

# D R A F T

## SUMMARY

Makes legislative findings regarding merits of state agency administration and enforcement of state building code for capital construction projects receiving state-supplied funding. Reserves administration and enforcement of state building code for capital construction projects receiving or expected to receive more than \$1 million in state-supplied funding to Director of Department of Consumer and Business Services. Applies to projects for which building permit is sought on or after January 1, 2014.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to application of the state building code to capital construction  
3 projects; creating new provisions; amending ORS 455.148 and 455.150; and  
4 declaring an emergency.

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

6 **SECTION 1. Sections 2 and 3 of this 2013 Act are added to and made**  
7 **a part of ORS chapter 455.**

8 **SECTION 2. (1) As used in this section, “capital construction**  
9 **project” and “state-supplied funding” have the meaning given those**  
10 **terms in section 3 of this 2013 Act.**

11 **(2) The Legislative Assembly finds and declares:**

12 **(a) The state has a compelling interest in the effective management**  
13 **of state-supplied funding provided for capital construction projects;**

14 **(b) It is in the best interest of the state to ensure that capital**  
15 **construction projects receiving state-supplied funding proceed in a**  
16 **timely and efficient manner;**

17 **(c) It is appropriate that state government should oversee capital**

1 **construction projects that rely upon state financial resources;**

2 **(d) The efficient coordination of capital construction project re-**  
3 **quirements between multiple state agencies is best achieved at the**  
4 **state level;**

5 **(e) Predictable administration of the state building code saves time**  
6 **in carrying out capital construction projects and better ensures the**  
7 **effective management of state-supplied funding; and**

8 **(f) A comprehensive and cost-efficient approach to state building**  
9 **code administration should exist for use in state-funded capital con-**  
10 **struction projects.**

11 **SECTION 3. (1) As used in this section:**

12 **(a) “Capital construction project” means the erection, repair, al-**  
13 **teration, remodeling or demolition of any building or structure that**  
14 **has an expected useful life in excess of one year.**

15 **(b) “State-supplied funding” means funding provided from any ac-**  
16 **count or fund of the State Treasury, funding received by the state**  
17 **from any public or private source as a gift, grant or donation, proceeds**  
18 **from any tax, fee or charge imposed by or authorized by the state,**  
19 **proceeds from bonds issued by a state agency or moneys obtained by**  
20 **the issuance of any obligation secured by the credit of the state.**

21 **(2) The Director of the Department of Consumer and Business Ser-**  
22 **vices shall administer and enforce the state building code for all capi-**  
23 **tal construction projects that receive, or may reasonably be expected**  
24 **to receive, more than \$1 million in state-supplied funding.**

25 **(3) The director may take all actions the director considers neces-**  
26 **sary or expedient to ensure that a capital construction project de-**  
27 **scribed in subsection (2) of this section proceeds in a timely, consistent**  
28 **and efficient manner under the applicable conditions and circum-**  
29 **stances, including but not limited to:**

30 **(a) Notwithstanding ORS 455.148 (1)(b)(H) and 455.150 (1)(b)(H), en-**  
31 **tering into partnership agreements with public bodies as defined in**

1 **ORS 174.109;**

2 **(b) Adopting rules and establishing policies and procedures for car-**  
3 **rying out the duties, functions and powers of the director under this**  
4 **section;**

5 **(c) Developing site-specific dispute resolution and interpretations**  
6 **and rulings regarding state building code requirements;**

7 **(d) Expediting the coordination of plan review, permitting and in-**  
8 **spection services; and**

9 **(e)(A) Establishing fees for services provided by the director; or**

10 **(B) Utilizing other available sources of moneys to cover the costs**  
11 **of providing plan review, permitting and inspection services.**

12 **SECTION 4.** ORS 455.148 is amended to read:

13 455.148. (1)(a) A municipality that assumes the administration and  
14 enforcement of a building inspection program shall administer and enforce  
15 the program for all of the following:

16 (A) The state building code, as defined in ORS 455.010, except as set forth  
17 in paragraph (b) of this subsection.

