

# House Bill 2411

Sponsored by Representative MARSH, Senator BEYER (Presession filed.)

## 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 **as introduced**.

Requires notifications and process for allowing interested telecommunications providers to coordinate with Department of Transportation to include installation of underground infrastructure for provision of broadband as part of certain projects included in Statewide Transportation Improvement Program.

Becomes operative January 1, 2022.

Takes effect on 91st day following adjournment sine die.

## A BILL FOR AN ACT

1 Relating to telecommunications; and prescribing an effective date.

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

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

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

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

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

13 (4) **"Telecommunications provider" means any person that is capable of providing**  
14 **broadband and communications services including, but not limited to, a telecommunications**  
15 **utility as defined in ORS 759.005, a competitive telecommunications provider as defined in**  
16 **ORS 759.005, a cable television provider or an interstate telecommunications provider.**

17 (5) **"Underground utility infrastructure" means any underground wires, cables, conduits,**  
18 **switches, transmission equipment or other equipment for use in transmitting or processing**  
19 **broadband services or for providing support or connections to such equipment.**

20 **SECTION 2. (1) The Oregon Broadband Office within the Oregon Business Development**  
21 **Department shall develop and maintain a registry of telecommunications providers in this**  
22 **state.**

23 (2) **The Department of Transportation, in consultation with the Oregon Broadband Office,**  
24 **shall by rule identify potential projects included in the Statewide Transportation Improve-**  
25 **ment Program for which notification under subsection (3) of this section is required. Poten-**  
26 **tial projects eligible for identification under this subsection:**

27 (a) **Must, except as otherwise provided in paragraph (b) of this subsection, include**  
28 **projects that involve the construction of underground utility infrastructure, road con-**  
29

**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 **struction, road resurfacing or other work that will result in longitudinal trenching spanning**  
 2 **a minimum length to be determined by the department by rule and that could reasonably**  
 3 **include, or prepare for, the installation of broadband conduit; and**

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

6 **(3) No less than twice each year, or more often upon mutual agreement between the de-**  
 7 **partment and the Oregon Broadband Office, the department shall notify the office of projects**  
 8 **identified under subsection (2) of this section for which coordination with telecommuni-**  
 9 **cations providers may be suitable.**

10 **(4) Upon receipt of a notification for a project under subsection (3) of this section, the**  
 11 **office shall:**

12 **(a) Notify all telecommunications providers on the registry established under subsection**  
 13 **(1) of this section of the project and the opportunity to coordinate with the department to**  
 14 **modify the project to accommodate installation of underground utility infrastructure; and**

15 **(b) Provide each telecommunications provider that receives a notice under paragraph (a)**  
 16 **of this subsection no less than 30 days from the date the notice is issued to submit to the**  
 17 **office a statement of interest to coordinate with the department.**

18 **(5) The office shall advance all statements of interest received under subsection (4)(b)**  
 19 **of this section to the department no later than 45 days after the office provides notice to**  
 20 **telecommunications providers under subsection (4)(a) of this section.**

21 **(6) This section does not require the department to provide notice of an opportunity to**  
 22 **coordinate for the installation of underground utility infrastructure directly to any telecom-**  
 23 **munications provider, other utility or any other entity other than the office.**

24 **SECTION 3. (1) For each project for which the Department of Transportation provided**  
 25 **notice to the Oregon Broadband Office under section 2 (3) of this 2021 Act, the department**  
 26 **shall engage with each telecommunications provider that submitted a statement of interest**  
 27 **under section 2 (4)(b) of this 2021 Act to determine whether the project scope should be**  
 28 **modified to accommodate installation of underground utility infrastructure and to accom-**  
 29 **plish such modifications, where appropriate.**

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

33 **(a) Procedures for processing and reviewing statements of interest received from tele-**  
 34 **communications providers by the department;**

35 **(b) Criteria for determining whether the scope of a project should be modified to ac-**  
 36 **commodate installation of underground utility infrastructure;**

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

39 **(d) Protest procedures.**

40 **(3) The department shall make the final determination of the suitability of modifying a**  
 41 **project to include installation of underground utility infrastructure, and may prescribe any**  
 42 **conditions, requirements, restrictions or other provisions related to the modifications the**  
 43 **department deems necessary. Conditions, requirements, restrictions or provisions prescribed**  
 44 **under this subsection may include, but need not be limited to, liability provisions, require-**  
 45 **ments related to the financial responsibilities for future relocation of underground utility**

1 **infrastructure if relocation is necessary, indemnification provisions and penalties for failure**  
2 **to comply with the terms of a modification agreement.**

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

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

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

11 **SECTION 6. This 2021 Act takes effect on the 91st day after the date on which the 2021**  
12 **regular session of the Eighty-first Legislative Assembly adjourns sine die.**

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