

# Senate Bill 513

Sponsored by Senator MONNES ANDERSON, Representative WAND (Presession 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**.

Provides for publication of notice by posting on home page of unit of local government's Internet website.

## A BILL FOR AN ACT

1  
2 Relating to local government publication of notice; amending ORS 294.311, 294.401, 294.915, 294.920  
3 and 455.210.

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

5 **SECTION 1.** ORS 294.311 is amended to read:

6 294.311. As used in ORS 294.305 to 294.565, unless the context requires otherwise:

7 (1) "Accrual basis" means the recording of the financial effects on a municipal corporation of  
8 transactions and other events and circumstances that have cash consequences for the municipal  
9 corporation in the periods in which those transactions, events and circumstances occur, rather than  
10 only in the periods in which cash is received or paid by the municipal corporation.

11 (2) "Activity" means a specific and distinguishable service performed by one or more organiza-  
12 tional components of a municipal corporation to accomplish a function for which the municipal  
13 corporation is responsible.

14 (3) "Appropriation" means an authorization granted by the governing body to make expenditures  
15 and to incur obligations for specific purposes. An appropriation is limited to a single fiscal year for  
16 municipal corporations preparing annual budgets, or to the budget period for municipal corporations  
17 preparing biennial budgets.

18 (4) "Basis of accounting" means the cash basis, the modified accrual basis or the accrual basis.

19 (5) "Budget" means a plan of financial operation embodying an estimate of expenditures for a  
20 given period or purpose and the proposed means of financing the estimated expenditures.

21 (6) "Budget document" means the estimates of expenditures and budget resources as set forth  
22 on the estimate sheets, tax levy and the financial summary.

23 (7) "Budget period" means, for municipal corporations with the power to levy a tax upon prop-  
24 erty, the two-year period commencing on July 1 and closing on June 30 of the second calendar year  
25 next following, and for all other municipal corporations, an accounting period of 24 months ending  
26 on the last day of any month.

27 (8) "Budget resources" means resources to which recourse can be had to meet obligations and  
28 expenditures during the fiscal year or budget period covered by the budget.

29 (9) "Cash basis" means a basis of accounting under which transactions are recognized only in  
30 the period during which cash is received or disbursed.

31 (10) "Current budget period" means the budget period in progress.

**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 (11) "Current year" means the fiscal year in progress.

2 (12) "Encumbrance accounting" means the method of accounting under which outstanding  
3 encumbrances are recognized as reductions of appropriations and the related commitments are car-  
4 ried in a reserve for encumbrances until liquidated, either by replacement with an actual liability  
5 or by cancellation. This method of accounting may be used as a modification to the accrual basis  
6 of accounting in accordance with generally accepted accounting principles.

7 (13) "Encumbrances" means obligations in the form of purchase orders, contracts or salary  
8 commitments which are chargeable to an appropriation and for which a part of the appropriation  
9 is reserved. Obligations cease to be encumbrances when paid or when the actual liability is set up.

10 (14) "Ensuing budget period" means the budget period following the current budget period.

11 (15) "Ensuing year" means the fiscal year following the current year.

12 (16) "Expenditure" means, if the accounts are kept on the accrual basis or the modified accrual  
13 basis, decreases in net financial resources and may include encumbrances. If the accounts are kept  
14 on the cash basis, the term covers only actual disbursement, the drawing of the check or warrant  
15 for these purposes and not encumbrances, except that deferred employee compensation shall be in-  
16 cluded as a personal service expenditure where an approved deferred employee compensation plan  
17 is in effect for a municipal corporation.

18 (17) "Fiscal year" means for municipal corporations with the power to impose ad valorem  
19 property taxes, the fiscal year commencing on July 1 and closing on June 30, and for all other mu-  
20 nicipal corporations, an accounting period of 12 months ending on the last day of any month.

21 (18) "Fund balance" means the excess of the assets of a fund over its liabilities and reserves  
22 except in the case of funds subject to budgetary accounting where, prior to the end of a fiscal pe-  
23 riod, it represents the excess of the fund's assets and estimated revenues for the period over its li-  
24 abilities, reserves and appropriations for the period.

