

# D R A F T

## SUMMARY

Finds and declares utilities' occupancy of streets, highways and other public property within cities of this state matter of statewide concern.

Caps franchise agreement payments and privilege taxes imposed on utilities for purpose of occupying streets, highways and other public property within cities at five percent of gross revenue earned by utility within city.

Establishes limits for other charges and fees imposed by cities on utilities.

Broadens types of communications services on which municipalities may impose privilege tax. Lowers privilege tax rate imposed on gross revenues of communications service providers. Broadens definition of "gross revenues."

## A BILL FOR AN ACT

Relating to entities owing moneys for providing services in cities; creating new provisions; amending ORS 221.420, 221.450, 221.505, 221.510, 221.515 and 759.219; and repealing ORS 221.415.

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

## UTILITIES

### **SECTION 1. The Legislative Assembly finds and declares that:**

**(1) Utilities' occupancy of the streets, highways and other public property within the cities of this state is a matter of statewide concern;**

**(2) Consistency in regulating utilities' occupancy of the streets, highways and other public property within the cities of this state ensures that ratepayers are treated fairly;**

1       **(3) Consistency in regulating utilities’ occupancy of the streets,**  
2 **highways and other public property within the cities of this state is**  
3 **necessary to achieve this state’s economic development goals;**

4       **(4) Sections 1 to 5 of this 2017 Act provide appropriate compensation**  
5 **for the cities of this state for costs associated with regulating utilities’**  
6 **occupancy of the streets, highways and other public property of the**  
7 **cities of this state; and**

8       **(5) Sections 1 to 5 of this 2017 Act serve to recognize utilities’ rights**  
9 **to occupy the streets, highways and other public property of the cities**  
10 **of this state.**

11       **SECTION 2. As used in sections 1 to 5 of this 2017 Act:**

12       **(1) “Actual cost” means:**

13       **(a) Expenses associated with oversight of a utility’s activities, in-**  
14 **spection of a utility’s occupancy or maintenance or repair of a street,**  
15 **highway or other public property, including city facilities, for reasons**  
16 **related to a utility’s activities; and**

17       **(b) Administrative expenses associated with the expenses described**  
18 **in paragraph (a) of this subsection.**

19       **(2) “Heating company” means a person that furnishes heat, but not**  
20 **electricity or natural gas, to the person’s customers.**

21       **(3) “Local government” has the meaning given that term in ORS**  
22 **174.116.**

23       **(4) “Public utility” has the meaning given that term in ORS 757.005.**

24       **(5) “Utility” means:**

25       **(a) A public utility;**

26       **(b) A heating company;**

27       **(c) An electric cooperative organized under ORS chapter 62;**

28       **(d) A people’s utility district organized under ORS chapter 261; and**

29       **(e) Any entity against which a privilege tax may be levied under**  
30 **ORS 221.450.**

31       **SECTION 3. (1)(a) This section is intended to establish the authority**

1 of a city to determine by contract, or to prescribe by ordinance or  
2 otherwise, the payment of charges and fees under ORS 221.420 (2)(a),  
3 and the authority of a city to levy and collect a privilege tax under  
4 ORS 221.450.

5 (b) Except as expressly authorized by subsection (2) of this section,  
6 a city may not determine by contract, or prescribe by ordinance or  
7 otherwise, the payment of charges or fees for purposes described in  
8 ORS 221.420 (2)(a).

9 (c) Except as expressly authorized under subsection (3) of this sec-  
10 tion, a city may not levy and collect a privilege tax for purposes de-  
11 scribed in ORS 221.450.

12 (d) A city may not impose and collect a charge or a fee from any  
13 person that uses a facility of a utility to provide services to customers  
14 of the utility for a purpose that is related to the use.

15 (2) For purposes of ORS 221.420 (2)(a), a city may determine by  
16 contract, or prescribe by ordinance or otherwise, a franchise fee, upon  
17 the payment of which a utility may occupy the streets, highways and  
18 other public property of the city, in an amount that does not exceed  
19 five percent of the gross revenue earned by the utility within the city.

