

A-Engrossed
Senate Bill 133

Ordered by the Senate February 23
Including Senate Amendments dated February 23

Sponsored by Senator DEVLIN, Representative VEGA PEDERSON (Presession filed.)

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.

[Allows Department of Consumer and Business Services to enter into agreement with public body to allow access to public body's construction-related services through department's electronic building codes information system. Provides for system information and services to include coordinating and tracking construction-related services.]

Allows Department of Consumer and Business Services to make system for electronic access to building code information available for other purposes. Allows department to enter into agreement with public body to allow access to public body's construction-related services through system. Prohibits department disciplinary actions or sanctions against municipality due to municipality nonparticipation in system.

Eliminates sunset on building permit surcharge used for financing operation of electronic building codes system. Reduces surcharge rate.

A BILL FOR AN ACT

1
2 Relating to the Department of Consumer and Business Services system for electronic access to
3 building code information; creating new provisions; amending ORS 455.095, 455.097, 455.185 and
4 455.210; and repealing section 8, chapter 69, Oregon Laws 2007.

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

6 **SECTION 1. As used in ORS 455.095, 455.097 and 455.185, "construction-related" means**
7 **consisting of, or involving the approving, enabling, expediting or facilitating of, the alter-**
8 **ation, construction, demolishing, development, improvement, inspection, moving, operation,**
9 **repair or wrecking of, or the addition to or subtraction from, public improvements, real**
10 **property or a structure.**

11 **SECTION 2.** ORS 455.095 is amended to read:

12 455.095. **(1)** The Department of Consumer and Business Services shall develop and implement a
13 system that provides electronic access to building codes information. The department shall make the
14 system accessible for use by municipalities in carrying out the building inspection programs admin-
15 istered and enforced by the municipalities.

16 **(2) The department may also make the system available for use by other public bodies**
17 **that provide construction-related services including, but not limited to, public bodies de-**
18 **scribed in ORS 455.185 (4).** The [*building codes*] information and services available through the
19 system may include, but need not be limited to:

20 [(1)] **(a)** Licensing, permit, inspection and other relevant information;

21 [(2)] **(b)** Access to forms;

22 [(3)] **(c)** Electronic submission of permit applications;

23 [(4)] **(d)** Electronic submission of plans for review;

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 [(5)] (e) Electronic issuance of minor label or other appropriate permits;

2 [(6)] (f) Access to permit and inspection processes; [and]

3 [(7)] (g) Scheduling of inspections, tracking of corrections and granting of approvals[.]; **and**

4 **(h) The coordination and tracking of construction-related services.**

5 **(3) The use of the system described in this section by a municipality or other public body**
6 **is voluntary. Nonparticipation in the system by a municipality or other public body is not**
7 **grounds for the department to suspend, revoke authorization for or assume the adminis-**
8 **tration of a building inspection program described in ORS 455.148 or 455.150 or to impose**
9 **other disciplinary actions or sanctions against a municipality or other public body.**

10 **SECTION 3.** ORS 455.097 is amended to read:

11 455.097. (1) As used in this section, "form and format":

12 (a) Means the arrangement, organization, configuration, structure or style of, or method of de-
13 livery for, providing required information or providing the substantive equivalent of required infor-
14 mation.

15 (b) Does not mean altering the substance of information or the addition or omission of informa-
16 tion.

17 (2) The purpose of this section and ORS 455.095 is to enable the Department of Consumer and
18 Business Services to develop and implement a system that:

19 (a) Provides electronic access to building codes information;

20 (b) Is designed to offer a full range of electronic building permits services;

21 (c) Allows the streamlining of building inspection services;

22 (d) Provides a uniform form and format for submitting building codes information electronically;

23 [and]

24 (e) Is available for use by any municipality administering and enforcing a building inspection
25 program[.]; **and**

26 **(f) At the discretion of the department:**

27 **(A) Is available for use by other public bodies that provide construction-related services;**
28 **and**

29 **(B) Supports access for other purposes that may include, but need not be limited to, ac-**
30 **cess for the coordination and tracking of construction-related services.**

31 (3) The department shall adopt rules to govern the form and format of building permit applica-
32 tions, building plans, specifications, [and] other building program information **and any other in-**
33 **formation** exchanged through the electronic building codes information system described in ORS
34 455.095.

