

C-Engrossed House Bill 4023

Ordered by the House March 2
Including House Amendments dated February 15 and February 27 and
March 2

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Economic Development and Trade)

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.

Directs Oregon Broadband Advisory Council to submit report to interim legislative committee, no later than December 1, 2018, regarding proposed local broadband champion program structure.

Establishes Connecting Oregon Schools Fund and continuously appropriates moneys in fund to Department of Education for purpose of providing matching funds for federal moneys received by school districts for providing broadband access to eligible schools.

Permits State Chief Information Officer to provide broadband services and operations to additional public bodies, Indian tribes and communities of interest. Requires State Chief Information Officer to adopt rules, in consultation with broadband services advisory committee, for providing broadband services and operations to additional public bodies, Indian tribes and communities of interest if services would *[duplicate]* **directly compete with** services already offered by telecommunications provider. *[Provides exceptions.]*

Permits State Chief Information Officer to enter into contract related to broadband infrastructure for period exceeding 10 years.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to broadband technology; creating new provisions; amending ORS 276A.406 and 276A.412;
3 and declaring an emergency.

4 Whereas access to high-speed, affordable broadband services is vital to the delivery of education,
5 health care, public safety, economic development and other public services; and

6 Whereas the Legislative Assembly continuously seeks to encourage collaboration between com-
7 munities and the tribal governments and public bodies that serve them; and

8 Whereas it is not the state's intent to provide broadband services in direct competition with
9 telecommunications providers that offer comparable broadband services; now, therefore,

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

LOCAL BROADBAND CHAMPIONS

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14 **SECTION 1.** (1) As used in this section, "local broadband champion" means a local gov-
15 ernment official, elected official, educator, business, organization, resident, community
16 leader or other person that advocates for local broadband infrastructure improvements in
17 the person's community.

18 (2) The Oregon Broadband Advisory Council, established under section 1, chapter 782,
19 Oregon Laws 2009, shall conduct a study to identify options for a local broadband champion
20 program to foster and support local broadband champions. No later than December 1, 2018,

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 the council shall report to the interim legislative committees on economic development with
2 a proposed local broadband champion program structure that identifies potential public or
3 private partnerships and anticipated funding needs and sources.

4 **SECTION 2.** Section 1 of this 2018 Act is repealed on January 2, 2019.

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6 **CONNECTING OREGON SCHOOLS FUND**

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8 **SECTION 3.** (1) The Connecting Oregon Schools Fund is established in the State Treas-
9 ury, separate and distinct from the General Fund. Interest earned by the Connecting Oregon
10 Schools Fund shall be credited to the fund.

11 (2) The Connecting Oregon Schools Fund consists of any moneys deposited in the fund
12 from whatever source and may include moneys appropriated, allocated, deposited or trans-
13 ferred to the fund by the Legislative Assembly or otherwise and interest earned on moneys
14 in the fund.

15 (3) The moneys in the fund are continuously appropriated to the Department of Educa-
16 tion for the purpose of providing matching funds for federal moneys received by school dis-
17 tricts for the purpose of providing broadband access to eligible schools in this state.

18 (4) A school is eligible to receive matching funds under this section if the school:

19 (a) Is a kindergarten through grade 12 public school in this state;

20 (b) Receives federal moneys for the purpose of providing broadband access to the school;

21 (c) Takes steps to determine whether existing broadband infrastructure, including fiber-
22 based broadband, may be integrated into the proposed broadband access project; and

23 (d) Meets any other eligibility requirements established by the State Board of Education
24 by rule.

25 (5)(a) Before the department may distribute any state moneys under this section, the
26 board shall adopt rules to implement the provisions of this section, including rules setting
27 criteria that govern the distribution of the moneys to eligible schools.

28 (b) Rules adopted under this section must take into consideration any eligibility require-
29 ments established by the federal program awarding federal moneys.

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31 **BROADBAND SERVICES ADVISORY COMMITTEE**

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33 **SECTION 4.** ORS 276A.406 is amended to read:

34 276A.406. (1) As used in this section and **ORS 276A.412** and **section 5 of this 2018 Act:**

35 [(a) "Advanced digital communications" means equipment, facilities and capability to distribute
36 digital communications signals for transmitting voice, data, image and video over distance.]

37 (a) "Broadband" means wide bandwidth communications transmissions over coaxial ca-
38 ble, optical fiber, radio or twisted pair with an ability to simultaneously transport multiple
39 signals and traffic types at a minimum transmission speed established by the State Chief
40 Information Officer by rule, but in no event less than 25 megabits per second for downloads
41 and three megabits per second for uploads.

42 (b) "Communications" means media that communicate voice, data, text or video over a
43 distance using electrical, electronic or light wave transmissions.

44 (c) "State agency" has the meaning given that term in ORS 279A.010.

45 [(b)] (d) "Telecommunications provider" means any person that is capable of providing [advanced

1 *digital communications*] **broadband and communications services** including, but not limited to, a
2 telecommunications utility as defined in ORS 759.005, a competitive telecommunications provider as
3 defined in ORS 759.005, a cable television provider or an interstate telecommunications provider.

