

A-Engrossed
Senate Bill 85

Ordered by the Senate March 28
Including Senate Amendments dated March 28

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Governor Theodore R. Kulongoski for Public Utility Commission)

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.

Makes public bodies providing electricity or communication services subject to utility attachment regulation.

Exempts public bodies from requirement to contract with utility for attachments under specified conditions. Establishes provisions relating to sanctions or penalties imposed by or upon people's utility districts regarding unauthorized or unsafe attachments to poles or facilities.

A BILL FOR AN ACT

1
2 Relating to utility attachments; creating new provisions; and amending ORS 757.270, 757.271 and
3 759.650.

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

5 **SECTION 1.** ORS 757.270 is amended to read:

6 757.270. As used in ORS 757.270 to 757.290, unless the context requires otherwise:

7 (1) "Attachment" means any wire or cable for the transmission of intelligence by telegraph,
8 telephone or television (including cable television), light waves, or other phenomena, or for the
9 transmission of electricity for light, heat or power, and any related device, apparatus, or auxiliary
10 equipment, installed upon any pole or in any telegraph, telephone, electrical, cable television or
11 communications right of way, duct, conduit, manhole or handhole or other similar facility or facili-
12 ties owned or controlled, in whole or in part, by one or more public utility, telecommunications
13 utility or consumer-owned utility.

14 (2) "Consumer-owned utility" means a people's utility district organized under ORS chapter 261,
15 a municipal utility organized under ORS chapter 225 or an electric cooperative organized under ORS
16 chapter 62.

17 (3) "Licensee" means any person[, *firm, corporation, partnership, company, association, joint stock*
18 *association or cooperatively organized association that is authorized to construct attachments upon,*
19 *along, under or across the public ways.*] **or public body that is authorized to construct attach-**
20 **ments upon, along, under or across the public ways and that has entered into a contract**
21 **under ORS 757.271 authorizing the person or public body to establish an attachment to a pole**
22 **or other facility of a utility.**

23 (4) "Public body" has the meaning given that term in ORS 174.109.

24 [(4)] (5) "Public utility" has the meaning for that term provided in ORS 757.005, and does not
25 include any entity cooperatively organized or owned by federal, state or local government, or a

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 subdivision of state or local government.

2 [(5)] (6) "Telecommunications utility" has the meaning for that term provided in ORS 759.005,
3 and does not include any entity cooperatively organized or owned by federal, state or local govern-
4 ment or a subdivision of state or local government.

5 **SECTION 2.** ORS 757.271 is amended to read:

6 757.271. (1) Subject to **subsection (2) of this section and** applicable regulations of the Public
7 Utility Commission, a person [*shall*] **or public body may** not establish an attachment to a pole or
8 other facility of a public utility, telecommunications utility or consumer-owned utility unless the
9 person **or public body** has executed a contract with and has authorization from the utility allowing
10 the attachment.

11 **(2) A public body is not required to execute a contract with a utility under subsection (1)**
12 **of this section for attachments made by the public body solely for the purpose of providing**
13 **services:**

14 (a) **For the public body's own use;**

15 (b) **For the use of another public body; or**

16 (c) **For public safety purposes for which no charge is made to any person.**

17 [(2)] (3) A licensee shall report all pole attachments to the pole owner. **Except as provided in**
18 **section 4 of this 2007 Act,** a pole owner may impose on a licensee a penalty charge for failing to
19 report an attachment.

20 (4) [*The*] **A** pole owner [*also*] may charge [*the*] a licensee for any expenses incurred as a result
21 of an unauthorized attachment or any attachment that [*exceeds*] **does not comply with** safety limits
22 established by rule of the commission.

23 **SECTION 3.** Section 4 of this 2007 Act is added to and made a part of ORS 757.270 to
24 **757.290.**

25 **SECTION 4.** (1) **Notwithstanding any other provision of law, a people's utility district may**
26 **not impose any penalty or sanction by reason of an attachment made by a person or public**
27 **body to a pole or other facility of the district. A people's utility district may require the**
28 **payment of actual expenses incurred by the district as a result of unauthorized attachments**
29 **to poles or facilities of the district or by reason of attachments that do not comply with**
30 **safety limits established by rule of the Public Utility Commission.**

31 **(2) Notwithstanding any other provision of law, a people's utility district may not be re-**
32 **quired to pay any penalty or sanction by reason of an attachment made by the district to a**
33 **pole or other facility of another utility. A people's utility district may be required to pay**
34 **actual expenses incurred by a utility as a result of unauthorized attachments by the district**
35 **to the other utility's poles or facilities or by reason of attachments made by the district to**
36 **the other utility's poles or facilities that do not comply with safety limits established by rule**
37 **of the Public Utility Commission.**

38 **SECTION 5.** ORS 759.650 is amended to read:

39 759.650. As used in ORS 759.650 to 759.675, unless the context requires otherwise:

40 (1) "Attachment" means any wire or cable for the transmission of intelligence by telegraph,
41 telephone or television (including cable television), light waves or other phenomena, or for the
42 transmission of electricity for light, heat or power, and any related device, apparatus or auxiliary
43 equipment, installed upon any pole or in any telegraph, telephone, electrical, cable television or
44 communications right of way, duct, conduit, manhole or handhole or other similar facility or facili-
45 ties owned or controlled, in whole or in part, by one or more public utility, telecommunications

1 utility or people's utility district.

2 (2) "Licensee" means any person[, *firm, corporation, partnership, company, association, joint stock*
3 *association or cooperatively organized association which is authorized to construct attachments upon,*
4 *along, under or across the public ways]* **or public body as defined in ORS 174.109 that is author-**
5 **ized to construct attachments upon, along, under or across the public ways and that has**
6 **entered into a contract under ORS 757.271 authorizing the person or public body to establish**
7 **an attachment to a pole or other facility of a utility.**

8 (3) "People's utility district" [*means any concern providing electricity organized pursuant to ORS*
9 *261.010 and includes any entity cooperatively organized or owned by federal, state or local government*
10 *or a subdivision of state or local government]* **has the meaning given that term in ORS 261.010.**

11 (4) "Public utility" has the meaning for that term provided in ORS 757.005, and does not include
12 any entity cooperatively organized or owned by federal, state or local government or a subdivision
13 of state or local government.

14 (5) "Telecommunications utility" means any telecommunications utility as defined in ORS
15 759.005 and does not include any entity cooperatively organized or owned by federal, state or local
16 government, or a subdivision of state or local government.

17 **SECTION 6. Section 4 of this 2007 Act and the amendments to ORS 757.270, 757.271 and**
18 **759.650 by sections 1, 2 and 5 of this 2007 Act become operative September 1, 2008.**

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