

# House Bill 3144

Sponsored by COMMITTEE ON BUSINESS AND LABOR

## 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**.

Revises language regarding assumption of administration and enforcement of manufactured dwelling services, building inspection program or partial building inspection program after municipality ceases administration and enforcement.

Authorizes Department of Consumer and Business Services to accept joint or partial administration of municipal building inspection program under certain circumstances. Allows department to enter into agreements with municipality administering program or with other municipalities or independent contractors to ensure adequate resources for administration of program.

Allows existing one percent permit or hourly rate surcharge to be used for paying department expenses of joint or partial administration of municipal building inspection program.

## A BILL FOR AN ACT

1  
2 Relating to building inspection programs; creating new provisions; and amending ORS 446.253,  
3 455.148, 455.150, 455.160, 455.220 and 479.855.

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

5 **SECTION 1. Sections 2 to 5 of this 2013 Act are added to and made a part of ORS chapter**  
6 **455.**

7 **SECTION 2. (1) If the Department of Consumer and Business Services assumes the ad-**  
8 **ministration and enforcement of a municipal building inspection program under ORS 455.148**  
9 **or a full municipal building inspection program under 455.150, subject to subsection (2) of this**  
10 **section, the Director of the Department of Consumer and Business Services may:**

11 (a) Enter into an agreement for another municipality to assume administration and  
12 enforcement of the building inspection program;

13 (b) Enter into an agreement for a private independent contractor, acting as agent for the  
14 department, to assume the administration and enforcement of the building inspection pro-  
15 gram; or

16 (c) Have the department assume administration and enforcement of the building in-  
17 spection program.

18 (2) A state employee may not be displaced as a result of using municipality or contract  
19 personnel to administer and enforce a building inspection program under this section.

20 (3) A municipality assuming the administration and enforcement of a building inspection  
21 program under this section may establish reasonable fees as provided under ORS 455.210 (3)  
22 for services provided in connection with the building inspection program.

23 (4) If the municipality that surrenders the administration and enforcement of a building  
24 inspection program under ORS 455.148 or a full building inspection program under ORS  
25 455.150 has adopted a fee under ORS 455.210 (3) that is higher than the fee allowed under ORS  
26 455.210 (1) for the same building inspection program services, notwithstanding ORS 455.210  
27 (1) an independent contractor described in subsection (1)(b) of this section or the department

**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 may charge the municipal fee amount adopted under ORS 455.210 (3) for those services within  
 2 the municipality. Fees described in this subsection or subsection (3) of this section are sub-  
 3 ject to any applicable permit fee surcharges imposed under ORS 455.210, 455.220 or 455.447.

4 (5) Notwithstanding ORS 455.447, unless an agreement under subsection (1)(b) of this  
 5 section provides otherwise, all fees and surcharges collected by the independent contractor  
 6 or by the department for the building inspection program services must be paid into the  
 7 Consumer and Business Services Fund created by ORS 705.145 and credited to the account  
 8 responsible for paying the expenses incurred by the department in administering and en-  
 9 forcing the state building code, including but not limited to any payment for the independent  
 10 contractor services.

11 (6) An agreement described in this section is not subject to the four-year period re-  
 12 quirement under ORS 455.148 (2) or 455.150 (2).

13 **SECTION 3.** (1) If the Department of Consumer and Business Services assumes the joint  
 14 or partial administration and enforcement of a municipal building inspection program under  
 15 ORS 455.148 (12)(b) or 455.150, the administration and enforcement of a partial program under  
 16 ORS 455.150 or the duties described in ORS 446.250, the Director of the Department of Con-  
 17 sumer and Business Services may:

18 (a) Enter into agreements with the municipality for the department to jointly administer  
 19 and enforce one or more parts of the municipal building inspection program or to assume  
 20 the partial administration and enforcement of a program, the administration and enforce-  
 21 ment of a partial program or any combination of joint and partial administration and  
 22 enforcement. An agreement described in this paragraph is not subject to the four-year period  
 23 requirement under ORS 455.148 (2) or 455.150 (2).

24 (b) Enter into agreements with other municipalities or with private independent con-  
 25 tractors to act as agents for the department in carrying out duties under an agreement de-  
 26 scribed in paragraph (a) of this subsection. An agreement described in this paragraph may  
 27 not provide for a municipal employee or independent contractor to displace a department  
 28 employee from a job position occupied by the department employee.