20 (3) For purposes of ORS 221.450, a city may levy and collect a priv-  
21 ilege tax from a utility described in ORS 221.450, upon the payment of  
22 which a utility may occupy the streets, highways and other public  
23 property of the city, in an amount that does not exceed five percent  
24 of the gross revenue earned by the utility within the city.

25 (4) For purposes of subsections (2) and (3) of this section, “gross  
26 revenue” does not include any gross revenue derived from interstate  
27 commerce or business of the federal government of the United States.

28 SECTION 4. (1) If a utility is a unit of local government, or an  
29 intergovernmental body formed by two or more units of local govern-  
30 ment, then a city may charge the utility, whether as a fee, tax or  
31 other type of payment, only the actual cost of occupying a street,

1 highway or other public property, provided that the actual cost is not  
2 based on calculations that are more than three years old.

3 (2) A city may not charge a utility that is a unit of local govern-  
4 ment, or that is an intergovernmental body formed by two or more  
5 units of local government, under this section if the city has entered  
6 into a franchise agreement with the utility pursuant to ORS 221.420  
7 (2)(a) or has levied a privilege tax against the utility pursuant to ORS  
8 221.450.

9 SECTION 5. (1) If a city has entered into a franchise agreement  
10 with a utility pursuant to ORS 221.420 (2)(a), or levied a privilege tax  
11 against a utility pursuant to ORS 221.450, the city and the utility shall  
12 bear the costs of relocating a facility of the utility as follows:

13 (a) The utility shall bear the relocation costs to the extent that the  
14 relocation is required to accommodate a capital project or other de-  
15 velopment funded by the city, the primary purpose of which is to ad-  
16 dress a matter of public health and safety.

17 (b) The city shall bear the relocation costs to the extent that the  
18 relocation is required to accommodate a capital project or other de-  
19 velopment funded by the city, the primary purpose of which is to  
20 promote education, recreation or beautification of the city;

21 (c) To the extent that the relocation is required to accommodate a  
22 capital project or other development funded by a third party, the  
23 utility has the right to recover the relocation costs from the third  
24 party. To provide for the recovery of relocation costs, the city shall  
25 incorporate the cost of reimbursing the utility into the conditions and  
26 requirements of the applicable city permits issued to the third party  
27 for purposes of the project or other development.

28 (2) If a city has entered into a franchise agreement with a utility  
29 pursuant to ORS 221.420 (2)(a), or levied a privilege tax against a utility  
30 pursuant to ORS 221.450, the city may not assess a separate permit fee  
31 against the utility for construction and repairs of a facility of the

1 utility or for any activity of the utility that requires a street opening,  
2 except that the city may assess a separate permit fee against the  
3 utility for any construction or repairs of a facility of the utility or for  
4 any activity of the utility that requires a street opening if, during the  
5 calendar year that the city assesses the permit fee, the aggregate of  
6 actual costs for administrative, engineering and inspection expenses  
7 of the city that are associated with the construction or repairs of fa-  
8 cilities of the utility or with activities of the utility that require a  
9 street opening exceed 50 percent of the amount that the city receives  
10 from the utility during that calendar year under the franchise agree-  
11 ment or pursuant to the privilege tax.

12 **SECTION 6.** ORS 221.420 is amended to read:

13 221.420. [(1) *As used in this section:*]

14 [(a) *“Public utility” has the meaning for that term provided in ORS*  
15 *757.005.*]

16 [(b) *“Commission” means the Public Utility Commission of Oregon.*]

17 [(c) *“Council” means the common council, city council, commission or any*  
18 *other governing body of any municipality wherein the property of the public*  
19 *utility is located.*]

20 [(d) *“Municipality” means any town, city or other municipal government*  
21 *wherein property of the public utility is located.*]

22 [(e) *“Service” is used in its broadest and most inclusive sense and includes*  
23 *equipment and facilities.*]