4 (2) Notwithstanding ORS chapters 279A, 279B and 279C, the State Chief Information Officer
5 *[may]*:

6 (a) **Shall provide broadband and communications services and operations for the state**
7 **and state agencies; and**

8 (b) **Subject to section 5 of this 2018 Act and notwithstanding ORS 276A.206 (6)(c), may**
9 **provide broadband services and operations in unserved or underserved areas to any other**
10 **public body, as defined in ORS 174.109, any federally recognized Indian tribe in Oregon or any**
11 **nonprofit organization that the State Chief Information Officer designates as a community**
12 **of interest under ORS 276A.206.**

13 (3) **The State Chief Information Officer provides the services and operations under sub-**
14 **section (2) of this section if the State Chief Information Officer:**

15 (a) *[Provide advanced digital communications]* **Provides the** services directly $[, may]$;

16 (b) *[Enter]* **Enters** into an interagency or intergovernmental agreement under ORS chapter 190
17 to have another state agency or governmental agency provide *[advanced digital communications]* **the**
18 services *[or may]*; **or**

19 (c) *[Acquire advanced digital communications]* **Acquires the** services by entering into contracts
20 with telecommunications providers or a consortium of telecommunications providers in a manner
21 that is consistent with the State Chief Information Officer's rules, policies and standards.

22 *[(3) After a telecommunications provider or a consortium of telecommunications providers has in-*
23 *stalled an advanced digital communications network, The State Chief Information Officer shall provide*
24 *all telecommunications services and operations for the state and state agencies directly, or shall enter*
25 *into interagency or intergovernmental agreements under ORS chapter 190 to have another state agency*
26 *or another governmental agency provide the telecommunications services and operations in a manner*
27 *that is consistent with the State Chief Information Officer's rules, policies and standards.]*

28 (4) The State Chief Information Officer may not **enter into any contract or agreement under**
29 **subsection (3) of this section or** approve the procurement of any *[telecommunications]* **broadband**
30 **or communications** system or equipment that is incompatible with the network or that is incon-
31 sistent with the State Chief Information Officer's rules, policies and standards.

32 **SECTION 5. (1)(a) If the State Chief Information Officer determines that the broadband**
33 **services and operations proposed to be provided by the State Chief Information Officer under**
34 **ORS 276A.406 (2)(b) would directly compete with services already offered by a telecommuni-**
35 **cations provider, the State Chief Information Officer may only provide those services pur-**
36 **suant to the rules described in subsection (2) of this section.**

37 (b) **For the purposes of this section, broadband services are considered to be already of-**
38 **fered by a telecommunications provider if the provider can demonstrate its ability to provide**
39 **the broadband services in the geographic area to be served within a reasonable time and for**
40 **a reasonable cost.**

41 (2) **The State Chief Information Officer shall adopt rules governing how it provides the**
42 **broadband services and operations under subsection (1)(a) of this section. The rules must:**

43 (a) **Describe the services that the State Chief Information Officer proposes to provide,**
44 **including specifications for broadband services, such as minimum bandwidth, reliability, re-**
45 **dundancy, deployment schedule and comparable cost;**

1 **(b) Describe the method by which the State Chief Information Officer will maintain and**
2 **update its service offerings;**

3 **(c) Describe the process by which a telecommunications provider may demonstrate its**
4 **ability to provide broadband services under subsection (1) of this section and to meet the**
5 **specifications proposed by the State Chief Information Officer under paragraph (a) of this**
6 **subsection; and**

7 **(d) Describe the situations in which the State Chief Information Officer may not provide**
8 **the services.**

9 **(3) The State Chief Information Officer shall appoint an advisory committee no later than**
10 **60 days prior to rulemaking under this section to assist the State Chief Information Officer**
11 **in the administration of this section.**

12 **(4) The advisory committee must include one representative from each of the following:**

13 **(a) A telecommunications provider in this state.**

14 **(b) A rural telecommunications consortium in this state.**

15 **(c) The Association of Oregon Counties.**

16 **(d) The League of Oregon Cities.**

17 **(e) A public school or education service district.**

18 **(f) A public university listed in ORS 352.002.**

19 **(g) The State Interoperability Executive Council established under ORS 403.450.**

20 **(h) The Oregon Broadband Advisory Council established under section 1, chapter 782,**
21 **Oregon Laws 2009.**

22 **(i) The public with an interest in broadband service availability.**

23 **(j) A nonprofit entity with an interest in broadband service availability.**

24 **(k) Any other public, private or nonprofit entity that the State Chief Information Officer**
25 **determines is necessary to assist the advisory committee in performing its duties under this**
26 **section.**

27 **(5) Before adopting rules described in this section, the State Chief Information Officer**
28 **shall present the proposed rules to the Joint Legislative Committee on Information Man-**
29 **agement and Technology.**

30 **SECTION 6.** ORS 276A.412 is amended to read:

31 276A.412. (1) For the purposes of ORS 276A.400 to 276A.412, the State Chief Information Officer
32 may, in a manner that is consistent with the State Chief Information Officer's rules, policies and
33 standards, enter into a contract or contracts with telecommunications [*service*] providers and
34 equipment manufacturers for purchasing, using or operating telecommunications equipment and
35 services for a period not to exceed 10 years.

36 **(2) Notwithstanding subsection (1) of this section, the State Chief Information Officer**
37 **may enter into a contract or a configuration of agreements related to broadband**
38 **infrastructure, including leases, maintenance and operations of broadband transmission**
39 **equipment, for a period that exceeds 10 years.**

40 [(2)] **(3) For purposes of ORS 276A.206, the State Chief Information Officer may extend the**
41 **benefits of telecommunications contracts for broadband networks, communications systems,**
42 **equipment and services to nonprofit organizations that the State Chief Information Officer desig-**
43 **nates as communities of interest under ORS 276A.206.**

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CAPTIONS

