

**PROPOSED AMENDMENTS TO
A-ENGROSSED SENATE BILL 611**

1 On page 2 of the printed A-engrossed bill, delete lines 4 through 45 and
2 delete pages 3 through 9 and insert:

3 **“SECTION 1. ORS 307.126 and sections 3, 5, 6, 8 and 10 of this 2015**
4 **Act are added to and made a part of ORS 308.505 to 308.665.**

5 **“SECTION 2. ORS 307.126 is amended to read:**

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

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

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

17 **“(b) Franchise fee agreements.**

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

22 **“SECTION 3. (1) The property of a company described in ORS**

1 **308.515 (1) shall be granted an exemption under subsection (5) of this**
2 **section if the company completes, maintains and operates a qualified**
3 **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. The boundaries of**
22 **the proposed service territory must be consistent with any boundaries**
23 **established in a franchise fee agreement the company has entered into**
24 **with a municipality in which the company will be offering services to**
25 **which an application submitted under this section relates or any ser-**
26 **vice territory allocated by the commission.**

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

30 **“(3)(a) A company seeking the exemption granted under this section**

1 must submit an application to the commission, with a copy to the
2 department, on or before January 15 preceding the first property tax
3 year for which the exemption is sought.

4 “(b) The application must include:

5 “(A) Information substantiating that the project meets the re-
6 quirements of subsection (2) of this section;

7 “(B) A schedule for the construction and installation of the real and
8 tangible personal property constituting the communication
9 infrastructure; and

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

11 “(c) The application fee shall be distributed evenly to the commis-
12 sion and the department to reimburse the commission for the costs
13 of reviewing the application and the department for the costs of ap-
14 praising the property of the company submitting the application.

15 “(4)(a)(A) On or before March 1 of the year in which the application
16 is submitted under subsection (3) of this section, the commission shall
17 determine whether the project is a qualified project.

18 “(B) During the period in which the commission is making its de-
19 termination, the commission may discuss the information included in
20 the application with the company and the department, the commission
21 may require the company to provide additional information and the
22 company may amend the application.

23 “(C) Upon request of the company, the commission may grant an
24 extension of not more than two weeks for a determination under this
25 paragraph.

26 “(D) Before making a determination under this paragraph, the
27 commission shall consult with any city with which the company has
28 entered into a franchise fee agreement to provide services to which the
29 application relates.

30 “(b) If the commission determines that the project is not a qualified

1 project, the application may not be approved. The commission shall
2 notify the company of the negative determination and state the rea-
3 sons. A negative determination under this subsection is not review-
4 able, but a company may submit an amended application for the
5 project under subsection (3) of this section in any subsequent year.

6 “(c) If the commission determines that the project is a qualified
7 project:

8 “(A) The application shall be approved.

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

12 “(C) The property of the company shall be granted the exemption
13 under subsection (5) of this section beginning with the first property
14 tax year that begins after the date of the determination.

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

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

24 “(A) For the property of a company that elects an exemption under
25 ORS 307.126, the real market value of the company’s real property and
26 tangible and intangible personal property allocated to Oregon and in-
27 cluded in the unit subject to central assessment, reduced by the por-
28 tion of the value of the exemption as determined under ORS 307.126
29 (3) that is allocated to Oregon.

30 “(B) For the property of a company that does not elect an ex-

1 exemption under ORS 307.126, the real market value of the company's
2 real property and tangible and intangible personal property allocated
3 to Oregon and included in the unit subject to central assessment.

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

7 “(6) If the amount determined under subsection (5)(a) of this section
8 is not positive, the amount described in subsection (5)(b) of this sec-
9 tion shall be the real market value of the company's property allocated
10 to Oregon for the property tax year.

11 “(7)(a) If the property of a company is granted an exemption under
12 this section for a property tax year, the property is not eligible for any
13 other exemption from ad valorem property taxation for the property
14 tax year.

15 “(b) Notwithstanding paragraph (a) of this subsection, an exemption
16 granted under ORS 307.126 to property granted an exemption under
17 this section shall be allowed in the manner provided under this section
18 and ORS 307.126.

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

20 “(1) For the property tax year beginning on July 1, 2017, a project
21 is qualified under section 3 (2)(a)(C) of this 2015 Act if the project, as
22 of January 15, 2017, provides access to communication services that
23 meet the standards described in section 3 (2)(a)(B) of this 2015 Act to
24 30 percent or more of the customer base in the service territory in
25 which the communication infrastructure is constructed or installed.