18 (B) Manufactured structure installation requirements under ORS 446.155,  
19 446.185 (1) and 446.230.

20 (C) Manufactured dwelling parks and mobile home parks under ORS  
21 chapter 446.

22 (D) Park and camp programs regulated under ORS 455.680.

23 (E) Tourist facilities regulated under ORS 446.310 to 446.350.

24 (F) Manufactured dwelling alterations regulated under ORS 446.155.

25 (G) Manufactured structure accessory buildings and structures under ORS  
26 446.253.

27 (H) Boilers and pressure vessels described in rules adopted under ORS  
28 480.525 (5).

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

30 (A) Boiler and pressure vessel programs under ORS 480.510 to 480.670  
31 except those described in rules adopted under ORS 480.525 (5);

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

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

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

4 (E) Manufacture of manufactured structures programs under ORS 446.155  
5 to 446.285, including the administration and enforcement of federal manu-  
6 factured dwelling construction and safety standards adopted under ORS  
7 446.155 or the National Manufactured Housing Construction and Safety  
8 Standards Act of 1974;

9 (F) Licensing and certification, or the adoption of statewide codes and  
10 standards, under ORS chapter 446, 447, 455, 479 or 693; [*or*]

11 (G) Review of plans and specifications as provided in ORS 455.685[.]; **or**

12 **(H) The administration or enforcement of state building code pro-**  
13 **visions for a capital construction project described in section 3 of this**  
14 **2013 Act.**

15 (2) A municipality that administers a building inspection program as al-  
16 lowed under this section shall do so for periods of four years. The Depart-  
17 ment of Consumer and Business Services shall adopt rules to adjust time  
18 periods for administration of a building inspection program to allow for  
19 variations in the needs of the department and participants.

20 (3) When a municipality administers a building inspection program, the  
21 governing body of the municipality shall, unless other means are already  
22 provided, appoint a person to administer and enforce the building inspection  
23 program, who shall be known as the building official. A building official  
24 shall, in the municipality for which appointed, attend to all aspects of code  
25 enforcement, including the issuance of all building permits. Two or more  
26 municipalities may combine in the appointment of a single building official  
27 for the purpose of administering a building inspection program within their  
28 communities.

29 (4)(a) By January 1 of the year preceding the expiration of the four-year  
30 period described in subsection (2) of this section, the governing body of the  
31 municipality shall notify the Director of the Department of Consumer and

1 Business Services and, if the municipality is not a county, notify the county  
2 whether the municipality will continue to administer and enforce the build-  
3 ing inspection program after expiration of the four-year period.

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

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

13 (6) If a county does not notify the director, or notifies the director that  
14 it will not administer and enforce a building inspection program, the director  
15 shall contract with a municipality or other person or use such state em-  
16 ployees or state agencies as are necessary to administer and enforce a  
17 building inspection program, and permit or other fees arising therefrom shall  
18 be paid into the Consumer and Business Services Fund created by ORS  
19 705.145 and credited to the account responsible for paying the expenses  
20 thereof. A state employee may not be displaced as a result of using contract  
21 personnel.

22 (7) The governing body of a municipality may commence responsibility for  
23 the administration and enforcement of a building inspection program begin-  
24 ning July 1 of any year by notifying the director no later than January 1  
25 of the same year and obtaining the director's approval of an assumption plan  
26 as described in subsection (11)(c) of this section.

27 (8) The department shall adopt rules to require the governing body of  
28 each municipality assuming or continuing a building inspection program  
29 under this section to submit a written plan with the notice required under  
30 subsection (4) or (7) of this section. If the department is the governing body,  
31 the department shall have a plan on file. The plan must specify how coop-

1 eration with the State Fire Marshal or a designee of the State Fire Marshal  
2 will be achieved and how a uniform fire code will be considered in the review  
3 process of the design and construction phases of buildings or structures.