29 (2) If the municipality that shares duties with the department has adopted a fee under  
 30 ORS 455.210 (3) that is higher than the fee allowed under ORS 455.210 (1) for the same  
 31 building inspection program services, notwithstanding ORS 455.210 (1) the department or  
 32 agents for the department may charge the municipal fee amount adopted under ORS 455.210  
 33 (3) for those services within the municipality. Fees described in this subsection are subject  
 34 to any applicable permit fee surcharges imposed under ORS 455.210, 455.220 or 455.447.

35 (3) Unless an agreement described in subsection (1)(b) of this section provides otherwise,  
 36 notwithstanding ORS 455.447, all fees and surcharges collected by the department or agents  
 37 for the department under this section shall be paid into the Consumer and Business Services  
 38 Fund created by ORS 705.145 and credited to the account responsible for paying the expenses  
 39 incurred by the department in administering and enforcing the state building code, including  
 40 but not limited to any payment to the agents for the department under this section.

41 (4) The director may take any reasonable actions to ensure the availability of sufficient  
 42 combined resources for the joint or partial administration of a municipal building inspection  
 43 program described in this section. The director shall consult with appropriate advisory  
 44 boards regarding the department's joint or partial administration of a municipal building in-  
 45 spection program under this section.

1 (5) The director shall report annually to the Legislative Assembly as provided under ORS  
 2 192.230 to 192.250 regarding any activities of the department under this section and regarding  
 3 any projected need for an increase in department resources to handle the joint or partial  
 4 administration of municipal building inspection programs under this section.

5 **SECTION 4.** (1) Subject to subsection (2) of this section, a municipality may enter an  
 6 intergovernmental agreement under ORS 190.003 to 190.130 with one or more municipalities  
 7 or the Department of Consumer and Business Services, or both, to provide for the sharing  
 8 of resources, duties, functions and powers to carry out the administration and enforcement  
 9 of the state building code within an area covered by the agreement. The area covered by an  
 10 agreement under this section need not correspond with any other jurisdictional boundaries.

11 (2) Notwithstanding ORS 190.010, an agreement under this section is subject to review  
 12 and approval by the Director of the Department of Consumer and Business Services. The  
 13 approval, denial or conditioning of an agreement is at the discretion of the director and is  
 14 not subject to appeal.

15 (3) An agreement under this section may provide for the divided, mutual or joint admin-  
 16 istration and enforcement of the state building code within the area covered by the agree-  
 17 ment. The agreement may provide for any combinations of plan review or specialty code  
 18 administration and enforcement functions to be performed by one or more parties to the  
 19 agreement acting alone, in concert or as otherwise determined by the parties to be reason-  
 20 able.

21 (4) An agreement under this section may be for a specific term or may be for purposes  
 22 of a specific project or group of projects.

23 (5) If an agreement is entered into under this section, notwithstanding ORS 455.210 the  
 24 fees charged under the agreement for services shall be established by municipal ordinance  
 25 or regulation regardless of which party to the agreement performs the services. The fees  
 26 adopted by a municipality are deemed to belong to the municipality regardless of which party  
 27 to the agreement collects the fees on behalf of the municipality. Any payments that a  
 28 municipality makes from fee moneys to reimburse a party for services performed under the  
 29 agreement are deemed to be expenditures of the municipality imposing the fee and not of the  
 30 party that performed the services.

31 **SECTION 5.** In addition to any other authorized use, the Department of Consumer and  
 32 Business Services may use moneys collected from the surcharge imposed under ORS 455.210  
 33 (4)(c) for carrying out a municipal building inspection program partially or jointly adminis-  
 34 tered by the department, including but not limited to the reimbursement of municipalities  
 35 and independent contractors acting as agents for the department under section 2 or 3 of this  
 36 2013 Act.

37 **SECTION 6.** ORS 446.253 is amended to read:

38 446.253. (1) The authority of the Director of the Department of Consumer and Business Services  
 39 under ORS 446.250 shall be in addition to the provisions of ORS chapter 455. Where the provisions  
 40 of ORS 446.252 and this section conflict with the provisions under ORS chapter 455, the provisions  
 41 of ORS 446.252 and this section shall control.

