

A-Engrossed Senate Bill 136

Ordered by the Senate May 17
Including Senate Amendments dated May 17

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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.

Establishes Oregon Wireless Interoperability Network Department. Transfers State Interoperability Executive Council and duties, functions and powers related to council from Office of Emergency Management to department. Establishes executive committee of council to direct activities of department.

Allows executive committee to authorize access to and use of Oregon Wireless Interoperability Network by state, local, tribal and federal agencies and private entities that have qualifying public safety mission or purpose.

Establishes Oregon Wireless Interoperability Network Fund. Continuously appropriates moneys in fund to department for certain biennial expenses.

Appropriates moneys to department for purposes of network.

Limits biennial expenditures, fees, moneys or other revenues, including Miscellaneous Receipts, but excluding lottery revenues and federal funds, collected or received by department.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to Oregon Wireless Interoperability Network; creating new provisions; amending ORS
3 401.871, 401.872 and 401.874; appropriating money; limiting expenditures; and declaring an
4 emergency.

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

6 7 OREGON WIRELESS INTEROPERABILITY 8 NETWORK DEPARTMENT 9

10 **SECTION 1. (1) The Oregon Wireless Interoperability Network Department is established**
11 **to:**

12 **(a) Provide statewide wireless public safety communications services for the primary**
13 **benefit and use of state, local, tribal and federal public safety agencies; and**

14 **(b) Enhance the protection of Oregonians and their property by improving the interoper-**
15 **ability of wireless public safety communications.**

16 **(2) The department shall establish, operate and maintain the Oregon Wireless Interop-**
17 **erability Network developed pursuant to the Oregon Interoperable Communication Plan de-**
18 **scribed in ORS 401.872 and 401.874.**

19 **(3) The department consists of the State Interoperability Executive Council, the Execu-**
20 **tive Committee of the State Interoperability Executive Council, the Director of the Oregon**

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 **Wireless Interoperability Network Department and their subordinate officers and employees.**

2
3 **TRANSFER OF STATE INTEROPERABILITY EXECUTIVE COUNCIL**

4
5 **SECTION 2.** (1) **The State Interoperability Executive Council established pursuant to ORS**
6 **401.871 is transferred from the Office of Emergency Management to the Oregon Wireless**
7 **Interoperability Network Department established under section 1 of this 2007 Act.**

8 (2) **Members serving on the council prior to the operative date of this section continue**
9 **in office. Notwithstanding the term of office specified in ORS 401.871 (3), on the operative**
10 **date of this section, the members serving are deemed to begin new terms of office as follows:**

11 (a) **Members serving under ORS 401.871 (1)(b)(A) to (C) and (c)(A) and (B) serve for four**
12 **years.**

13 (b) **Members serving under ORS 401.871 (1)(b)(D) to (F) and (c)(C) and (D) serve for three**
14 **years.**

15 (c) **Members serving under ORS 401.871 (1)(b)(G) to (I) and (c)(E) and (F) serve for two**
16 **years.**

17 (d) **Members serving under ORS 401.871 (1)(a) and (b)(J) to (L) serve for one year.**

18 (3) **On the operative date of this section, the duties, functions and powers of the office**
19 **with respect to the council are imposed upon, transferred to and vested in the department.**

20
21 **EXECUTIVE COMMITTEE OF THE STATE**
22 **INTEROPERABILITY EXECUTIVE COUNCIL**

23
24 **SECTION 3.** (1) **There is established the Executive Committee of the State Interoperability**
25 **Executive Council, consisting of the chairperson of the State Interoperability Executive**
26 **Council and six additional members of the council selected, subject to subsection (2) of this**
27 **section, as determined by rule of the council.**

28 (2) **Three members of the executive committee must be employed by or representatives**
29 **of agencies of the State of Oregon. Four members of the executive committee must not be**
30 **employed by or representatives of agencies of the State of Oregon.**

31 (3) **The council may provide by rule for representatives of the federal government to**
32 **serve as nonvoting advisory members of the executive committee.**

