

Senate Bill 665

Sponsored by Senator JOHNSON, Representative PARRISH (at the request of State Interoperability Executive Council)

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 **as introduced**.

Transfers State Interoperability Executive Council from Department of Transportation to Oregon Department of Administrative Services.

Modifies duties of executive council. Establishes position of statewide interoperability coordinator to support executive council and to coordinate implementation of Oregon Statewide Communication Interoperability Plan.

Declares emergency, effective July 1, 2013.

A BILL FOR AN ACT

1
2 Relating to interoperable public safety communications systems; creating new provisions; amending
3 ORS 403.450, 403.455 and 403.460 and section 1, chapter 825, Oregon Laws 2005; repealing
4 sections 52, 53, 55, 56, 57 and 58, chapter 107, Oregon Laws 2010; and declaring an emergency.

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

6 **SECTION 1. As used in this section, ORS 403.450, 403.455 and 403.460 and section 1,**
7 **chapter 825, Oregon Laws 2005:**

8 (1) **“Interoperability plan” means the Oregon Statewide Communication Interoperability**
9 **Plan described in ORS 403.455.**

10 (2) **“National plan” means the National Emergency Communications Plan developed and**
11 **updated by the United States Department of Homeland Security, Office of Emergency Com-**
12 **munications.**

13 (3) **“Public body” has the meaning given that term in ORS 174.109.**

14 **SECTION 2. Section 1, chapter 825, Oregon Laws 2005, as amended by section 1, chapter 402,**
15 **Oregon Laws 2011, is amended to read:**

16 **Sec. 1.** (1) The Oregon Legislative Assembly finds and declares that:

17 (a) The public safety communications infrastructure of the State of Oregon [*is rapidly aging,*
18 *outdated and at severe risk of failure*] **requires ongoing operations and maintenance to support**
19 **continuing functionality and to accommodate changing technology;**

20 (b) The adopted policies and standards and specific deadlines mandated by the Federal Commu-
21 nications Commission [*will require*] **required** replacement of statewide public safety communications
22 infrastructure in the State of Oregon;

23 (c) The reliability of [*mission-critical*] public safety communications infrastructure during **day-**
24 **to-day public safety operations and during** [*a*] man-made [*or*] **and** natural [*disaster*] **disasters** is
25 crucial to saving lives and property and to protecting the public [*during an emergency*];

26 (d) The [*deteriorating*] condition of our public safety [*radio*] **communications** systems is of [*im-*
27 *mediate concern because it compromises*] **continuing concern because it is critical to** the safety
28 and well-being of the [*citizens*] **residents** of the State of Oregon who depend upon lifesaving com-

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 communications systems used by first responders;

2 [(e) *The majority of the communications systems in the State of Oregon are unreliable, greatly in-*
3 *creasing the danger to first responders and law enforcement officers in carrying out their duty to pro-*
4 *tect the citizens and property of the State of Oregon;*]

5 [(f)] (e) It is in the public interest of Oregonians to plan for improvement of the public safety
6 communications infrastructure to ensure long-term stability; and

7 [(g)] (f) Federal funding for homeland security may be available to facilitate all or part of the
8 development and implementation of a plan for improvement of the public safety communications
9 infrastructure in the State of Oregon.

10 **(2) The Legislative Assembly further finds and declares that:**

11 **(a) Title XVIII of the Homeland Security Act of 2002, as amended, requires the United**
12 **States Department of Homeland Security, Office of Emergency Communications, to develop**
13 **and update a National Emergency Communications Plan to ensure that emergency**
14 **responders at all levels of government and across disciplines can communicate as needed,**
15 **on demand and as authorized.**

16 **(b) The national plan:**

17 **(A) Identifies the capabilities and initiatives needed for communications operability,**
18 **interoperability and continuity of communications for emergency responders nationwide.**

19 **(B) Sets strategic goals and identifies national objectives to enhance governance, plan-**
20 **ning, technology, training and exercises and disaster communications capabilities.**

21 **(C) Provides recommendations and milestones to guide emergency responders and gov-**
22 **ernment officials.**

23 **(c) As a condition of eligibility for future homeland security grants for communication**
24 **interoperability initiatives, each state is required to establish a statewide communication**
25 **interoperability plan and annually update the interoperability plan.**

26 **(d) The Oregon Statewide Communication Interoperability Plan is the statewide commu-**
27 **nication interoperability plan for the State of Oregon that has received the approval of the**
28 **United States Department of Homeland Security, Office of Emergency Communications.**

29 **(e) The employment of a full-time equivalent statewide interoperability coordinator is**
30 **necessary and appropriate for implementation of the interoperability plan.**

31 [(2)] (3) Subject to subsection [(3)] (4) of this section, the Legislative Assembly finds and de-
32 clares that it is the policy of the State of Oregon:

33 (a) To [*develop, finance, maintain and operate a single emergency response wireless communi-*
34 *cations infrastructure that supports both the communications needs of all state agencies and ensures*
35 *communications interoperability]* **ensure interoperable communications** among all state, local,
36 tribal and federal public safety agencies[, *thereby maximizing shared use of this invaluable public*
37 *asset*].

