

SENATE AMENDMENTS TO SENATE BILL 85

By COMMITTEE ON BUSINESS, TRANSPORTATION AND WORKFORCE DEVELOPMENT

March 28

1 On page 1 of the printed bill, line 2, after the semicolon insert “creating new provisions; and”.

2 Delete lines 4 through 30 and delete page 2 and insert:

3 “**SECTION 1.** ORS 757.270 is amended to read:

4 “757.270. As used in ORS 757.270 to 757.290, unless the context requires otherwise:

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

12 “(2) ‘Consumer-owned utility’ means a people’s utility district organized under ORS chapter 261,
13 a municipal utility organized under ORS chapter 225 or an electric cooperative organized under ORS
14 chapter 62.

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

21 “(4) ‘Public body’ has the meaning given that term in ORS 174.109.

22 “[4] (5) ‘Public utility’ has the meaning for that term provided in ORS 757.005, and does not
23 include any entity cooperatively organized or owned by federal, state or local government, or a
24 subdivision of state or local government.

25 “[5] (6) ‘Telecommunications utility’ has the meaning for that term provided in ORS 759.005,
26 and does not include any entity cooperatively organized or owned by federal, state or local govern-
27 ment or a subdivision of state or local government.

28 “**SECTION 2.** ORS 757.271 is amended to read:

29 “757.271. (1) Subject to **subsection (2) of this section and** applicable regulations of the Public
30 Utility Commission, a person [*shall*] **or public body may** not establish an attachment to a pole or
31 other facility of a public utility, telecommunications utility or consumer-owned utility unless the
32 person **or public body** has executed a contract with and has authorization from the utility allowing
33 the attachment.

34 “(2) **A public body is not required to execute a contract with a utility under subsection**
35 **(1) of this section for attachments made by the public body solely for the purpose of provid-**

1 **ing services:**

2 **“(a) For the public body’s own use;**

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

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

5 **“(2) (3) A licensee shall report all pole attachments to the pole owner. Except as provided**
6 **in section 4 of this 2007 Act, a pole owner may impose on a licensee a penalty charge for failing**
7 **to report an attachment.**

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

11 **“SECTION 3. Section 4 of this 2007 Act is added to and made a part of ORS 757.270 to**
12 **757.290.**

13 **“SECTION 4. (1) Notwithstanding any other provision of law, a people’s utility district**
14 **may not impose any penalty or sanction by reason of an attachment made by a person or**
15 **public body to a pole or other facility of the district. A people’s utility district may require**
16 **the payment of actual expenses incurred by the district as a result of unauthorized attach-**
17 **ments to poles or facilities of the district or by reason of attachments that do not comply**
18 **with safety limits established by rule of the Public Utility Commission.**

19 **“(2) Notwithstanding any other provision of law, a people’s utility district may not be**
20 **required to pay any penalty or sanction by reason of an attachment made by the district to**
21 **a pole or other facility of another utility. A people’s utility district may be required to pay**
22 **actual expenses incurred by a utility as a result of unauthorized attachments by the district**
23 **to the other utility’s poles or facilities or by reason of attachments made by the district to**
24 **the other utility’s poles or facilities that do not comply with safety limits established by rule**
25 **of the Public Utility Commission.**

26 **“SECTION 5. ORS 759.650 is amended to read:**

27 **“759.650. As used in ORS 759.650 to 759.675, unless the context requires otherwise:**

28 **“(1) ‘Attachment’ means any wire or cable for the transmission of intelligence by telegraph,**
29 **telephone or television (including cable television), light waves or other phenomena, or for the**
30 **transmission of electricity for light, heat or power, and any related device, apparatus or auxiliary**
31 **equipment, installed upon any pole or in any telegraph, telephone, electrical, cable television or**
32 **communications right of way, duct, conduit, manhole or handhole or other similar facility or facili-**
33 **ties owned or controlled, in whole or in part, by one or more public utility, telecommunications**
34 **utility or people’s utility district.**

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

41 **“(3) ‘People’s utility district’ [means any concern providing electricity organized pursuant to ORS**
42 **261.010 and includes any entity cooperatively organized or owned by federal, state or local government**
43 **or a subdivision of state or local government] has the meaning given that term in ORS 261.010.**

44 **“(4) ‘Public utility’ has the meaning for that term provided in ORS 757.005, and does not include**
45 **any entity cooperatively organized or owned by federal, state or local government or a subdivision**

1 of state or local government.

2 “(5) ‘Telecommunications utility’ means any telecommunications utility as defined in ORS
3 759.005 and does not include any entity cooperatively organized or owned by federal, state or local
4 government, or a subdivision of state or local government.

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

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