

House Bill 2774

Sponsored by Representative HELM; Senator PROZANSKI

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**.

Prohibits county's governing body from charging more than \$1,000 for appeal of most land use decisions unless appeal costs are within estimate and itemization of county's limited and specified costs.

A BILL FOR AN ACT

1
2 Relating to appeal of county decisions; amending ORS 215.422.

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

4 **SECTION 1.** ORS 215.422 is amended to read:

5 215.422. (1)(a) A party aggrieved by the action of a hearings officer or other decision-making
6 authority may appeal the action to the planning commission or county governing body, or both,
7 however the governing body prescribes. The appellate authority on its own motion may review the
8 action. The procedure and type of hearing for such an appeal or review shall be prescribed by the
9 governing body, but shall not require the notice of appeal to be filed within less than seven days
10 after the date the governing body mails or delivers the decision to the parties.

11 (b) Notwithstanding paragraph (a) of this subsection, the governing body may provide that the
12 decision of a hearings officer or other decision-making authority is the final determination of the
13 county.

14 (c) The governing body may prescribe, by ordinance or regulation, fees to defray the costs in-
15 curred in acting upon an appeal from a hearings officer, planning commission or other designated
16 person. The amount of the fee shall be reasonable and shall be no more than the average cost of
17 such appeals or the actual cost of the appeal, excluding the cost of preparation of a written tran-
18 script. **A fee under this paragraph that exceeds \$1,000 is not reasonable unless it is contained**
19 **in the governing body's written estimate and itemization of the county's actual costs. As**
20 **used in this paragraph, "actual costs" means:**

21 **(A) Hourly staff, overtime for salaried staff and contracted services incurred due to the**
22 **appeal, excluding any costs of elected officials or attorneys regularly retained by the county;**

23 **(B) Materials used on the appeal; and**

24 **(C) Printing costs due to the appeal no greater than \$0.15 per black and white, letter-**
25 **sized page.**

26 (d) The governing body may establish a fee for the preparation of a written transcript. The fee
27 shall be reasonable and shall not exceed the actual cost of preparing the transcript up to \$500. In
28 lieu of a transcript prepared by the governing body and the fee therefor, the governing body shall
29 allow any party to an appeal proceeding held on the record to prepare a transcript of relevant
30 portions of the proceedings conducted at a lower level at the party's own expense. If an appellant
31 prevails at a hearing or on appeal, the transcript fee shall be refunded.

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 (2) A party aggrieved by the final determination may have the determination reviewed in the
2 manner provided in ORS 197.830 to 197.845.

3 (3) No decision or action of a planning commission or county governing body shall be invalid
4 due to ex parte contact or bias resulting from ex parte contact with a member of the decision-
5 making body, if the member of the decision-making body receiving the contact:

6 (a) Places on the record the substance of any written or oral ex parte communications con-
7 cerning the decision or action; and

8 (b) Has a public announcement of the content of the communication and of the parties' right to
9 rebut the substance of the communication made at the first hearing following the communication
10 where action will be considered or taken on the subject to which the communication related.

11 (4) A communication between county staff and the planning commission or governing body shall
12 not be considered an ex parte contact for the purposes of subsection (3) of this section.

13 (5) Subsection (3) of this section does not apply to ex parte contact with a hearings officer ap-
14 proved under ORS 215.406 (1).

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