38 (b) To meet Federal Communications Commission mandates [*for the conversion of public safety*
39 *communications frequencies and spectrum allocation by 2013*].

40 [(3)] (4) The Legislative Assembly further finds and declares that:

41 (a) The communications infrastructure of the State Forestry Department:

42 (A) Meets the policies and standards mandated by the Federal Communications Commission;
43 [*and*]

44 (B) Is compatible with the communications infrastructure utilized by other federal and state
45 agencies and private partners that are primarily responsible for responding to wildland fire emer-

1 agencies; **and**

2 (C) **Does not require conversion to meet interoperability requirements of the interoper-**
3 **ability plan.**

4 (b) The **State Forestry** Department shall continue to partner with, advise and seek shared ef-
5 ficiencies with other public safety agencies regarding implementation of the [*Public Safety Wireless*
6 *Infrastructure Replacement Plan developed under section 2, chapter 825, Oregon Laws 2005, and the*
7 *Oregon Interoperable Communication Plan*] **Oregon Statewide Communication Interoperability**
8 **Plan** described in ORS 403.455.]; *and*]

9 [(c) *Immediate conversion of the communications infrastructure of the department for compatibility*
10 *with the Oregon Wireless Interoperability Network is not necessary, considering:*]

11 [(A) *The large investment already made and the high cost of conversion;*]

12 [(B) *The disruption and incompatibility that would be caused with the communications*
13 *infrastructure of other federal and state agencies and private partners with whom the department*
14 *shares primary responsibility to respond to wildland fire emergencies; and*]

15 [(C) *That the department's communications infrastructure conforms to the policies and standards*
16 *mandated by the Federal Communications Commission.*]

17 **SECTION 3.** ORS 403.450 is amended to read:

18 403.450. (1) The State Interoperability Executive Council is created [*within the Department of*
19 *Transportation*] **under the Oregon Department of Administrative Services.** The membership of
20 the council [*shall consist*] **consists** of:

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

22 (A) The President of the Senate shall appoint one member from the Senate with an interest in
23 public safety communications infrastructure; and

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

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

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

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

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

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

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

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

34 [(G) *One member from the Department of Human Services;*]

35 [(H)] (G) One member from the Oregon Health Authority;

36 [(I)] (H) One member from the Oregon Military Department;

37 [(J)] (I) One member from the Department of Public Safety Standards and Training;

38 (J) **One member from the Oregon Broadband Advisory Council;**

39 (K) One member of an Indian tribe as defined in ORS 97.740 or a designee of an Indian tribe;

40 **and**

41 [(L) *One member from a nonprofit professional organization devoted to the enhancement of public*
42 *safety communications systems; and*]

43 [(M)] (L) One member [*from*] **of** the public.

44 (c) The following members appointed by the Governor with the concurrence of the President of
45 the Senate and the Speaker of the House of Representatives:

- 1 (A) One member from the Oregon Fire Chiefs Association;
- 2 (B) One member from the Oregon Association Chiefs of Police;
- 3 (C) One member from the Oregon State Sheriffs' Association;
- 4 (D) One member from the Association of Oregon Counties;
- 5 (E) One member from the League of Oregon Cities; *[and]*
- 6 (F) One member from the Special Districts Association of Oregon[.];
- 7 **(G) An information officer of an Oregon city;**
- 8 **(H) An information officer of an Oregon county;**
- 9 **(I) One member representing a nonprofit professional organization interested in the en-**
- 10 **hancement of public safety communications systems; and**
- 11 **(J) One member of the public who works or resides in Federal Communications Com-**
- 12 **mission Region 35.**

13 (2) Each agency or organization identified in subsection (1)(b)(A) to (J) and (1)(c)(A) to (H) of
 14 this section shall recommend [*a person*] **an individual** from the agency or organization for member-
 15 ship on the council.