25 (19) "General county resources" means resources from property taxes, state and federal shared  
26 revenue, beginning balances available for expenditure and interest not required to be allocated to  
27 specific programs or activities.

28 (20) "Governing body" means the city council, board of commissioners, board of directors,  
29 county court or other managing board of a municipal corporation including a board managing a  
30 municipally owned public utility or a dock commission.

31 (21) "Grant" means a donation or contribution of cash to a governmental unit by a third party.

32 (22) "Intergovernmental entity" means an entity created under ORS 190.010 (5). The term in-  
33 cludes any council of governments created prior to the enactment of ORS 190.010 (5).

34 (23) "Internal service fund" means a fund properly authorized to finance, on a cost reimburse-  
35 ment basis, goods or services provided by one organizational unit of a municipal corporation to  
36 other organizational units of the municipal corporation.

37 (24) "Liabilities" means probable future sacrifices of economic benefits, arising from present  
38 obligations of a municipal corporation to transfer assets or provide services to other entities in the  
39 future as a result of past transactions or events. The term does not include encumbrances.

40 (25)(a) "Modified accrual basis" means the accrual basis of accounting adapted to the govern-  
41 mental fund-type measurement focus. Under this basis of accounting, revenues and other financial  
42 resource increments, such as bond proceeds, are recognized when they become susceptible to ac-  
43 crual, that is, when they become both measurable and available to finance expenditures in the cur-  
44 rent period.

45 (b) As used in this subsection, "available" means collectible in the current period or soon

1 enough thereafter to be used to pay liabilities of the current period. Under this basis of accounting,  
2 expenditures are recognized when the fund liability is incurred except for:

3 (A) Inventories of material and supplies that may be considered expenditures either when pur-  
4 chased or when used; and

5 (B) Prepaid insurance and similar items that may be considered expenditures either when paid  
6 for or when consumed.

7 (26) "Municipal corporation" means any county, city, port, school district, union high school  
8 district, community college district and all other public or quasi-public corporations including a  
9 municipal utility or dock commission operated by a separate board or commission. "Municipal cor-  
10 poration" includes an intergovernmental entity or council of governments that proposes to impose  
11 or imposes ad valorem property taxes.

12 (27) "Net working capital" means the sum of the cash, cash equivalents, investments, accounts  
13 receivable expected to be converted to cash during the ensuing year or ensuing budget period, in-  
14 ventories, supplies and prepaid expenses less current liabilities and, if encumbrance accounting is  
15 adopted, reserve for encumbrances. The term is not applicable to the cash basis of accounting.

16 (28) "Object" means, as used in expenditure classification, articles purchased including, but not  
17 limited to, land, buildings, equipment and vehicles, or services obtained including, but not limited  
18 to, administrative services, clerical services, professional services, property services and travel, as  
19 distinguished from the results obtained from expenditures.

20 (29) "Object classification" means a grouping of expenditures on the basis of goods or services  
21 purchased, including, but not limited to, personal services, materials, supplies and equipment.

22 (30) "Operating taxes" has the meaning given that term in ORS 310.055.

23 (31) "Organizational unit" means any administrative subdivision of a municipal corporation, es-  
24 pecially one charged with carrying on one or more functions or activities.

25 (32) "Population" means the number of inhabitants of a municipal corporation according to  
26 certified estimates of population made by the State Board of Higher Education.

27 (33) "Program" means a group of related activities aimed at accomplishing a major service or  
28 function for which the municipality is responsible.

29 (34) "Public utility" means those public utility operations authorized by ORS chapter 225.

30 (35) "Publish" or "publication" means any one or more of the following methods of giving notice  
31 or making information or documents available to members of the general public:

32 (a) Publication in one or more newspapers of general circulation within the jurisdictional  
33 boundaries of the municipal corporation.

34 (b) Posting through the United States Postal Service by first class mail, postage prepaid, to each  
35 street address within the jurisdictional boundaries of the municipal corporation and to each post  
36 office box and rural route number belonging to a resident within the jurisdictional boundaries of the  
37 municipal corporation.

38 (c) Hand delivery to each street address within the jurisdictional boundaries of the municipal  
39 corporation.