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

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

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

18 (a) Creating building inspection program application and amendment re-  
19 quirements and procedures;

20 (b) Granting or denying applications for building inspection program au-  
21 thority and amendments;

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

25 (A) A description of the intended availability of program services, in-  
26 cluding proposed service agreements for carrying out the program during at  
27 least the first two years;

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

30 (C) An estimate of proposed permit revenue and program operating ex-  
31 penses;

- 1 (D) Proposed staffing levels; and
- 2 (E) Proposed service levels;
- 3 (d) Reviewing procedures and program operations of municipalities;
- 4 (e) Creating standards for efficient, effective, timely and acceptable
- 5 building inspection programs;
- 6 (f) Creating standards for justifying increases in building inspection pro-
- 7 gram fees adopted by a municipality;
- 8 (g) Creating standards for determining whether a county or department
- 9 building inspection program is economically impaired in its ability to rea-
- 10 sonably continue providing the program throughout a county, if another
- 11 municipality is allowed to provide a building inspection program within the
- 12 same county; and
- 13 (h) Enforcing the requirements of this section.

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

- 16 (a) During the pendency of activities under ORS 455.770;
- 17 (b) If a municipality abandons or is no longer able to administer the
- 18 building inspection program; and
- 19 (c) If a municipality fails to substantially comply with any provision of
- 20 this section or of ORS 455.465, 455.467 and 455.469.

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

29 **SECTION 5.** ORS 455.150 is amended to read:

30 455.150. (1) Except as provided in subsection (14) of this section, a  
31 municipality that assumes the administration and enforcement of a building

1 inspection program prior to January 1, 2002, may administer and enforce all  
2 or part of a building inspection program. A building inspection program:

3 (a) Is a program that includes the following:

4 (A) The state building code, as defined in ORS 455.010, except as set forth  
5 in paragraph (b) of this subsection.

6 (B) Manufactured structure installation requirements under ORS 446.155,  
7 446.185 (1) and 446.230.

8 (C) Manufactured dwelling parks and mobile home parks under ORS  
9 chapter 446.

10 (D) Park and camp programs regulated under ORS 455.680.

11 (E) Tourist facilities regulated under ORS 446.310 to 446.350.

12 (F) Manufactured dwelling alterations regulated under ORS 446.155.

13 (G) Manufactured structure accessory buildings and structures under ORS  
14 446.253.

15 (H) Boilers and pressure vessels described in rules adopted under ORS  
16 480.525 (5).

17 (b) Is not a program that includes:

18 (A) Boiler and pressure vessel programs under ORS 480.510 to 480.670  
19 except those described in rules adopted under ORS 480.525 (5);

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  
24 to 446.285, including the administration and enforcement of federal manu-  
25 factured dwelling construction and safety standards adopted under ORS  
26 446.155 or the National Manufactured Housing Construction and Safety  
27 Standards Act of 1974;

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

30 (G) Review of plans and specifications as provided in ORS 455.685[.]; **and**

31 **(H) The administration or enforcement of state building code pro-**



1 **visions for a capital construction project described in section 3 of this**  
2 **2013 Act.**

3 (2) A municipality that administers a building inspection program as al-  
4 lowed under this section shall do so for periods of four years. The Depart-  
5 ment of Consumer and Business Services shall adopt rules to adjust time  
6 periods for administration of a building inspection program to allow for  
7 variations in the needs of the department and participants.

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

17 (4)(a) By January 1 of the year preceding the expiration of the four-year  
18 period described in subsection (2) of this section, the governing body of the  
19 municipality shall notify the Director of the Department of Consumer and  
20 Business Services and, if not a county, notify the county whether the  
21 municipality will continue to administer the building inspection program, or  
22 parts thereof, after expiration of the four-year period. If parts of a building  
23 inspection program are to be administered and enforced by a municipality,  
24 the parts shall correspond to a classification designated by the director as  
25 reasonable divisions of work.

