

Requested by Representative GOMBERG

**PROPOSED AMENDMENTS TO
HOUSE BILL 2603**

1 On page 1 of the printed bill, delete lines 5 through 29 and on page 2,
2 delete lines 1 through 23 and insert:

3 **“SECTION 1. (1) As used in this section:**

4 **“(a) ‘Cost estimate report’ means a report that describes the esti-**
5 **imated costs of carrying out the activities described in subsection (2)**
6 **of this section and that is:**

7 **“(A) Prepared by a person qualified by experience and knowledge**
8 **to prepare such a report;**

9 **“(B) Updated according to a regular schedule; and**

10 **“(C) Prepared according to standards established by the Director**
11 **of the Department of State Lands by rule.**

12 **“(b) ‘Undersea cable’ means a cable used to conduct electricity or**
13 **light placed on state-owned submerged or submersible lands within the**
14 **territorial sea.**

15 **“(2)(a) An owner or operator of an undersea cable shall maintain a**
16 **cost estimate report and provide financial assurance for:**

17 **“(A) The costs of removing the undersea cable after the termination**
18 **of the use of the undersea cable or the expiration of the easement**
19 **authorizing the placement of the undersea cable; and**

20 **“(B) The anticipated costs of any corrective action required to be**
21 **taken along the cable route or at the associated landing site.**

1 **“(b) Prior to and during the installation of an undersea cable, an**
2 **owner or operator of an undersea cable shall maintain a cost estimate**
3 **report and provide financial assurance for:**

4 **“(A) The costs of removing the undersea cable and drilling equip-**
5 **ment or conducting drilling fluid release mitigation after an inadvert-**
6 **ent drilling fluid release or drilling accident; and**

7 **“(B) The anticipated costs of any corrective action required to be**
8 **taken along the cable route or at the associated landing site during**
9 **installation.**

10 **“(3)(a) Except as provided in paragraph (b) of this subsection, the**
11 **financial assurance requirements established by subsection (2) of this**
12 **section may be satisfied by any one, or a combination, of the follow-**
13 **ing:**

14 **“(A) Insurance;**

15 **“(B) Establishment of a trust fund;**

16 **“(C) A surety bond; or**

17 **“(D) A letter of credit.**

18 **“(b) Financial assurance during the installation of the undersea**
19 **cable must include a surety bond in an amount acceptable to the di-**
20 **rector.**

21 **“(4) An owner or operator shall establish provisions satisfactory to**
22 **the director for disposing of any excess moneys received or interest**
23 **earned on money received for financial assurance.**

24 **“(5)(a) An undersea cable easement application must include:**

25 **“(A) Information regarding the anticipated useful life of the**
26 **undersea cable;**

27 **“(B) A cost estimate report that describes the estimated costs of**
28 **carrying out the activities described in subsection (2) of this section;**

29 **“(C) Evidence that the owner or operator has acquired and will**
30 **maintain the financial assurances required by subsection (2) of this**

1 **section; and**

2 **“(D) Any other information required by the director by rule.**

3 **“(b)(A) If the application described in paragraph (a) of this sub-**
4 **section is approved, the owner or operator of the undersea cable must**
5 **update the application with the Department of State Lands every five**
6 **years.**

7 **“(B) If the department determines that the information contained**
8 **in an updated application does not meet the requirements of this**
9 **subsection, the department may require the owner or operator to re-**
10 **vis the updated application to meet the requirements of this sub-**
11 **section.**

12 **“(6)(a) Except as provided in paragraph (b) of this subsection, an**
13 **owner or operator of an undersea cable must initiate removal of all**
14 **equipment and facilities related to the undersea cable within 12**
15 **months after the permanent termination of use of the undersea cable**
16 **or the expiration of the easement authorizing placement of the**
17 **undersea cable.**

18 **“(b)(A) The director may require the owner or operator of an**
19 **undersea cable to take other actions established by the director by rule**
20 **if the director determines that removal of an undersea cable:**

21 **“(i) Would result in greater harm to the environment or to public**
22 **interests than leaving the cable in place; or**

23 **“(ii) Is not permitted by the applicable requirements of a federal**
24 **regulatory agency.**

25 **“(B) Prior to the removal of an undersea cable, the director may**
26 **require, or an owner or operator may voluntarily provide, a study or**
27 **evaluation of the risks of harm associated with the removal of an**
28 **undersea cable.**

29 **“(c)(A) All undersea cable, equipment and facilities required to be**
30 **removed under paragraph (a) of this subsection must be removed**

1 **within two years after the permanent termination of the use of the**
2 **undersea cable or the expiration of the easement.**

3 **“(B) The director may extend the deadline under subparagraph (A)**
4 **of this paragraph if the owner or operator of the cable can show good**
5 **cause and has undertaken a good faith effort to remove the undersea**
6 **cable.**

7 **“(7) In adopting rules to implement the provisions of this section,**
8 **the director may specify policy or other contractual terms, conditions**
9 **or defenses necessary to ensure that an owner or operator maintains**
10 **an adequate level of financial assurance.”.**

11 On page 2, delete lines 38 through 45 and delete page 3 and insert:

12 **“SECTION 3.** ORS 274.994 is amended to read:

13 **“274.994. (1) The Director of the Department of State Lands shall adopt**
14 **by rule the amount of civil penalty that may be imposed for a particular vi-**
15 **olation of ORS 274.040, 274.873 or 274.879.**

16 **“(2) In imposing a penalty under the schedule adopted under subsection**
17 **(1) of this section, the director shall consider the following factors:**

