

**PROPOSED AMENDMENTS TO
HOUSE BILL 2455**

1 On page 1 of the printed bill, line 2, after the semicolon delete the rest
2 of the line and line 3 and insert “creating new provisions; amending ORS
3 759.219, 759.405 and 759.410; repealing ORS 221.505, 221.510 and 221.515; and
4 prescribing an effective date.”.

5 Delete lines 5 through 30 and delete pages 2 and 3 and insert:

6 **“SECTION 1. ORS 221.505, 221.510 and 221.515 are repealed.**

7 **“SECTION 2.** ORS 759.219 is amended to read:

8 “759.219. [*The*] **Any** privilege tax [*authorized by ORS 221.515,*] or other
9 similar exactions imposed by any municipality in this state upon telecom-
10 munications utilities for use and occupancy of streets, alleys or highways,
11 or all of them, shall be allowed as an operating expense of the affected
12 telecommunications utilities operating in the municipality for rate-making
13 purposes by the Public Utility Commission. The cost of such privilege tax
14 or other similar exactions shall be charged pro rata to the users of such
15 telecommunications utility within the municipality unless the Public Utility
16 Commission determines on a statewide basis that such pro rata charges
17 would be inequitable, in whole or in part, to city ratepayers or should oth-
18 erwise be borne as a statewide operating expense by the telecommunications
19 utility.

20 **“SECTION 3.** ORS 759.405 is amended to read:

21 “759.405. (1) A telecommunications carrier may elect to be subject to this
22 section and ORS 759.410. The telecommunications carrier shall notify, in

1 writing, the Public Utility Commission of its election. Such election shall
2 be effective 30 days after the written notification is received by the Public
3 Utility Commission. A telecommunications carrier that elects to be subject
4 to this section and ORS 759.410 shall be subject to the infrastructure in-
5 vestment and price regulation requirements of this section and ORS 759.410
6 and shall not be subject to any other regulation based on earnings, rates or
7 rate of return.

8 “(2) A telecommunications carrier that elects to be subject to this section
9 and ORS 759.410 shall establish in its accounts a Telecommunications
10 Infrastructure Account. The telecommunications carrier shall commit to its
11 Telecommunications Infrastructure Account over a four-year period amounts
12 totaling 20 percent of the telecommunications carrier’s gross regulated
13 intrastate revenue for the calendar year immediately prior to the year the
14 telecommunications carrier elects to be subject to this section and ORS
15 759.410. Of the total committed amount, 30 percent shall be credited to and
16 made available for the purposes of the electing carrier’s account on the date
17 the telecommunications carrier’s election becomes effective. An electing
18 telecommunications carrier shall credit an equal amount on the same date
19 in the next following year. The electing carrier shall credit to its Telecom-
20 munications Infrastructure Account an amount equal to 20 percent of the
21 total committed amount on the same date in each of the next following two
22 years.

23 “(3)(a) A telecommunications carrier that elects to be subject to this
24 section and ORS 759.410 shall expend the moneys in the telecommunications
25 carrier’s Telecommunications Infrastructure Account on a plan or plans ap-
26 proved by the Oregon Business Development Commission under ORS 759.430.
27 Subject to paragraphs (c) and (d) of this subsection, the total amount of
28 capital and other expenses associated with completing the projects shall
29 equal the total amount of moneys available in the account.

30 “(b) Moneys in the account shall be used primarily to ensure that rural

1 and urban Oregonians have improved access to telecommunications technol-
2 ogy and services. Expenditures from the account shall be used for investment
3 in telecommunications infrastructure and deployment of new and advanced
4 telecommunications services.

5 “(c)(A) Within 120 days following the effective date of a telecommuni-
6 cations carrier’s election to be regulated under this section and ORS 759.410,
7 but not later than January 1 of the year following the effective date of a
8 telecommunications carrier’s election, and on the same date in each of the
9 next following three years, a telecommunications carrier serving less than
10 one million access lines in Oregon shall transfer 40 percent of the moneys
11 most recently credited to its Telecommunications Infrastructure Account to
12 the Connecting Oregon Communities Fund established under ORS 759.445.

