

A-Engrossed
Senate Bill 582

Ordered by the Senate April 24
Including Senate Amendments dated April 24

Sponsored by Senators ROBLAN, FERRIOLI, PROZANSKI, KRUSE, JOHNSON, GIROD, Representatives HANNA, MCLANE, Senator KNOPP

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.

[Revises language regarding Department of Consumer and Business Services assumption of administration and enforcement of county manufactured dwelling services, building inspection program or part of building inspection program if county ceases administration and enforcement due to budget limitations resulting from reduction or elimination of federal payments made to offset lost county timber harvest revenue from federal forestlands. Requires Director of Department of Consumer and Business Services to adopt rules establishing fees for assumed services equal to fees charged by county prior to assumption by department.]

Makes legislative findings concerning best interests of state with regard to construction-related development and state building code administration and enforcement. Requires that Director of Department of Consumer and Business Services consider construction needs of rural and remote areas when adopting state building code.

Reserves authority to director or local building official to decide whether structure plans and specifications or structure as actually constructed meets fire and life safety standards.

Authorizes Department of Consumer and Business Services employees and building officials and inspectors to provide typical plans and specifications for certain types of structures.

Authorizes director to enter into agreements with one or more municipalities for department to uniformly administer and enforce all or part of building inspection program within geographic area. Authorizes inclusion of certain types of terms in agreement. Provides director with authority to use department or local personnel to ensure administration and enforcement of state building code, including administration and enforcement under terms of agreement. Authorizes use of certain building permit surcharges to carry out state building code administration and enforcement in department administrative region or in area established under agreement.

Authorizes department to charge higher fees of municipality if assuming provision of building inspection program services from municipality.

Provides director with general authority for carrying out agreements with municipalities or to assume provision of building inspection program services from municipality. Provides director with specific authority regarding assuming provision of building inspection program services. Requires director to periodically consult with specialty code advisory boards. Requires director to annually report to Legislative Assembly regarding agreements with municipalities, department assumption of provision of building inspection program services and projected needs of department resulting from agreements or assumption of services.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to the state building code; creating new provisions; amending ORS 455.148, 455.150 and
3 455.475; and declaring an emergency.

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

5 **SECTION 1. Sections 2 to 10 of this 2013 Act are added to and made a part of ORS**
6 **chapter 455.**

7 **SECTION 2. The Legislative Assembly finds and declares that:**

8 **(1)(a) It is in the best interests of this state that construction-related development ac-**

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 **tivities proceed in a manner that is as quick and efficient as practicable;**

2 **(b) Ensuring that construction-related development activities proceed quickly and effi-**
3 **ciently requires a flexible and responsive system for state building code administration and**
4 **enforcement; and**

5 **(c) Having a flexible and responsive system for state building code administration and**
6 **enforcement requires that sufficient staff and resources be available to assist the Director**
7 **of the Department of Consumer and Business Services as needed.**

8 **(2) It is in the best interests of this state that state building code regulations encourage**
9 **economic development, experimentation, innovation and cost effectiveness in construction,**
10 **especially construction in rural or remote parts of this state.**

11 **SECTION 3. (1) When adopting the state building code, the Director of the Department**
12 **of Consumer and Business Services shall give special consideration to the unique needs of**
13 **construction in rural or remote parts of this state.**

14 **(2) Notwithstanding ORS 476.030, 476.033, 476.035, 476.150 or 476.155, the director or a local**
15 **building official administering a building inspection program under ORS 455.148 or 455.150**
16 **may determine whether the structure as set forth in the plans and specifications or as con-**
17 **structed meets the standards of the state building code, including but not limited to fire and**
18 **life safety standards. The State Fire Marshal, or a local fire official for a governmental**
19 **subdivision exempted from State Fire Marshal regulations as described under ORS 476.030,**
20 **may provide advice to building officials, inspectors or Department of Consumer and Business**
21 **Services employees concerning state building code standards. A local building official or de-**
22 **partment employee shall give consideration to advice of the State Fire Marshal or local fire**
23 **official that does not conflict with the state building code, but shall retain the authority to**
24 **make final decisions regarding the code.**

25 **SECTION 4. (1) A Department of Consumer and Business Services employee acting within**
26 **the scope of that employment may provide typical plans and specifications:**

27 **(a) For structures of a type for which the provision of plans or specifications is exempted**
28 **under ORS 671.030 from the application of ORS 671.010 to 671.220 and exempted under ORS**
29 **672.060 from the application of ORS 672.002 to 672.325; and**

