

**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 2, 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. (1) The property of a company described in ORS**
6 **308.515 (1) may be granted an exemption under section 3 of this 2015**
7 **Act or section 5 of this 2015 Act, but not under both sections 3 and 5**
8 **of this 2015 Act.**

9 **“(2) For any company whose property is eligible for an exemption**
10 **under both sections 3 and 5 of this 2015 Act, the Department of Reve-**
11 **nue shall appraise the value of the property under sections 3 and 5 of**
12 **this 2015 Act for each property tax year and use the provisions of the**
13 **section that result in the lowest amount of taxable value.**

14 **“SECTION 3. (1) Subject to section 2 of this 2015 Act, the property**
15 **of a company described in ORS 308.515 (1) shall be granted an ex-**
16 **emption in the amount of the positive value, if any, obtained by sub-**
17 **tracting from the real market value of the company’s real property**
18 **and tangible and intangible personal property included in the unit**
19 **subject to central assessment, reduced by the amount of any ex-**
20 **emption elected under ORS 307.126, an amount equal to the historical**
21 **or original cost of the company’s real property and tangible personal**
22 **property included in the unit subject to central assessment, without**

1 reduction for any exemption elected under ORS 307.126, multiplied by
2 130 percent.

3 “(2) If the amount determined under subsection (1) of this section
4 is not positive, subject to section 2 of this 2015 Act, the real market
5 value of the company’s real property and tangible and intangible per-
6 sonal property included in the unit subject to central assessment, re-
7 duced by the amount of any exemption elected under ORS 307.126, shall
8 be the real market value of the company’s property for the property
9 tax year.

10 “(3) Notwithstanding subsection (1) of this section, an exemption
11 granted under this section may not exceed an amount equal to 95
12 percent of the real market value of the company’s real property and
13 tangible and intangible personal property included in the unit subject
14 to central assessment.

15 “(4)(a) If the property of a company is granted an exemption under
16 this section for a property tax year, the property is not eligible for any
17 other exemption from ad valorem property taxation for the property
18 tax year.

19 “(b) Notwithstanding paragraph (a) of this subsection:

20 “(A) An exemption granted under ORS 307.126 to property that is
21 granted an exemption under this section shall be allowed in the man-
22 ner provided under this section and ORS 307.126.

23 “(B) An exemption granted under this section for a property tax
24 year has no effect on the benefits that the property of the company
25 or the company may be granted under ORS chapter 285C or ORS
26 307.123 for the property tax year.

27 “SECTION 4. ORS 307.126 is amended to read:

28 “307.126. (1) [*Licenses granted by the Federal Communications Commission*
29 *are exempt from ad valorem property taxation, and the value of the licenses*
30 *may not be reflected in the value of real or tangible personal property.] A*

1 company described in ORS 308.515 (1) that owns, leases or uses prop-
2 erty listed in subsection (2) of this section may elect property de-
3 scribed in one paragraph of subsection (2) of this section to be exempt
4 from ad valorem property taxation.

5 “(2) The property referred to in subsection (1) of this section con-
6 sists of:

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

8 “(b) If the company is in the business of communication, fran-
9 chises.

10 “(c) Satellites that are used by the company to provide communi-
11 cation services directly to retail customers or that are being con-
12 structed for such use and Federal Communications Commission
13 licenses related to the use of the satellites to provide the communi-
14 cation services.

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

19 “SECTION 5. (1) Subject to section 2 of this 2015 Act, the property
20 of a company described in ORS 308.515 (1) shall be granted an ex-
21 emption under subsection (5) of this section if the company builds,
22 maintains and operates a qualified project in Oregon.

23 “(2) A project is qualified under this section if:

24 “(a) The project requires capital investment in newly constructed
25 or installed real or tangible personal property constituting
26 infrastructure that enables the company to offer communication ser-
27 vices, including a capacity of at least one gigabit per second symmet-
28 rical service, to a majority of the residential customers of the
29 company’s broadband services; and

30 “(b) With respect to communication services offered by the com-

1 pany using the infrastructure, the company does not deny access to
2 the communication services to any group of residential customers be-
3 cause of the income level of the residential customers in the local
4 service area in which the residential customers reside.

