

Enrolled
House Bill 2843

Sponsored by Representative SMITH WARNER, Senator OLSEN, Representative FAGAN, Senator ROBLAN; Representatives HUFFMAN, JOHNSON, Senator JOHNSON

CHAPTER

AN ACT

Relating to interagency agreements for performing duties related to construction; and declaring an emergency.

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

SECTION 1. Section 2 of this 2015 Act is added to and made a part of ORS chapter 455.

SECTION 2. (1) The Department of Consumer and Business Services may enter into interagency agreements with the Construction Contractors Board for the board to perform duties on behalf of the department under ORS 446.566 to 446.646, 446.666 to 446.746, 479.510 to 479.945 or 480.510 to 480.670, this chapter or ORS chapter 447, 460 or 693 regarding:

- (a) Licenses, registrations and other authorizations; or
- (b) The construction, reconstruction, renovation, alteration or repair of structures.

(2) Subject to the approval of the Director of the Department of Consumer and Business Services or the affected advisory board, the department or advisory board may enter into an agreement with the Construction Contractors Board under this section regarding performance of advisory board duties by the Construction Contractors Board. An agreement described in this subsection is considered for purposes of this section to be an agreement between the department and the Construction Contractors Board.

(3) An interagency agreement under this section may provide for the board to perform all or part of the duties described in the agreement within one or more municipalities, geographic areas described in agreements under ORS 455.185 or state building code administrative regions established as provided under ORS 455.042, or on a statewide basis. The director may use an agreement under this section for the purpose of ensuring adequate staff and resources as provided under ORS 455.192. Any board employees utilized to carry out an agreement under this section shall remain employees of the board without loss of seniority or reduction in pay or benefits, but the agreement may provide for the department to retain control over the final work product of the employees. An agreement under this section may not be used to avoid any provision of a collective bargaining agreement.

(4) An interagency agreement under this section may provide for:

- (a) Good faith cooperation between the board and the department to enable the board and the department to carry out their respective duties under law or under the agreement;
- (b) The sharing of resources, including but not limited to the system described in ORS 455.095 and 455.097, equipment, systems, processes and records, documents and other information;

(c) Using board and department information, including but not limited to complaints, reports, findings and orders, to carry out the laws that the board administers and enforces on behalf of the department;

(d) Ensuring the security of information shared under the agreement;

(e) Purchases by the board of supplies and equipment to carry out duties on behalf of the department, subject to the department's reimbursement of the board;

(f) The use of financing agreements to provide resources necessary or convenient to carry out the agreement; and

(g) Acceptance by the board of moneys in payment of department fees, the temporary retention and transfer of fee moneys and the reimbursement of the board's expenses under the agreement from those fee moneys.

(5)(a) A financing agreement provided for as described in subsection (4)(f) of this section is exempt from ORS 283.085 to 283.092 and ORS chapter 286A.

(b) Any department moneys accepted by the board as provided in subsection (4)(g) of this section must be identified and accounted for separately from any other moneys in the possession of or available to the board. Department moneys temporarily retained by the board, regardless of where kept or deposited, are moneys of the department. The retained moneys are not subject to any appropriation to the board, any authorization for or limitation on the expenditure of moneys by the board, any restriction on the source, use or transfer of board moneys or any judgment, lien or other claim against moneys of the board. Notwithstanding any requirement or limitation on the retention of moneys by a state agency, the retention of department moneys by the board under an interagency agreement described in this section shall be governed solely by the terms of the agreement.

(6) An interagency agreement under this section may not:

(a) Delegate the authority of the director to establish policies or to make a final determination on any matter;

(b) Allow the board to hold department fee moneys in a board account under ORS 182.470 that does not allow for the separate tracking and accounting of those moneys;

(c) Allow the board to hold department fee moneys past the end of the fiscal quarter in which the fee moneys were collected; or

(d) Transfer department expenses to the board.

SECTION 3. Section 4 of this 2015 Act is added to and made a part of ORS chapter 701.

SECTION 4. (1) The Construction Contractors Board may enter into interagency agreements with the Department of Consumer and Business Services for the department to perform duties on behalf of the board under this chapter regarding:

(a) Licenses, registrations and other authorizations; or

(b) Regulated activities of a contractor.

(2) Subject to the approval of the Director of the Department of Consumer and Business Services or the affected advisory board, the department or advisory board may enter into an agreement with the Construction Contractors Board under this section regarding performance by the advisory board of Construction Contractors Board duties. An agreement described in this subsection is considered for purposes of this section to be an agreement between the department and the Construction Contractors Board.

(3) An interagency agreement under this section may provide for the department to perform all or part of the duties described in the agreement within one or more areas within the state or on a statewide basis. Any department employees utilized to carry out an agreement under this section shall remain employees of the department without loss of seniority or reduction in pay or benefits, but the agreement may provide for the board to retain control over the final work product of the employees. An agreement under this section may not be used to avoid any provision of a collective bargaining agreement.

(4) An interagency agreement under this section may provide for:

(a) Good faith cooperation between the department and the board to enable the department and the board to carry out their respective duties under law or under the agreement;

(b) The sharing of resources, including but not limited to the department system described in ORS 455.095 and 455.097, equipment, systems, processes and records, documents and other information;

(c) Using department and board information, including but not limited to complaints, reports, findings and orders, to carry out the laws that the department administers and enforces on behalf of the board;

(d) Ensuring the security of information shared under the agreement;

(e) Purchases by the department of supplies and equipment to carry out duties on behalf of the board, subject to the board's reimbursement of the department;

(f) The use of financing agreements to provide resources necessary or convenient to carry out the agreement; and

(g) Acceptance by the department of moneys in payment of board fees, the temporary retention and transfer of fee moneys and the reimbursement of the department's expenses under the agreement from those fee moneys.

(5)(a) A financing agreement provided for as described in subsection (4)(f) of this section is exempt from ORS 283.085 to 283.092 and ORS chapter 286A.

(b) Any board moneys accepted by the department as provided in subsection (4)(g) of this section must be identified and accounted for separately from any other moneys in the possession of or available to the department. Board moneys temporarily retained by the department, regardless of where kept or deposited, are moneys of the board. The retained moneys are not subject to any appropriation to the department, any authorization for or limitation on the expenditure of moneys by the department, any restriction on the source, use or transfer of department moneys or any judgment, lien or other claim against moneys of the department. Notwithstanding any requirement or limitation on the retention of moneys by a state agency, the retention of board moneys by the department under an interagency agreement described in this section shall be governed solely by the terms of the agreement.

(6) An interagency agreement under this section may not:

(a) Delegate the authority of the board or the board administrator to establish policies or to make a final determination on any matter;

(b) Allow the department to hold board fee moneys in a department account that does not allow for the separate tracking and accounting of those moneys;

(c) Allow the department to hold board fee moneys past the end of the fiscal quarter in which the fee moneys were collected; or

(d) Transfer board expenses to the department.

SECTION 5. This 2015 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2015 Act takes effect on its passage.

Passed by House March 5, 2015

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Timothy G. Sekerak, Chief Clerk of House

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Tina Kotek, Speaker of House

Passed by Senate May 7, 2015

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Peter Courtney, President of Senate

Received by Governor:

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Approved:

.....M,....., 2015

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Kate Brown, Governor

Filed in Office of Secretary of State:

.....M,....., 2015

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Jeanne P. Atkins, Secretary of State