

**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. ORS 307.126 and sections 2, 3, 5 and 7 of this 2015 Act**
6 **are added to and made a part of ORS 308.505 to 308.665.**

7 **“SECTION 2. (1) The property of a company described in ORS**
8 **308.515 (1) may be granted an exemption under section 3 of this 2015**
9 **Act or section 5 of this 2015 Act, but not both.**

10 **“(2) For any company whose property is eligible for an exemption**
11 **under both sections 3 and 5 of this 2015 Act, the Department of Reve-**
12 **nue shall compute the property taxes on the property under sections**
13 **3 and 5 of this 2015 Act for each property tax year and shall impose**
14 **taxes that result in the least amount of taxable value.**

15 **“SECTION 3. (1)(a) Subject to section 2 of this 2015 Act, the prop-**
16 **erty of a company described in ORS 308.515 (1) shall be granted an**
17 **exemption in the amount of the positive value, if any, obtained by**
18 **subtracting from the amount determined under paragraph (b) of this**
19 **subsection an amount equal to the historical or original cost of the**
20 **company’s real property and tangible personal property included in the**
21 **unit subject to central assessment, without reduction for an exemption**
22 **elected under ORS 307.126, multiplied by 130 percent.**

1 **“(b) The amount referred to in paragraph (a) of this subsection is:**

2 **“(A) For the property of a company that elects an exemption under**
3 **ORS 307.126 (2)(a) or (c), the real market value of the company’s real**
4 **property and tangible and intangible personal property included in the**
5 **unit subject to central assessment, reduced by the amount of the ex-**
6 **emption elected under ORS 307.126.**

7 **“(B) For the property of a company that elects an exemption under**
8 **ORS 307.126 (2)(b) or whose property is not eligible for an exemption**
9 **under ORS 307.126, the real market value of the company’s real prop-**
10 **erty and tangible and intangible personal property included in the unit**
11 **subject to central assessment.**

12 **“(2) If the amount determined under subsection (1)(a) of this section**
13 **is not positive, subject to section 2 of this 2015 Act, the amount de-**
14 **scribed in subsection (1)(b) of this section shall be the real market**
15 **value of the company’s property for the property tax year.**

16 **“(3) Notwithstanding subsection (1)(a) of this section, an exemption**
17 **granted under this section may not exceed an amount equal to 95**
18 **percent of the real market value of the company’s real property and**
19 **tangible and intangible personal property included in the unit subject**
20 **to central assessment.**

21 **“(4)(a) If the property of a company is granted an exemption under**
22 **this section for a property tax year, the property is not eligible for any**
23 **other exemption from ad valorem property taxation for the property**
24 **tax year.**

25 **“(b) Notwithstanding paragraph (a) of this subsection:**

26 **“(A) An exemption granted under ORS 307.126 to property granted**
27 **an exemption under this section shall be allowed in the manner pro-**
28 **vided under this section and ORS 307.126.**

29 **“(B) An exemption granted under this section for a property tax**
30 **year has no effect on the benefits that the property of the company**

1 or the company may be granted under ORS chapter 285C or ORS
2 307.123 for the property tax year.

3 **“SECTION 4.** ORS 307.126 is amended to read:

4 “307.126. (1) [*Licenses granted by the Federal Communications Commission*
5 *are exempt from ad valorem property taxation, and the value of the licenses*
6 *may not be reflected in the value of real or tangible personal property.*] **A**
7 **company described in ORS 308.515 (1) that owns, leases or uses prop-**
8 **erty listed in subsection (2) of this section may elect one form of**
9 **property to be exempt from ad valorem property taxation. The value**
10 **of the property elected may not be reflected in the value of real or**
11 **tangible personal property of the company.**

12 **“(2) The property referred to in subsection (1) of this section con-**
13 **sists of:**

14 **“(a) Licenses granted by the Federal Communications Commission.**

15 **“(b) If the company is in the business of communication as defined**
16 **in ORS 308.505, franchises.**

17 **“(c) Satellites that are used by the company to provide communi-**
18 **cation services directly to retail customers or that are being con-**
19 **structed for such use.**

