

**PROPOSED AMENDMENTS TO
SENATE BILL 611**

1 In line 2 of the printed bill, before the period insert “; creating new pro-
2 visions; amending ORS 307.126, 308.505 and 308.516; and prescribing an ef-
3 fective date”.

4 Delete line 4 and insert:

5 **“SECTION 1. Sections 2, 3 and 5 of this 2015 Act are added to and
6 made a part of ORS 308.505 to 308.665.**

7 **“SECTION 2. (1)(a) Property of a company subject to assessment
8 under ORS 308.505 to 308.665 shall be granted an exemption in the
9 amount of the positive value, if any, arrived at by subtracting from
10 the real market value of the company’s real property and tangible and
11 intangible personal property included in the unit subject to central
12 assessment an amount equal to 130 percent of the historical or original
13 cost of the company’s real property and tangible personal property
14 included in the unit subject to central assessment.**

15 **“(b) Notwithstanding paragraph (a) of this subsection, an exemption
16 granted under this section may not exceed an amount equal to 95
17 percent of the real market value of the company’s real property and
18 tangible and intangible personal property included in the unit subject
19 to central assessment.**

20 **“(2)(a) If the property of a company is granted an exemption under
21 this section for a property tax year:**

22 **“(A) The exemptions granted under ORS 307.126 are included in the**

1 exemption granted under this section and may not otherwise be al-
2 lowed for the property of the company or the company.

3 “(B) The property is not eligible for any other exemption from ad
4 valorem property taxation for the property tax year.

5 “(b) Notwithstanding paragraph (a) of this subsection, an exemption
6 granted under this section for a property tax year has no effect on the
7 benefits that the property of the company or the company may be
8 granted under ORS chapter 285C and ORS 307.123 for the property tax
9 year.

10 **“SECTION 3. (1) The property of a company described in ORS**
11 **308.515 (1) shall be granted an exemption under subsection (5) of this**
12 **section if the company completes, maintains and operates a qualified**
13 **project in Oregon.**

14 “(2)(a) A project is qualified under this section if the project:

15 “(A) Requires capital investment in newly constructed or installed
16 real or tangible personal property constituting communication
17 infrastructure.

18 “(B) Enables the company to offer communication services at or
19 above a speed of 1 gigabyte per second symmetrical service and at a
20 cost that does not exceed 150 percent of the United States average cost
21 for the same kind of service. The Public Utility Commission shall de-
22 termine the maximum cost of service and may update the standards
23 for speed, type and cost of service as the commission considers ap-
24 propriate. The commission shall recertify each qualified project under
25 this subparagraph every five years.

26 “(C) Provides access to communication services that meet the
27 standards described in subparagraph (B) of this paragraph to 50 per-
28 cent or more of the customer base in the market in which the com-
29 munication infrastructure is constructed or installed.

30 “(b) The commission, in consultation with the Department of Rev-

1 enue, shall adopt rules that establish the criteria for determining
2 whether a project is a qualified project.

3 “(3)(a) A company seeking the exemption granted under this section
4 must submit an application to the commission, with a copy to the
5 department, on or before January 15 preceding the first property tax
6 year for which the exemption is sought.

7 “(b) The application must include information substantiating that
8 the project meets the requirements of subsection (2) of this section
9 and a schedule for the construction and installation of the real and
10 tangible personal property constituting the communication
11 infrastructure.

12 “(4)(a) Within 45 days after an application is submitted under sub-
13 section (3) of this section, the commission shall determine whether the
14 project is a qualified project. During this period, the commission may
15 discuss the information included in the application with the company
16 and the department, and the company may amend the application.

17 “(b) If the commission determines that the project is not a qualified
18 project, the application may not be approved. The commission shall
19 notify the company of the negative determination and state the rea-
20 sons. A negative determination under this subsection is not review-
21 able, but a company may submit an amended application for the
22 project under subsection (3) of this section in any subsequent year.

23 “(c) If the commission determines that the project is a qualified
24 project:

25 “(A) The application shall be approved.