16 (3) Members of the council are not entitled to compensation, but in the discretion of the [*Di-*
 17 *rector of Transportation*] **Director of the Oregon Department of Administrative Services** may
 18 be reimbursed from funds available to the [*Department of Transportation*] **Oregon Department of**
 19 **Administrative Services** for actual and necessary travel and other expenses incurred by them in
 20 the performance of their official duties in the manner and amount provided in ORS 292.495.

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

23 **SECTION 4.** ORS 403.450, as amended by section 3 of this 2013 Act, is amended to read:

24 403.450. (1) The State Interoperability Executive Council is created under the Oregon Depart-
 25 ment of Administrative Services. The membership of the council consists of:

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

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

29 (B) The Speaker of the House of Representatives shall appoint one member from the House of
 30 Representatives with an interest in public safety and emergency communications 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 Oregon Health Authority;

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 from the Oregon Broadband Advisory Council;]

42 [*K*] **(J)** One member of an Indian tribe as defined in ORS 97.740 or a designee of an Indian
 43 tribe; and

44 [*L*] **(K)** One member of 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;

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

8 (G) An information officer of an Oregon city;

9 (H) An information officer of an Oregon county;

10 (I) One member representing a nonprofit professional organization interested in the enhancement
11 of public safety communications systems; and

12 (J) One member of the public who works or resides in Federal Communications Commission
13 Region 35.

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

17 (3) Members of the council are not entitled to compensation, but in the discretion of the Direc-
18 tor of the Oregon Department of Administrative Services may be reimbursed from funds available
19 to the Oregon Department of Administrative Services for actual and necessary travel and other ex-
20 penses incurred by them in the performance of their official duties in the manner and amount pro-
21 vided in ORS 292.495.

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

24 **SECTION 5. The amendments to ORS 403.450 by section 4 of this 2013 Act become oper-**
25 **ative on January 2, 2016.**

26 **SECTION 6.** ORS 403.455 is amended to read:

27 403.455. (1) The State Interoperability Executive Council created under ORS 403.450 shall:

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

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

33 **(a) Develop, update annually and monitor implementation of the Oregon Statewide Com-**
34 **munication Interoperability Plan, the goal of which is to achieve statewide interoperability**
35 **of public safety communications systems. As part of its duties under this subsection, the**
36 **executive council shall:**

37 [(a)] (A) Recommend strategies to improve [*wireless*] **public safety communications** interoper-
38 ability among state, [*and*] local, **tribal and federal** public safety agencies;

39 [(b)] (B) Develop standards to promote consistent **design and** development of [*existing and future*
40 *wireless*] **public safety** communications infrastructures **and recommend changes in existing pub-**
41 **lic safety infrastructures that are necessary or appropriate for implementation of the inter-**
42 **operability plan;**

43 [(c)] (C) Identify immediate short-term technological and policy solutions to tie existing
44 [*wireless*] **public safety** communications infrastructures together into an interoperable communi-
45 cations system;

1 [(d)] **(D)** Develop long-term technological and policy recommendations to establish a statewide
2 public safety [*radio*] **communications** system to improve emergency response and day-to-day public
3 safety operations; and

4 [(e)] **(E)** Develop recommendations for legislation and for the development of state and local
5 policies [*to promote wireless*] **that promote public safety communications** interoperability in
6 Oregon.

7 [(3)] **(b)** [*Approve, subject to approval by the Director of Transportation,*] **Recommend to the**
8 **Governor, for inclusion in the Governor's recommended budget,** investments by the State of
9 Oregon in public safety communications systems.

10 [(4)] **(c)** Coordinate state and local activities related to obtaining federal grants for support of
11 interoperability **and request technical assistance related to interoperability.**

12 [(5) *Develop and provide technical assistance, training and, if requested, appropriate dispute re-*
13 *solution services to state and local agencies responsible for implementation of the Oregon Interoperable*
14 *Communication Plan.*]

15 **(d) Conduct and submit an annual update of the interoperability plan to the United States**
16 **Department of Homeland Security, Office of Emergency Communications, aligning the update**
17 **with standards established in the National Emergency Communications Plan and by the fed-**
18 **eral office.**

19 **(e) Coordinate interoperability among state agencies.**

20 **(f) Advise the Governor and the Legislative Assembly on implementation of the interop-**
21 **erability plan.**

22 **(g) Serve as the Governor's Public Safety Broadband Advisory Group.**

23 [(6)] **(h)** Report[, *in the manner required by ORS 192.245, to the Legislative Assembly*] **to the**
24 **Joint Committee on Ways and Means, or to the Joint Interim Committee on Ways and**
25 **Means,** on or before February 1 of each odd-numbered year on the development of the [*Oregon*
26 *Interoperable Communication Plan*] **interoperability plan** and the **executive council's** other activ-
27 ities.