20 **“(3) The value of the property listed in subsection (2) 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 **“(4) For each property tax year that a company elects an exemption**
25 **for franchises of the company under this section, the value, as deter-**
26 **mined under subsection (3) of this section, of the franchises includable**
27 **in the unit subject to central assessment shall be multiplied by the**
28 **Oregon allocation percentage of the company’s property for the prop-**
29 **erty tax year and subtracted from the assessed value of the property.**

30 **“SECTION 5.** (1) Subject to section 2 of this 2015 Act, the property

1 of a company described in ORS 308.515 (1) shall be granted an ex-
2 emption under subsection (5) of this section if the company completes,
3 maintains and operates a qualified project in Oregon.

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

5 “(A) Requires capital investment in newly constructed or installed
6 real or tangible personal property constituting communication
7 infrastructure.

8 “(B) Enables the company to offer communication services at or
9 above a speed of 1 gigabit per second symmetrical service and at a
10 price to customers that does not exceed 150 percent of the United
11 States average price for the same speed of symmetrical service. The
12 Public Utility Commission shall determine the maximum price of ser-
13 vice and may update the standards for speed, type and price of service
14 as the commission considers appropriate. The commission shall re-
15 certify each qualified project under this subparagraph every five years.

16 “(C) Provides access to communication services that meet the
17 standards described in subparagraph (B) of this paragraph to 50 per-
18 cent or more of the customer base in the service territory in which the
19 communication infrastructure is constructed or installed. The com-
20 pany shall propose the service territory for the project in the applica-
21 tion required under subsection (3) of this section.

22 “(b) The commission, in consultation with the Department of Rev-
23 enue, shall adopt rules that establish the criteria for determining
24 whether a project is a qualified project.

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

29 “(b) The application must include:

30 “(A) Information substantiating that the project meets the re-

1 **quirements of subsection (2) of this section;**

2 **“(B) A schedule for the construction and installation of the real and**
3 **tangible personal property constituting the communication**
4 **infrastructure; and**

5 **“(C) An application fee of \$50,000.**

6 **“(c) The application fee shall be used to reimburse the commission**
7 **for the costs of reviewing the application and the department for the**
8 **costs of appraising the property of the company submitting the appli-**
9 **cation.**

10 **“(4)(a) On or before March 1 of the year in which the application**
11 **is submitted under subsection (3) of this section, the commission shall**
12 **determine whether the project is a qualified project. During this pe-**
13 **riod, the commission may discuss the information included in the ap-**
14 **plication with the company and the department, and the company may**
15 **amend the application. Upon request of the company, the commission**
16 **may grant an extension of not more than two weeks for a determi-**
17 **nation under this paragraph.**

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

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

26 **“(A) The application shall be approved.**

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

30 **“(C) Subject to section 2 of this 2015 Act, the property of the com-**

1 pany shall be granted the exemption under subsection (5) of this sec-
2 tion beginning with the first property tax year that begins after the
3 date of the determination.

4 “(5)(a) The property of a company described in subsection (1) of this
5 section shall be granted an exemption for a property tax year in an
6 amount equal to the positive value, if any, obtained by subtracting
7 from the amount determined under paragraph (b) of this subsection
8 an amount equal to the greater of \$250 million or the real market
9 value of the company’s real and tangible personal property located in
10 Oregon as of the assessment date, without reduction for an exemption
11 elected under ORS 307.126.

12 “(b) The amount referred to in paragraph (a) of this subsection is:

13 “(A) For the property of a company that elects an exemption under
14 ORS 307.126 (2)(a) or (c), the real market value of the company’s real
15 property and tangible and intangible personal property allocated to
16 Oregon and included in the unit subject to central assessment, reduced
17 by the portion of the value of the exemption as determined under ORS
18 307.126 (3) that is allocated to Oregon.

19 “(B) For the property of a company that elects an exemption under
20 ORS 307.126 (2)(b) or whose property is not eligible for an exemption
21 under ORS 307.126, the real market value of the company’s real prop-
22 erty and tangible and intangible personal property allocated to Oregon
23 and included in the unit subject to central assessment.