26 “(B) The commission shall notify the company, the department and
27 the assessor of each county in which the project is located of the ap-
28 proval.

29 “(C) The property of the company shall be granted the exemption
30 under subsection (5) of this section beginning with the first property

1 tax year that begins after the date of the determination.

2 “(5)(a) The property of a company described in subsection (1) of this
3 section shall be granted an exemption for a property tax year in an
4 amount equal to the positive value, if any, arrived at by subtracting
5 from the real market value of the company’s real property and tangi-
6 ble and intangible personal property included in the unit subject to
7 central assessment an amount equal to the greater of:

8 “(A) \$ _____; or

9 “(B) The real market value of the company’s real and tangible
10 personal property located in Oregon as of the assessment date.

11 “(b) The exemption shall be granted for the lesser of 20 consecutive
12 property tax years or the period during which the company maintains
13 and operates the qualified project.

14 “(6)(a) The assessment and tax roll shall show a potential additional
15 tax liability in the amount of the property taxes that were not imposed
16 on the property of the company because of the exemption granted
17 under this section.

18 “(b) If the commission determines that the company has not con-
19 structed or installed, according to the schedule included in the appli-
20 cation, the real and tangible personal property that was the basis for
21 the determination that the project is a qualified project, the amount
22 of the potential additional tax liability for all property tax years shall
23 be added to the next assessment and tax roll to be collected in the
24 same manner as other ad valorem property taxes.

25 “(c) Additional taxes collected under this section shall be deemed
26 to have been imposed in the year to which the additional taxes relate.

27 **“SECTION 4. Notwithstanding section 3 (2)(a)(C) of this 2015 Act:**

28 **“(1) For the property tax year beginning on July 1, 2017, a project**
29 **is qualified under section 3 (2)(a)(C) of this 2015 Act if the project, as**
30 **of January 15, 2017, provides access to communication services that**

1 meet the standards described in section 3 (2)(a)(B) of this 2015 Act to
2 30 percent or more of the customer base in the market in which the
3 communication infrastructure is constructed or installed.

4 “(2) For the property tax year beginning on July 1, 2018, a project
5 is qualified under section 3 (2)(a)(C) of this 2015 Act if the project, as
6 of January 15, 2018, provides access to communication services that
7 meet the standards described in section 3 (2)(a)(B) of this 2015 Act to
8 40 percent or more of the customer base in the market in which the
9 communication infrastructure is constructed or installed.

10 “(3) For property tax years beginning on or after July 1, 2019, a
11 project is qualified under section 3 (2)(a)(C) of this 2015 Act if the
12 project, on and after January 15, 2019, provides access to communi-
13 cation services that meet the standards described in section 3 (2)(a)(B)
14 of this 2015 Act to 50 percent or more of the customer base in the
15 market in which the communication infrastructure is constructed or
16 installed.

17 **“SECTION 5.** No later than February 1 of each year, the Public
18 Utility Commission shall submit a report in the manner provided by
19 ORS 192.245 to the interim committees of the Legislative Assembly
20 related to revenue that states or describes:

21 “(1) The name and business of each company whose property is
22 granted the exemption under section 3 of this 2015 Act.

23 “(2) For each company described in subsection (1) of this section:

24 “(a) The capital investment made by the company in Oregon in
25 newly constructed or installed real or tangible personal property con-
26 stituting communication infrastructure.

27 “(b) Whether the company is on schedule for the construction and
28 installation of the real and tangible personal property.

29 “(c) The standards for the consumer services provided by the com-
30 munication infrastructure and whether the company meets the stan-

1 **dards.**

2 **“(d) Who is served by the communication infrastructure and how**
3 **they are served.**

4 **“(e) The amount of the exemption granted to the property of the**
5 **company, the amount of property taxes imposed on the property and**
6 **the amount of potential additional tax liability added to the assess-**
7 **ment and tax roll for the property for the current property tax year**
8 **and estimates of these amounts for the following property tax year.**

9 **“(3) Any other information the commission considers necessary for**
10 **a thorough analysis of the exemption granted under section 3 of this**
11 **2015 Act.**