35 (4) The department may waive a contrary form and format requirement imposed by statute or
36 ordinance or by the rules of another agency for the submission of information in physical form to
37 the extent the waiver is necessary to facilitate the submission of the information electronically. The
38 department may accept an electronic reproduction of a signature, stamp, seal, certification or
39 notarization as the equivalent of the original or may accept the substitution of identifying informa-
40 tion for the signature, stamp, seal, certification or notarization. The department may not waive a
41 requirement imposed by statute or ordinance or by the rules of another agency, other than a form
42 and format requirement.

43 (5) A person exchanging information through the electronic building codes information system
44 in a form and format acceptable to the department is not subject to any licensing sanction, civil
45 penalty, fine, permit disapproval or revocation or other sanction for failure to comply with a form

1 or format requirement imposed by statute, ordinance or rule for submission of the information in
 2 physical form, including but not limited to any requirement that the information be in a particular
 3 form or of a particular size, be submitted with multiple copies, be physically attached to another
 4 document, be an original document or be signed, stamped, sealed, certified or notarized.

5 **SECTION 4.** ORS 455.185 is amended to read:

6 455.185. (1) Notwithstanding ORS 455.148, 455.150 and 455.153, upon request by one or more
 7 municipalities and with the consent of all affected parties, the Director of the Department of Con-
 8 sumer and Business Services may enter into an agreement for the Department of Consumer and
 9 Business Services to uniformly administer and enforce all or a portion of a building inspection pro-
 10 gram within a geographic area. The geographic area may be a municipality, a region comprising
 11 parts of more than one municipality or a region comprising multiple municipalities. The geographic
 12 area need not correspond to the jurisdictional boundaries of municipalities. The agreement may
 13 provide for the department to perform administration and enforcement for a specified period or for
 14 carrying out one or more particular projects.

15 (2) The terms of an agreement under **subsection (1) of** this section may specify whether the
 16 department is to utilize department resources or combine resources with one or more of the
 17 municipalities to carry out an agreement. An agreement may combine department and local gov-
 18 ernment resources in any manner that the parties believe will provide for the efficient and uniform
 19 administration of the building inspection program within the geographic area, including but not
 20 limited to full, divided, mutual or joint performance of any of the administrative or enforcement
 21 functions by any of the parties to the agreement. A decision by the director regarding whether to
 22 enter into an agreement under **subsection (1) of** this section, and the content of any agreement that
 23 the director enters into under **subsection (1) of** this section, is not subject to review by the At-
 24 torney General or the Oregon Department of Administrative Services and is subject to challenge or
 25 appeal under ORS chapter 183 only for failure to comply with an express requirement created under
 26 ORS 455.185 to 455.198.

27 (3) An agreement under **subsection (1) of** this section is not an abandonment of a building in-
 28 spection program for purposes of ORS 455.148 or 455.150.

29 **(4) If the Department of Consumer and Business Services enters into an agreement un-**
 30 **der subsection (1) of this section, the department and a public body that offers**
 31 **construction-related services in the geographic area may enter into an agreement for pro-**
 32 **viding access to the construction-related services on the electronic information system de-**
 33 **scribed in ORS 455.095 and 455.097. The agreement may include, but need not be limited to,**
 34 **provision for access that allows the electronic submission of an application to the public body**
 35 **for a construction-related permit. As used in this subsection, “public body” has the meaning**
 36 **given that term in ORS 174.109.**

37 **SECTION 5.** ORS 455.210, as amended by section 6, chapter 69, Oregon Laws 2007, and section
 38 30, chapter 473, Oregon Laws 2011, is amended to read:

39 455.210. (1) Fees shall be prescribed as required by ORS 455.020 for plan review and permits
 40 issued by the Department of Consumer and Business Services for the construction, reconstruction,
 41 alteration and repair of prefabricated structures and of buildings and other structures and the in-
 42 stallation of mechanical heating and ventilating devices and equipment. The fees may not exceed 130
 43 percent of the fee schedule printed in the “Uniform Building Code,” 1979 Edition, and in the “Uni-
 44 form Mechanical Code,” 1979 Edition, both published by the International Conference of Building
 45 Officials. Fees are not effective until approved by the Oregon Department of Administrative Ser-

1 vices.