30 **(b) Notwithstanding ORS 671.010 to 671.220 and 672.002 to 672.325, for structures that are**
31 **metal or wood frame Use and Occupancy Classification Group U structures under the**
32 **structural specialty code.**

33 **(2) A building official or inspector, as those terms are defined in ORS 455.715, when acting**
34 **within the scope of direct employment by a municipality, may provide typical plans and**
35 **specifications for structures of a type for which the provision of plans or specifications is**
36 **exempted under ORS 671.030 from the application of ORS 671.010 to 671.220 and exempted**
37 **under ORS 672.060 from the application of ORS 672.002 to 672.325.**

38 **(3) This section does not alter any applicable requirement under ORS 671.010 to 671.220**
39 **or 672.002 to 672.325 regarding stamps and seals for a set of plans for a structure.**

40 **SECTION 5. (1) Notwithstanding ORS 455.148, 455.150 and 455.153, upon request by one**
41 **or more municipalities and with the consent of all affected parties, the Director of the De-**
42 **partment of Consumer and Business Services may enter into an agreement for the Depart-**
43 **ment of Consumer and Business Services to uniformly administer and enforce all or a**
44 **portion of a building inspection program within a geographic area. The geographic area may**
45 **be a municipality, a region comprising parts of more than one municipality or a region**

1 comprising multiple municipalities. The geographic area need not correspond to the juris-
2 dictional boundaries of municipalities. The agreement may provide for the department to
3 perform administration and enforcement for a specified period or for carrying out one or
4 more particular projects.

5 (2) The terms of an agreement under this section may specify whether the department
6 is to utilize department resources or combine resources with one or more of the munici-
7 palities to carry out an agreement. An agreement may combine department and local gov-
8 ernment resources in any manner that the parties believe will provide for the efficient and
9 uniform administration of the building inspection program within the geographic area, in-
10 cluding but not limited to full, divided, mutual or joint performance of any of the adminis-
11 trative or enforcement functions by any of the parties to the agreement. A decision by the
12 director regarding whether to enter into an agreement under this section, and the content
13 of any agreement that the director enters into under this section, is not subject to review
14 by the Attorney General or the Oregon Department of Administrative Services and is subject
15 to challenge or appeal under ORS chapter 183 only for failure to comply with an express re-
16 quirement created under sections 5 to 9 of this 2013 Act.

17 (3) An agreement under this section is not an abandonment of a building inspection pro-
18 gram for purposes of ORS 455.148 or 455.150.

19 **SECTION 6.** (1) An agreement under section 5 of this 2013 Act may provide for the par-
20 ties to the agreement to share any fee revenue generated by the administration and
21 enforcement of the agreement and to expend the fee revenue anywhere within the geographic
22 area covered by the agreement.

23 (2) Notwithstanding ORS 455.210, if an agreement under section 5 of this 2013 Act pro-
24 vides for the Department of Consumer and Business Services to administer and enforce a
25 building inspection program for which one or more municipalities have adopted a fee or
26 hourly rate, subject to subsection (3)(a) of this section the department may charge the
27 municipally adopted fee or hourly rate when providing the building inspection program ser-
28 vices within a municipality.

29 (3) Fees described in subsection (2) of this section that are charged by the department:

30 (a) Are subject to any surcharges described under ORS 455.210, 455.220 or 455.447; and

31 (b) Notwithstanding ORS 455.210, are not subject to Oregon Department of Administra-
32 tive Services approval.

33 (4) Notwithstanding ORS 293.265, moneys from fees described in this section that are
34 collected or received by, or in the possession of, a party to an agreement under section 5 of
35 this 2013 Act and are to be expended by or on behalf of the state shall be turned over to the
36 State Treasurer no later than one business day after the parties to the agreement have de-
37 termined that the moneys are moneys to be expended by or on behalf of the state.