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

30 (5) If a city does not notify the director, or notifies the director that it  
31 will not administer certain specialty codes or parts thereof under the build-

1 ing inspection program, the county or counties in which the city is located  
2 shall administer and enforce those codes or parts thereof within the city in  
3 the same manner as it administers and enforces them outside the city, except  
4 as provided by subsection (6) of this section.

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

14 (7) If a municipality administering a building inspection program under  
15 this section seeks to administer additional parts of a program, the munici-  
16 pality must comply with ORS 455.148, including the requirement that the  
17 municipality administer and enforce all aspects of the building inspection  
18 program. Thereafter, the municipality is subject to ORS 455.148 and ceases  
19 to be subject to this section.

20 (8) The department shall adopt rules to require the governing body of  
21 each municipality to submit a written plan with the notice required under  
22 subsection (4) of this section. If the department is the governing body, the  
23 department shall have a plan on file. The plan shall specify how cooperation  
24 with the State Fire Marshal or a designee of the State Fire Marshal will be  
25 achieved and how a uniform fire code will be considered in the review pro-  
26 cess of the design and construction phases of buildings or structures.

27 (9) A municipality that administers a code for which persons or businesses  
28 are authorized under ORS 455.457 to perform activities shall recognize and  
29 accept those activities as if performed by the municipality. A municipality  
30 is not required to accept an inspection, a plan or a plan review that does  
31 not meet the requirements of the state building code.

1 (10) The department or a municipality that accepts an inspection or plan  
2 review as required by this section by a person licensed under ORS 455.457  
3 has no responsibility or liability for the activities of the licensee.

4 (11) In addition to the requirements of ORS 455.100 and 455.110, the di-  
5 rector shall regulate building inspection programs of municipalities assumed  
6 prior to January 1, 2002. Regulation under this subsection shall include but  
7 not be limited to:

8 (a) Creating building inspection program application and amendment re-  
9 quirements and procedures;

10 (b) Granting or denying applications for building inspection program au-  
11 thority and amendments;

12 (c) Reviewing procedures and program operations of municipalities;

13 (d) Creating standards for efficient, effective, timely and acceptable  
14 building inspection programs;

15 (e) Creating standards for justifying increases in building inspection pro-  
16 gram fees adopted by a municipality;

17 (f) Creating standards for determining whether a county or department  
18 building inspection program is economically impaired in its ability to rea-  
19 sonably continue providing the program or part of the program throughout  
20 a county, if another municipality is allowed to provide a building inspection  
21 program or part of a program within the same county; and

22 (g) Enforcing the requirements of this section.

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

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

26 (b) If a municipality abandons any part of the building inspection program  
27 or is no longer able to administer the building inspection program; and

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

30 (13) If a municipality abandons or otherwise ceases to administer all or  
31 part of a building inspection program described in this section, the munici-

1 pality may not resume the administration and enforcement of the abandoned  
2 program or part of a program for at least two years. The municipality may  
3 resume the administration and enforcement of the abandoned program or  
4 part of a program only on July 1 of an odd-numbered year. To resume the  
5 administration and enforcement of the abandoned program or part of a pro-  
6 gram, the municipality must comply with ORS 455.148, including the re-  
7 quirement that the municipality administer and enforce all aspects of the  
8 building inspection program. Thereafter, the municipality is subject to ORS  
9 455.148 and ceases to be subject to this section.

10 (14) A municipality that administers and enforces a building inspection  
11 program under this section shall include in the program the inspection of  
12 boilers and pressure vessels described in subsection (1)(a)(H) of this section.

13 **SECTION 6. Section 3 of this 2013 Act and the amendments to ORS**  
14 **455.148 and 455.150 by sections 4 and 5 of this 2013 Act apply to capital**  
15 **construction projects for which a building permit application is filed**  
16 **on or after January 1, 2014.**

17 **SECTION 7. This 2013 Act being necessary for the immediate pres-**  
18 **ervation of the public peace, health and safety, an emergency is de-**  
19 **clared to exist, and this 2013 Act takes effect on its passage.**

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