42 (2) Except as otherwise provided by this subsection, any municipality that establishes a program  
 43 [under ORS 446.252 and 455.150 and this section] **described in ORS 446.250** to administer and en-  
 44 force installations of manufactured dwellings and manufactured structure accessory buildings and  
 45 structures shall assume full responsibility for permit issuance and inspections under that program

1 including related electrical, plumbing, structural and mechanical installations for a manufactured  
 2 dwelling and manufactured structure accessory buildings and structures as defined in ORS 446.003.

3 (3) The director may by order relieve a municipality from compliance with the requirements of  
 4 subsection (2) of this section under the following conditions:

- 5 (a) Budget limitations of the municipality;
- 6 (b) Inadequate staffing of the municipality;
- 7 (c) Inability to contract services with another municipality; or
- 8 (d) Where the public is inconvenienced by increased cost, travel distance or time loss.

9 (4) The Department of Consumer and Business Services, subject to ORS chapter 183, may revoke  
 10 any authority of a local government to conduct inspections, administration or enforcement of man-  
 11 ufactured dwelling installations and manufactured structure accessory building installations and  
 12 manufactured dwelling alterations under ORS 455.150 if the director determines that the munic-  
 13 ipality is not effectively carrying out duties assumed by the municipality.

14 **(5) If the director orders relief for a municipality under subsection (3) of this section or**  
 15 **if the department revokes the authority of a municipality under subsection (4) of this sec-**  
 16 **tion, the director may provide for the assumption of municipal duties described in ORS**  
 17 **446.250 in the same manner as provided for the assumption of a building inspection program**  
 18 **described in ORS 455.148 or a full or partial building inspection program described in ORS**  
 19 **455.150.**

20 **SECTION 7.** ORS 455.148 is amended to read:

21 455.148. (1)(a) **Except as provided in subsection (12)(b) of this section,** a municipality that  
 22 assumes the administration and enforcement of a building inspection program shall administer and  
 23 enforce the program for all of the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

39 (E) Manufacture of manufactured structures programs under ORS 446.155 to 446.285, including  
 40 the administration and enforcement of federal manufactured dwelling construction and safety stan-  
 41 dards adopted under ORS 446.155 or the National Manufactured Housing Construction and Safety  
 42 Standards Act of 1974;

43 (F) Licensing and certification, or the adoption of statewide codes and standards, under ORS  
 44 chapter 446, 447, 455, 479 or 693; or

45 (G) Review of plans and specifications as provided in ORS 455.685.

1 (2) A municipality that administers a building inspection program as allowed under this section  
2 shall do so for periods of four years. The Department of Consumer and Business Services shall adopt  
3 rules to adjust time periods for administration of a building inspection program to allow for vari-  
4 ations in the needs of the department and participants.

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

12 (4)(a) By January 1 of the year preceding the expiration of the four-year period described in  
13 subsection (2) of this section, the governing body of the municipality shall notify the Director of the  
14 Department of Consumer and Business Services and, if the municipality is not a county, notify the  
15 county whether the municipality will continue to administer and enforce the building inspection  
16 program after expiration of the four-year period.

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

20 *[(5) If a city does not notify the director, or notifies the director that it will not administer the*  
21 *building inspection program, the county or counties in which the city is located shall administer and*  
22 *enforce the county program within the city in the same manner as the program is administered and*  
23 *enforced outside the city, except as provided by subsection (6) of this section.]*

24 *[(6) If a county does not notify the director, or notifies the director that it will not administer and*  
25 *enforce a building inspection program, the director shall contract with a municipality or other person*  
26 *or use such state employees or state agencies as are necessary to administer and enforce a building*  
27 *inspection program, and permit or other fees arising therefrom shall be paid into the Consumer and*  
28 *Business Services Fund created by ORS 705.145 and credited to the account responsible for paying the*  
29 *expenses thereof. A state employee may not be displaced as a result of using contract personnel.]*

30 **(5) If a city does not notify the director under subsection (4) of this section that the city**  
31 **will continue to administer and enforce the building inspection program, or notifies the di-**  
32 **rector that the city will not continue to administer and enforce the building inspection pro-**  
33 **gram, except as provided in subsection (6) of this section the county or counties in which the**  
34 **city is located shall administer and enforce the county program within the city in the same**  
35 **manner as the program is administered and enforced outside the city.**

36 **(6) If a county does not notify the director that the county will assume the adminis-**  
37 **tration and enforcement of a city building inspection program as described in subsection (5)**  
38 **of this section or a county building inspection program, or notifies the director that the**  
39 **county will not administer and enforce a county building inspection program or a city build-**  
40 **ing inspection program as described in subsection (5) of this section, the director may take**  
41 **action under section 2 of this 2013 Act to ensure the administration and enforcement of the**  
42 **state building code within the municipality.**

43 (7) The governing body of a municipality may commence responsibility for the administration  
44 and enforcement of a building inspection program beginning July 1 of any year by notifying the di-  
45 rector no later than January 1 of the same year and obtaining the director's approval of an as-

1 sumption plan as described in subsection (11)(c) of this section.