38 **SECTION 7.** (1) Subject to ORS 293.235 to 293.245, 293.250, 293.260 to 293.280, 293.285 and
39 293.293 and any rules adopted under ORS 293.235 to 293.245, 293.250, 293.260 to 293.280, 293.285
40 and 293.293, and notwithstanding ORS chapter 240, 276, 282, 283, 291 or 292 or other provisions
41 of ORS chapter 293 or the rules adopted under ORS chapter 240, 276, 282, 283, 291 or 292,
42 except as provided under this section the Director of the Department of Consumer and
43 Business Services may take any action the director considers reasonable to ensure that
44 sufficient staff and other resources are available for the administration and enforcement of
45 the state building code. Subject to subsections (2) to (5) of this section, actions that the di-

1 rector may take under this section include, but are not limited to:

2 (a) Utilizing municipal personnel, or hiring former municipal personnel, to carry out the
3 administrative and enforcement duties of the Department of Consumer and Business Ser-
4 vices under an agreement described in section 5 of this 2013 Act;

5 (b) Employing additional Department of Consumer and Business Services staff for car-
6 rying out the administrative and enforcement duties of the department under an agreement
7 described in section 5 of this 2013 Act; and

8 (c) Expending available resources to carry out department responsibilities to provide
9 sufficient staff and other resources under an agreement described in section 5 of this 2013
10 Act.

11 (2) Subsection (1) of this section does not authorize action within a municipality admin-
12 istering and enforcing a building inspection program under ORS 455.148 or 455.150 except as
13 provided in an agreement described in section 5 of this 2013 Act to which the municipality
14 is a party or has consented.

15 (3) The utilization of municipal personnel or hiring of former municipal personnel under
16 subsection (1)(a) of this section is subject to any applicable collective bargaining agreements
17 and may not be used to displace any state employee. Municipal personnel whom the depart-
18 ment utilizes under subsection (1)(a) of this section retain their status as municipal person-
19 nel for purposes of ORS 30.260 to 30.300 while carrying out the administrative and
20 enforcement duties of the department under an agreement.

21 (4) The employment of additional staff under subsection (1)(b) of this section is subject
22 to any limitations established by the Legislative Assembly on the number of total personnel
23 approved for the department. To the extent practicable, the director shall give preference to
24 the use of available state employees to fulfill additional staffing requirements.

25 (5) The employment of additional staff under subsection (1)(b) of this section and the
26 expenditure of available resources under subsection (1)(c) of this section must be predicated
27 upon the availability of adequate revenue, which may include but need not be limited to re-
28 venue derived from municipal sources through an agreement described under section 5 of
29 this 2013 Act. The use of existing revenue and available resources to carry out an agreement
30 under section 5 of this 2013 Act is not an addition to or amendment of the legislatively
31 adopted budget for the department.

32 (6) Notwithstanding ORS 455.230, the director may use moneys deposited in the Consumer
33 and Business Services Fund from fees collected under this section for the purpose of paying
34 the department's costs of carrying out the administrative and enforcement duties of the
35 department within any administrative region established by the director or a geographic re-
36 gion established by an agreement under section 5 of this 2013 Act or for the purpose of as-
37 sisting a local government to carry out an agreement under section 5 of this 2013 Act.

38 **SECTION 8.** (1) If the Department of Consumer and Business Services assumes the ad-
39 ministration and enforcement of a building inspection program that has been surrendered
40 or abandoned by a municipality, and immediately prior to the surrender or abandonment the
41 municipality was charging a fee adopted under ORS 455.210 (3) that was different from the
42 fee authorized under ORS 455.210 (1) for the same services, the department may charge the
43 fee adopted by the municipality for the services that the department provides under the
44 program.

45 (2) Fees described in subsection (1) of this section that are charged by the department:

1 (a) Are subject to any surcharges described under ORS 455.210, 455.220 or 455.447; and

2 (b) Notwithstanding ORS 455.210, are not subject to Oregon Department of Administra-
3 tive Services approval.

4 **SECTION 9.** Notwithstanding any surcharge use described in ORS 455.210 (4), the Direc-
5 tor of the Department of Consumer and Business Services may use moneys from surcharges
6 imposed under ORS 455.210 (4) for the purpose of paying the Department of Consumer and
7 Business Services' costs of carrying out the administration and enforcement of the state
8 building code within an administrative region established by the director or a geographic
9 region established by an agreement that the director enters into under section 5 of this 2013
10 Act.