28 [(7)] **(i)** Adopt rules necessary to carry out its duties and powers.

29 **(2) In consultation with the executive council, the Oregon Department of Administrative**
30 **Services shall:**

31 **(a) Implement the build out of the public safety broadband network described in the**
32 **Middle Class Tax Relief and Job Creation Act of 2012 (P.L. 112-96); and**

33 **(b) Make recommendations to the state agency responsible for administering federal**
34 **funds from the United States Department of Commerce, National Telecommunications and**
35 **Information Administration.**

36 **SECTION 7.** ORS 403.460 is amended to read:

37 403.460. [(1) *The Director of Transportation shall advise the State Interoperability Executive*
38 *Council on the implementation of the Oregon Interoperable Communication Plan and coordinate inter-*
39 *operability among all state agencies.*]

40 [(2) *State agencies that own or operate public safety communications systems shall coordinate their*
41 *efforts and investments to achieve the statewide interoperability goal set by the council and implement*
42 *the Oregon Interoperable Communication Plan approved by the director.*]

43 **(1) The Oregon Department of Administrative Services shall establish and fill a full-time**
44 **equivalent position for a statewide interoperability coordinator.**

45 **(2) The statewide interoperability coordinator:**

1 (a) Is the primary staff support for the State Interoperability Executive Council created
2 under ORS 403.450;

3 (b) Shall coordinate implementation of the Oregon Statewide Communication Interoper-
4 ability Plan;

5 (c) Shall assist the executive council in conducting and submitting annual updates to the
6 interoperability plan, in coordination and collaboration with the emergency responders in
7 this state;

8 (d) Shall identify funding opportunities for planned interoperability improvements and
9 coordinate efforts to acquire funding;

10 (e) Shall engage stakeholders to coordinate strategic and operational plans;

11 (f) Shall serve as a member of the National Council of Statewide Interoperability Coor-
12 dinators; and

13 (g) Shall represent the State of Oregon in local, regional and national efforts to plan and
14 implement changes required to ensure communications operability, interoperability and
15 continuity of communications for emergency responders in this state.

16 (3) Public bodies that own or operate public safety communications infrastructure shall
17 coordinate their efforts and investments, and may collaborate, to achieve the statewide
18 interoperability goal set by the executive council and implement the interoperability plan
19 approved by the Oregon Department of Administrative Services.

20 (4) Under the direction of the executive council, the statewide interoperability coordina-
21 tor may mediate disputes between public bodies collaborating to implement interoperable
22 public safety communications systems.

23 **SECTION 8.** The duties, functions and powers of the Department of Transportation re-
24 lating to the Oregon Statewide Communication Interoperability Plan, the State Interoper-
25 ability Executive Council and ORS 403.450, 403.455 and 403.460 are imposed upon, transferred
26 to and vested in the Oregon Department of Administrative Services.

27 **SECTION 9.** (1) The Director of Transportation shall:

28 (a) Deliver to the Oregon Department of Administrative Services all records and property
29 within the jurisdiction of the Director of Transportation that relate to the duties, functions
30 and powers transferred by section 8 of this 2013 Act; and

31 (b) Transfer to the Oregon Department of Administrative Services those employees en-
32 gaged primarily in the exercise of the duties, functions and powers transferred by section 8
33 of this 2013 Act.

34 (2) The Director of the Oregon Department of Administrative Services shall take pos-
35 session of the records and property and shall take charge of the employees and employ them
36 in the exercise of the duties, functions and powers transferred by section 8 of this 2013 Act,
37 without reduction of compensation but subject to change or termination of employment or
38 compensation as provided by law.

39 (3) The Governor shall resolve any dispute between the Department of Transportation
40 and the Oregon Department of Administrative Services relating to transfers of records,
41 property and employees under this section. The Governor's decision is final.

42 **SECTION 10.** (1) The unexpended balances of amounts authorized to be expended by the
43 Department of Transportation for the biennium beginning July 1, 2013, from revenues dedi-
44 cated, continuously appropriated, appropriated or otherwise made available for the purpose
45 of administering and enforcing the duties, functions and powers transferred by section 8 of

1 this 2013 Act are transferred to and are available for expenditure by the Oregon Department
2 of Administrative Services for the biennium beginning July 1, 2013, for the purpose of ad-
3 ministering and enforcing the duties, functions and powers transferred by section 8 of this
4 2013 Act.