2 (8) The department shall adopt rules to require the governing body of each municipality assum-  
 3 ing or continuing a building inspection program under this section to submit a written plan with the  
 4 notice required under subsection (4) or (7) of this section. If the department is the governing body,  
 5 the department shall have a plan on file. The plan must specify how cooperation with the State Fire  
 6 Marshal or a designee of the State Fire Marshal will be achieved and how a uniform fire code will  
 7 be considered in the review process of the design and construction phases of buildings or structures.

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

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

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

19 (a) Creating building inspection program application and amendment requirements and proce-  
 20 dures;

21 (b) Granting or denying applications for building inspection program authority and amendments;

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

24 (A) A description of the intended availability of program services, including proposed service  
 25 agreements for carrying out the program during at least the first two years;

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

28 (C) An estimate of proposed permit revenue and program operating expenses;

29 (D) Proposed staffing levels; and

30 (E) Proposed service levels;

31 (d) Reviewing procedures and program operations of municipalities;

32 (e) Creating standards for efficient, effective, timely and acceptable building inspection pro-  
 33 grams;

34 (f) Creating standards for justifying increases in building inspection program fees adopted by a  
 35 municipality;

36 (g) Creating standards for determining whether a county or department building inspection  
 37 program is economically impaired in its ability to reasonably continue providing the program  
 38 throughout a county, if another municipality is allowed to provide a building inspection program  
 39 within the same county; and

40 (h) Enforcing the requirements of this section.

41 *[(12) The department may assume administration of a building inspection program.]*

42 *[(a) During the pendency of activities under ORS 455.770;]*

43 *[(b) If a municipality abandons or is no longer able to administer the building inspection program;*  
 44 *and]*

45 *[(c) If a municipality fails to substantially comply with any provision of this section or of ORS*

1 455.465, 455.467 and 455.469.]

2 [(13) A municipality that abandons or otherwise ceases to administer a building inspection program  
3 that the municipality assumed under this section may not resume the administration or enforcement of  
4 the program for at least two years. The municipality may resume the administration and enforcement  
5 of the abandoned program only on July 1 of an odd-numbered year. Prior to resuming the adminis-  
6 tration and enforcement of the program, the municipality must follow the notification procedure set  
7 forth in subsection (7) of this section.]

8 **(12)(a) The department may assume administration and enforcement of a building in-  
9 spection program:**

10 **(A) During the pendency of activities under ORS 455.770;**

11 **(B) If a municipality abandons or is no longer able to administer the building inspection  
12 program; or**

13 **(C) If a municipality fails to substantially comply with any provision of this section or  
14 of ORS 455.465, 455.467 and 455.469.**

15 **(b) Upon a request by the municipality, the department may assume joint or partial ad-  
16 ministration of a municipal building inspection program if:**

17 **(A) The municipality is unable to continue fully administering the building inspection  
18 program without department assistance; or**

19 **(B) The demand for building inspection program resources is expected to exceed munici-  
20 pal resources for a specific period or during one or more specific building projects.**

21 **(13) A municipality that abandons or otherwise ceases to administer a building inspection  
22 program described in this section may not resume the administration and enforcement of the  
23 program for at least two years. The municipality may resume the administration and  
24 enforcement of the program only on July 1 of an odd-numbered year. To resume adminis-  
25 tration and enforcement, the municipality must follow the notification procedure set forth  
26 in subsection (7) of this section. This subsection does not apply to a municipality that con-  
27 tinues the joint or partial administration of a building inspection program shared with the  
28 department under subsection (12)(b) of this section.**

29 **SECTION 8.** ORS 455.150 is amended to read:

30 455.150. (1) Except as provided in subsection (14) of this section, a municipality that assumes the  
31 administration and enforcement of a building inspection program prior to January 1, 2002, may ad-  
32 minister and enforce *[all or part of]* a **full or partial** building inspection program. A **full** building  
33 inspection program:

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

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

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

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

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

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

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

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

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

44 (b) Is not a program that includes:

45 (A) Boiler and pressure vessel programs under ORS 480.510 to 480.670 except those described

1 in rules adopted under ORS 480.525 (5);

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

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

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

5 (E) Manufacture of manufactured structures programs under ORS 446.155 to 446.285, including  
6 the administration and enforcement of federal manufactured dwelling construction and safety stan-  
7 dards adopted under ORS 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 standards, under ORS  
10 chapter 446, 447, 455, 479 or 693; and

11 (G) Review of plans and specifications as provided in ORS 455.685.

12 (2) A municipality that administers a **full or partial** building inspection program as allowed  
13 under this section shall do so for periods of four years. The Department of Consumer and Business  
14 Services shall adopt rules to adjust time periods for administration of a building inspection program  
15 to allow for variations in the needs of the department and participants.

16 (3) When a municipality administers a **full or partial** building inspection program, the governing  
17 body of the municipality shall, unless other means are already provided, appoint a person to ad-  
18 minister and enforce the building inspection program [*or parts thereof*], who shall be known as the  
19 building official. A building official shall, in the municipality for which appointed, attend to all as-  
20 pects of code enforcement, including the issuance of all building permits. Two or more municipalities  
21 may combine in the appointment of a single building official for the purpose of administering a  
22 building inspection program within their communities.

23 (4)(a) By January 1 of the year preceding the expiration of the four-year period described in  
24 subsection (2) of this section, the governing body of the municipality shall notify the Director of the  
25 Department of Consumer and Business Services and, if not a county, notify the county whether the  
26 municipality will continue to administer the building inspection program[, *or parts thereof*,] after  
27 expiration of the four-year period. If [*parts of a building inspection program are to be administered*  
28 *and enforced by a municipality*] **the municipality is administering and enforcing a partial build-**  
29 **ing inspection program**, the parts shall correspond to a classification designated by the director  
30 as reasonable divisions of work.

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

34 [(5) *If a city does not notify the director, or notifies the director that it will not administer certain*  
35 *specialty codes or parts thereof under the building inspection program, the county or counties in which*  
36 *the city is located shall administer and enforce those codes or parts thereof within the city in the same*  
37 *manner as it administers and enforces them outside the city, except as provided by subsection (6) of this*  
38 *section.*]

39 [(6) *If a county does not notify the director, or notifies the director that it will not administer and*  
40 *enforce certain specialty codes or parts thereof under the building inspection program, the director shall*  
41 *contract with a municipality or other person or use such state employees or state agencies as are nec-*  
42 *essary to administer and enforce those codes or parts thereof, and permit or other fees arising therefrom*  
43 *shall be paid into the Consumer and Business Services Fund created by ORS 705.145 and credited to*  
44 *the account responsible for paying such expenses. A state employee may not be displaced as a result*  
45 *of using contract personnel.*]



1 (5) If a city does not notify the director under subsection (4) of this section that the city  
 2 will continue to administer and enforce the full or partial building inspection program, or  
 3 notifies the director that the city will not continue to administer and enforce the full or  
 4 partial program, except as provided in subsection (6) of this section the county or counties  
 5 in which the city is located shall administer and enforce the full or partial program within  
 6 the city in the same manner as the full or partial program is administered and enforced  
 7 outside the city.

8 (6) If a county does not notify the director that the county will assume the adminis-  
 9 tration and enforcement of a city's full or partial building inspection program as described  
 10 in subsection (5) of this section or a county's full or partial program, or notifies the director  
 11 that the county will not administer and enforce a county's full or partial program or a city's  
 12 full or partial program as described in subsection (5) of this section, the director may take  
 13 action under section 2 or 3 of this 2013 Act, as applicable, to ensure the complete adminis-  
 14 tration and enforcement of the state building code within the municipality. If the county  
 15 notifies the director that the county will assume the administration and enforcement of less  
 16 than all of the city's full or partial program, the director may take action under section 3  
 17 of this 2013 Act to ensure the administration and enforcement of any parts of the city's  
 18 program that are not assumed by the county.