11 **SECTION 10.** The Director of the Department of Consumer and Business Services:

12 (1) May adopt rules, establish policies and procedures and take other actions the director
13 considers reasonable or expedient for carrying out agreements under section 5 of this 2013
14 Act or under ORS 455.148 (13) or 455.150 (13) and any duties, functions and powers of the di-
15 rector or the Department of Consumer and Business Services under sections 5 to 9 of this
16 2013 Act or ORS 455.148 (13) or 455.150 (13);

17 (2) Shall consult at least annually with appropriate advisory boards regarding any
18 agreements under section 5 of this 2013 Act or actions taken by the director under sections
19 5 to 9 of this 2013 Act or ORS 455.148 (13) or 455.150 (13); and

20 (3) Shall report annually to the Legislative Assembly as provided under ORS 192.230 to
21 192.250 regarding any department activities under sections 5 to 9 of this 2013 Act or ORS
22 455.148 (13) or 455.150 (13). The report shall include, but not be limited to, information re-
23 garding any projected need for an increase in department resources required for carrying
24 out the administration and enforcement of building inspection programs under sections 5 to
25 9 of this 2013 Act or under ORS 455.148 (13) or 455.150 (13).

26 **SECTION 11.** ORS 455.148 is amended to read:

27 455.148. (1)(a) A municipality that assumes the administration and enforcement of a building in-
28 spection program shall administer and enforce the program for all of the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

44 (E) Manufacture of manufactured structures programs under ORS 446.155 to 446.285, including
45 the administration and enforcement of federal manufactured dwelling construction and safety stan-

1 dards adopted under ORS 446.155 or the National Manufactured Housing Construction and Safety
2 Standards Act of 1974;

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

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

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

10 (3) When a municipality administers a building inspection program, the governing body of the
11 municipality shall, unless other means are already provided, appoint a person to administer and
12 enforce the building inspection program, who shall be known as the building official. A building of-
13 ficial shall, in the municipality for which appointed, attend to all aspects of code enforcement, in-
14 cluding the issuance of all building permits. Two or more municipalities may combine in the
15 appointment of a single 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 period described in
18 subsection (2) of this section, the governing body of the municipality shall notify the Director of the
19 Department of Consumer and Business Services and, if the municipality is not a county, notify the
20 county whether the municipality will continue to administer and enforce the building inspection
21 program after expiration of the four-year period.

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

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

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

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

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

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

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

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

12 (a) Creating building inspection program application and amendment requirements and proce-
13 dures;

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

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

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

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

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

22 (D) Proposed staffing levels; and

23 (E) Proposed service levels;

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

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

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

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

33 (h) Enforcing the requirements of this section.

34 (12) The department may assume administration **and enforcement** of a building inspection pro-
35 gram:

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

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

39 (c) If a municipality fails to substantially comply with any provision of this section or of ORS
40 455.465, 455.467 and 455.469.

41 **(13) If the department assumes the administration and enforcement of a building in-**
42 **spection program under this section, in addition to any other power granted to the director,**
43 **the director may:**

44 **(a) Enter into agreements with local governments under section 5 of this 2013 Act re-**
45 **garding the administration and enforcement of the assumed building inspection program;**

1 **(b) Take action as described in section 7 of this 2013 Act to ensure that sufficient staff**
2 **and other resources are available for the administration and enforcement of the assumed**
3 **building inspection program; and**

4 **(c) Charge fees described in section 8 of this 2013 Act for department services provided**
5 **in administering and enforcing the assumed building inspection program.**

6 [(13)] **(14)** A municipality that abandons or otherwise ceases to administer **and enforce** a
7 building inspection program that the municipality assumed under this section may not resume the
8 administration or enforcement of the program for at least two years. The municipality may resume
9 the administration and enforcement of the abandoned program only on July 1 of an odd-numbered
10 year. Prior to resuming the administration and enforcement of the program, the municipality must
11 follow the notification procedure set forth in subsection (7) of this section.

12 **SECTION 12.** ORS 455.150 is amended to read:

13 455.150. (1) Except as provided in subsection [(14)] **(15)** of this section, a municipality that as-
14 sumes the administration and enforcement of a building inspection program prior to January 1, 2002,
15 may administer and enforce all or part of a building inspection program. A building inspection pro-
16 gram:

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

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

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

21 (C) Manufactured dwelling parks and mobile home parks under ORS 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 446.253.

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

27 (b) Is not a program that includes:

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

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

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

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

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

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

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

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

44 (3) When a municipality administers a building inspection program, the governing body of the
45 municipality shall, unless other means are already provided, appoint a person to administer and

1 enforce the building inspection program or parts thereof, who shall be known as the building official.
2 A building official shall, in the municipality for which appointed, attend to all aspects of code
3 enforcement, including the issuance of all building permits. Two or more municipalities may combine
4 in the appointment of a single building official for the purpose of administering a building inspection
5 program within their communities.