12 **“SECTION 6. The Legislative Assembly declares that the intention**
13 **of the amendments to ORS 308.516 by section 7 of this 2015 Act is to**
14 **exclude from central assessment the property of qualifying companies**
15 **that own or operate data centers.**

16 **“SECTION 7. ORS 308.516 is amended to read:**

17 **“308.516. (1) A company is not a company described in ORS 308.515 (1) to**
18 **the extent that the company furnishes undiluted liquefied or industrial gas**
19 **in bottles, tanks or similar containers.**

20 **“(2) A company is not a company described in ORS 308.515 (1) if:**

21 **“(a) The company generates electricity primarily for the company’s own**
22 **use and makes no more than incidental sales of the company’s surplus elec-**
23 **tricity to other persons; or**

24 **“(b)(A) The company’s generating facility is primarily fueled by wood**
25 **waste or other biomass fuel;**

26 **“(B) The generating facility has a maximum capacity of 20 megawatts; and**

27 **“(C) The company, if selling the generated electricity, does so only di-**
28 **rectly to an electric utility, as defined in ORS 758.505, for the electric**
29 **utility’s distribution to utility customers.**

30 **“(3) A company that is in the business of communication as defined**

1 **in ORS 308.505 and** is the owner or lessee of a data center is not a company
2 described in ORS 308.515 (1) if[.]

3 “[(a) *The company has entered into a written tax abatement agreement, or*
4 *is entitled by assignment or succession to the benefits of a tax abatement*
5 *agreement entered into, with the sponsors of an enterprise zone with respect*
6 *to a data center, pursuant to ORS 285C.050 to 285C.250 or 285C.400 to*
7 *285C.420; and]*

8 “[(b)(A) *the original cost of construction and installation of all real and*
9 *tangible personal property owned or leased by the company in Oregon other*
10 *than data centers does not equal more than five]*

11 **the historical or original**
12 **cost of all real and tangible personal property, other than data centers,**
13 **that is owned or leased by the company in Oregon and used by the**
14 **company in the business of communication is less than or equal to 10**
15 **percent of the historical or original cost of the real and tangible personal**
16 **property of all data centers owned, leased or used by the company in Oregon**
17 **and all additions to the data center property[; and].**

18 “[(B) *The property in Oregon other than data centers described in subpar-*
19 *agraph (A) of this paragraph consists of real or tangible personal property*
20 *used in the operation of an office or a warehouse or in connection with the*
21 *construction, installation or operation of data center property.]*

22 “[(4)(a) *Property of a company described in subsection (3) of this section*
23 *may not be assessed under ORS 308.505 to 308.665 during the term of an ex-*
24 *emption granted pursuant to an agreement described in subsection (3)(a) of this*
25 *section or during the term of any statutorily authorized extensions of the ex-*
26 *emption, waivers or periods of in lieu payments.]*

27 “[(b) *For purposes of the notations required under ORS 285C.175 (7) and*
28 *285C.409 (3), the county assessor shall record the real market value, the as-*
29 *essed value and the amount of potential additional taxes as determined*
30 *without regard to ORS 308.505 to 308.665.]*

31 “[(5) *If a company described in subsection (3) of this section owns or leases*

1 *a data center in more than one county in this state, each data center must*
2 *satisfy all applicable requirements under subsection (3) of this section.]*

3 *“(6)(a) As used in this section:]*

4 *“(A) ‘Data center’ means an online service data center or an independent*
5 *data center.]*

6 *“(B) ‘Independent data center’ means real and personal property consisting*
7 *of buildings or structures specifically designed or modified to house networked*
8 *computers and data and transaction processing equipment and related*
9 *infrastructure support equipment, including, without limitation, power and*
10 *cooling equipment, used primarily to provide, as a service to persons other than*
11 *the company operating the independent data center, data and transaction pro-*
12 *cessing services, outsource information technology services and computer*
13 *equipment colocation services.]*