19 (7) If a municipality administering a building inspection program under this section seeks to  
 20 administer additional parts of a program, the municipality must comply with ORS 455.148, including  
 21 the requirement that the municipality administer and enforce all aspects of the building inspection  
 22 program. Thereafter, the municipality is subject to ORS 455.148 and ceases to be subject to this  
 23 section.

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

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

34 (10) The department or a municipality that accepts an inspection or plan review as required by  
 35 this section by a person licensed under ORS 455.457 has no responsibility or liability for the activ-  
 36 ities of the licensee.

37 (11) In addition to the requirements of ORS 455.100 and 455.110, the director shall regulate  
 38 building inspection programs of municipalities assumed prior to January 1, 2002. Regulation under  
 39 this subsection shall include but not be limited to:

- 40 (a) Creating building inspection program application and amendment requirements and proce-  
 41 dures;
- 42 (b) Granting or denying applications for building inspection program authority and amendments;
- 43 (c) Reviewing procedures and program operations of municipalities;
- 44 (d) Creating standards for efficient, effective, timely and acceptable building inspection pro-  
 45 grams;

1 (e) Creating standards for justifying increases in building inspection program fees adopted by a  
 2 municipality;

3 (f) Creating standards for determining whether a county or department building inspection pro-  
 4 gram is economically impaired in its ability to reasonably continue providing the program or part  
 5 of the program throughout a county, if another municipality is allowed to provide a building in-  
 6 spection program or part of a program within the same county; and

7 (g) Enforcing the requirements of this section.

8 *[(12) The department may assume administration of a building inspection program.]*

9 *[(a) During the pendency of activities under ORS 455.770;]*

10 *[(b) If a municipality abandons any part of the building inspection program or is no longer able  
 11 to administer the building inspection program; and]*

12 *[(c) If a municipality fails to substantially comply with any provision of this section or of ORS  
 13 455.465, 455.467 and 455.469.]*

14 *[(13) If a municipality abandons or otherwise ceases to administer all or part of a building in-  
 15 spection program described in this section, the municipality may not resume the administration and  
 16 enforcement of the abandoned program or part of a program for at least two years. The municipality  
 17 may resume the administration and enforcement of the abandoned program or part of a program only  
 18 on July 1 of an odd-numbered year. To resume the administration and enforcement of the abandoned  
 19 program or part of a program, the municipality must comply with ORS 455.148, including the re-  
 20 quirement that the municipality administer and enforce all aspects of the building inspection program.  
 21 Thereafter, the municipality is subject to ORS 455.148 and ceases to be subject to this section.]*

22 **(12)(a) The department may assume administration of a building inspection program:**

23 **(A) During the pendency of activities under ORS 455.770;**

24 **(B) If a municipality abandons any part of the building inspection program or is no longer  
 25 able to administer the building inspection program; or**

26 **(C) If a municipality fails to substantially comply with any provision of this section or  
 27 of ORS 455.465, 455.467 and 455.469.**

28 **(b) Upon a request by the municipality, the department may assume joint or partial ad-  
 29 ministration of a municipal building inspection program if:**

30 **(A) The municipality is unable to continue fully administering the full or partial building  
 31 inspection program without department assistance; or**

32 **(B) The demand for building inspection program resources is expected to exceed munici-  
 33 pal resources for a specific period or during one or more specific building projects.**

34 **(13) A municipality that abandons or otherwise ceases to administer a full or partial  
 35 building inspection program described in this section may not resume the administration and  
 36 enforcement of the program or partial program for at least two years. The municipality may  
 37 resume the administration and enforcement of the program or partial program only on July  
 38 1 of an odd-numbered year. To resume administration and enforcement, the municipality  
 39 must comply with ORS 455.148, including the requirement that the municipality administer  
 40 and enforce all aspects of the program. Thereafter, the municipality is subject to ORS  
 41 455.148 and ceases to be subject to this section. This subsection does not apply to a munici-  
 42 pality that continues the joint or partial administration of a building inspection program  
 43 shared with the department under subsection (12)(b) of this section.**

44 **(14) A municipality that administers and enforces a building inspection program under this sec-  
 45 tion shall include in the program the inspection of boilers and pressure vessels described in sub-**

1 section (1)(a)(H) of this section.

2 **SECTION 9.** ORS 455.160 is amended to read:

3 455.160. (1) The municipality that is responsible for state building code administration and  
 4 enforcement in a municipality pursuant to ORS 455.148 or 455.150, or the Department of Consumer  
 5 and Business Services if the department is responsible for state building code administration and  
 6 enforcement pursuant to ORS 455.148 or 455.150, may not engage in a pattern of conduct of failing  
 7 to provide timely inspections or plan reviews without reasonable cause.