18 **“(a) The past history of the person incurring a penalty in taking all fea-**
19 **sible steps or procedures necessary or appropriate to correct any violation.**

20 **“(b) Any prior violations of statutes, rules, orders and leases pertaining**
21 **to submerged and submersible lands.**

22 **“(c) The impact of the violation on public interests [*in fishery, navigation***
23 ***and recreation*].**

24 **“(d) Any other factors determined by the director to be relevant and**
25 **consistent with the policy of ORS 274.040, 274.873 or 274.879.**

26 **“(3) The penalty imposed under this section may be remitted or mitigated**
27 **upon such terms and conditions as the director determines to be proper and**
28 **consistent with the policy of ORS 274.040, 274.873 or 274.879. Upon the re-**
29 **quest of the person incurring the penalty, the director shall consider evi-**
30 **dence of the economic and financial condition of the person in determining**

1 whether a penalty shall be remitted or mitigated.

2 **“SECTION 4.** ORS 274.994, as amended by section 3 of this 2021 Act, is
3 amended to read:

4 “274.994. (1) The Director of the Department of State Lands shall adopt
5 by rule the amount of civil penalty that may be imposed for a particular vi-
6 olation of ORS 274.040, 274.873 or 274.879 **or section 1 of this 2021 Act.**

7 “(2) In imposing a penalty under the schedule adopted under subsection
8 (1) of this section, the director shall consider the following factors:

9 “(a) The past history of the person incurring a penalty in taking all fea-
10 sible steps or procedures necessary or appropriate to correct any violation.

11 “(b) Any prior violations of statutes, rules, orders and leases pertaining
12 to submerged and submersible lands.

13 “(c) The impact of the violation on public interests.

14 “(d) Any other factors determined by the director to be relevant and
15 consistent with the policy of ORS 274.040, 274.873 or 274.879 **or section 1**
16 **of this 2021 Act.**

17 “(3) The penalty imposed under this section may be remitted or mitigated
18 upon such terms and conditions as the director determines to be proper and
19 consistent with the policy of ORS 274.040, 274.873 or 274.879 **or section 1**
20 **of this 2021 Act.** Upon the request of the person incurring the penalty, the
21 director shall consider evidence of the economic and financial condition of
22 the person in determining whether a penalty shall be remitted or mitigated.

23 **“SECTION 5. (1) The Department of State Lands and the Depart-**
24 **ment of Land Conservation and Development shall jointly study the**
25 **fee structure and state and federal review processes, including per-**
26 **mitting processes, for the placement of undersea cables on state-owned**
27 **submerged or submersible land within the territorial sea and under the**
28 **ocean shore, and the siting of associated landing sites. The Depart-**
29 **ment of State Lands and the Department of Land Conservation and**
30 **Development shall consult with the State Parks and Recreation De-**

1 department and any other relevant state agencies when conducting the
2 study.

3 “(2) The Department of Land Conservation and Development shall
4 lead the study with respect to:

5 “(a) A unified permitting process for the placement of undersea
6 cables that allows for coordination between appropriate state agencies
7 and local governments;

8 “(b) A requirement that new landing sites be sited on state-owned
9 property, at existing landing sites or at suitable sites after mapping
10 and analysis; and

11 “(c) A review of zoning requirements or statewide planning goals
12 that impact the placement of undersea cables.

13 “(3) The Department of State Lands shall lead the study with re-
14 spect to:

15 “(a) Changes to fees structures and financing associated with ad-
16 ministrative costs and protection and management of the territorial
17 sea and ocean shore.

18 “(b) Requirements for public information meetings or other meth-
19 ods for engaging communities, tribal governments, ocean users and
20 industries affected by a proposed undersea cable.

21 “(c) An application process that may include:

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

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

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

28 “(D) A detailed drilling, mitigation and accident response plan; and

29 “(E) A study of the impact of the undersea cable on marine bi-
30 ological resources, including fisheries.

1 “(d) An analysis of other state agencies, laws or statewide planning
2 goals and their impact on potential undersea cable sites;

3 “(e) Requirements for interagency preapplication process meetings;
4 and

5 “(f) Standards for undersea cables in the states of California and
6 Washington.

7 “(4) The Department of State Lands and the Department of Land
8 Conservation and Development shall report the results of the study
9 and make recommendations for legislation to the interim committees
10 of the Legislative Assembly related to the environment, in the manner
11 provided in ORS 192.245, no later than September 15, 2022.

12 “SECTION 6. Section 5 of this 2021 Act is repealed on January 2,
13 2023.

14 “SECTION 7. Section 1 of this 2021 Act and the amendments to ORS
15 274.992 and 274.994 by sections 2 and 4 of this 2021 Act apply to au-
16 thorizations for undersea cables issued on or after January 1, 2022.

17 “SECTION 8. (1) Section 1 of this 2021 Act and the amendments to
18 ORS 274.992 and 274.994 by sections 2 and 4 of this 2021 Act become
19 operative on January 1, 2022.

20 “(2) The Department of State Lands may take any action before the
21 operative date specified in subsection (1) of this section that is neces-
22 sary for the department to exercise, on and after the operative date
23 specified in subsection (1) of this section, all of the duties, functions
24 and powers conferred on the department by section 1 of this 2021 Act
25 and the amendments to ORS 274.992 and 274.994 by sections 2 and 4 of
26 this 2021 Act.

27 “SECTION 9. This 2021 Act takes effect on the 91st day after the
28 date on which the 2021 regular session of the Eighty-first Legislative
29 Assembly adjourns sine die.”.

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