33 (4) **The executive committee shall:**

34 (a) **Direct the performance of the functions of the Oregon Wireless Interoperability**
35 **Network Department, the Director of the Oregon Wireless Interoperability Network De-**
36 **partment and the director's staff under this section and sections 1, 4, 5 and 6 of this 2007**
37 **Act and ORS 401.871, 401.872 and 401.874.**

38 (b) **Authorize and control access to the Oregon Wireless Interoperability Network, sub-**
39 **ject to section 12 of this 2007 Act.**

40 (c) **Establish fees for access to the Oregon Wireless Interoperability Network by various**
41 **categories of users of or subscribers to the network. Fees must be based on a funding for-**
42 **mula calculated to recover the costs of establishing, operating and maintaining the network.**

43 (d) **Oversee department budget requests to the Governor.**

44 (e) **Evaluate annually the performance of the director.**

45 (f) **In accordance with applicable provisions of ORS chapter 183, adopt rules that are**

1 necessary or appropriate for the performance of the duties imposed upon the executive
2 committee and the department.

3
4 **DIRECTOR**

5
6 **SECTION 4.** (1) The Oregon Wireless Interoperability Network Department is under the
7 supervision and control of a director, who is responsible to the Executive Committee of the
8 State Interoperability Executive Council for the performance of the duties, functions and
9 powers of the department.

10 (2) The Governor shall appoint the Director of the Oregon Wireless Interoperability
11 Network Department from a list of three candidates recommended by the executive com-
12 mittee, and the director holds office at the pleasure of the Governor.

13 (3) The director shall be paid a salary as provided by law or, if not so provided, as pre-
14 scribed by the executive committee.

15 (4) For purposes of administration, subject to the approval of the executive committee,
16 the director may:

17 (a) Establish one or more user service boards, in addition to the State Wireless
18 Infrastructure Investment Group established in section 6 of this 2007 Act, consisting of rep-
19 resentatives of state, local, tribal or federal agencies that provide infrastructure or repre-
20 sentatives of subscribers to the Oregon Wireless Interoperability Network, for the purpose
21 of advising the department on issues related to the network including, but not limited to,
22 infrastructure planning, technical capabilities and new technology, service quality, rates for
23 service and training;

24 (b) Organize and reorganize the department as the director considers necessary to
25 properly conduct the work of the department; and

26 (c) Adopt temporary rules pursuant to ORS 183.335 (5).

27 (5) The director may divide the functions of the department among administrative divi-
28 sions. Subject to the approval of the executive committee, the director may appoint an indi-
29 vidual to administer each division. The administrator of each division serves at the pleasure
30 of the director and is not subject to the provisions of ORS chapter 240. Each individual ap-
31 pointed under this subsection must be well qualified by technical training and experience in
32 the functions to be performed by the individual.

33
34 **EMPLOYEES**

35
36 **SECTION 5.** (1) The Director of the Oregon Wireless Interoperability Network Depart-
37 ment shall, by written order filed with the Secretary of State, appoint a deputy director. The
38 deputy director serves at the pleasure of the director, has authority to act for the director
39 in the absence of the director and is subject to the control of the director at all times.

40 (2) Subject to the applicable provisions of ORS chapter 240, the director may appoint
41 subordinate officers and employees of the department, prescribe their duties and fix their
42 compensation.

43
44 **OREGON WIRELESS INTEROPERABILITY**
45 **NETWORK USER SERVICE BOARDS**

1 **SECTION 6.** (1) The State Wireless Infrastructure Investment Group is established as a
2 user service board in the Oregon Wireless Interoperability Network Department. In addition
3 to representatives selected by the Governor pursuant to subsection (2) of this section, the
4 directors of the following state agencies, or their designees, shall represent the agencies:

- 5 (a) The Department of State Police.
- 6 (b) The Department of Transportation.
- 7 (c) The Office of Emergency Management.
- 8 (d) The State Forestry Department.
- 9 (e) The State Department of Fish and Wildlife.
- 10 (f) The Oregon Military Department.
- 11 (g) The Department of Corrections.
- 12 (h) The State Parks and Recreation Department.
- 13 (i) The Oregon Department of Administrative Services.