8 (2) Any person adversely affected by a pattern of conduct prohibited in subsection (1) of this  
 9 section may serve the municipality or the department with a written demand to provide timely in-  
 10 spections or plan reviews.

11 (3) If a municipality, within five days of receipt of the demand, fails to provide timely inspections  
 12 or plan reviews without reasonable cause, the person who served the demand may seek to compel  
 13 the inspections or plan reviews through a writ of mandamus pursuant to ORS 34.105 to 34.240. If the  
 14 court finds that the municipality has engaged in a pattern of conduct of failing to provide timely  
 15 inspections or plan reviews without reasonable cause, it may direct the municipality to provide  
 16 timely inspections or plan reviews or to transfer the administration and enforcement of the code in  
 17 question under procedures outlined in ORS 455.148 [(5) and (6)] or 455.150 [(5) and (6)].

18 (4) If the department, within five days of receipt of the demand, fails to provide timely in-  
 19 spections or plan reviews without reasonable cause, the person who served the demand may seek  
 20 to compel the inspections or plan reviews through a writ of mandamus pursuant to ORS 34.105 to  
 21 34.240. If the court finds that the department has engaged in a pattern of conduct of failing to pro-  
 22 vide timely inspections or plan reviews without reasonable cause, it may direct the department to  
 23 provide timely inspections or plan reviews or to transfer the administration and enforcement of the  
 24 code in question to an appropriate municipality, if the municipality accepts the responsibility. A  
 25 municipality may accept the transfer of the administration and enforcement of a code under this  
 26 subsection without becoming subject to ORS 455.148 as a result of accepting the transfer.

27 **SECTION 10.** ORS 455.220 is amended to read:

28 455.220. (1) There is hereby imposed a surcharge in the amount of one percent of the total  
 29 building permit fees or, if the applicant chooses to pay an hourly rate instead of purchasing a per-  
 30 mit, one percent of the total hourly charges collected in connection with the construction of, or  
 31 addition or alteration to, buildings and equipment or appurtenances. Up to one-half of the surcharge  
 32 collected under this subsection may be used to fund the activities described in ORS 455.042 and  
 33 455.046. The remainder of the surcharge collected under this subsection shall be used for the pur-  
 34 pose of defraying the costs of training and other educational programs administered by the Depart-  
 35 ment of Consumer and Business Services under this chapter.

36 (2) Permit surcharges shall be collected by each municipality and remitted to the Director of the  
 37 Department of Consumer and Business Services. Each municipality having a population greater than  
 38 40,000 shall, on a monthly basis, prepare and submit to the director a report of permits and certif-  
 39 icates issued in each class or category and fees and surcharges thereon collected during the month,  
 40 together with other statistical information as required by the director concerning construction ac-  
 41 tivity regulated by the parts of the state building code administered by the municipality. All other  
 42 municipalities shall submit a report described in this subsection on a quarterly basis. The report  
 43 shall be in a form prescribed by the director and shall be submitted, together with a remittance  
 44 covering the surcharges collected, by no later than the 15th day following the month or quarter in  
 45 which the surcharges are collected.

1 (3)(a) All surcharges and other fees prescribed by ORS 455.010 to 455.240 and 455.410 to 455.740  
 2 and payable to the department[, *except fees received under ORS 455.148 (6) or 455.150 (6),*] shall be  
 3 deposited by the director in the Consumer and Business Services Fund created by ORS 705.145.

4 (b) Notwithstanding subsection (1) of this section, the surcharge imposed under subsection (1)  
 5 of this section for permits established under ORS 446.062 (3), 446.176, 446.405 (2), 446.430 (2) and  
 6 455.170 (2) shall be deposited in the Consumer and Business Services Fund established under ORS  
 7 705.145 and is continuously appropriated to the department for use as provided in ORS 446.423.

8 (4) Except as provided in subsection (5) of this section, the director shall administer training and  
 9 other education programs under this chapter through contracts with local educational institutions,  
 10 professional associations or other training providers.

