

Enrolled
House Bill 3487

Sponsored by Representative WHISNANT; Representatives BREWER, CONGER, THOMPSON, Senator JOHNSON

CHAPTER

AN ACT

Relating to state agency fees; amending ORS 291.050 and 291.055; and declaring an emergency.

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

SECTION 1. ORS 291.055 is amended to read:

291.055. (1) Notwithstanding any other law that grants to a state agency the authority to establish fees, all new state agency fees or fee increases adopted [*after July 1 of any odd-numbered year*] **during the period beginning on the date of adjournment sine die of a regular session of the Legislative Assembly and ending on the date of adjournment sine die of the next regular session of the Legislative Assembly:**

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

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

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

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

(e) Are rescinded on [*July 1 of the next following odd-numbered year, or on adjournment sine die of the regular session of the Legislative Assembly meeting in that year, whichever is later*] **adjournment sine die of the next regular session of the Legislative Assembly as described in this subsection**, unless otherwise authorized by enabling legislation setting forth the approved fees.

(2) This section does not apply to:

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

(b) Taxes or other payments made or collected from employers for unemployment insurance required by ORS chapter 657 or premium assessments required by ORS 656.612 and 656.614 or contributions and assessments calculated by cents per hour for workers' compensation coverage required by ORS 656.506.

(c) Fees or payments required for:

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

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

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

(D) Assessments paid to the Department of Consumer and Business Services under ORS 743.951 and 743.961.

(d) Fees created or authorized by statute that have no established rate or amount but are calculated for each separate instance for each fee payer and are based on actual cost of services provided.

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

(f) Any intergovernmental charges.

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

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

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

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

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

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

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

(n) Tolls approved by the Oregon Transportation Commission pursuant to ORS 383.004.

(o) Convenience fees as defined in ORS 182.126 and established by the Oregon Department of Administrative Services under ORS 182.132 (3) and recommended by the Electronic Government Portal Advisory Board.

(3)(a) Fees temporarily decreased for competitive or promotional reasons or because of unexpected and temporary revenue surpluses may be increased to not more than their prior level without compliance with subsection (1) of this section if, at the time the fee is decreased, the state agency specifies the following:

(A) The reason for the fee decrease; and

(B) The conditions under which the fee will be increased to not more than its prior level.

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

SECTION 2. ORS 291.050 is amended to read:

291.050. As used in ORS 291.050 to 291.060:

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

(a) Fines, civil penalties or court judgments.

(b) Proceeds from the sale of products or charges for rents, leases or other real estate transactions.

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

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

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

(f) Charges for attendance at informational seminars.

(2) "Legislatively adopted budget" has the meaning given that term in ORS 291.002.

(3) "Legislatively approved budget" has the meaning given that term in ORS 291.002.

[2)] **(4) "Products" means goods and publications purchased voluntarily that have a commercial value. "Products" does not include licenses or permits issued by state agencies.**

[3] (5) "State agency" means every state officer, board, commission, department, institution, branch or agency of the state government that is subject to the provisions of ORS 291.201 to 291.222 and 291.232 to 291.260. "State agency" includes the Legislative Assembly, including legislative committees and service agencies, the Secretary of State, the State Treasurer and the Judicial Department. "State agency" does not include a commodity commission established under ORS 576.051 to 576.455 or the Oregon Beef Council created under ORS 577.210.

SECTION 3. This 2011 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect on its passage.

Passed by House June 22, 2011

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Ramona Kenady Line, Chief Clerk of House

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Bruce Hanna, Speaker of House

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Arnie Roblan, Speaker of House

Passed by Senate June 24, 2011

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Peter Courtney, President of Senate

Received by Governor:

.....M,....., 2011

Approved:

.....M,....., 2011

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John Kitzhaber, Governor

Filed in Office of Secretary of State:

.....M,....., 2011

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Kate Brown, Secretary of State