26 “(2) For the property tax year beginning on July 1, 2018, a project
27 is qualified under section 3 (2)(a)(C) of this 2015 Act if the project, as
28 of January 15, 2018, provides access to communication services that
29 meet the standards described in section 3 (2)(a)(B) of this 2015 Act to
30 40 percent or more of the customer base in the service territory in

1 which the communication infrastructure is constructed or installed.

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

9 **“SECTION 5. (1)(a) Notwithstanding any other provision of law re-**
10 **lating to the confidentiality of public records, on or before December**
11 **15 of each year, each assessor of a county in which property granted**
12 **the exemption under section 3 of this 2015 Act is located shall submit**
13 **to the Department of Revenue a report stating the amount of the ex-**
14 **emption granted to the property of each company, the amount of**
15 **property taxes imposed on the property and the amount of property**
16 **taxes that were not imposed on the property because of the exemption**
17 **for the current property tax year and estimates of these amounts for**
18 **the following property tax year.**

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

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

26 “(a) The name and business of each company whose property is
27 granted the exemption under section 3 of this 2015 Act.

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

30 “(A) The capital investment made by the company in Oregon in

1 newly constructed or installed real or tangible personal property con-
2 stituting communication infrastructure.

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

5 “(C) The standards for the consumer services provided by the com-
6 munication infrastructure and whether the company meets the stan-
7 dards.

8 “(D) Who is served by the communication infrastructure and how
9 they are served.

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

12 “(c) Any other information the commission considers necessary for
13 a thorough analysis of the exemption granted under section 3 of this
14 2015 Act.

15 “SECTION 6. No later than February 1 of each year, the Depart-
16 ment of Revenue shall submit a report in the manner provided in ORS
17 192.245 to the interim committees of the Legislative Assembly related
18 to revenue that states for the current property tax year and estimates
19 for the following property tax year:

20 “(1) The amount of exemptions granted to the property of each
21 company under ORS 307.126 and section 3 of this 2015 Act;

22 “(2) The amount of property taxes imposed on the property under
23 those sections; and

24 “(3) The amount of property taxes, broken down by taxing district,
25 that were not imposed on the property because of the exemptions.

26 “SECTION 7. ORS 308.516 is amended to read:

27 “308.516. (1) A company is not a company described in ORS 308.515 (1) to
28 the extent that the company furnishes undiluted liquefied or industrial gas
29 in bottles, tanks or similar containers.

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

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

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

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

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

10 “(3)(a) A company that **is in the business of communication and** is the
11 owner or lessee of a data center is not a company described in ORS 308.515
12 (1) if[:]

13 “[*(a) The company has entered into a written tax abatement agreement, or*
14 *is entitled by assignment or succession to the benefits of a tax abatement*
15 *agreement entered into, with the sponsors of an enterprise zone with respect*
16 *to a data center, pursuant to ORS 285C.050 to 285C.250 or 285C.400 to*
17 *285C.420; and]*

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

21 **the historical or original**
22 **cost of all real and tangible personal property, other than data centers,**
23 **that is owned or leased by the company in Oregon, is in service and**
24 **is used by the company in the business of communication, is less than**
25 **or equal to 10** percent of the **historical or** original cost of the real and
26 tangible personal property of all data centers owned, leased or used by the
company in Oregon and all additions to the data center property[; *and*].

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

30 **“(A) An office;**

- 1 **“(B) A warehouse;**
2 **“(C) A manufacturing plant;**
3 **“(D) A retail outlet;**
4 **“(E) Property used in connection with a data center to generate**
5 **electricity; or**
6 **“(F) Electricity generated by property described in subparagraph (E)**
7 **of this paragraph.**

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

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

17 *“(b) For purposes of the notations required under ORS 285C.175 (7) and*
18 *285C.409 (3), the county assessor shall record the real market value, the as-*
19 *essed value and the amount of potential additional taxes as determined*
20 *without regard to ORS 308.505 to 308.665.]*

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

24 *“(6)(a) As used in this section:]*

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

27 *“(B) ‘Independent data center’ means real and personal property consisting*
28 *of buildings or structures specifically designed or modified to house networked*
29 *computers and data and transaction processing equipment and related*
30 *infrastructure support equipment, including, without limitation, power and*

1 *cooling equipment, used primarily to provide, as a service to persons other than*
2 *the company operating the independent data center, data and transaction pro-*
3 *cessing services, outsource information technology services and computer*
4 *equipment colocation services.]*

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

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

15 **“(4) A company is not a company in the business of communication**
16 **solely because the company manufactures or holds out for sale prop-**
17 **erty used by any person in communication.**

18 **“SECTION 8. (1) The following real and tangible personal property**
19 **shall be locally assessed regardless of whether the property is used or**
20 **held for future use by a company described in ORS 308.515 (1):**