5 (2) The unexpended balances of amounts authorized to be expended by the Department
6 of Transportation for a six-year period beginning on July 1, 2009, or beginning on July 1, 2011,
7 from revenues dedicated, continuously appropriated, appropriated or otherwise made avail-
8 able for the purpose of administering and enforcing the duties, functions and powers trans-
9 ferred by section 8 of this 2013 Act by acquiring land and by acquiring, planning,
10 constructing, altering, repairing, furnishing and equipping buildings and facilities, are trans-
11 ferred to and are available for expenditure by the Oregon Department of Administrative
12 Services for the six-year period specified in section 54, chapter 107, Oregon Laws 2010, or in
13 section 2, chapter 79, Oregon Laws 2012, for the purpose of administering and enforcing the
14 duties, functions and powers transferred by section 8 of this 2013 Act.

15 (3) The expenditure classifications, if any, established by Acts authorizing or limiting
16 expenditures by the Department of Transportation remain applicable to expenditures by the
17 Oregon Department of Administrative Services under this section.

18 **SECTION 11.** The transfer of duties, functions and powers to the Oregon Department of
19 Administrative Services by section 8 of this 2013 Act does not affect any action, proceeding
20 or prosecution involving or with respect to the duties, functions and powers begun before
21 and pending at the time of the transfer, except that the Oregon Department of Administra-
22 tive Services is substituted for the Department of Transportation in the action, proceeding
23 or prosecution.

24 **SECTION 12.** (1) Nothing in sections 8 to 14 of this 2013 Act relieves a person of a li-
25 ability, duty or obligation accruing under or with respect to the duties, functions and powers
26 transferred by section 8 of this 2013 Act. The Oregon Department of Administrative Services
27 may undertake the collection or enforcement of the liabilities, duties or obligations.

28 (2) The rights and obligations of the Department of Transportation legally incurred under
29 contracts, leases and business transactions executed, entered into or begun before the ef-
30 fective date of this 2013 Act accruing under or with respect to the duties, functions and
31 powers transferred by section 8 of this 2013 Act are transferred to the Oregon Department
32 of Administrative Services. For the purpose of succession to these rights and obligations, the
33 Oregon Department of Administrative Services is a continuation of the Department of
34 Transportation and not a new authority.

35 **SECTION 13.** Notwithstanding the transfer of duties, functions and powers by section 8
36 of this 2013 Act, the rules of the Department of Transportation with respect to the duties,
37 functions or powers that are in effect on the effective date of this 2013 Act continue in effect
38 until superseded or repealed by rules of the Oregon Department of Administrative Services.
39 References in the rules of the Department of Transportation to the Department of Trans-
40 portation or an officer or employee of the Department of Transportation are considered to
41 be references to the Oregon Department of Administrative Services or an officer or employee
42 of the Oregon Department of Administrative Services.

43 **SECTION 14.** Whenever, in any uncodified law or resolution of the Legislative Assembly
44 or in any rule, document, record or proceeding authorized by the Legislative Assembly, in
45 the context of the duties, functions and powers transferred by section 8 of this 2013 Act,

1 reference is made to the Department of Transportation, or an officer or employee of the
2 Department of Transportation, whose duties, functions or powers are transferred by section
3 8 of this 2013 Act, the reference is considered to be a reference to the Oregon Department
4 of Administrative Services or an officer or employee of the Oregon Department of Adminis-
5 trative Services who by sections 8 to 14 of this 2013 Act is charged with carrying out the
6 duties, functions and powers.

7 **SECTION 15.** Sections 52, 53, 55, 56, 57 and 58, chapter 107, Oregon Laws 2010, are re-
8 pealed.

9 **SECTION 16.** (1) The amendments to ORS 403.455 by section 6 of this 2013 Act are in-
10 tended to change the name of the “Oregon Interoperable Communication Plan” to the
11 “Oregon Statewide Communication Interoperability Plan.”

12 (2) For the purpose of harmonizing and clarifying statutory law, the Legislative Counsel
13 may substitute for words designating the “Oregon Interoperable Communication Plan,”
14 wherever they occur in statutory law, other words designating the “Oregon Statewide Com-
15 munication Interoperability Plan.”

16 **SECTION 17.** This 2013 Act being necessary for the immediate preservation of the public
17 peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect
18 July 1, 2013.