14 (2) The Governor may appoint additional representatives, who shall serve at the pleasure
15 of the Governor, for a term not to exceed four years.

16 (3) The infrastructure investment group shall advise the Oregon Wireless Interoperabi-
17 lity Network Department on:

- 18 (a) Compliance with federal and state communications requirements;
- 19 (b) Network planning, including mutual aid planning and compatibility planning;
- 20 (c) Coordination and cooperation in the development and operation of the Oregon
21 Wireless Interoperability Network, including user access issues;
- 22 (d) Assistance to local public safety agencies for equipment purchases; and
- 23 (e) Powers and duties granted to the Oregon Wireless Interoperability Network Depart-
24 ment.

25 (4) Representation on the infrastructure investment group does not prohibit a state
26 agency from having representation on other user service boards established pursuant to
27 section 4 of this 2007 Act.

28
29 **RECORDS, PROPERTY, EMPLOYEES**

30
31 **SECTION 7.** (1) The Director of the Office of Emergency Management shall:

32 (a) Deliver to the Director of the Oregon Wireless Interoperability Network Department
33 the records and property within the jurisdiction of the Director of the Office of Emergency
34 Management that relate to the State Interoperability Executive Council and the duties,
35 functions and powers transferred by section 2 of this 2007 Act; and

36 (b) Transfer to the Oregon Wireless Interoperability Network Department those em-
37 ployees engaged primarily in the exercise of the duties, functions and powers transferred by
38 section 2 of this 2007 Act.

39 (2) The Director of the Oregon Wireless Interoperability Network Department shall:

40 (a) Take possession of the records and property; and

41 (b) Take charge of the employees and employ them in the exercise of the duties, func-
42 tions and powers transferred by section 2 of this 2007 Act, without reduction of compensation
43 but subject to change or termination of employment or compensation as provided by law.

44 (3) The Governor shall resolve disputes between the Office of Emergency Management
45 and the Oregon Wireless Interoperability Network Department relating to transfers of re-

1 cords, property and employees under this section, and the Governor's decision is final.

2
3 **UNEXPENDED REVENUES**
4

5 **SECTION 8.** (1) The unexpended balances of amounts authorized to be expended by the
6 Office of Emergency Management for the biennium beginning July 1, 2007, from revenues
7 dedicated, continuously appropriated, appropriated or otherwise made available for the pur-
8 pose of administering and enforcing the duties, functions and powers transferred by section
9 2 of this 2007 Act are transferred to and are available for expenditure by the Oregon Wireless
10 Interoperability Network Department for the biennium beginning July 1, 2007, for the pur-
11 pose of administering and enforcing the duties, functions and powers transferred by section
12 2 of this 2007 Act.

13 (2) The expenditure classifications, if any, established by Acts authorizing or limiting
14 expenditures by the office remain applicable to expenditures by the department under this
15 section.

16
17 **ACTION, PROCEEDING, PROSECUTION**
18

19 **SECTION 9.** The transfer of duties, functions and powers to the Oregon Wireless Inter-
20 operability Network Department by section 2 of this 2007 Act does not affect an action, pro-
21 ceeding or prosecution involving or with respect to the duties, functions and powers begun
22 before and pending at the time of the transfer, except that the department is substituted for
23 the Office of Emergency Management in the action, proceeding or prosecution.

24
25 **LIABILITY, DUTY, OBLIGATION**
26

27 **SECTION 10.** (1) Nothing in sections 1 to 9 of this 2007 Act relieves a person of a liability,
28 duty or obligation accruing under or with respect to the duties, functions and powers
29 transferred by section 2 of this 2007 Act. The Oregon Wireless Interoperability Network De-
30 partment may undertake the collection or enforcement of the liability, duty or obligation.

