

HB 2603 A STAFF MEASURE SUMMARY

House Committee On Energy and Environment

Action Date: 03/31/21

Action: Do pass with amendments and be referred to Ways and Means. (Printed A-Eng.)

Vote: 7-0-0-0

Yeas: 7 - Helm, Marsh, Moore-Green, Owens, Pham, Smith DB, Speaker Kotek

Fiscal: Fiscal impact issued

Revenue: No revenue impact

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Meeting Dates: 2/24, 3/31

WHAT THE MEASURE DOES:

Requires applicant for an easement to place an undersea cable within the territorial sea to acquire and maintain, until construction of the undersea cable is completed, financial assurance, in the amount determined by the Department of State Lands (DSL) to be sufficient based on the scale of the project, to ensure that the applicant constructs the undersea cable according to the terms and conditions of the easement. Allows applicant to satisfy financial assurance requirements by furnishing a financial assurance instrument that is a surety bond, cash deposit, or certificate of deposit and in the name of the State of Oregon. Requires the owner or operator of the undersea cable to submit to DSL for approval, at least 180 days before decommissioning an undersea cable, a decommissioning plan that includes: 1) a cost estimate, prepared by a person qualified by experience and knowledge to prepare the estimate, for decommissioning the cable and restoring the area authorized by the easement to its previous natural condition; 2) a detailed description of and proposed schedule for the decommissioning and restoration work, including any corrective action that may be required under the easement; and 3) a proposed form of financial assurance in an amount equal to the cost estimate determined by DSL.

Requires DSL to approve or request revisions to the plan or additional information within 30 days of receiving a decommissioning plan or, if, after receiving revisions to the decommissioning plan or additional information, DSL rejects the plan, the owner or operator of the undersea cable must, within 90 days, submit to DSL an application for an easement for the encroachment created by the undersea cable. Prohibits owner or operator of an undersea cable from beginning decommissioning and restoration work unless: 1) DSL has approved a decommissioning plan; 2) the owner or operator has acquired financial assurance; and 3) the owner or operator has provided to DSL notice that the work will begin at least 60 days prior to beginning the work. Financial assurance and decommissioning plan requirements become operative on January 1, 2022. Authorizes DSL to take necessary action to exercise, on and after January 1, 2022, all of the duties, functions, and powers conferred on DSL in this Act. Requires the Ocean Policy Advisory Council (Council), in consultation with the Department of Land Conservation and Development (DLCD), DSL, and relevant local and tribal governments, to review and propose amendments to the part of the Territorial Sea Plan that addresses the placement of cables, pipelines, and other utilities in the territorial sea. Requires the Council's review to consider fee structures and state and federal review processes, including permitting processes, for the placement of undersea cables on state-owned submerged or submersible land within the territorial sea and under the ocean shore and the siting of associated landing sites. Requires the Council, in developing recommendations for amendments to the Territorial Sea Plan, to evaluate: 1) a unified permitting process for the placement of undersea cables that allows for coordination between appropriate state agencies, tribal governments, and local governments; 2) suitable landing sites, including a mapping analysis of opportunities, limitations, and requirements for landing sites; 3) the impact of other state agencies, laws, zoning requirements, or statewide planning goals on potential undersea cable sites; 4) changes to fees structures and financing associated with administrative costs and the protection and management of the

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territorial sea and ocean shore; 5) requirements for public information meetings or other methods for engaging communities, tribal governments, ocean users, and industries affected by a proposed undersea cable; 6) an application process; 7) requirements for interagency preapplication process meetings; 8) standards for undersea cables in the states of California and Washington; and 9) coordination or consultation with tribal governments on potential impacts of undersea cables on cultural and traditional resources. Authorizes the Council to consult with any of the following state agencies when conducting the review and developing recommendations: the State Parks and Recreation Department; the Department of Environmental Quality; the State Department of Fish and Wildlife; the State Department of Geology and Mineral Industries; or any other state agency with relevant expertise. Requires the Council to develop recommendations for amendments to the Territorial Sea Plan no later than two years after the effective date of this Act. Sunsets Act on January 2, 2024. Takes effect on 91st day following adjournment sine die.

ISSUES DISCUSSED:

- Stewardship of ocean and shore
- Collaboration among state agencies
- Burden of removing buried cables

EFFECT OF AMENDMENT:

Replaces the measure.

BACKGROUND:

Oregon's territorial sea, defined as three nautical miles from shore, has been identified as a favorable landing zone for submarine fiber optic telecommunication cables. State agencies, including Department of State Lands, the State Parks and Recreation Department, the Department of Land Conservation and Development (DLCD), and the Department of Environmental Quality, regulate and approve permits for projects along the coast and on the ocean floor. Part Four of the Oregon Territorial Sea Plan describes the process for uses of the sea floor. Senate Bill 606 (2013) clarified financial assurance and decommissioning requirements for wave energy projects and identified research needed related to the transmission of electricity from wave energy facilities and devices.

House Bill 2603 A would require the Ocean Policy Advisory Council, in consultation with the Department of Land Conservation and Development (DLCD), the Department of State Lands, and relevant local and tribal governments, to review and propose amendments to the part of the Territorial Sea Plan that addresses the placement of cables, pipelines, and other utilities in the territorial sea. The measure would require an applicant for an easement to place an undersea cable within the territorial sea to acquire and maintain, until construction of the undersea cable is completed, financial assurance to ensure that the applicant constructs the undersea cable according to the terms and conditions of the easement.