24 [(f) *“Heating company” means any person furnishing heat but not electricity*  
25 *or natural gas to its customers.*]

26 **(1) For purposes of this section, “service” is intended to be used in**  
27 **its broadest and most inclusive sense, and includes the equipment and**  
28 **facilities of a utility.**

29 **(2) Subject to ORS 758.025 and section 3 of this 2017 Act, a city may:**

30 **(a) Determine by contract, or prescribe by ordinance or otherwise, the**  
31 **terms and conditions, including the payment of charges and fees, upon which**

1 *[any public utility, electric cooperative, people's utility district or heating*  
2 *company, or Oregon Community Power,]* **a utility** may be permitted to occupy  
3 the streets, highways or other public property within *[such]* **the city** *[and]*.

4 **(b)** Exclude or eject *[any]* **a public utility or heating company**  
5 *[therefrom.]* **from the city.**

6 *[(b)]* **(c)** Require *[any]* **a public utility**, by ordinance or otherwise, to make  
7 *[such]* modifications, additions and extensions to *[its]* **the physical equip-**  
8 **ment, facilities or** *[plant or service]* **plants or services of the utility that**  
9 **are located or offered** within *[such]* **the city** as *[shall be]* **are** reasonable  
10 or necessary in the interest of the public, and designate the location and  
11 nature of *[all]* **the** additions and extensions, the time within which *[they]* **the**  
12 **additions and extensions** must be completed, and *[all]* **the** conditions under  
13 which *[they]* **the additions and extensions** must be constructed.

14 *[(c)]* **(d)** Fix by contract, prescribe by ordinance[, ] or **provide for** in any  
15 other lawful manner, the rates, charges or tolls to be paid to, or that may  
16 be collected by, *[any]* **a public utility**, or the quality and character of each  
17 kind of product or service to be furnished or rendered by *[any]* **a public**  
18 **utility** *[furnishing any product or service within such city]*. *[No]* **A** schedule  
19 of rates, charges or tolls, fixed in the manner provided *[in]* **by** this para-  
20 graph, *[shall be so]* **may not be** fixed for a *[longer]* period *[than]* **exceeding**  
21 five years. *[Whenever it is proposed by any city to enter into any contract, or*  
22 *to enact any ordinance, or other municipal law or regulation concerning the*  
23 *matters specified in this paragraph,]* **Before a city enters into a contract,**  
24 **enacts an ordinance or otherwise acts pursuant to this paragraph, the**  
25 **city must file** a copy of *[such]* **the** proposed contract, ordinance or other  
26 municipal law or resolution *[shall be filed]* with the Public Utility Commis-  
27 sion *[of Oregon]* before the *[same]* **contract, ordinance or other municipal**  
28 **law or resolution** may be lawfully signed or enacted[, *as the case may be,*  
29 *and*]. The commission *[shall thereafter have]* **has 90 days from the date of**  
30 **the filing** within which to examine *[into]* the terms *[thereof]* **of the con-**  
31 **tract, ordinance or other municipal law or resolution.** If the commission