5 “(3)(a) A company seeking the exemption granted under this section
6 must submit an application to the Public Utility Commission, with a
7 copy to the Department of Revenue, on or before January 15 preceding
8 the first property tax year for which the exemption is sought.

9 “(b) The application must include:

10 “(A) A certification that the project meets the requirements of
11 subsection (2) of this section; and

12 “(B) An application fee of \$50,000.

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

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

20 “(b) During the period in which the commission is making a deter-
21 mination under this subsection:

22 “(A) The commission may discuss the information included in the
23 application with the company and the department;

24 “(B) The commission shall consult with any city with which the
25 company has entered into a franchise fee agreement to provide ser-
26 vices to which the application relates:

27 “(C) The company may amend the application; and

28 “(D) Upon request of the company, the commission may grant an
29 extension of not more than two weeks for a determination under this
30 subsection.

1 **“(c) If the commission determines that the project is not a qualified**
2 **project, the application may not be approved. The commission shall**
3 **notify the company of the negative determination and state the rea-**
4 **sons.**

5 **“(d) If the commission determines that the project is a qualified**
6 **project:**

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

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

11 **“(C) Subject to section 2 of this 2015 Act, the property of the com-**
12 **pany shall be granted the exemption under subsection (5) of this sec-**
13 **tion beginning with the first property tax year that begins after the**
14 **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 real market value of the company’s real property and tangi-**
19 **ble and intangible personal property, including property that would**
20 **otherwise be assessed under section 8 of this 2015 Act, that is allocated**
21 **to Oregon and included in the unit subject to central assessment, re-**
22 **duced by the portion of the value of any exemption elected under ORS**
23 **307.126 that is allocated to Oregon, an amount equal to the greater of**
24 **\$250 million or the real market value of the company’s real and tan-**
25 **gible personal property located in Oregon as of the assessment date,**
26 **without reduction for any exemption elected under ORS 307.126.**

27 **“(b) The exemption shall be granted for the lesser of 20 consecutive**
28 **property tax years or the period during which an owner maintains and**
29 **operates the qualified project.**

30 **“(6) If the amount determined under subsection (5)(a) of this section**

1 is not positive, subject to section 2 of this 2015 Act, the real market
2 value of the company's real property and tangible and intangible per-
3 sonal property, excluding property that is assessed under section 8 of
4 this 2015 Act, allocated to Oregon and included in the unit subject to
5 central assessment, reduced by the portion of the value of any ex-
6 emption elected under ORS 307.126 that is allocated to Oregon, shall
7 be the real market value of the company's property allocated to
8 Oregon for the property tax year.

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

13 “(b) Notwithstanding paragraph (a) of this subsection:

14 “(A) An exemption granted under ORS 307.126 to property that is
15 granted an exemption under this section shall be allowed in the man-
16 ner provided under this section and ORS 307.126.

17 “(B) An exemption granted under this section for a property tax
18 year has no effect on the benefits that the property of the company
19 or the company may be granted under ORS chapter 285C or ORS
20 307.123 for the property tax year.

21 “SECTION 6. (1)(a) Notwithstanding any other provision of law re-
22 lating to the confidentiality of public records, on or before December
23 15 of each year, each assessor of a county in which property granted
24 an exemption under section 5 of this 2015 Act, in accordance with
25 section 2 of this 2015 Act, is located shall submit to the Department
26 of Revenue a report stating the amount of the exemption granted to
27 the property of each company, the amount of property taxes imposed
28 on the property and the amount of property taxes that were not im-
29 posed on the property because of the exemption for the current prop-
30 erty tax year and estimates of these amounts for the following

1 **property tax year.**

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

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

9 **“(a) The name and business of each company whose property is**
10 **granted an exemption under section 5 of this 2015 Act.**