31 (2) The rights and obligations of the Office of Emergency Management relating to the
32 duties, functions and powers transferred by section 2 of this 2007 Act and legally incurred
33 under contracts, leases and business transactions executed, entered into or begun before the
34 operative date of section 2 of this 2007 Act are transferred to the department. For the pur-
35 pose of succession to these rights and obligations, the department is a continuation of the
36 office and not a new authority.

37
38 **RULES**
39

40 **SECTION 11.** Notwithstanding the transfer of duties, functions and powers by section 2
41 of this 2007 Act, the rules of the State Interoperability Executive Council in effect on the
42 operative date of section 2 of this 2007 Act continue in effect until superseded, amended or
43 repealed by new rules of the council. References in rules of the council to the Office of
44 Emergency Management or an officer or employee of the office are considered to be refer-
45 ences to the Oregon Wireless Interoperability Network Department or an officer or employee

1 of the department.

2
3 NETWORK USER ACCESS
4

5 SECTION 12. (1) The Executive Committee of the State Interoperability Executive
6 Council may authorize access to and use of the Oregon Wireless Interoperable Network by
7 state, local, tribal and federal agencies and private entities that have a qualifying public
8 safety mission or purpose.

9 (2) The executive committee shall develop criteria for determining whether a state, local,
10 tribal or federal agency or private entity that has a qualifying public safety mission or pur-
11 pose may access and use the network.

12 (3) The executive committee may not prohibit an agency or entity that is not a state
13 agency from using the agency’s or entity’s own public safety voice or data communications
14 system. A state agency that utilizes a voice or data wireless communications system must
15 use the network.

16 (4) A state, local, tribal or federal agency or a private entity that has a qualifying public
17 safety mission or purpose must enter into a user agreement satisfactory to the executive
18 committee before obtaining access to the network.

19 (5) The Oregon Wireless Interoperability Network Department may not charge an agency
20 or entity identified in subsection (1) of this section for access to or use of interoperable
21 communications facilities of the network that are accessed or used to provide mutual aid.

22
23 NETWORK FUND
24

25 SECTION 13. (1) The Oregon Wireless Interoperability Network Fund is established sep-
26 arate and distinct from the General Fund. Interest earned by moneys in the Oregon
27 Wireless Interoperability Network Fund shall be credited to the fund. The moneys in the
28 Oregon Wireless Interoperability Network Fund are continuously appropriated to the Oregon
29 Wireless Interoperability Network Department for the purposes described in subsection (2)
30 of this section.

31 (2) The fund shall consist of moneys received by the department for operations of the
32 department and for construction and operation of the Oregon Wireless Interoperability Net-
33 work, including but not limited to fees, charges and other moneys, including federal funds,
34 gifts and contributions.

35 (3) The department shall deposit all moneys received by the department in the fund.
36

37 AGENCY NAME CHANGE
38

39 SECTION 14. (1) For the purpose of harmonizing and clarifying statute sections published
40 in Oregon Revised Statutes, the Legislative Counsel may substitute for words designating the
41 “Office of Emergency Management” or its officers, wherever they occur in Oregon Revised
42 Statutes in reference to a duty, function or power transferred pursuant to section 2 of this
43 2007 Act, words designating the “Oregon Wireless Interoperability Network Department” or
44 its officers.

45 (2) For the purpose of harmonizing and clarifying statute sections published in Oregon

1 **Revised Statutes, the Legislative Counsel may substitute for words designating the “Director**
2 **of the Office of Emergency Management” in reference to a duty, function or power trans-**
3 **ferred pursuant to section 2 of this 2007 Act, wherever they occur in Oregon Revised Stat-**
4 **utes, other words designating the “Director of the Oregon Wireless Interoperability Network**
5 **Department.”**