40 **(d) Posting or posting a link on the home page of a municipal corporation's official**  
41 **Internet website.**

42 (36) "Receipts" means cash received unless otherwise qualified.

43 (37) "Reserve for encumbrances" means a reserve representing the segregation of a portion of  
44 a fund balance to provide for unliquidated encumbrances.

45 (38) "Revenue" means the gross receipts and receivables of a governmental unit derived from

1 taxes, licenses, fees and from all other sources, but excluding appropriations, allotments and return  
2 of principal from investment of surplus funds.

3 (39) "Special revenue fund" means a fund properly authorized and used to finance particular  
4 activities from the receipts of specific taxes or other revenues.

5 **SECTION 2.** ORS 294.401 is amended to read:

6 294.401. (1) The budget committee shall hold one or more meetings for the following purposes:

7 (a) Receiving the budget message and the budget document; and

8 (b) Providing members of the public with an opportunity to ask questions about and comment  
9 upon the budget document.

10 (2) When more than one meeting of the budget committee is held under subsection (1) of this  
11 section, the first meeting shall be the meeting at which the budget message and the budget document  
12 are received by the budget committee. The budget committee may provide members of the public  
13 with an opportunity to ask questions about and comment upon the budget document at the first  
14 meeting of the budget committee. If such opportunity is not provided at the first meeting, the budget  
15 committee shall provide the public with the opportunity to ask questions and make comments upon  
16 the budget document at subsequent meetings.

17 (3) The budget officer shall publish prior notice of each meeting of the budget committee held  
18 for the purpose of satisfying the requirements of subsection (1) of this section. The published notice  
19 shall contain the information required under subsection (4) of this section. However:

20 (a) If more than one meeting of the budget committee is held for the purpose of meeting the  
21 requirements of subsection (1) of this section, the budget officer may publish a single notice con-  
22 taining the required information for all of the meetings to be held for the purpose of meeting the  
23 requirements of subsection (1) of this section; and

24 (b) If the budget committee holds two or more meetings under subsection (1)(b) of this section  
25 for the purpose of taking questions and comments from the public, then:

26 (A) Only notice of the first meeting held for the purpose of taking questions and comments from  
27 the public need be published in accordance with the requirements of this subsection, and notice of  
28 any subsequent meeting held for the purpose of taking questions and comments from the public may  
29 be given as provided in ORS 294.406 (2); and

30 (B) If notice is published for a meeting to be held for the purpose of taking questions and com-  
31 ments from the public and it is subsequently determined that the meeting is not needed, notice of  
32 cancellation of the meeting shall be published as provided in ORS 294.406 (2).

33 (4) A notice meets the requirements of this subsection when it states:

34 (a) The purpose, time and place of the meeting or meetings to which the notice relates and the  
35 place where the budget document is available;

36 (b) That the meeting is a public meeting where deliberations of the budget committee will take  
37 place; and

38 (c) If the meeting described in the notice is a meeting at which the budget committee will re-  
39 ceive questions and comments from members of the public, that any person may ask questions about  
40 and comment on the budget document at that time.

41 **(5) When notice of a meeting of the budget committee is published on the home page of**  
42 **a municipal corporation's official Internet website, the notice satisfies the requirements of**  
43 **this section if the notice is posted for the 30 days prior to the meeting date.** When notice of  
44 a meeting of the budget committee is published [*by publication*] in a newspaper, the notice satisfies  
45 the requirements of this section if the notice is published on not fewer than two occasions separated

1 by at least five days, with the first publication not earlier than 30 days prior to the meeting date  
 2 and the final publication not later than five days prior to the meeting date. When notice of a  
 3 meeting of the budget committee is published by mailing or by hand delivery, the notice satisfies the  
 4 requirements of this section if the notice is placed with the United States Postal Service or hand  
 5 delivered not later than 10 days prior to the meeting date.

6 (6) At any time prior to the meeting of the budget committee at which the budget committee  
 7 will receive the budget message and the budget document, the budget officer may provide a copy  
 8 of the budget document to each member of the budget committee for the information and use of the  
 9 individual member.