11 **“(b) For each company described in paragraph (a) of this sub-**
12 **section:**

13 **“(A) The capital investment made by the company in Oregon in**
14 **newly constructed or installed real or tangible personal property con-**
15 **stituting communication infrastructure.**

16 **“(B) Whether the company has met the requirements for service**
17 **capacity and offering service to residential customers.**

18 **“(C) Who is served by the communication infrastructure and how**
19 **they are served.**

20 **“(D) The compiled information received from the department pur-**
21 **suant to subsection (1) of this section.**

22 **“(c) Any other information the commission considers necessary for**
23 **a thorough analysis of the exemption granted under section 5 of this**
24 **2015 Act.**

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

26 **“308.516. (1) A company is not a company described in ORS 308.515 (1) to**
27 **the extent that the company furnishes undiluted liquefied or industrial gas**
28 **in bottles, tanks or similar containers.**

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

30 **“(a) The company generates electricity primarily for the company’s own**

1 use and makes no more than incidental sales of the company’s surplus elec-
2 tricity to other persons; or

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

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

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

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

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

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

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

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

29 “(A) **An office;**

30 “(B) **A warehouse;**

1 **“(C) A manufacturing plant;**

2 **“(D) A retail outlet;**

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

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

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

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

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

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

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

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

26 *“(B) ‘Independent data center’ means real and personal property consisting*
27 *of buildings or structures specifically designed or modified to house networked*
28 *computers and data and transaction processing equipment and related*
29 *infrastructure support equipment, including, without limitation, power and*
30 *cooling equipment, used primarily to provide, as a service to persons other than*

1 *the company operating the independent data center, data and transaction pro-*
2 *cessing services, outsource information technology services and computer*
3 *equipment colocation services.]*

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

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

14 **“(4) For purposes of ORS 308.515 (1), a company is not a company**
15 **in the business of communication solely because the company manu-**
16 **factures or holds out for sale property used by any person in commu-**
17 **nication.**

18 **“SECTION 8. (1) The following real and tangible personal property**
19 **used or held for future use by a company described in subsection (2)**
20 **of this section shall be locally assessed:**

21 **“(a) Property constituting a data center or used in connection with**
22 **the operation of data center property;**

23 **“(b) Property used on the data center property to generate elec-**
24 **tricity; and**

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

27 **“(2) Subsection (1) of this section applies to a company that is:**

28 **“(a) Not a company described in ORS 308.515 (1); or**

29 **“(b) A company described in ORS 308.515 (1) and the historical or**
30 **original cost of the real and tangible personal property of all data**

1 centers owned, leased or used by the company in Oregon and all ad-
2 ditions to the data center property, excluding property described in
3 subsection (1)(b) and (c) of this section, is equal to or greater than \$200
4 million.

5 “(3)(a) For purposes of ORS 308.505 to 308.665, property described in
6 subsection (1) of this section, and intangible personal property that is
7 related to the property, may not be included in any unit subject to
8 central assessment.

9 “(b) Notwithstanding paragraph (a) of this subsection, property that
10 is used or held for future use by a company whose property is granted
11 an exemption under section 5 of this 2015 Act and that would otherwise
12 be assessed under this section shall be assessed under section 5 of this
13 2015 Act.

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

15 “308.505. As used in ORS 308.505 to 308.665:

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

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

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

21 “(4) ‘Data center’ means an online service data center or an inde-
22 pendent data center.