1 is of the opinion that [*in any respect*] the provisions of the proposed contract,  
2 ordinance or other municipal law or resolution are not in the public interest,  
3 the commission shall file, in writing, with the [*clerk or other*] **city** officer  
4 who has [*the*] custody of the files and records of the city[,] the commission's  
5 reasons [*therefor*] **that the provisions of the proposed contract, ordi-**  
6 **nance or other municipal law or resolution are not in the public in-**  
7 **terest.** If the objections are filed within [*said period of 90 days, no*] **the**  
8 **90-day period, the** proposed contract, ordinance or other municipal law or  
9 [*regulation shall be valid or go into effect until it*] **resolution may not be-**  
10 **come effective until the proposed contract, ordinance or other munic-**  
11 **ipal law or resolution** has been [*submitted to or*] ratified by [*the*] **a** vote of  
12 the electors of the city. Unless and until a city exercises [*its*] **the city's**  
13 powers as provided in this paragraph, the commission is vested with all  
14 powers with respect to the matters specified in this paragraph. If the sched-  
15 ule of rates, charges and tolls or the quality and character of [*each kind of*]  
16 **a product or service** is fixed by contract, ordinance or other municipal law  
17 or regulation [*and*] in the manner provided [*in*] **by** this paragraph, the com-  
18 mission has no power or jurisdiction to interfere with, modify or change  
19 [*it*] **the schedule of rates, charges and tolls or the quality and charac-**  
20 **ter of each kind of product or service** during the [*period fixed thereby*]  
21 **term of the contract, ordinance or other municipal law or resolution.**  
22 Upon the expiration of [*said period such powers shall again be*] **the term,**  
23 **all powers with respect to matters specified in this paragraph are**  
24 vested in the commission, to be exercised by the commission unless [*and*  
25 *until*] a new schedule of rates, **charges or tolls** or the quality and character  
26 [*for such service or product*] **of a product or service** is fixed [*or prescribed*]  
27 by contract[,] **or** ordinance or [*other municipal law or regulation in the*  
28 *manner provided in this paragraph*] **provided for in any other lawful**  
29 **manner.**

30 [(d)] (e) Provide for a penalty for noncompliance with the provisions of  
31 any charter provision, ordinance or resolution adopted by the city in

1 furtherance of the powers specified in this subsection.

2 **SECTION 7.** ORS 221.450 is amended to read:

3 221.450. Except as provided in ORS 221.655, **and subject to section 3 of**  
4 **this 2017 Act**, the city council or other governing body of [every] **an** incor-  
5 porated city may levy **a privilege tax against**, and collect a privilege tax  
6 from, Oregon Community Power and [from every] **an** electric cooperative  
7 **organized under ORS chapter 62**, people's utility district **organized under**  
8 **ORS chapter 261**, privately owned public utility, telecommunications carrier  
9 as defined in ORS 133.721 or heating company. The privilege tax may be  
10 **levied and** collected only if the entity is operating for a period of 30 days  
11 **or more** within the city **and occupying the streets, highways and other**  
12 **public property of the city** without a franchise from the city. [*and actually*  
13 *using the streets, alleys or highways, or all of them, in such city for other than*  
14 *travel on such streets or highways. The privilege tax shall be for the use of*  
15 *those public streets, alleys or highways, or all of them, in such city in an*  
16 *amount not exceeding five percent of the gross revenues of the cooperative,*  
17 *utility, district or company currently earned within the boundary of the city.*  
18 *However, the gross revenues earned in interstate commerce or on the business*  
19 *of the United States Government shall be exempt from the provisions of this*  
20 *section. The privilege tax authorized in this section shall be for each year, or*  
21 *part of each year, such utility, cooperative, district or company, or Oregon*  
22 *Community Power, operates without a franchise.] **The privilege tax may be**  
23 **levied and collected during each year, or during each part of a year,**  
24 **that the entity occupies the streets, highways and other public prop-**  
25 **erty of the city without a franchise from the city.***

26

27

## COMMUNICATIONS SERVICE PROVIDERS

28

29 **SECTION 8.** ORS 221.505 is amended to read:

30 221.505. The Legislative Assembly recognizes that significant changes  
31 have occurred in the regulation, technology and marketing of [*telecommuni-*



1 *cations carriers as defined in ORS 133.721 over the past decade]* **communi-**  
2 **communications services.** It is the intent of the Legislative Assembly in adopting the  
3 privilege tax authorized by ORS 221.505 to 221.515 and 759.219 to respond to  
4 these changes by establishing a uniform base for municipal charges for street  
5 use by [*telecommunications carriers*] **communications service providers.**

6 **SECTION 9.** ORS 221.510 is amended to read:

7 221.510. (1) As used in [*this section*] **ORS 221.505 to 221.515:**

8 [(a) "*Telecommunications carrier*" has the meaning given that term in ORS  
9 133.721.]