2 (2) Notwithstanding subsection (1) of this section, the maximum fee the Director of the Depart-
3 ment of Consumer and Business Services may prescribe for a limited plan review for fire and life
4 safety as required under ORS 479.155 shall be 40 percent of the prescribed permit fee.

5 (3)(a) A municipality may adopt by ordinance or regulation such fees as may be necessary and
6 reasonable to provide for the administration and enforcement of any specialty code or codes for
7 which the municipality has assumed responsibility under ORS 455.148 or 455.150. A municipality
8 shall give the director notice of the proposed adoption of a new or increased fee under this sub-
9 section. The municipality shall give the notice to the director at the time the municipality provides
10 the opportunity for public comment under ORS 294.160 regarding the fee or, if the proposed fee is
11 contained in an estimate of municipal budget resources, at the time notice of the last budget meeting
12 is published under ORS 294.426.

13 (b) Ten or more persons or an association with 10 or more members may appeal the adoption
14 of a fee described in this subsection to the Director of the Department of Consumer and Business
15 Services. The persons or association must file the appeal no later than 60 days after the director
16 receives notice of the proposed adoption of the fee from the municipality under paragraph (a) of this
17 subsection. However, if the municipality failed to give notice to the director, an appeal may be filed
18 with the director within one year after adoption of the new or increased fee. Upon receiving a
19 timely appeal, the director shall, after notice to affected parties and hearing, review the
20 municipality's fee adoption process and the costs of administering and enforcing the specialty code
21 or codes referred to in paragraph (a) of this subsection. The director shall approve the fee if the
22 director feels the fee is necessary and reasonable. If the director does not approve the fee upon
23 appeal, the fee is not effective. The appeal process provided in this paragraph does not apply to fees
24 that have been submitted for a vote and approved by a majority of the electors voting on the ques-
25 tion.

26 (c) Fees collected by a municipality under this subsection shall be used for the administration
27 and enforcement of a building inspection program for which the municipality has assumed responsi-
28 bility under ORS 455.148 or 455.150.

29 (d) For purposes of paragraph (b) of this subsection, in determining whether a fee is reasonable
30 the director shall consider whether:

31 (A) The fee is the same amount as or closely approximates the amount of the fee charged by
32 other municipalities of a similar size and geographic location for the same level of service;

33 (B) The fee is calculated with the same or a similar calculation method as the fee charged by
34 other municipalities for the same service;

35 (C) The fee is the same type as the fee charged by other municipalities for the same level of
36 service; and

37 (D) The municipality, in adopting the fee, complied with ORS 294.160, 294.361 and 294.426 and
38 this section and standards adopted by the director under ORS 455.148 (11) or 455.150 (11).

39 (4) Notwithstanding any other provision of this chapter:

40 (a) For the purpose of partially defraying state administrative costs, there is imposed a sur-
41 charge in the amount of four percent of the total permit fees or, if the applicant chooses to pay an
42 hourly rate instead of purchasing a permit, four percent of the total hourly charges collected.

43 (b) For the purpose of partially defraying state inspection costs, there is imposed a surcharge
44 in the amount of two percent of the total permit fees or, if the applicant chooses to pay an hourly
45 rate instead of purchasing a permit, two percent of the total hourly charges collected.

1 (c) For the purpose of defraying the cost of administering and enforcing the state building code,
2 there is imposed a surcharge on permit fees and on hourly charges collected instead of permit fees.
3 The surcharge may not exceed one percent of the total permit fees or, if the applicant chooses to
4 pay an hourly rate instead of purchasing a permit, one percent of the total hourly charges collected.

5 **(d) For the purpose of defraying the cost of developing and administering the electronic**
6 **building codes information system described in ORS 455.095 and 455.097, there is imposed a**
7 **surcharge in the amount of four percent on permit fees, or if the applicant chooses to pay**
8 **an hourly rate instead of purchasing a permit, four percent of the total hourly charges col-**
9 **lected.**

10 (5) Municipalities shall collect and remit surcharges imposed under subsection (4) of this section
11 to the director as provided in ORS 455.220.

12 (6) The director shall adopt administrative rules to allow reduced fees for review of plans that
13 have been previously reviewed.

14 **SECTION 6. Section 8, chapter 69, Oregon Laws 2007, is repealed.**