

Enrolled Senate Bill 1566

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CHAPTER

AN ACT

Relating to county permitting; and declaring an emergency.

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

SECTION 1. A person that wants to construct, alter, relocate, maintain or repair a water, gas, electric or communication service line, fixture or other facility within the right of way of a public road under the jurisdiction of a county shall be responsible for applying for any permit and paying any permit fee that the county governing body requires pursuant to section 2 of this 2024 Act.

SECTION 2. (1) A county governing body may require a permit for the construction, alteration, relocation, maintenance or repair of a water, gas, electric or communication service line, fixture or other facility within the right of way of a public road under the jurisdiction of the county.

(2) A county shall issue or deny a permit described in subsection (1) of this section that the county governing body requires within 15 business days after a complete application for the permit is filed with the county. The requirement under this subsection does not apply to an application for a permit for relocation of a line, fixture or other facility when the relocation is required by the county.

(3) Notwithstanding ORS 758.010 (1) and except as provided in subsection (4) of this section, a county governing body may charge a fee, as described in subsection (5) of this section, for the administration and issuance of a permit described in subsection (1) of this section that the county governing body requires.

(4) A county governing body may not charge a fee for a permit described in subsection (1) of this section that the county governing body requires if:

(a) The permit is for vegetation management or vegetation clearance maintenance, and the vegetation management or vegetation clearance maintenance is required by the Public Utility Commission under ORS 757.035 or 757.039 or by a national electric safety code adopted, by rule, by the commission;

(b) The permit is for:

(A) Routine replacement or maintenance of a line, fixture or other facility, including but not limited to pole replacement; or

(B) Replacement or maintenance of a line, fixture or other facility required by the commission under ORS 757.035 or 757.039 or by a national electric safety code adopted, by rule, by the commission;

(c) The permit is for maintenance of a line, fixture or other facility related to a water system, including a pumping facility, air relief valve, pressure valve or fire hydrant, and the maintenance is essential for the safe operation of the water system;

(d) The permit is for relocation of a line, fixture or other facility, and the relocation is required by the county; or

(e)(A) The permit is for emergency or urgent work, regardless of the duration of time of the work, to restore or maintain services, and the emergency or urgent work is necessary to protect public health or safety. A county may not delay emergency or urgent work under this paragraph to process an application for a permit under this section.

(B) As used in subparagraph (A) of this paragraph, “emergency or urgent work” includes work required as a result of an accident or casualty, fire, flood, drought, wind or other natural elements, court order or litigation, breakdown of or damage to a facility, act of God, act of a civil, military or government authority, or act or omission of a third party.

(5)(a) Subject to paragraphs (b) and (c) of this subsection, the maximum fee amount that a county governing body may charge for the administration and issuance of a permit described in subsection (1) of this section that the county governing body requires is \$500.

(b)(A) The maximum fee amount described in paragraph (a) of this subsection shall be increased annually on July 1 by the lesser of:

(i) The percentage increase, if any, in the cost of living for the previous calendar year, based on changes in the Consumer Price Index for All Urban Consumers, West Region (All Items), as published by the Bureau of Labor Statistics of the United States Department of Labor; or

(ii) Five percent.

(B) An amount determined under subparagraph (A) of this paragraph shall be rounded up to the nearest dollar.

(c) The fee amount charged by a county governing body may be no greater than necessary to cover, and may be used only to cover, the costs incurred by the county for the administration, issuance and compliance enforcement of the permits described in subsection (1) of this section that the county governing body requires.

(d) Any fee charged by a county governing body for a permit described in subsection (1) of this section that a county governing body requires must be carried out on a competitively neutral and nondiscriminatory basis.

(6) To exercise a power provided under this section, a county governing body shall first authorize the exercise of that power by county ordinance.

(7) Nothing in this section reduces the authority of a county governing body provided under ORS 368.036, 758.010 (2) or 758.025.

(8) Nothing in this section may be construed to allow a county governing body to assess a franchise fee or privilege tax for the right or privilege to occupy or otherwise use, construct, alter, relocate, maintain or repair a water, gas, electric or communication service line, fixture or other facility within the right of way of a public road under the jurisdiction of the county.

SECTION 3. (1) Section 2 of this 2024 Act does not prohibit a county governing body from entering into a franchise agreement, agreement pursuant to ORS 190.010 or other agreement that governs the terms and conditions by which a person may construct, alter, relocate, maintain or repair a water, gas, electric or communication service line, fixture or other facility within the right of way of a public road under the jurisdiction of the county.

(2) A county governing body may not require a person to apply or pay a fee for a permit described in section 2 (1) of this 2024 Act that the county governing body requires, if a franchise agreement, agreement pursuant to ORS 190.010 or other agreement governs the

terms and conditions by which the person may construct, alter, relocate, maintain or repair the water, gas, electric or communication service line, fixture or other facility.

SECTION 4. (1) Sections 1 to 3 of this 2024 Act become operative on January 1, 2025.

(2) A county governing body may take any action before the operative date specified in subsection (1) of this section that is necessary to enable the county governing body and county to exercise, on and after the operative date specified in subsection (1) of this section, the powers of the county governing body and county under sections 1 to 3 of this 2024 Act.

SECTION 5. Sections 1 to 3 of this 2024 Act are repealed on January 2, 2031.

SECTION 6. This 2024 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2024 Act takes effect on its passage.

Passed by Senate February 28, 2024

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Obadiah Rutledge, Secretary of Senate

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Rob Wagner, President of Senate

Passed by House March 5, 2024

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Dan Rayfield, Speaker of House

Received by Governor:

.....M.,....., 2024

Approved:

.....M.,....., 2024

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Tina Kotek, Governor

Filed in Office of Secretary of State:

.....M.,....., 2024

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LaVonne Griffin-Valade, Secretary of State