6
7 **APPROPRIATION; EXPENDITURE LIMITATION**

8
9 **SECTION 14a. There is appropriated to the Oregon Wireless Interoperability Network**
10 **Department, for the biennium beginning July 1, 2007, out of the General Fund, the amount**
11 **of \$_____ for the purpose of carrying out the provisions of sections 1 to 12 of this 2007 Act**
12 **and the amendments to ORS 401.871, 401.872 and 401.874 by sections 15 to 17 of this 2007 Act.**

13 **SECTION 14b. Notwithstanding any other law limiting expenditures, the amount of**
14 **\$_____ is established for the biennium beginning July 1, 2007, as the maximum limit for**
15 **payment of expenses from fees, moneys or other revenues, including Miscellaneous Receipts,**
16 **but excluding lottery funds and federal funds, collected or received by the Oregon Wireless**
17 **Interoperability Network Department.**

18
19 **CONFORMING AMENDMENTS**

20
21 **SECTION 15. ORS 401.871 is amended to read:**

22 401.871. (1) The State Interoperability Executive Council is created within the [*Office of Emer-*
23 *gency Management*] **Oregon Wireless Interoperability Network Department.** The membership of
24 the council shall consist of:

25 (a) Two members from the Legislative Assembly, as follows:

26 (A) The President of the Senate shall appoint one member from the Senate with an interest in
27 **wireless** public safety communications infrastructure; and

28 (B) The Speaker of the House of Representatives shall appoint one member from the House of
29 Representatives with an interest in **wireless** public safety [*and wireless*] communications
30 infrastructure.

31 (b) The following members appointed by the Governor:

32 (A) One member from the Department of State Police;

33 (B) One member from the Office of Emergency Management;

34 (C) One member from the State Forestry Department;

35 (D) One member from the Department of Corrections;

36 (E) One member from the Department of Transportation;

37 (F) One member from the Oregon Department of Administrative Services;

38 (G) One member from the Department of Human Services;

39 (H) One member from the Oregon Military Department;

40 (I) One member from the Department of Public Safety Standards and Training;

41 (J) One member of an Indian tribe as defined in ORS 97.740;

42 (K) One member from a nonprofit professional organization devoted to the enhancement of
43 **wireless** public safety communications systems; and

44 (L) One member from the public.

45 (c) The following members appointed by the Governor with the concurrence of the President of

1 the Senate and the Speaker of the House of Representatives:

2 (A) One member from the Oregon Fire Chiefs' Association;

3 (B) One member from the Oregon Association Chiefs of Police;

4 (C) One member from the Oregon State Sheriffs' Association;

5 (D) One member from the Association of Oregon Counties;

6 (E) One member from the League of Oregon Cities; and

7 (F) One member from the Special Districts Association of Oregon.

8 **(2) Members of the council shall select a chairperson from among the members appointed**
9 **pursuant to subsection (1)(b) and (c) of this section.**

10 **(3) The term of office of each member is four years, but a member serves at the pleasure**
11 **of the member's appointing authority. Before the expiration of the term of a member, the**
12 **member's appointing authority shall appoint a successor. A member is eligible for reap-**
13 **pointment. If there is a vacancy for any cause, the member's appointing authority shall**
14 **make an appointment to become immediately effective for the unexpired term.**

15 [(2)] (4) Each agency or organization identified in subsection (1)(b)(A) to (I) and (1)(c) of this
16 section shall recommend a person from the agency or organization for membership on the council.

17 [(3)] (5) Members of the council are not entitled to compensation, but in the discretion of the
18 Director of the [*Office of Emergency Management*] **Oregon Wireless Interoperability Network**
19 **Department** may be reimbursed from funds available to the [*Office of Emergency Management*] **de-**
20 **partment** for actual and necessary travel and other expenses incurred by them in the performance
21 of their official duties in the manner and amount provided in ORS 292.495.

22 [(4)] (6) Members of the Legislative Assembly appointed to the council are nonvoting members
23 and may act in an advisory capacity only.