11 (5) The director may:

12 (a) Arrange for the department to offer training and other education programs for building offi-  
 13 cials and building inspectors; or

14 (b) Arrange for local educational institutions, professional associations or other training pro-  
 15 viders to offer training and other education programs for building officials and building inspectors.  
 16 A contract between the director and a training provider under this paragraph is subject to ORS  
 17 279B.235, but is otherwise exempt from ORS chapters 279A and 279B and ORS 279C.100 to 279C.125  
 18 and 279C.300 to 279C.470.

19 **SECTION 11.** ORS 479.855 is amended to read:

20 479.855. (1) In addition to the provisions of ORS 455.010 to 455.310 and 455.410 to 455.740, any  
 21 inspection and enforcement program established by a city or county under ORS 455.148 or 455.150  
 22 is subject to the provisions of this section. Where the provisions of this section conflict with pro-  
 23 visions under ORS 455.010 to 455.310 and 455.410 to 455.740, the provisions of this section shall  
 24 control.

25 (2)(a) Except as otherwise provided in this section, any city or county that wishes to establish  
 26 a program under ORS 455.150 to enforce and administer ORS 479.510 to 479.945 and 479.995, in-  
 27 cluding a program for inspection under a master permit pursuant to ORS 479.560 (3), must first make  
 28 application to the Department of Consumer and Business Services. The program for inspection under  
 29 a master permit shall be delegated separately from the general electrical program authorization. The  
 30 department may authorize the city or county to administer and enforce the provisions of this section  
 31 and ORS 479.540 and 479.560 if it finds that the city or county can comply with the minimum stan-  
 32 dards and meet the qualifications for inspections, permit applications and other matters to assure  
 33 adequate administration and enforcement of electrical inspection programs. The department may  
 34 authorize the city or county to administer and enforce ORS 479.510 to 479.945 and 479.995 if the  
 35 department finds that the city or county:

36 (A) Can comply with minimum standards adopted by the Electrical and Elevator Board by rule  
 37 for inspections, permit applications and other matters to assure adequate administration and  
 38 enforcement of ORS 479.510 to 479.945 and 479.995.

39 (B) Can conduct the electrical plan review, if required by the city or county, in a timely manner  
 40 and by qualified personnel who meet the standards adopted by rule by the board.

41 (b) The city or county must assume full responsibility allowed under ORS 455.010 to 455.310 and  
 42 455.410 to 455.740 for the enforcement, inspection and administration of the electrical safety laws  
 43 under that specialty code and ORS 479.510 to 479.945 and 479.995. This subsection does not require  
 44 a city or county to assume full responsibility for enforcement, inspection and administration of the  
 45 electrical safety laws if the only enforcement performed by the city or county involves manufactured

1 dwelling electrical utility connections.

2 (3) The department, subject to ORS chapter 183, shall revoke any authority of a city or county  
3 to carry on inspections, enforcement or administration of electrical installations and electrical pro-  
4 ducts under ORS 455.148 or 455.150 if the department determines that the city or county fails to  
5 comply with standards adopted by the board or otherwise is not effectively carrying out duties as-  
6 sumed by the city or county under this section. **If the department revokes the authority of a city  
7 or county under this subsection, the Director of the Department of Consumer and Business  
8 Services may provide for assumption of the revoked authority as provided under ORS 455.148  
9 and 455.150 and sections 2 and 3 of this 2013 Act.**

10 (4)(a) Except as provided in paragraph (b) of this subsection, a city or county may not contract  
11 with competing electrical contractors to provide permit inspection of electrical installations.

12 (b) A city or county may contract with competing electrical contractors to provide permit in-  
13 spection of electrical installations on a temporary basis by a supervising electrician if:

14 (A) Emergency circumstances exist; and

15 (B) The city or county has requested that the department perform permit inspections and the  
16 department is unable to respond in a timely manner.

17 (c) Nothing in this subsection prohibits a city or county from contracting with another city or  
18 county to perform permit inspections of electrical installations by a supervising electrician.

19 (5) A city or county that performs electrical installation inspections shall perform license  
20 enforcement inspections as a part of routine installation inspections.

21 **SECTION 12. Sections 2 to 5 of this 2013 Act and the amendments to ORS 446.253, 455.148,  
22 455.150, 455.160, 455.220 and 479.855 by sections 6 to 11 of this 2013 Act apply to duties de-  
23 scribed in ORS 446.250, building inspection programs and partial building inspection programs  
24 for which a municipality ceases full administration and enforcement on or after the effective  
25 date of this 2013 Act.**

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