10 [(b) "*Commission*" means the *Public Utility Commission of Oregon.*]

11 **(a) "Communications service provider" means:**

12 **(A) A competitive telecommunications provider as defined in ORS**  
13 **759.005;**

14 **(B) A telecommunications utility as defined in ORS 759.005;**

15 **(C) An unincorporated association or cooperative corporation pro-**  
16 **viding intrastate telecommunications service; or**

17 **(D) A provider of interconnected Voice over Internet Protocol ser-**  
18 **vice.**

19 [(c)] **(b) "Council"** means the common council, city council, commission  
20 or any other governing body of any municipality [*wherein the property of the*  
21 *telecommunications carrier is located*].

22 **(c) "Gross revenues" means the revenues derived from the provision**  
23 **of telecommunications service or from interconnected Voice over**  
24 **Internet Protocol service provided to customers in a municipality but**  
25 **does not include:**

26 **(A) Net uncollectibles from the revenues;**

27 **(B) Any amount billed as a separate tax or surcharge for amounts**  
28 **payable to any federal, state or local government authority, whether**  
29 **imposed on the customer or on the communications service provider,**  
30 **including any privilege tax imposed under this section or ORS 221.515;**

31 **(C) Any amount billed for Internet access as defined in ORS 305.822;**

1 or

2 (D) Any amount billed for communications equipment or other  
3 property.

4 (d) “Interconnected Voice over Internet Protocol service” means a  
5 service that:

6 (A) Enables real-time, two-way voice communications;

7 (B) Requires a broadband connection from the user’s location;

8 (C) Requires Internet protocol-compatible customer premises  
9 equipment; and

10 (D) Permits users to receive calls that originate on, and to termi-  
11 nate calls to, the public switched telephone network.

12 [(d)] (e) “Municipality” means any town[, *municipality*] or other munici-  
13 pal government [*wherein property of the telecommunications carrier is*  
14 *located*].

15 [(e) “Service” is used in its broadest and most inclusive sense and includes  
16 equipment and facilities.]

17 (f) “Privilege tax” means any tax, fee or assessment of any kind,  
18 imposed or collected by the council of a municipality on or from a  
19 communications service provider for the use of the public streets, al-  
20 leys or highways in the municipality, including but not limited to:

21 (A) Franchise fees;

22 (B) License fees; or

23 (C) Nonmonetary consideration, such as the construction or free  
24 use of telecommunications service or interconnected Voice over  
25 Internet Protocol service facilities and equipment.

26 (g) “Telecommunications service” has the meaning given that term  
27 in ORS 759.005. “Telecommunications service” does not include Inter-  
28 net access as defined in ORS 305.822.

29 (2) Every municipality may, solely on a competitively neutral and  
30 nondiscriminatory basis:

31 (a) Determine by contract or franchise agreement, or prescribe by or-

1 dinance or otherwise, the terms and conditions, including payment of a  
 2 privilege tax to the extent authorized by ORS 221.515 [*and other charges and*  
 3 *fees*], upon which [*any telecommunications carrier*] **a communications ser-**  
 4 **vice provider** may be permitted to occupy the **public** streets, **alleys**, high-  
 5 ways or other public property within [*such*] **the** municipality [*and exclude*  
 6 *or eject any telecommunications carrier therefrom*].

7 (b)(A) Require [*any telecommunications carrier*], by ordinance or other-  
 8 wise, [*to*] **that, in the interest of the public, a communications service**  
 9 **provider** make [*such*] **reasonable or necessary** modifications, additions and  
 10 extensions to [*its*] **the** physical equipment, facilities or plant [*or service*] **used**  
 11 **by the communications service provider to provide communications**  
 12 **services** within [*such*] **the** municipality [*as shall be reasonable or necessary*  
 13 *in the interest of the public,*]; and

14 (B) Designate the location and nature of [*all*] **the modifications**, addi-  
 15 tions and extensions, the time within which they must be completed and all  
 16 conditions under which they must be constructed.