24 “(c) The exemption shall be granted for the lesser of 20 consecutive
25 property tax years or the period during which the company maintains
26 and operates the qualified project.

27 “(6) If the amount determined under subsection (5)(a) of this section
28 is not positive, subject to section 2 of this 2015 Act, the amount de-
29 scribed in subsection (5)(b) of this section shall be the real market
30 value of the company’s property allocated to Oregon for the property

1 tax year.

2 “(7)(a) If the property of a company is granted an exemption under
3 this section for a property tax year, the property is not eligible for any
4 other exemption from ad valorem property taxation for the property
5 tax year.

6 “(b) Notwithstanding paragraph (a) of this subsection, an exemption
7 granted under ORS 307.126 to property granted an exemption under
8 this section shall be allowed in the manner provided under this section
9 and ORS 307.126.

10 **“SECTION 6.** Notwithstanding section 5 (2)(a)(C) of this 2015 Act:

11 “(1) For the property tax year beginning on July 1, 2017, a project
12 is qualified under section 5 (2)(a)(C) of this 2015 Act if the project, as
13 of January 15, 2017, provides access to communication services that
14 meet the standards described in section 5 (2)(a)(B) of this 2015 Act to
15 30 percent or more of the customer base in the service territory in
16 which the communication infrastructure is constructed or installed.

17 “(2) For the property tax year beginning on July 1, 2018, a project
18 is qualified under section 5 (2)(a)(C) of this 2015 Act if the project, as
19 of January 15, 2018, provides access to communication services that
20 meet the standards described in section 5 (2)(a)(B) of this 2015 Act to
21 40 percent or more of the customer base in the service territory in
22 which the communication infrastructure is constructed or installed.

23 “(3) For property tax years beginning on or after July 1, 2019, a
24 project is qualified under section 5 (2)(a)(C) of this 2015 Act if the
25 project, on and after January 15, 2019, provides access to communi-
26 cation services that meet the standards described in section 5 (2)(a)(B)
27 of this 2015 Act to 50 percent or more of the customer base in the
28 service territory in which the communication infrastructure is con-
29 structed or installed.

30 **“SECTION 7.** (1)(a) Notwithstanding any other provision of law re-

1 lating to the confidentiality of public records, on or before December
2 15 of each year, each assessor of a county in which property granted
3 the exemption under section 5 of this 2015 Act, in accordance with
4 section 2 of this 2015 Act, is located shall submit to the Department
5 of Revenue a report stating the amount of the exemption granted to
6 the property of each company, the amount of property taxes imposed
7 on the property and the amount of property taxes that were not im-
8 posed on the property because of the exemption for the current prop-
9 erty tax year and estimates of these amounts for the following
10 property tax year.

11 “(b) No later than January 1 of each year, the department shall
12 submit a report compiling the information received from counties un-
13 der paragraph (a) of this subsection to the Public Utility Commission.

14 “(2) No later than February 1 of each year, the commission shall
15 submit a report in the manner provided by ORS 192.245 to the interim
16 committees of the Legislative Assembly related to revenue that states
17 or describes:

18 “(a) The name and business of each company whose property is
19 granted the exemption under section 5 of this 2015 Act.

20 “(b) For each company described in paragraph (a) of this sub-
21 section:

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

25 “(B) Whether the company is on schedule for the construction and
26 installation of the real and tangible personal property.

27 “(C) The standards for the consumer services provided by the com-
28 munication infrastructure and whether the company meets the stan-
29 dards.

30 “(D) Who is served by the communication infrastructure and how

1 **they are served.**

2 **“(E) The compiled information received from the department pur-**
3 **suant to subsection (1) of this section.**

4 **“(c) Any other information the commission considers necessary for**
5 **a thorough analysis of the exemption granted under section 5 of this**
6 **2015 Act.**

7 **“SECTION 8.** ORS 308.516 is amended to read:

8 “308.516. (1) A company is not a company described in ORS 308.515 (1) to
9 the extent that the company furnishes undiluted liquefied or industrial gas
10 in bottles, tanks or similar containers.

