

Enrolled House Bill 2411

Sponsored by Representative MARSH, Senator BEYER, Representative NATHANSON; Representatives ALONSO LEON, HAYDEN, KROPF, LEIF, SOLLMAN, WILDE, ZIKA (Presession filed.)

CHAPTER

AN ACT

Relating to telecommunications; and prescribing an effective date.

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

SECTION 1. As used in sections 1 to 4 of this 2021 Act:

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

(2) “Communications” means media that communicate voice, data, text or video over a distance using electrical, electronic or light wave transmissions.

(3) “Interstate highway” means every state highway that is part of the National System of Interstate and Defense Highways established pursuant to 23 U.S.C. 103(c).

(4) “State highway” has the meaning given that term in ORS 366.005.

(5) “Telecommunications provider” means any person that is capable of providing broadband and communications services including, but not limited to, a telecommunications utility as defined in ORS 759.005, a competitive telecommunications provider as defined in ORS 759.005, a cable television provider or an interstate telecommunications provider.

(6) “Underground utility infrastructure” means any underground wires, cables, conduits, switches, transmission equipment or other equipment for use in transmitting or processing broadband services or for providing support or connections to such equipment.

SECTION 2. (1) The Oregon Broadband Office within the Oregon Business Development Department shall develop a registry of telecommunications providers in this state. The office shall update the registry no less than once per year and shall make the most recently updated registry available to the Department of Transportation.

(2) The Department of Transportation shall identify potential projects included in the Statewide Transportation Improvement Program for which notification under subsection (3) of this section is required. Potential projects eligible for identification under this subsection:

(a) Must, except as otherwise provided in paragraph (b) of this subsection, include projects on a state highway that involve the construction of underground utility infrastructure, road construction, road resurfacing or other work that will result in longitudinal trenching spanning a minimum length to be determined by the department by rule and that could reasonably include, or prepare for, the installation of broadband conduit; and

(b) May only include projects on an interstate highway to the extent otherwise authorized under federal or state law.

(3) For each project identified under subsection (2) of this section, the department shall timely notify each telecommunications provider on the registry established under subsection (1) of this section:

(a) That the project has been identified as suitable for coordination with telecommunication providers;

(b) Of the telecommunication provider's opportunity to coordinate with the department to accommodate installation of underground utility infrastructure; and

(c) Of the process for submitting a statement of interest to coordinate with the department on the project.

(4) The department shall provide each telecommunications provider that receives a notice under subsection (3) of this section no less than 30 days from the date the notice is issued to submit to the department a statement of interest to coordinate with the department.

(5) This section does not require the department to provide notice of an opportunity to coordinate for the installation of underground utility infrastructure directly to any telecommunications provider, other utility or any other entity in a manner not described in this section.

SECTION 3. (1) For each project for which the Department of Transportation provided notice under section 2 of this 2021 Act, the department shall engage with each telecommunications provider that submitted a statement of interest under section 2 (4) of this 2021 Act to determine whether accommodation of installation of underground utility infrastructure is appropriate.

(2) The department may develop, by policy or rule, guidance for carrying out the provisions of this section. Guidance developed pursuant to this subsection must include, at a minimum:

(a) Procedures for processing and reviewing statements of interest received from telecommunications providers by the department;

(b) Criteria for determining how to accommodate installation of underground utility infrastructure;

(c) Procedures for interested parties to negotiate collocation of underground utility infrastructure within the trenching involved in the project;

(d) Procedures for permitting processes; and

(e) Protest procedures.

(3) The department shall make the final determination of the suitability of modifying a project to include installation of underground utility infrastructure, and may prescribe any conditions, requirements, restrictions or other provisions related to the modifications the department deems necessary. Conditions, requirements, restrictions or provisions prescribed under this subsection may include, but need not be limited to, liability provisions, requirements related to the financial responsibilities for future relocation of underground utility infrastructure if relocation is necessary, indemnification provisions and penalties for failure to comply with the terms of a modification agreement.

SECTION 4. The Department of Transportation and the Oregon Broadband Office may adopt rules as necessary to implement and administer sections 1 to 4 of this 2021 Act.

SECTION 5. (1) Sections 1 to 4 of this 2021 Act become operative January 1, 2022.

(2) The Department of Transportation and the Oregon Broadband Office may adopt rules or take any actions before the operative date specified in subsection (1) of this section that are necessary to enable the department or the office, on and after the operative date specified in subsection (1) of this section, to carry out the provisions of sections 1 to 4 of this 2021 Act.

SECTION 6. Notwithstanding any other law limiting expenditures, the limitation on expenditures established by section 2 (7), chapter _____, Oregon Laws 2021 (Enrolled Senate

Bill 5542), for the biennium beginning July 1, 2021, as the maximum limit for payment of expenses from fees, moneys or other revenues, including Miscellaneous Receipts and federal funds received as reimbursement from the United States Department of Transportation, but excluding lottery funds and federal funds not described in section 2, chapter _____, Oregon Laws 2021 (Enrolled Senate Bill 5542), collected or received by the Department of Transportation, for special programs, is increased by \$183,314 for coordination of broadband installation with transportation projects.

SECTION 7. This 2021 Act takes effect on the 91st day after the date on which the 2021 regular session of the Eighty-first Legislative Assembly adjourns sine die.

Passed by House June 17, 2021

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Timothy G. Sekerak, Chief Clerk of House

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Tina Kotek, Speaker of House

Passed by Senate June 22, 2021

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Peter Courtney, President of Senate

Received by Governor:

.....M.,....., 2021

Approved:

.....M.,....., 2021

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Kate Brown, Governor

Filed in Office of Secretary of State:

.....M.,....., 2021

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Shemia Fagan, Secretary of State