



February 3, 2021

House Committee on Economic Recovery and Prosperity
Oregon State Capitol
900 Court Se. NE
Salem, OR 97301

RE: Support for Adoption of the -1 Amendment of HB 2654

Dear Chair Lively and members of the committee,

The deployment of broadband throughout Oregon is critical to economic development, education, health and safety. Broadband connectivity has become increasingly critical during the COVID-19 pandemic to participate in everyday life. HB 2654 aims to find a solution to bridge the digital divide in hard to connect places, by leveraging existing electric utility easements. Unfortunately, HB 2654 as introduced could have unintended consequences on current franchise agreements and right-of-way ordinances in cities.

Cities sometimes grant easements on public property to utilities or include public easements in their definitions of rights-of-way in local laws. Franchise agreements and right-of-way ordinances provide the terms in which cities allow access to easements and provide the terms for which cities are compensated for their management of the public rights-of-ways in their jurisdiction. Right-of-way fees/franchise fees are in some cities the second largest revenue source. Just as many other sectors are struggling with revenue shortfalls brought on by the COVID-19 pandemic, cities are no different, and they would not like to see this crucial source of revenue impacted as well. Under the bill as introduced, a property owner (public or private) would have to sue within 18-months of the easement expansion for compensation from the electric utility and would not be able to cover attorney fees. Constantly suing for compensation that is already rightfully owed and agreed to at the local level would be an incredible financial burden on cities.

We believe that the intent of this bill was not to target easements granted by cities to electric utilities, because there are already local processes in place that could allow electric utilities to provide broadband in existing easements. The LOC has worked on -1 amendment to mitigate unintended consequences. The -1 amendment does two things:

1. Stops the automatic authority to expand existing electric easements to include provisions of broadband service if the easement is granted by cities. The language in the amendment does not preempt a city from allowing an electric utility from providing broadband service in an easement that is granted on city property. A city could still allow an electric utility to

expand the use of their easement to provide broadband through another authorization at the local level.

2. Strengthens the notice requirement for the property owner's benefit.

The League of Oregon cities urges the committee to adopt the -1 amendment of HB 2654.

Respectfully,

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