

House Bill 3145

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**.

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 projects; creating new
3 provisions; amending ORS 455.148 and 455.150; and declaring an emergency.

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

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

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

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

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

12 **(b) It is in the best interest of the state to ensure that capital construction projects re-**
13 **ceiving state-supplied funding proceed in a timely and efficient manner;**

14 **(c) It is appropriate that state government should oversee capital construction projects**
15 **that rely upon state financial resources;**

16 **(d) The efficient coordination of capital construction project requirements between mul-**
17 **multiple state agencies is best achieved at the state level;**

18 **(e) Predictable administration of the state building code saves time in carrying out capi-**
19 **tal construction projects and better ensures the effective management of state-supplied**
20 **funding; and**

21 **(f) A comprehensive and cost-efficient approach to state building code administration**
22 **should exist for use in state-funded capital construction projects.**

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

24 **(a) "Capital construction project" means the erection, repair, alteration, remodeling or**
25 **demolition of any building or structure that has an expected useful life in excess of one year.**

26 **(b) "State-supplied funding" means funding provided from any account or fund of the**
27 **State Treasury, funding received by the state from any public or private source as a gift,**
28 **grant or donation, proceeds from any tax, fee or charge imposed by or authorized by the**

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 state, proceeds from bonds issued by a state agency or moneys obtained by the issuance of
 2 any obligation secured by the credit of the state.

3 (2) The Director of the Department of Consumer and Business Services shall administer
 4 and enforce the state building code for all capital construction projects that receive, or may
 5 reasonably be expected to receive, more than \$1 million in state-supplied funding.

6 (3) The director may take all actions the director considers necessary or expedient to
 7 ensure that a capital construction project described in subsection (2) of this section proceeds
 8 in a timely, consistent and efficient manner under the applicable conditions and circum-
 9 stances, including but not limited to:

10 (a) Notwithstanding ORS 455.148 (1)(b)(H) and 455.150 (1)(b)(H), entering into partnership
 11 agreements with public bodies as defined in ORS 174.109;

12 (b) Adopting rules and establishing policies and procedures for carrying out the duties,
 13 functions and powers of the director under this section;

14 (c) Developing site-specific dispute resolution and interpretations and rulings regarding
 15 state building code requirements;

16 (d) Expediting the coordination of plan review, permitting and inspection services; and

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

18 (B) Utilizing other available sources of moneys to cover the costs of providing plan re-
 19 view, permitting and inspection services.

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

21 455.148. (1)(a) A municipality that assumes the administration and enforcement of a building in-
 22 spection program shall administer and enforce the program for all of the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

45 (H) The administration or enforcement of state building code provisions for a capital

1 construction project described in section 3 of this 2013 Act.

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

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

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

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

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

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

32 (7) The governing body of a municipality may commence responsibility for the administration
 33 and enforcement of a building inspection program beginning July 1 of any year by notifying the di-
 34 rector no later than January 1 of the same year and obtaining the director's approval of an as-
 35 sumption plan as described in subsection (11)(c) of this section.

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

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

1 review that does not meet the requirements of the state building code.

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

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

8 (a) Creating building inspection program application and amendment requirements and proce-
 9 dures;

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

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

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

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

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

18 (D) Proposed staffing levels; and

19 (E) Proposed service levels;

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

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

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

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

29 (h) Enforcing the requirements of this section.

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

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

32 (b) If a municipality abandons or is no longer able to administer the building inspection program;
 33 and

34 (c) If a municipality fails to substantially comply with any provision of this section or of ORS
 35 455.465, 455.467 and 455.469.

36 (13) A municipality that abandons or otherwise ceases to administer a building inspection pro-
 37 gram that the municipality assumed under this section may not resume the administration or
 38 enforcement of the program for at least two years. The municipality may resume the administration
 39 and enforcement of the abandoned program only on July 1 of an odd-numbered year. Prior to re-
 40 suming the administration and enforcement of the program, the municipality must follow the notifi-
 41 cation procedure set forth in subsection (7) of this section.