13 “(B) Within 120 days following the effective date of a telecommunications
14 carrier’s election to be regulated under this section and ORS 759.410, but not
15 later than January 1 of the year following the effective date of a telecom-
16 munications carrier’s election, and on the same date in the next following
17 year, a telecommunications carrier serving one million or more access lines
18 in Oregon shall transfer 70 percent of the moneys most recently credited to
19 its Telecommunications Infrastructure Account to the Connecting Oregon
20 Communities Fund established under ORS 759.445.

21 “(d) Notwithstanding ORS 285A.075 (2), if the Oregon Business Develop-
22 ment Commission determines, following notice and a public hearing, that the
23 telecommunications carrier is not complying with plans or plan modifica-
24 tions approved under ORS 759.430, following notice to the telecommuni-
25 cations carrier and reasonable opportunity to cure any noncompliance, the
26 Oregon Business Development Commission may require the telecommuni-
27 cations carrier to transfer any or all moneys remaining in the carrier’s
28 Telecommunications Infrastructure Account, and any future amounts cred-
29 ited to the account, to the Connecting Oregon Communities Fund established
30 under ORS 759.445.

1 “(4) Nothing in this section affects the authority of a city or municipality
2 to manage the public rights of way or to require fair and reasonable com-
3 pensation from a telecommunications carrier, on a competitively neutral and
4 nondiscriminatory basis[, *under ORS 221.420, 221.450, 221.510 and 221.515*].

5 “**SECTION 4.** ORS 759.410 is amended to read:

6 “759.410. (1) It is the intent of the Legislative Assembly that:

7 “(a) The State of Oregon cease regulation of telecommunications carriers
8 on a rate of return basis;

9 “(b) Telecommunications carriers subject to rate of return regulation have
10 the ability to opt out of rate of return regulation;

11 “(c) A telecommunications carrier that opts out of rate of return regu-
12 lation under this section and ORS 759.405 shall be subject to price cap reg-
13 ulation and the carrier under price cap regulation shall continue to meet
14 service quality requirements; and

15 “(d) Telecommunications carriers that opt out of rate of return regulation
16 under this section and ORS 759.405 shall make payments to the state to
17 support the use of advanced telecommunications services and to support de-
18 ployment of advanced telecommunications services.

19 “(2) A telecommunications carrier that elects to be subject to this section
20 and ORS 759.405 shall be subject to price regulation as provided in this
21 section and shall not be subject to any other retail rate regulation, including
22 but not limited to any form of earnings-based, rate-based or rate of return
23 regulation.

24 “(3) The price a telecommunications utility that elects to be subject to
25 this section and ORS 759.405 may charge for basic telephone service shall
26 be established by the Public Utility Commission under ORS 759.425. Subject
27 to ORS 759.415, the regular tariff rate of intrastate switched access and re-
28 tail telecommunications services regulated by the commission, other than
29 basic telephone service, in effect on the date the carrier elects to be subject
30 to this section and ORS 759.405 shall be the maximum price the telecommu-

1 communications carrier may charge for that service.

2 “(4) A telecommunications carrier that elects to be subject to this section
3 and ORS 759.405 may adjust the price for intrastate switched access or a
4 regulated retail telecommunications service between the maximum price es-
5 tablished under this section and a price floor equal to the sum of the total
6 service long run incremental cost of providing the service for the nonessen-
7 tial functions of the service and the price that is charged to other telecom-
8 munications carriers for the essential functions. Basic telephone service
9 shall not be subject to a price floor.

