

House Bill 2656

Sponsored by Representative SMITH DB; Representatives GOMBERG, OWENS, RESCHKE, SMITH G, ZIKA (Pre-session 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 **as introduced**.

Permits municipality or Department of Consumer and Business Services to contract with person to administer and enforce building inspection program and act as building official.

A BILL FOR AN ACT

1
2 Relating to contracts with persons to act as building officials; amending ORS 455.148.

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

4 **SECTION 1.** ORS 455.148 is amended to read:

5 455.148. (1)(a) A municipality that assumes the administration and enforcement of a building in-
6 spection program shall administer and enforce the program for all of the following:

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

9 (B) Manufactured dwelling installation requirements under ORS 446.155, 446.185 (1) and 446.230.

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

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

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

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

14 (G) Accessory buildings or structures under ORS 446.253.

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

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

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

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

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

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

22 (E) Manufacture of manufactured dwelling programs under ORS 446.155 to 446.285, including the
23 administration and enforcement of federal manufactured dwelling construction and safety standards
24 adopted under ORS 446.155 or the National Manufactured Housing Construction and Safety Stan-
25 dards Act of 1974;

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

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

29 (2) A municipality that administers a building inspection program as allowed under this section
30 shall do so for periods of four years. The Department of Consumer and Business Services shall adopt
31 rules to adjust time periods for administration of a building inspection program to allow for vari-

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 ations in the needs of the department and participants.

2 [(3)] **(3)(a)** [*When*] **If** a municipality administers a building inspection program, the governing
 3 body of the municipality shall, unless other means are already provided, appoint **or contract with**
 4 a person **to serve as a building official**, [*to*] **who will** administer and enforce the building in-
 5 spection program[, *who shall be known as the building official*]. A building official shall, in the
 6 municipality [*for which*] **that** appointed **or contracted with the building official**, attend to all as-
 7 pects of code enforcement, including the issuance of all building permits. Two or more municipalities
 8 may combine in the appointment of, **or contract with**, a single building official for the purpose of
 9 administering a building inspection program within [*their communities*] **each municipality**.

10 **(b) A contract between the department or a municipality and another person that acts**
 11 **as a building official on the department's or the municipality's behalf is subject to applicable**
 12 **provisions of ORS chapters 279A, 279B and 279C.**

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*] **the city** will not ad-
 22 minister the building inspection program, the county or counties in which the city is located shall
 23 administer and enforce the county program within the city in the same manner as the program is
 24 administered and 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*] **the county** will not
 26 administer and enforce a building inspection program, the director shall contract with a municipality
 27 or other person or use such state employees or state agencies as are necessary to administer and
 28 enforce a building inspection program, and permit or other fees arising [*therefrom shall*] **from the**
 29 **building inspection program must** be paid into the Consumer and Business Services Fund created
 30 by ORS 705.145 and credited to the account responsible for paying the expenses [*thereof*] **of the**
 31 **department related to administering and enforcing the building inspection program**. A state
 32 employee may not be displaced as a result of using contract personnel.

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

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

43 (9) A municipality that administers and enforces a building inspection program pursuant to this
 44 section shall recognize and accept the performances of state building code activities by businesses
 45 and persons authorized under ORS 455.457 to perform the activities as if the activities were per-

1 formed by the municipality. A municipality is not required to accept an inspection, a plan or a plan
 2 review that does not meet the requirements of the state building code.

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

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

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

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

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

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

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

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

19 (D) Proposed staffing levels; and

20 (E) Proposed service levels;

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

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

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

26 (g) Creating standards for determining whether a county or department building inspection
 27 program is economically impaired in [*its*] **the county's or department's** ability to reasonably con-
 28 tinue providing the program throughout a county, if another municipality is allowed to provide a
 29 building inspection program within the same county; and

30 (h) Enforcing the requirements of this section.

31 (12) The department may assume administration and enforcement of a building inspection pro-
 32 gram:

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

34 (b) If a municipality abandons or is no longer able to administer the building inspection program;
 35 [*and*] **or**

36 (c) If a municipality fails to substantially comply with any provision of this section or of ORS
 37 455.465, 455.467 and 455.469.

38 (13) If the department assumes the administration and enforcement of a building inspection
 39 program under this section, in addition to any other power granted to the director, the director may:

40 (a) Enter into agreements with local governments under ORS 455.185 regarding the adminis-
 41 tration and enforcement of the assumed building inspection program;

42 (b) Take action as described in ORS 455.192 to ensure that sufficient staff and other resources
 43 are available for the administration and enforcement of the assumed building inspection program;
 44 [*and*]

45 (c) Charge fees described in ORS 455.195 for department services provided in administering and

1 enforcing the assumed building inspection program[.]; **and**

2 **(d) Contract with a person that the department has licensed under ORS 455.457 to act**
3 **as a building official on the department's behalf.**

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

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