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

43 455.150. (1) Except as provided in subsection (14) of this section, a municipality that assumes the
 44 administration and enforcement of a building inspection program prior to January 1, 2002, may ad-
 45 minister and enforce all or part of a building inspection program. A building inspection program:

- 1 (a) Is a program that includes the following:
- 2 (A) The state building code, as defined in ORS 455.010, except as set forth in paragraph (b) of
- 3 this subsection.
- 4 (B) Manufactured structure installation requirements under ORS 446.155, 446.185 (1) and 446.230.
- 5 (C) Manufactured dwelling parks and mobile home parks under ORS chapter 446.
- 6 (D) Park and camp programs regulated under ORS 455.680.
- 7 (E) Tourist facilities regulated under ORS 446.310 to 446.350.
- 8 (F) Manufactured dwelling alterations regulated under ORS 446.155.
- 9 (G) Manufactured structure accessory buildings and structures under ORS 446.253.
- 10 (H) Boilers and pressure vessels described in rules adopted under ORS 480.525 (5).
- 11 (b) Is not a program that includes:
- 12 (A) Boiler and pressure vessel programs under ORS 480.510 to 480.670 except those described
- 13 in rules adopted under ORS 480.525 (5);
- 14 (B) Elevator programs under ORS 460.005 to 460.175;
- 15 (C) Amusement ride regulation under ORS 460.310 to 460.370;
- 16 (D) Prefabricated structure regulation under ORS chapter 455;
- 17 (E) Manufacture of manufactured structures programs under ORS 446.155 to 446.285, including
- 18 the administration and enforcement of federal manufactured dwelling construction and safety stan-
- 19 dards adopted under ORS 446.155 or the National Manufactured Housing Construction and Safety
- 20 Standards Act of 1974;
- 21 (F) Licensing and certification, or the adoption of statewide codes and standards, under ORS
- 22 chapter 446, 447, 455, 479 or 693; *[and]*
- 23 (G) Review of plans and specifications as provided in ORS 455.685[.]; **and**
- 24 **(H) The administration or enforcement of state building code provisions for a capital**
- 25 **construction project described in section 3 of this 2013 Act.**
- 26 (2) A municipality that administers a building inspection program as allowed under this section
- 27 shall do so for periods of four years. The Department of Consumer and Business Services shall adopt
- 28 rules to adjust time periods for administration of a building inspection program to allow for vari-
- 29 ations in the needs of the department and participants.
- 30 (3) When a municipality administers a building inspection program, the governing body of the
- 31 municipality shall, unless other means are already provided, appoint a person to administer and
- 32 enforce the building inspection program or parts thereof, who shall be known as the building official.
- 33 A building official shall, in the municipality for which appointed, attend to all aspects of code
- 34 enforcement, including the issuance of all building permits. Two or more municipalities may combine
- 35 in the appointment of a single building official for the purpose of administering a building inspection
- 36 program within their communities.
- 37 (4)(a) By January 1 of the year preceding the expiration of the four-year period described in
- 38 subsection (2) of this section, the governing body of the municipality shall notify the Director of the
- 39 Department of Consumer and Business Services and, if not a county, notify the county whether the
- 40 municipality will continue to administer the building inspection program, or parts thereof, after ex-
- 41 piration of the four-year period. If parts of a building inspection program are to be administered and
- 42 enforced by a municipality, the parts shall correspond to a classification designated by the director
- 43 as reasonable divisions of work.
- 44 (b) Notwithstanding the January 1 date set forth in paragraph (a) of this subsection, the director
- 45 and the municipality and, if the municipality is not a county, the county may by agreement extend

1 that date to no later than March 1.

2 (5) If a city does not notify the director, or notifies the director that it will not administer cer-
 3 tain specialty codes or parts thereof under the building inspection program, the county or counties
 4 in which the city is located shall administer and enforce those codes or parts thereof within the city
 5 in the same manner as it administers and enforces them outside the city, except as provided by
 6 subsection (6) of this section.

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

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

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

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

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

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

35 (a) Creating building inspection program application and amendment requirements and proce-
 36 dures;

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

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

39 (d) Creating standards for efficient, effective, timely and acceptable building inspection pro-
 40 grams;

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

43 (f) Creating standards for determining whether a county or department building inspection pro-
 44 gram is economically impaired in its ability to reasonably continue providing the program or part
 45 of the program throughout a county, if another municipality is allowed to provide a building in-

1 spection program or part of a program within the same county; and

2 (g) Enforcing the requirements of this section.

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

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

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

7 (c) If a municipality fails to substantially comply with any provision of this section or of ORS
8 455.465, 455.467 and 455.469.

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

18 (14) A municipality that administers and enforces a building inspection program under this sec-
19 tion shall include in the program the inspection of boilers and pressure vessels described in sub-
20 section (1)(a)(H) of this section.

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

24 **SECTION 7. This 2013 Act being necessary for the immediate preservation of the public**
25 **peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect**
26 **on its passage.**