10 (7) Except when copies of the budget document were provided to the members of the budget  
 11 committee under subsection (6) of this section, the budget officer shall submit to the members of the  
 12 budget committee the budget document at the first meeting held under subsection (1) of this section  
 13 for their use and consideration.

14 (8) The budget officer shall file a copy of the budget document in the office of the governing  
 15 body of the municipal corporation immediately following presentation of the budget document to the  
 16 members of the budget committee under subsection (6) or (7) of this section. The copy shall become  
 17 a public record of the municipal corporation.

18 (9) The governing body shall either provide the means of duplicating the budget or part thereof,  
 19 in those situations where the budget document or portion thereof may be quickly reproduced, or  
 20 shall provide copies of the budget document or part thereof so that a copy of the budget document  
 21 or part thereof may be readily obtained by any individual interested in the affairs of the municipal  
 22 corporation.

23 **SECTION 3.** ORS 294.915 is amended to read:

24 294.915. (1) Not less than eight days and not more than 14 days prior to the meeting of the  
 25 budget committee of the council of governments, notice of the meeting shall be published, **at the**  
 26 **discretion of the governing body of each unit of local government that organized the council**  
 27 **of governments**, in a newspaper of general circulation within [*each county represented by the*  
 28 *council of governments*] **the county in which the unit of local government is located or by**  
 29 **posting on the home page of the official Internet website of the unit of local government.** The  
 30 notice shall contain the purpose, time and place of the meeting and the place where the budget  
 31 document is available. The notice shall also state that the meeting is a public meeting where delib-  
 32 erations of the budget committee will take place and that any person may discuss proposed programs  
 33 with the budget committee at that time.

34 (2) The governing body shall either provide the means of duplicating the budget or part thereof,  
 35 in those situations where the budget document or portion thereof may be quickly reproduced, or  
 36 shall provide copies of the budget document or part thereof so that a copy of the budget document  
 37 or part thereof may be readily obtained by any individual interested in the affairs of the council of  
 38 governments.

39 **SECTION 4.** ORS 294.920 is amended to read:

40 294.920. (1) Each council of governments shall hold a public hearing on the budget document as  
 41 approved by the budget committee.

42 (2) Not less than eight days and not more than 14 days prior to the meeting held as required  
 43 by subsection (1) of this section, notice of the meeting shall be published, **at the discretion of the**  
 44 **governing body of each unit of local government that organized the council of governments**,  
 45 in a newspaper of general circulation within [*each county represented by the council of governments*]

1 **the county in which the unit of local government is located or by posting on the home page**  
2 **of the official Internet website of the unit of local government.** The notice shall contain the  
3 time and place of the meeting and the place where the budget document, as approved by the budget  
4 committee, is available. The notice shall also state that the meeting is a public meeting where any  
5 person may appear for or against any item in the budget document.

6 **SECTION 5.** ORS 455.210 is amended to read:

7 455.210. (1) Fees shall be prescribed as required by ORS 455.020 for plan review and permits  
8 issued by the Department of Consumer and Business Services for the construction, reconstruction,  
9 alteration and repair of prefabricated structures and of buildings and other structures and the in-  
10 stallation of mechanical heating and ventilating devices and equipment. The fees may not exceed 130  
11 percent of the fee schedule printed in the "Uniform Building Code," 1979 Edition, and in the "Uni-  
12 form Mechanical Code," 1979 Edition, both published by the International Conference of Building  
13 Officials. Fees are not effective until approved by the Oregon Department of Administrative Ser-  
14 vices.

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

18 (3)(a) A municipality may adopt by ordinance or regulation such fees as may be necessary and  
19 reasonable to provide for the administration and enforcement of any specialty code or codes for  
20 which the municipality has assumed responsibility under ORS 455.148 or 455.150. A municipality  
21 shall give the director notice of the proposed adoption of a new or increased fee under this sub-  
22 section. The municipality shall give the notice to the director at the time the municipality provides  
23 the opportunity for public comment under ORS 294.160 regarding the fee or, if the proposed fee is  
24 contained in an estimate of municipal budget resources, at the time notice of the last budget meeting  
25 is published [*in a newspaper*] under ORS 294.401.