17 (c) Provide for a penalty for noncompliance with the provisions of any  
 18 charter provision, ordinance or resolution adopted by the municipality in  
 19 furtherance of the powers specified in this subsection.

20 **SECTION 10.** ORS 221.515 is amended to read:

21 221.515. (1) The council of every municipality in this state may [*levy*]  
 22 **impose** and collect from every [*telecommunications carrier operating within*  
 23 *the municipality and actually using the streets, alleys or highways, or all of*  
 24 *them, in such municipality for other than travel, a privilege tax for the use of*  
 25 *those streets, alleys or highways, or all of them, in such*] **communications**  
 26 **service provider providing communications services to customers**  
 27 **within the municipality a privilege tax for the privilege of using the**  
 28 **public rights of way to provide communications services in the**  
 29 municipality [*in an amount which*].

30 (2) **Except as provided in subsection (3) of this section, the amount**  
 31 **of a privilege tax imposed under this section** may not exceed [*seven*] **five**

1 percent of the gross revenues of the *[telecommunications carrier]* **communi-**  
 2 **cations service provider** currently earned within the boundaries of the  
 3 municipality. The privilege tax *[authorized in this section]* shall be for each  
 4 year, or part of *[each]* a year, that *[such telecommunications carrier]* **the**  
 5 **communications service provider** operates within the municipality.

6 *[(2) As used in this section, "gross revenues" means those revenues derived*  
 7 *from exchange access services, as defined in ORS 403.105, less net uncollect-*  
 8 *ibles from such revenues.]*

9 **(3)(a) This subsection applies to a municipality that decreases the**  
 10 **municipality's privilege tax rate to five percent under subsection (2)**  
 11 **of this section for the one-year period beginning on January 1, 2018.**

12 **(b) If revenue from the privilege tax imposed as described in para-**  
 13 **graph (a) of this subsection is less than 95 percent of the privilege tax**  
 14 **revenue actually collected by the municipality for the one-year period**  
 15 **beginning on January 1, 2016, the municipality may, no later than**  
 16 **December 31, 2019, adopt an ordinance or resolution imposing the**  
 17 **privilege tax at a rate that is not greater than the lesser of:**

18 **(A) The rate that would have made the privilege tax revenue actu-**  
 19 **ally collected by the municipality for the one-year period beginning**  
 20 **on January 1, 2018, equal 95 percent of the privilege tax revenue actu-**  
 21 **ally collected by the municipality for the one-year period beginning**  
 22 **on January 1, 2016; or**

23 **(B) Seven percent.**

24 **(c) In any judicial proceeding challenging the rate imposed pursu-**  
 25 **ant to this subsection, the municipality shall bear the burden of dem-**  
 26 **onstrating that the increase is consistent with this subsection.**

27 *[(3)]* **(4)(a) A *[telecommunications carrier]* communications service pro-**  
 28 **vider** paying the privilege tax authorized by this section *[shall]* **may** not be  
 29 required to pay any additional fee, compensation or **other** consideration[,  
 30 *including the free use or construction of telecommunications facilities and*  
 31 *equipment,]* to the municipality for *[its]* use **by the communications ser-**

1 **vice provider of the** public streets, alleys[,] or highways[, *or all of them,*]  
2 and [*shall*] **may** not be required to pay any additional tax or fee on the gross  
3 revenues that are the measure of the privilege tax. [*As used in this sub-*  
4 *section, “use” includes, but is not limited to, street openings, construction and*  
5 *maintenance of fixtures or facilities by telecommunications carriers.*]

6 **(b)** [*As used in this subsection, “additional fee, compensation or consider-*  
7 *ation” does not include commissions paid for siting public telephones on mu-*  
8 *nicipal property.*] **Notwithstanding paragraph (a) of this subsection, in**  
9 **addition to a privilege tax imposed under this section, a municipality**  
10 **may charge a communications service provider:**

11 **(A) A commission for siting public telephones on municipal prop-**  
12 **erty;**

