shall adopt administrative rules to allow reduced fees for review of plans that
 45 have been previously reviewed.

1 **SECTION 4.** The amendments to ORS 455.020 and 455.210 by sections 1 to 3 of this 2011
2 Act apply to fees that the Department of Consumer and Business Services or a municipality
3 charges for permits that the department or the municipality issues on or after the operative
4 date specified in section 5 of this 2011 Act.

5 **SECTION 5.** (1) The amendments to ORS 455.020 and 455.210 by sections 1 to 3 of this 2011
6 Act become operative on January 1, 2012.

7 (2) The Director of the Department of Consumer and Business Services and a munici-
8 pality that has assumed responsibility under ORS 455.148 or 455.150 for administering or en-
9 forcing a specialty code or codes may take any action that is necessary to enable the director
10 or the municipality to exercise, on and after the operative date specified in subsection (1)
11 of this section, all of the duties, functions and powers conferred on the director or the
12 municipality by sections 1 to 3 of this 2011 Act.

13 **SECTION 6.** This 2011 Act being necessary for the immediate preservation of the public
14 peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect
15 on its passage.
16