21 **“(a) Property constituting a data center;**

22 **“(b) Property used in connection with a data center to generate**
23 **electricity; and**

24 **“(c) Electricity generated by property described in paragraph (b) of**
25 **this subsection.**

26 **“(2) For purposes of ORS 308.505 to 308.665, property described in**
27 **subsection (1) of this section that is used or held for future use by a**
28 **company described in ORS 308.515 (1), and intangible personal property**
29 **that is related to the property, may not be included in any unit subject**
30 **to central assessment.**

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

2 “308.505. As used in ORS 308.505 to 308.665:

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

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

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

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

10 **“(5) ‘Data transmission services’ does not include providing elec-
11 tronic mail accounts or search engine services solely by means of
12 contractual agreement with another company that owns the trans-
13 mission property if providing such accounts or services are the only
14 data transmission services provided by the company in Oregon.**

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

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

1 **property used for all purposes.**

2 “[4] (8) ‘Inland water’ means all water or waters within the State of
3 Oregon, all interstate rivers touching Oregon and all tidewaters extending
4 to the ocean bars.

5 “[5] (9) ‘Interstate’ means transit between the State of Oregon and:

6 “(a) Another state;

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

8 “(c) A foreign country.

9 “[6] (10) ‘Large private railcar company’ means a private railcar com-
10 pany with personal property with a real market value for the tax year that
11 exceeds \$1 million.

12 “[7] (11) ‘Locally assessed’ means the assessment of property for prop-
13 erty tax purposes by the county assessor that is not conducted under ORS
14 308.505 to 308.665.

15 **“(12) ‘Online service 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, to a single user, including the user’s affiliates, customers,**
21 **lessees, vendors and other persons authorized by the user, data and**
22 **transaction processing services. For purposes of this subsection, the**
23 **primary use of property is based on the relative proportion of the ori-**
24 **ginal cost of property used for all purposes.**

25 “[8] (13) ‘Person,’ ‘company,’ ‘corporation’ or ‘association’ means any
26 person, group of persons, whether organized or unorganized, firm, joint stock
27 company, association, cooperative or mutual organization, people’s utility
28 district, joint operating agency as defined in ORS 262.005, syndicate, entity
29 formed to partner or combine public and private interests, partnership or
30 corporation engaged in performing or maintaining any business or service

1 or in selling any commodity as set forth in ORS 308.515, whether or not the
2 activity is pursuant to any franchise and whether or not the person or other
3 entity or combination of entities possesses characteristics of limited or un-
4 limited liability.

5 “[9] (14) ‘Property’:

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

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

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

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

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

23 “[10] (15) ‘Property having situs in this state’ means all property, real
24 and personal, of a company, owned, leased, used, operated or occupied by it
25 and situated wholly within this state, and, as determined under ORS 308.550
26 and 308.640, the proportion of the movable, transitory or migratory personal
27 property owned, leased, used, operated or occupied by a company, including
28 but not limited to watercraft, aircraft, rolling stock, vehicles and con-
29 struction equipment, as is used partly within and partly outside of this state.

30 “[11] (16) ‘Small private railcar company’ means a private railcar com-

1 pany with personal property with a real market value for the tax year that
2 does not exceed \$1 million.

3 “[~~(12)~~] (17) ‘Transportation’ means carrying, conveying or moving pas-
4 sengers or property from one place to another.

5 “[~~(13)~~] (18) ‘Vehicle’ means any wheeled or tracked device used in trans-
6 portation under, on or in connection with the physical surface of the earth.

7 **“SECTION 10. The Legislative Assembly declares that the intention**
8 **of the amendments to ORS 308.516 by section 7 of this 2015 Act is to**
9 **exclude from central assessment the property of qualifying companies**
10 **that own or operate data centers.**

11 **“SECTION 11. (1) Section 8 of this 2015 Act and the amendments to**
12 **ORS 308.505 and 308.516 by sections 7 and 9 of this 2015 Act apply to**
13 **property tax years beginning on or after July 1, 2015.**

14 **“(2) Sections 3, 5, 6 and 10 of this 2015 Act and the amendments to**
15 **ORS 307.126 by section 2 of this 2015 Act apply to property tax years**
16 **beginning on or after July 1, 2016.**

17 **“SECTION 12. Section 4 of this 2015 Act is repealed on January 2,**
18 **2020.**

19 **“SECTION 13. This 2015 Act takes effect on the 91st day after the**
20 **date on which the 2015 regular session of the Seventy-eighth Legisla-**
21 **tive Assembly adjourns sine die.”.**

22