26 (b) Ten or more persons or an association with 10 or more members may appeal the adoption  
27 of a fee described in this subsection to the Director of the Department of Consumer and Business  
28 Services. The persons or association must file the appeal no later than 60 days after the director  
29 receives notice of the proposed adoption of the fee from the municipality under paragraph (a) of this  
30 subsection. However, if the municipality failed to give notice to the director, an appeal may be filed  
31 with the director within one year after adoption of the new or increased fee. Upon receiving a  
32 timely appeal, the director shall, after notice to affected parties and hearing, review the  
33 municipality's fee adoption process and the costs of administering and enforcing the specialty code  
34 or codes referred to in paragraph (a) of this subsection. The director shall approve the fee if the  
35 director feels the fee is necessary and reasonable. If the director does not approve the fee upon  
36 appeal, the fee is not effective. The appeal process provided in this paragraph does not apply to fees  
37 that have been submitted for a vote and approved by a majority of the electors voting on the ques-  
38 tion.

39 (c) Fees collected by a municipality under this subsection shall be used for the administration  
40 and enforcement of a building inspection program for which the municipality has assumed responsi-  
41 bility under ORS 455.148 or 455.150.

42 (d) For purposes of paragraph (b) of this subsection, in determining whether a fee is reasonable  
43 the director shall consider whether:

44 (A) The fee is the same amount as or closely approximates the amount of the fee charged by  
45 other municipalities of a similar size and geographic location for the same level of service;

1 (B) The fee is calculated with the same or a similar calculation method as the fee charged by  
2 other municipalities for the same service;

3 (C) The fee is the same type as the fee charged by other municipalities for the same level of  
4 service; and

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

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

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

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

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

18 (d) For the purpose of defraying the cost of developing and administering the electronic building  
19 codes information system described in ORS 455.095 and 455.097, there is imposed a surcharge in the  
20 amount of five percent on permit fees, or if the applicant chooses to pay an hourly rate instead of  
21 purchasing a permit, five percent of the total hourly charges collected. However, the department  
22 may adopt rules to waive a portion of the surcharge imposed under this paragraph if the department  
23 determines that the amount collected by the surcharge imposed under this paragraph exceeds the  
24 actual cost to the department of developing and administering the electronic building codes infor-  
25 mation system described in ORS 455.095 and 455.097.

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

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

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

32 455.210. (1) Fees shall be prescribed as required by ORS 455.020 for plan review and permits  
33 issued by the Department of Consumer and Business Services for the construction, reconstruction,  
34 alteration and repair of prefabricated structures and of buildings and other structures and the in-  
35 stallation of mechanical heating and ventilating devices and equipment. The fees may not exceed 130  
36 percent of the fee schedule printed in the "Uniform Building Code," 1979 Edition, and in the "Uni-  
37 form Mechanical Code," 1979 Edition, both published by the International Conference of Building  
38 Officials. Fees are not effective until approved by the Oregon Department of Administrative Ser-  
39 vices.

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

43 (3)(a) A municipality may adopt by ordinance or regulation such fees as may be necessary and  
44 reasonable to provide for the administration and enforcement of any specialty code or codes for  
45 which the municipality has assumed responsibility under ORS 455.148 or 455.150. A municipality

1 shall give the director notice of the proposed adoption of a new or increased fee under this sub-  
2 section. The municipality shall give the notice to the director at the time the municipality provides  
3 the opportunity for public comment under ORS 294.160 regarding the fee or, if the proposed fee is  
4 contained in an estimate of municipal budget resources, at the time notice of the last budget meeting  
5 is published [*in a newspaper*] under ORS 294.401.

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

19 (c) Fees collected by a municipality under this subsection shall be used for the administration  
20 and enforcement of a building inspection program for which the municipality has assumed responsi-  
21 bility under ORS 455.148 or 455.150.

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

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

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

28 (C) The fee is the same type as the fee charged by other municipalities for the same level of  
29 service; and

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

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

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

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

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

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

45 (6) The director shall adopt administrative rules to allow reduced fees for review of plans that



1 have been previously reviewed.

2