24 **SECTION 16.** ORS 401.872 is amended to read:

25 401.872. The State Interoperability Executive Council created under ORS 401.871 shall:

26 (1) Work with public safety agencies in the state to develop a Public Safety Wireless
27 Infrastructure Replacement Plan as provided under section 2, chapter 825, Oregon Laws 2005.

28 (2) Develop an Oregon Interoperable Communication Plan. The goal of the plan shall be to
29 achieve statewide interoperability within six years of September 2, 2005. In developing the plan, the
30 council shall:

31 (a) Recommend strategies to improve wireless interoperability among state and local public
32 safety agencies;

33 (b) Develop standards to promote consistent development of existing and future wireless com-
34 munications infrastructures;

35 (c) Identify immediate short-term technological and policy solutions to tie existing wireless
36 communications infrastructures together into an interoperable communications system;

37 (d) Develop long-term technological and policy recommendations to establish a statewide
38 **wireless** public safety [*radio*] **communications** system to improve emergency response and day-to-
39 day public safety operations; and

40 (e) Develop recommendations for legislation and for the development of state and local policies
41 to promote wireless interoperability in Oregon.

42 (3) Approve[, *subject to approval by the Director of the Office of Emergency Management,*] invest-
43 ments by the State of Oregon in **wireless** public safety communications systems.

44 (4) Coordinate state and local activities related to obtaining federal grants for support of inter-
45 operability.

1 (5) Develop and provide technical assistance, training and, if requested, appropriate dispute re-
2 solution services to state and local agencies responsible for implementation of the Oregon Interop-
3 erable Communication Plan.

4 (6) Report, in the manner required by ORS 192.245, to the Legislative Assembly on or before
5 February 1 of each odd-numbered year on the development of the Oregon Interoperable Communi-
6 cation Plan and the council's other activities.

7 (7) Adopt rules necessary to carry out its duties and powers.

8 **SECTION 17.** ORS 401.874 is amended to read:

9 401.874. [(1) *The Director of the Office of Emergency Management shall advise the State Interop-*
10 *erability Executive Council on the implementation of the Oregon Interoperable Communication Plan*
11 *and coordinate interoperability among all state agencies.*]

12 [(2)] State agencies that own or operate **wireless** public safety communications systems shall
13 coordinate their efforts and investments to achieve the statewide interoperability goal set by the
14 **State Interoperability Executive** Council and implement the Oregon Interoperable Communication
15 Plan [*approved by the director*].

16
17 **UNIT CAPTIONS**

18
19 **SECTION 18.** **The unit captions used in this 2007 Act are provided only for the conven-**
20 **ience of the reader and do not become part of the statutory law of this state or express any**
21 **legislative intent in the enactment of this 2007 Act.**

22
23 **MISCELLANEOUS**

24
25 **SECTION 19.** **Whenever, in an uncodified law or a resolution of the Legislative Assembly**
26 **or in a rule, document, record or proceeding authorized by the Legislative Assembly, a ref-**
27 **erence that relates to a duty, function or power transferred pursuant to section 2 of this 2007**
28 **Act is made to the Office of Emergency Management, an officer or employee of the office**
29 **or the Director of the Office of Emergency Management, the reference is considered to be**
30 **a reference to the Oregon Wireless Interoperability Network Department, an officer or em-**
31 **ployee of the department or the Director of the Oregon Wireless Interoperability Network**
32 **Department, as appropriate.**

33 **SECTION 20.** **Sections 1 to 13 of this 2007 Act and the amendments to ORS 401.871,**
34 **401.872 and 401.874 by sections 15 to 17 of this 2007 Act become operative on the date the**
35 **Legislative Assembly appropriates moneys and makes expenditure limitations pursuant to**
36 **sections 14a and 14b of this 2007 Act for the operations of the Oregon Wireless Interoper-**
37 **ability Network Department established in section 1 of this 2007 Act.**

38 **SECTION 21.** **This 2007 Act being necessary for the immediate preservation of the public**
39 **peace, health and safety, an emergency is declared to exist, and this 2007 Act takes effect**
40 **on its passage.**