

Enrolled
House Bill 2603

Sponsored by Representative GOMBERG (Presession filed.)

CHAPTER

AN ACT

Relating to undersea cables; and prescribing an effective date.

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

SECTION 1. (1) As used in this section, “undersea cable” includes a cable used to conduct electricity or light that is placed on state-owned submerged or submersible lands within the territorial sea and any facilities associated with the cable.

(2) An applicant for an easement to place an undersea cable within the territorial sea shall 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. The amount of financial assurance required under this subsection shall be an amount determined by the Department of State Lands to be sufficient based on the scale of the project.

(3) At least 180 days before decommissioning an undersea cable, the owner or operator of the undersea cable shall submit to the department for approval a decommissioning plan that includes:

(a) 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 a natural condition;

(b) A detailed description of and proposed schedule for the decommissioning and restoration work, including any corrective action that may be required under the easement;

(c) A detailed description of segments of bore pipe and undersea cable proposed to be left in place to avoid or minimize impacts to aquatic resources; and

(d) A proposed form of financial assurance in an amount equal to the cost estimate under paragraph (a) of this subsection.

(4) Within 30 days of receiving a decommissioning plan under subsection (3) of this section, the department shall approve the plan or request revisions to the plan or additional information. If, after receiving revisions to the decommissioning plan or additional information, the department rejects the plan, the owner or operator of the undersea cable must within 90 days submit to the department an application for an easement for the encroachment created by the undersea cable.

(5) The owner or operator of an undersea cable may not begin decommissioning and restoration work unless:

(a) The department has approved a decommissioning plan under subsection (4) of this section;

(b) The owner or operator has acquired the financial assurance required under subsection (3) of this section; and

(c) The owner or operator has provided to the department notice that the work will begin at least 60 days prior to beginning the work.

(6) The financial assurance requirements established by subsections (2) and (3) of this section may be satisfied by furnishing a financial assurance instrument that is:

(a) A surety bond, cash deposit or certificate of deposit; and

(b) In the name of the State of Oregon.

SECTION 2. (1) The Department of Land Conservation and Development, in consultation with the Department of State Lands and relevant local governments and tribal governments, shall review the part of the Territorial Sea Plan that addresses the placement of cables, pipelines and other utilities in the territorial sea. The review must 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. The Department of Land Conservation and Development shall provide the results of the review to the Ocean Policy Advisory Council.

(2) The Ocean Policy Advisory Council shall develop recommendations for amendments to the part of the Territorial Sea Plan that addresses the placement of cables, pipelines and other utilities in the territorial sea. In developing recommendations, the council shall consider the review provided to the council under subsection (1) of this section and evaluate:

(a) A coordinated permitting process for the placement of undersea cables that allows for coordination between appropriate state agencies, tribal governments and local governments.

(b) Suitable landing sites, including a mapping analysis of opportunities, limitations and requirements for landing sites.

(c) The impact of other state agencies, laws, zoning requirements or statewide planning goals on potential undersea cable sites.

(d) Changes to fees structures and financing associated with administrative costs and the protection and management of the territorial sea and ocean shore.

(e) Requirements for public information meetings or other methods for engaging communities, tribal governments, ocean users and industries affected by a proposed undersea cable.

(f) The impact of drilling on biological resources, including migratory species, and on resources that are of economic, aesthetic, recreational, social or historic importance to the people of this state.

(g) An application process that may include:

(A) A needs analysis that takes into account the socioeconomic and environmental needs of the area;

(B) A geological study conducted by a registered professional geologist experienced in coastal processes;

(C) Consultation with Oregon sea floor experts, such as an expert affiliated with an Oregon university; and

(D) A detailed drilling, mitigation and accident response plan.

(h) Requirements for interagency preapplication process meetings.

(i) Standards for undersea cables in the States of California and Washington.

(j) Coordination with tribal governments on potential impacts of undersea cables on cultural and traditional resources.

(3) The council may consult with any of the following state agencies when developing recommendations for amendments under this section:

(a) The State Parks and Recreation Department;

(b) The Department of Environmental Quality;

(c) The State Department of Fish and Wildlife;

- (d) The State Department of Geology and Mineral Industries; or
- (e) Any other state agency with relevant expertise.

SECTION 3. The Ocean Policy Advisory Council shall develop recommendations for amendments to the Territorial Sea Plan under section 2 of this 2021 Act no later than two years after the effective date of this 2021 Act.

SECTION 4. Sections 2 and 3 of this 2021 Act are repealed on January 2, 2024.

SECTION 5. (1) Section 1 of this 2021 Act becomes operative on January 1, 2022.

(2) The Department of State Lands may take any action before the operative date specified in subsection (1) of this section that is necessary for the department to exercise, on and after the operative date specified in subsection (1) of this section, all of the duties, functions and powers conferred on the department by section 1 of this 2021 Act.

SECTION 6. Notwithstanding any other provision of law, the General Fund appropriation made to the Department of Land Conservation and Development by section 1 (1), chapter _____, Oregon Laws 2021 (Enrolled Senate Bill 5530), for the biennium beginning July 1, 2021, is increased by \$497,081 for the implementation of section 2 of this 2021 Act.

SECTION 7. Notwithstanding any other law limiting expenditures, the amount of \$196,176 is established, for the biennium beginning July 1, 2021, as the maximum limit for payment of expenses from fees, moneys or other revenues, including Miscellaneous Receipts, but excluding lottery funds, federal funds and funds described in section 2, chapter _____, Oregon Laws 2021 (Enrolled Senate Bill 5539), collected or received by the Department of State Lands, for the implementation of section 2 of this 2021 Act.

SECTION 8. 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 25, 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 26, 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