10 “(5) The price for a new regulated retail telecommunications service in-
11 troduced by a telecommunications carrier within four years after the date
12 the carrier elects to be subject to this section and ORS 759.405 shall be
13 subject to a price floor test by the commission to ensure that the service is
14 not priced below the sum of the total service long run incremental cost of
15 providing the service for the nonessential functions of the service and the
16 price that is charged to other telecommunications carriers for the essential
17 functions. Beginning on the date four years after September 1, 1999, the price
18 of a new telecommunications service shall be subject to a price floor test by
19 the commission to ensure that the service is not priced below the total ser-
20 vice long run incremental cost of providing the service, without regard to
21 whether the service is considered essential or nonessential.

22 “(6) A telecommunications carrier that elects to be subject to this section
23 and ORS 759.405 may package and offer any of its retail telecommunications
24 services with any other service at any price, provided the following condi-
25 tions apply:

26 “(a) Any regulated telecommunications service may be purchased sepa-
27 rately at or below the maximum price.

28 “(b) The price of the package is not less than the sum of the price floors
29 of each regulated retail telecommunications service included in the package.

30 “(c) The price of a package that is comprised entirely of regulated retail

1 telecommunications services does not exceed the sum of the maximum prices
2 for each of the services.

3 “(d) The price of a package comprised of regulated and unregulated retail
4 telecommunications services does not exceed the sum of the maximum prices
5 established under this section for regulated services and the retail price
6 charged by the carrier for the individual unregulated services in the package.
7 A telecommunications carrier subject to regulation under this section shall
8 provide notice to the commission within 30 days of a change in the price of
9 an unregulated telecommunications service contained in the package.

10 “(7) Nothing in this section or ORS 759.405 is intended to limit the ability
11 of a telecommunications carrier to seek deregulation of telecommunications
12 services under ORS 759.052.

13 “(8)(a) Notice of a price change authorized under subsection (4) of this
14 section, of the introduction of a new regulated telecommunications service
15 or of the packaging of services, must be given to the commission within 30
16 days following the effective date of the price change, new service or pack-
17 aged service. Notice of a new regulated telecommunications service shall
18 indicate the retail price charged by the carrier for the service.

19 “(b) The commission may investigate any price change authorized under
20 subsection (4) of this section, the price of a new regulated telecommuni-
21 cations service or the price of a package of services to determine that the
22 price complies with the provisions of this section and any other applicable
23 law. If the commission determines that the price of the service or package
24 of services does not comply with the provisions of this section or other ap-
25 plicable law, the commission may order the telecommunications carrier to
26 take such action as the commission determines necessary to bring the price
27 into compliance with this section or other applicable law.

28 “(9) Nothing in this section affects the authority of a city or municipality
29 to manage the public rights of way or to require fair and reasonable com-
30 pensation from a telecommunications carrier, on a competitively neutral and

1 nondiscriminatory basis[, *under ORS 221.420, 221.450, 221.510 and 221.515*].

2 “(10) Notwithstanding any other provision of this section, the commission
3 shall establish prices for extended area service in a manner that allows a
4 telecommunications carrier that elects to be subject to this section and ORS
5 759.405 to recover all costs and lost net revenues attributable to implement-
6 ing new extended area service routes. The provisions of this subsection apply
7 to telecommunications service provided on a flat or measured basis between
8 exchanges defined by exchange maps filed with and approved by the com-
9 mission.

10 **“SECTION 5. The repeal of ORS 221.505, 221.510 and 221.515 by sec-**
11 **tion 1 of this 2013 Act and the amendments to ORS 759.219, 759.405 and**
12 **759.410 by sections 2 to 4 of this 2013 Act may not be construed to:**

13 **“(1) Limit or affect the authority of a city or municipality to:**

14 **“(a) Manage the public rights of way;**

15 **“(b) Obtain compensation for the use of the public rights of way**
16 **from a telecommunications carrier, including, but not limited to,**
17 **levying and collecting a privilege tax; or**

18 **“(c) Impose taxes on a telecommunications carrier.**

19 **“(2) Give the Public Utility Commission jurisdiction over any au-**
20 **thority of a city or municipality described in subsection (1) of this**
21 **section.**

22 **“SECTION 6. This 2013 Act takes effect on July 1, 2014.”.**

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