6 (4)(a) By January 1 of the year preceding the expiration of the four-year period described in
7 subsection (2) of this section, the governing body of the municipality shall notify the Director of the
8 Department of Consumer and Business Services and, if not a county, notify the county whether the
9 municipality will continue to administer the building inspection program, or parts thereof, after ex-
10 piration of the four-year period. If parts of a building inspection program are to be administered and
11 enforced by a municipality, the parts shall correspond to a classification designated by the director
12 as reasonable divisions of work.

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

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

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

28 (7) If a municipality administering a building inspection program under this section seeks to
29 administer additional parts of a program, the municipality must comply with ORS 455.148, including
30 the requirement that the municipality administer and enforce all aspects of the building inspection
31 program. Thereafter, the municipality is subject to ORS 455.148 and ceases to be subject to this
32 section.

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

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

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

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

4 (a) Creating building inspection program application and amendment requirements and proce-
5 dures;

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

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

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

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

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

16 (g) Enforcing the requirements of this section.

17 (12) The department may assume administration **and enforcement** of a building inspection pro-
18 gram:

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

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

22 (c) If a municipality fails to substantially comply with any provision of this section or of ORS
23 455.465, 455.467 and 455.469.

24 **(13) If the department assumes the administration and enforcement of a building in-
25 spection program under this section, in addition to any other power granted to the director,
26 the director may:**

27 **(a) Enter into agreements with local governments under section 5 of this 2013 Act re-
28 garding the administration and enforcement of the assumed building inspection program;**

29 **(b) Take action as described in section 7 of this 2013 Act to ensure that sufficient staff
30 and other resources are available for the administration and enforcement of the assumed
31 building inspection program; and**

32 **(c) Charge fees described in section 8 of this 2013 Act for department services provided
33 in administering and enforcing the assumed building inspection program.**

34 *[(13)]* (14) If a municipality abandons or otherwise ceases to administer all or part of a building
35 inspection program described in this section, the municipality may not resume the administration
36 and enforcement of the abandoned program or part of a program for at least two years. The
37 municipality may resume the administration and enforcement of the abandoned program or part of
38 a program only on July 1 of an odd-numbered year. To resume the administration and enforcement
39 of the abandoned program or part of a program, the municipality must comply with ORS 455.148,
40 including the requirement that the municipality administer and enforce all aspects of the building
41 inspection program. Thereafter, the municipality is subject to ORS 455.148 and ceases to be subject
42 to this section.

43 *[(14)]* (15) A municipality that administers and enforces a building inspection program under this
44 section shall include in the program the inspection of boilers and pressure vessels described in
45 subsection (1)(a)(H) of this section.

1 **SECTION 13.** ORS 455.475 is amended to read:

2 455.475. (1) [A person aggrieved by] **An applicant for a building permit may appeal** a decision
3 made by a building official under authority established pursuant to ORS 455.148, 455.150 or 455.467
4 [may appeal the decision]. The following apply to an appeal under this [section] **subsection:**

5 [(1)] (a) An appeal [under this section] **regarding the interpretation or application of a par-**
6 **ticular specialty code provision** shall be made first to the appropriate specialty code chief in-
7 spector of the Department of Consumer and Business Services. The decision of the department chief
8 inspector may be appealed to the appropriate advisory board. The decision of the advisory board
9 may only be appealed to the Director of the Department of Consumer and Business Services if codes
10 in addition to the applicable specialty code are at issue.

11 [(2)] (b) If the appropriate advisory board determines that a decision by the department chief
12 inspector is a major code interpretation, then the inspector shall distribute the decision in writing
13 to all applicable specialty code public and private inspection authorities in the state. The decision
14 shall be distributed within 60 days after the board's determination, and there shall be no charge for
15 the distribution of the decision. As used in this [subsection] **paragraph**, a "major code
16 interpretation" means a code interpretation decision that affects or may affect more than one job
17 site or more than one inspection jurisdiction.

18 (2) **Except as provided in subsection (1) of this section, an applicant for a building permit**
19 **may appeal the decision of a building official on any matter relating to the administration**
20 **and enforcement of this chapter to the department. The appeal must be in writing. A deci-**
21 **sion by the department on an appeal filed under this subsection is subject to judicial review**
22 **as provided in ORS 183.484.**

23 (3) If an appeal is made under this section, an inspection authority shall extend the plan review
24 deadline by the number of days it takes for a final decision to be issued for the appeal.

25 **SECTION 14.** **This 2013 Act being necessary for the immediate preservation of the public**
26 **peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect**
27 **on its passage.**