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

28 “(6) ‘Historical or original cost’ means all costs incurred by a com-
29 pany in placing property in service for the property’s intended use by
30 the company, including, but not limited to, purchase price, freight,

1 **engineering fees, legal fees, materials, labor, overhead, taxes, interest,**
2 **entrepreneurial profit and other fees, expenses and charges related to**
3 **construction or installation.**

4 **“(7) ‘Independent data center’ means real and personal property**
5 **consisting of buildings or structures specifically designed or modified**
6 **to house networked computers and data and transaction processing**
7 **equipment and related infrastructure support equipment, including,**
8 **without limitation, power and cooling equipment, used primarily to**
9 **provide, as a service to persons other than the company operating the**
10 **independent data center, data and transaction processing services,**
11 **outsource information technology services and computer equipment**
12 **colocation services. For purposes of this subsection, the primary use**
13 **of property is based on the relative proportion of the original cost of**
14 **property used for all purposes.**

15 **“[(4)] (8) ‘Inland water’ means all water or waters within the State of**
16 **Oregon, all interstate rivers touching Oregon and all tidewaters extending**
17 **to the ocean bars.**

18 **“[(5)] (9) ‘Interstate’ means transit between the State of Oregon and:**

19 **“(a) Another state;**

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

21 **“(c) A foreign country.**

22 **“[(6)] (10) ‘Large private railcar company’ means a private railcar com-**
23 **pany with personal property with a real market value for the tax year that**
24 **exceeds \$1 million.**

25 **“[(7)] (11) ‘Locally assessed’ means the assessment of property for prop-**
26 **erty tax purposes by the county assessor that is not conducted under ORS**
27 **308.505 to 308.665.**

28 **“(12) ‘Online service data center’ means real and personal property**
29 **consisting of buildings or structures specifically designed or modified**
30 **to house networked computers and data and transaction processing**

1 **equipment and related infrastructure support equipment, including,**
2 **without limitation, power and cooling equipment, used primarily to**
3 **provide, to a single user, including the user’s affiliates, customers,**
4 **lessees, vendors and other persons authorized by the user, data and**
5 **transaction processing services. For purposes of this subsection, the**
6 **primary use of property is based on the relative proportion of the ori-**
7 **ginal cost of property used for all purposes.**

8 “[(8)] (13) ‘Person,’ ‘company,’ ‘corporation’ or ‘association’ means any
9 person, group of persons, whether organized or unorganized, firm, joint stock
10 company, association, cooperative or mutual organization, people’s utility
11 district, joint operating agency as defined in ORS 262.005, syndicate, entity
12 formed to partner or combine public and private interests, partnership or
13 corporation engaged in performing or maintaining any business or service
14 or in selling any commodity as set forth in ORS 308.515, whether or not the
15 activity is pursuant to any franchise and whether or not the person or other
16 entity or combination of entities possesses characteristics of limited or un-
17 limited liability.

18 “[9)] (14) ‘Property’:

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

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

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

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

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

6 “[~~(10)~~] (15) ‘Property having situs in this state’ means all property, real
7 and personal, of a company, owned, leased, used, operated or occupied by it
8 and situated wholly within this state, and, as determined under ORS 308.550
9 and 308.640, the proportion of the movable, transitory or migratory personal
10 property owned, leased, used, operated or occupied by a company, including
11 but not limited to watercraft, aircraft, rolling stock, vehicles and con-
12 struction equipment, as is used partly within and partly outside of this state.

13 “[~~(11)~~] (16) ‘Small private railcar company’ means a private railcar com-
14 pany with personal property with a real market value for the tax year that
15 does not exceed \$1 million.

16 “[~~(12)~~] (17) ‘Transportation’ means carrying, conveying or moving pas-
17 sengers or property from one place to another.

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

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

24 **“SECTION 11. (1) Sections 8 and 10 of this 2015 Act and the**
25 **amendments to ORS 308.505 and 308.516 by sections 7 and 9 of this 2015**
26 **Act apply to property tax years beginning on or after July 1, 2015.**

27 **“(2) Sections 2, 3, 5 and 6 of this 2015 Act and the amendments to**
28 **ORS 307.126 by section 4 of this 2015 Act apply to property tax years**
29 **beginning on or after July 1, 2016.**

30 **“SECTION 12. This 2015 Act takes effect on the 91st day after the**

1 **date on which the 2015 regular session of the Seventy-eighth Legisla-**
2 **tive Assembly adjourns sine die.”.**

3 _____