13 **(B) Separate fees for street openings, construction and inspection**  
14 **or maintenance of fixtures and facilities; and**

15 **(C) Separate fees for the privilege of providing communications**  
16 **services in the municipality.**

17 **(c)(A)** [*To the extent that separate fees are imposed by the municipality on*  
18 *telecommunications carriers for street openings, construction, inspection or*  
19 *maintenance of fixtures or facilities, such fees may be deducted from the priv-*  
20 *ilege tax authorized by this section. However, telecommunications carriers*  
21 *shall not deduct charges and penalties imposed by the municipality for non-*  
22 *compliance with charter provisions, ordinances, resolutions or permit condi-*  
23 *tions from the privilege tax authorized by this section.*] **A communications**  
24 **service provider may deduct separate fees imposed by the municipality**  
25 **under paragraph (b)(C) of this subsection from any privilege tax im-**  
26 **posed by the municipality under this section.**

27 **(B) A communications service provider may deduct any privilege**  
28 **tax imposed by the municipality under this section from any separate**  
29 **fees imposed under paragraph (b)(C) of this subsection.**

30 **(d) The total amount of a privilege tax imposed under this section**  
31 **and fees imposed under paragraph (b) of this subsection may not ex-**

1 **ceed five percent of the gross revenues of the communications service**  
2 **provider earned within the boundaries of the municipality for the tax**  
3 **period.**

4 [(4)] (5) *[For purposes of this section, “telecommunications carrier” has the*  
5 *meaning given that term in ORS 133.721.]* **A municipality may not restrict**  
6 **a communications service provider from recovering the amounts pay-**  
7 **able by the communications service provider as a privilege tax under**  
8 **this section from the communications service provider’s customers**  
9 **receiving services subject to the privilege tax.**

10 (6) **A cable operator as defined in ORS 30.192 paying a franchise fee**  
11 **as defined in 47 U.S.C. 542, as in effect on January 1, 2016, to a**  
12 **municipality under a franchise as defined in 47 U.S.C. 522, as in effect**  
13 **on January 1, 2016, may not be required to pay additional taxes or fees**  
14 **on the gross revenues that are the measure of the franchise fee paid**  
15 **under the cable franchise.**

16 **SECTION 11.** ORS 759.219 is amended to read:

17 759.219. The privilege tax authorized by ORS 221.515, or other similar  
18 exactions imposed by any municipality in this state upon telecommunications  
19 utilities for use and occupancy of streets, alleys or highways, or all of them,  
20 shall be allowed as an operating expense of the affected telecommunications  
21 utilities operating in the municipality for rate-making purposes by the Public  
22 Utility Commission. *[The cost of such privilege tax or other similar exactions*  
23 *shall be charged pro rata to the users of such telecommunications utility*  
24 *within the municipality unless the Public Utility Commission determines on*  
25 *a statewide basis that such pro rata charges would be inequitable, in whole*  
26 *or in part, to city ratepayers or should otherwise be borne as a statewide op-*  
27 *erating expense by the telecommunications utility.]*

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29

## MISCELLANEOUS

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31 **SECTION 12.** ORS 221.415 is repealed.

1       **SECTION 13.** ORS 221.420 and 221.450 are added to and made a part  
2 of sections 1 to 5 of this 2017 Act.

3       **SECTION 14.** Section 3 of this 2017 Act and the amendments to ORS  
4 221.420 by section 6 of this 2017 Act apply to franchise agreements en-  
5 tered into or renewed on or after the effective date of this 2017 Act.

6       **SECTION 15.** Section 3 of this 2017 Act and the amendments to ORS  
7 221.450 by section 7 of this 2017 Act apply to privilege taxes levied on  
8 or after the effective date of this 2017 Act.

9       **SECTION 16.** The unit captions used in this 2017 Act are provided  
10 only for the convenience of the reader and do not become part of the  
11 statutory law of this state or express any legislative intent in the  
12 enactment of this 2017 Act.

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