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

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

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

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

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

21 “(3)(a) A company that **is in the business of communication as de-**
22 **fin ed in ORS 308.505 and** is the owner or lessee of a data center is not a
23 company described in ORS 308.515 (1) if[:]

24 “[*(a) The company has entered into a written tax abatement agreement, or*
25 *is entitled by assignment or succession to the benefits of a tax abatement*
26 *agreement entered into, with the sponsors of an enterprise zone with respect*
27 *to a data center, pursuant to ORS 285C.050 to 285C.250 or 285C.400 to*
28 *285C.420; and]*

29 “[*(b)(A) the original cost of construction and installation of all real and*
30 *tangible personal property owned or leased by the company in Oregon other*

1 *than data centers does not equal more than five]* **the historical or original**
2 **cost of all real and tangible personal property, other than data centers,**
3 **that is owned or leased by the company in Oregon, is in service and**
4 **is used by the company in the business of communication, is less than**
5 **or equal to 10** percent of the **historical or** original cost of the real and
6 tangible personal property of all data centers owned, leased or used by the
7 company in Oregon and all additions to the data center property[; *and*].

8 **“(b) For purposes of this subsection, property other than data cen-**
9 **ters used in the business of communication does not include property**
10 **to the extent the property constitutes:**

11 **“(A) An office;**

12 **“(B) A warehouse;**

13 **“(C) A manufacturing plant;**

14 **“(D) A retail outlet;**

15 **“(E) Property used in connection with a data center to generate**
16 **electricity; or**

17 **“(F) Electricity generated by property described in subparagraph (E)**
18 **of this paragraph.**

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

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

28 *“(b) For purposes of the notations required under ORS 285C.175 (7) and*
29 *285C.409 (3), the county assessor shall record the real market value, the as-*
30 *essed value and the amount of potential additional taxes as determined*

1 *without regard to ORS 308.505 to 308.665.]*

2 *“(5) If a company described in subsection (3) of this section owns or leases*
3 *a data center in more than one county in this state, each data center must*
4 *satisfy all applicable requirements under subsection (3) of this section.]*

5 *“(6)(a) As used in this section:]*

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

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

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

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

26 **“(4) A company is not a company that performs or maintains the**
27 **business or service of communication within the meaning of ORS**
28 **308.515 if the only data transmission service provided by the company**
29 **in Oregon is providing electronic mail accounts or search engine ser-**
30 **vices, solely by means of contractual agreement with another com-**

1 pany.

2 **“SECTION 9.** ORS 308.505 is amended to read:

3 “308.505. As used in ORS 308.505 to 308.665:

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

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

7 “(3) ‘Communication’ includes telephone communication and data trans-
8 mission services by whatever means provided.

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

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

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

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

1 “[5] (8) ‘Interstate’ means transit between the State of Oregon and:

2 “(a) Another state;

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

4 “(c) A foreign country.

5 “[6] (9) ‘Large private railcar company’ means a private railcar company
6 with personal property with a real market value for the tax year that exceeds
7 \$1 million.

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

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

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

1 “[9] (13) ‘Property’:

2 “(a) Means all property of any kind, whether real, personal, tangible or
3 intangible, that is used or held by a company as owner, occupant, lessee or
4 otherwise, for the performance or maintenance of a business or service or for
5 the sale of a commodity, as described in ORS 308.515;

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

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

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

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

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

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

29 “[12] (16) ‘Transportation’ means carrying, conveying or moving pas-
30 sengers or property from one place to another.

1 “[~~(13)~~] (17) ‘Vehicle’ means any wheeled or tracked device used in trans-
2 portation under, on or in connection with the physical surface of the earth.

3 **SECTION 10. Sections 2, 3, 5 and 7 of this 2015 Act and the amend-
4 ments to ORS 307.126, 308.505 and 308.516 by sections 4, 8 and 9 of this
5 2015 Act apply to property tax years beginning on or after July 1, 2016.**

6 **“SECTION 11. Section 6 of this 2015 Act is repealed on January 2,
7 2020.**

8 **“SECTION 12. This 2015 Act takes effect on the 91st day after the
9 date on which the 2015 regular session of the Seventy-eighth Legisla-
10 tive Assembly adjourns sine die.”.**

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