

House Bill 2460

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of Governor John A. Kitzhaber, M.D., for Department of State Lands)

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**.

Clarifies that "land" includes submerged land and submersible land for purpose of provision granting easement right and privilege for service line, fixture or other facility.

Authorizes Department of State Lands to adopt fee schedule for administrative costs incurred in imposing reasonable requirements on location, construction, operation and maintenance of service lines, fixtures or other facilities.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to easements for service transmission facilities; creating new provisions; amending ORS
3 758.010; and declaring an emergency.

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

5 **SECTION 1.** ORS 758.010 is amended to read:

6 758.010. (1) **As used in this section, "land" includes submerged land and submersible land**
7 **as those terms are defined in ORS 274.005.**

8 [(1)] (2) Except within cities, any person [*or corporation*] has a right and privilege to construct,
9 maintain and operate [*its*] **the person's** water, gas, electric or communication service [*lines, fixtures*
10 *and other facilities*] **line, fixture or other facility** along the public roads in this state, as defined
11 in ORS 368.001, or across rivers or [*over any lands*] **on land** belonging to the state, free of charge,
12 and [*over lands of*] **on land belonging to** private individuals[,] as provided in ORS 772.210. Such
13 lines, fixtures and facilities [*shall*] **may** not be constructed [*so as to obstruct any*] **in a manner that**
14 **obstructs a** public road or navigable stream.

15 [(2)] (3) **Except within cities**, a county governing body [*and*] **or** the Department of Transpor-
16 tation [*have authority to*] **may** designate the location upon roads under [*their respective*] **the gov-**
17 **erning body's or department's** jurisdiction[, *outside of cities,*] where lines, fixtures and facilities
18 described in this section may be located[, *and*]. Subject to ORS 758.025, **a county governing body**
19 **or the department** may order the location of any such line, fixture or facility to be changed when
20 [*such*] **the** governing body or department deems it expedient. **If a designation is made or an order**
21 **is issued under this subsection**, any line, fixture or facility erected or remaining in a different
22 location [*upon such road*] **other** than that designated [*in any order of the governing body or depart-*
23 *ment*] **or ordered** is a public nuisance and may be abated accordingly.

24 [(3)] (4)(a) [*The*] **A** state officer, agency, board or commission having jurisdiction over [*any*] land
25 belonging to the state with respect to which the right and privilege granted under subsection [(1)]
26 (2) of this section is exercised may impose reasonable requirements for the location, construction,
27 operation and maintenance of [*the lines, fixtures and facilities on such land*] **a line, fixture or fa-**
28 **cility described in this section.** The person [*or corporation*] exercising [*such*] **the** right and privi-

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 lege over *[any]* land belonging to the state shall pay the current market value for the existing forest
2 products that are damaged or destroyed in exercising *[such]* **the** right and privilege.

3 **(b) Notwithstanding subsection (2) of this section, the Department of State Lands may**
4 **adopt by rule a fee schedule for administrative costs incurred under this subsection. A fee**
5 **adopted under this paragraph must be reasonably calculated to not exceed the amount of the**
6 **administrative act for which the fee is adopted.**

7 **(c) *[Such]* The right and privilege *[of any person or corporation]* granted under subsection (2)**
8 **of this section** is conditioned upon compliance with the requirements imposed by this subsection.

9 **SECTION 2. The amendments to ORS 758.010 by section 1 of this 2015 Act apply to ad-**
10 **ministrative acts, including the receipt of applications for an easement described in ORS**
11 **758.010, that begin on or after the effective date of this 2015 Act.**

12 **SECTION 3. This 2015 Act being necessary for the immediate preservation of the public**
13 **peace, health and safety, an emergency is declared to exist, and this 2015 Act takes effect**
14 **on its passage.**