14 *“(C) ‘Online service data center’ means real and personal property con-*
15 *sisting of buildings or structures specifically designed or modified to house*
16 *networked computers and data and transaction processing equipment and re-*
17 *lated infrastructure support equipment, including, without limitation, power*
18 *and cooling equipment, used primarily to provide, to a single user, including*
19 *the user’s affiliates, customers, lessees, vendors and other persons authorized*
20 *by the user, data and transaction processing services.]*

21 *“(b) For purposes of this subsection, the primary use of property is based*
22 *on the relative proportion of the original cost of property used for all*
23 *purposes.]*

24 **“SECTION 8.** ORS 308.505 is amended to read:

25 “308.505. As used in ORS 308.505 to 308.665:

26 “(1) ‘Car’ or ‘railcar’ means a vehicle adapted to the rails of a railroad.

27 “(2) ‘Centrally assessed’ means the assessment of property by the Depart-
28 ment of Revenue under ORS 308.505 to 308.665.

29 “(3)(a) ‘Communication’ includes telephone communication and data
30 transmission services by whatever means provided.

1 **“(b) ‘Communication’ does not include:**

2 **“(A) Providing or obtaining data transmission services, or providing**
3 **an electronic mail account, solely through a contractual agreement**
4 **with another company that owns or controls the transmission prop-**
5 **erty.**

6 **“(B) Manufacturing or selling tangible personal property.**

7 **“(4) ‘Data center’ means an online service data center or an inde-**
8 **pendent data center.**

9 **“(5) ‘Historical or original cost’ means all costs incurred by a com-**
10 **pany in placing property in service for the property’s intended use by**
11 **the company, including, but not limited to, purchase price, freight,**
12 **engineering fees, legal fees, materials, labor, overhead, taxes, interest,**
13 **entrepreneurial profit and other fees, expenses and charges related to**
14 **construction or installation.**

15 **“(6) ‘Independent data center’ means real and personal property**
16 **consisting of buildings or structures specifically designed or modified**
17 **to house networked computers and data and transaction processing**
18 **equipment and related infrastructure support equipment, including,**
19 **without limitation, power and cooling equipment, used primarily to**
20 **provide, as a service to persons other than the company operating the**
21 **independent data center, data and transaction processing services,**
22 **outsource information technology services and computer equipment**
23 **colocation services. For purposes of this subsection, the primary use**
24 **of property is based on the relative proportion of the original cost of**
25 **property used for all purposes.**

26 **“[(4)] (7) ‘Inland water’ means all water or waters within the State of**
27 **Oregon, all interstate rivers touching Oregon and all tidewaters extending**
28 **to the ocean bars.**

29 **“[(5)] (8) ‘Interstate’ means transit between the State of Oregon and:**

30 **“(a) Another state;**

1 “(b) A district, territory or possession of the United States; or

2 “(c) A foreign country.

3 “[6] (9) ‘Large private railcar company’ means a private railcar company
4 with personal property with a real market value for the tax year that exceeds
5 \$1 million.

6 “[7] (10) ‘Locally assessed’ means the assessment of property for prop-
7 erty tax purposes by the county assessor that is not conducted under ORS
8 308.505 to 308.665.

9 “(11) **‘Online service data center’ means real and personal property**
10 **consisting of buildings or structures specifically designed or modified**
11 **to house networked computers and data and transaction processing**
12 **equipment and related infrastructure support equipment, including,**
13 **without limitation, power and cooling equipment, used primarily to**
14 **provide, to a single user, including the user’s affiliates, customers,**
15 **lessees, vendors and other persons authorized by the user, data and**
16 **transaction processing services. For purposes of this subsection, the**
17 **primary use of property is based on the relative proportion of the ori-**
18 **ginal cost of property used for all purposes.**

19 “[8] (12) ‘Person,’ ‘company,’ ‘corporation’ or ‘association’ means any
20 person, group of persons, whether organized or unorganized, firm, joint stock
21 company, association, cooperative or mutual organization, people’s utility
22 district, joint operating agency as defined in ORS 262.005, syndicate, entity
23 formed to partner or combine public and private interests, partnership or
24 corporation engaged in performing or maintaining any business or service
25 or in selling any commodity as set forth in ORS 308.515, whether or not the
26 activity is pursuant to any franchise and whether or not the person or other
27 entity or combination of entities possesses characteristics of limited or un-
28 limited liability.

