

A-Engrossed
Senate Bill 1566

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

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Joint Committee on Transportation for Eastern Oregon Counties Association and Multnomah County)

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. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: Allows a county to charge a permit fee to build, move or change a line, fixture or facility that is in the right of way of a county public road. There are exceptions. Sunsets on January 2, 2031. (Flesch Readability Score: 68.5).

[Digest: Allows a county to charge a permit fee to build, move or change a line, fixture or facility that is in the right of way of a county public road. There are exceptions. Sunsets on January 1, 2031. (Flesch Readability Score: 68.5).]

Authorizes a county governing body to charge a fee for the administration and issuance of a permit to construct, alter, relocate, maintain or repair a water, gas, electric or communication service line, fixture or facility within the right of way of a public road under the jurisdiction of the county, subject to specified exceptions.

Sunsets January [1,] 2, 2031.

Declares an emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to county permitting; and declaring an emergency.

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

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

9 **SECTION 2. (1) A county governing body may require a permit for the construction, al-**
10 **teration, relocation, maintenance or repair of a water, gas, electric or communication ser-**
11 **vice line, fixture or other facility within the right of way of a public road under the**
12 **jurisdiction of the county.**

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

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

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

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

7 **(b) The permit is for:**

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

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

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

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

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

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

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

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

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

35 **(ii) Five percent.**

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

38 **(c) The fee amount charged by a county governing body may be no greater than neces-**
39 **sary to cover, and may be used only to cover, the costs incurred by the county for the ad-**
40 **ministration, issuance and compliance enforcement of the permits described in subsection**
41 **(1) of this section that the county governing body requires.**

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

45 **(6) To exercise a power provided under this section, a county governing body shall first**

1 authorize the exercise of that power by county ordinance.

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

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

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

14 (2) A county governing body may not require a person to apply or pay a fee for a permit
15 described in section 2 (1) of this 2024 Act that the county governing body requires, if a
16 franchise agreement, agreement pursuant to ORS 190.010 or other agreement governs the
17 terms and conditions by which the person may construct, alter, relocate, maintain or repair
18 the water, gas, electric or communication service line, fixture or other facility.

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

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

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

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

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