29 “[9] (13) ‘Property’:

30 “(a) Means all property of any kind, whether real, personal, tangible or

1 intangible, that is used or held by a company as owner, occupant, lessee or
2 otherwise, for the performance or maintenance of a business or service or for
3 the sale of a commodity, as described in ORS 308.515;

4 “(b) Includes, but is not limited to, the lands and buildings, rights of way,
5 roadbed, water powers, vehicles, cars, rolling stock, tracks, office furniture,
6 telephone and transmission lines, poles, wires, conduits, switchboards, ma-
7 chinery, appliances, appurtenances, docks, watercraft irrespective of the
8 place of registry or enrollment, merchandise, inventories, tools, equipment,
9 machinery, [*franchises and special franchises,*] work in progress and all other
10 goods or chattels; and

11 “(c) Does not include items of intangible property that represent:

12 “(A) Claims on other property, including money at interest, bonds, notes,
13 claims, demands or any other evidence of indebtedness, secured or unsecured;
14 or

15 “(B) Any shares of stock in corporations, joint stock companies or asso-
16 ciations.

17 “[~~(10)~~] **(14)** ‘Property having situs in this state’ means all property, real
18 and personal, of a company, owned, leased, used, operated or occupied by it
19 and situated wholly within this state, and, as determined under ORS 308.550
20 and 308.640, the proportion of the movable, transitory or migratory personal
21 property owned, leased, used, operated or occupied by a company, including
22 but not limited to watercraft, aircraft, rolling stock, vehicles and con-
23 struction equipment, as is used partly within and partly outside of this state.

24 “[~~(11)~~] **(15)** ‘Small private railcar company’ means a private railcar com-
25 pany with personal property with a real market value for the tax year that
26 does not exceed \$1 million.

27 “**(16)(a) ‘Transmission property’ means property constituting a sys-**
28 **tem or network that carries a communication signal, including data,**
29 **from one device or computer to another device or computer.**

30 “**(b) ‘Transmission property’ includes coaxial cable, optical fiber,**

1 **property used to transmit radio waves and microwaves and other**
2 **property used to transmit data in the form of electromagnetic waves**
3 **from one device or computer to another device or computer.**

4 **“(c) ‘Transmission property’ does not include a device or computer**
5 **that sends or receives data.**

6 **“[(12)] (17) ‘Transportation’ means carrying, conveying or moving pas-**
7 **sengers or property from one place to another.**

8 **“[(13)] (18) ‘Vehicle’ means any wheeled or tracked device used in trans-**
9 **portation under, on or in connection with the physical surface of the earth.**

10 **“SECTION 9. ORS 307.126 is added to and made a part of ORS 308.505**
11 **to 308.665.**

12 **“SECTION 10. ORS 307.126 is amended to read:**

13 **“307.126. (1) [*Licenses granted by the Federal Communications Commission***
14 ***are*] The following property is exempt from ad valorem property taxation,**
15 **and the value of the [*licenses*] property may not be reflected in the value**
16 **of real or tangible personal property[.]:**

17 **“(a) Licenses granted by the Federal Communications Commission;**
18 **and**

19 **“(b) Franchise fees.**

20 **“(2) The value of the property listed in subsection (1) of this section**
21 **shall be equal to the cost of the property carried in the accounting**
22 **records of the owner of the property, less the accrued depreciation**
23 **reserve for the property.**

24 **SECTION 11. Sections 2, 3 and 5 of this 2015 Act and the amend-**
25 **ments to ORS 307.126, 308.505 and 308.516 by sections 7, 8 and 10 of this**
26 **2015 Act apply to property tax years beginning on or after July 1, 2016.**

27 **“SECTION 12. Section 4 of this 2015 Act is repealed on January 2,**
28 **2020.**

29 **“SECTION 13. Section 6 of this 2015 Act is repealed on January 2,**
30 **2021.**

