

House Bill 2063

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Revenue)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

For purposes of property tax exemption for certain communication infrastructure, requires minimum cost of newly constructed or installed real or tangible personal property. Sets ongoing maximum monthly charge and initial fees for qualified project. For company with majority of residential broadband customers residing within certain large metropolitan statistical areas, requires minimum proportion of residential customers to be served outside such metropolitan statistical areas. Clarifies that initial application for exemption applies to any company whose property has not been granted exemption.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to property tax exemption for certain communication infrastructure; creating new provisions; amending ORS 308.677; and prescribing an effective date.

3
4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 308.677 is amended to read:

6 308.677. (1) Subject to ORS 308.673, the property of a company described in ORS 308.515 (1) shall
7 be granted an exemption under subsection [(5)] (7) of this section if the company builds, maintains
8 and operates a qualified project in Oregon.

9 (2) **Except as provided in subsections (3) and (4) of this section**, a project is qualified under
10 this section if **all of the following conditions are met**:

11 (a) The project requires capital investment in newly constructed or installed real or tangible
12 personal property constituting infrastructure that enables the company to offer communication services,
13 including the capacity to provide, at least, approximately one gigabit per second symmetrical
14 service, to a majority of the residential customers of the company's broadband services[; and].

15 (b) **The historical or original cost of the newly constructed or installed real or tangible
16 personal property is at least \$_____ upon completion of the construction or installation.**

17 [(b)] (c) With respect to communication services offered by the company using the
18 infrastructure, the company does not deny access to the communication services to any group of
19 residential **broadband** customers because of the income level of the residential **broadband** customers
20 in the local service area in which the residential **broadband** customers reside.

21 (3)(a) **Notwithstanding subsection (2) of this section, a project may not be considered
22 qualified if, at any time during the period of exemption, the company charges for the symmetrical
23 service provided using the communication infrastructure:**

24 (A) **More than \$_____ per month; or**

25 (B) **Initial fees greater than _____ percent of the monthly amount charged by the
26 company in compliance with subparagraph (A) of this paragraph.**

27 (b) **The monthly charge limit provided in paragraph (a)(A) of this subsection shall be in**

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 effect for a calendar year. As soon as practicable after October 1 of each year, the Public
 2 Utility Commission shall adjust the monthly charge limit for the subsequent calendar year
 3 by the percentage of increase, if any, by which the monthly averaged U.S. City Average
 4 Consumer Price Index for All Urban Consumers (All Items), as published by the Bureau of
 5 Labor Statistics of the United States Department of Labor, for the 12 consecutive months
 6 ending September 30 of the current calendar year exceeds the monthly averaged U.S. City
 7 Average Consumer Price Index for the 12 consecutive months ending September 30 of the
 8 previous calendar year.

9 (4)(a) This subsection applies to a company if the majority of the company's residential
 10 broadband customers reside within the metropolitan statistical areas, as defined in ORS
 11 267.010, of Portland-Vancouver-Hillsboro, OR-WA, Salem and Eugene-Springfield, as deter-
 12 mined at the time of the initial application for the exemption granted under this section.

13 (b) Notwithstanding subsection (2) of this section, a company's project may be considered
 14 qualified only if the company offers residential communication services at the speed de-
 15 scribed in subsection (2)(a) of this section to a minimum number of residential broadband
 16 customers residing outside the metropolitan statistical areas identified in paragraph (a) of
 17 this subsection, computed as follows:

18 (A) The company's statewide residential broadband customers shall be divided by two and
 19 the quotient increased by one.

20 (B) The number of the company's residential broadband customers that reside outside
 21 the metropolitan statistical areas identified in paragraph (a) of this subsection shall be di-
 22 vided by the company's total statewide residential broadband customers.

23 (C) The amount determined under subparagraph (A) of this paragraph shall be multiplied
 24 by the quotient determined under subparagraph (B) of this paragraph.

25 (5)(a) This subsection applies to a company only if the company's property has not been
 26 granted exemption under this section for any property tax year.

27 [(3)(a)] (b) A company seeking the exemption granted under this section must submit an appli-
 28 cation to the Public Utility Commission, with a copy to the Department of Revenue, on or before
 29 January 15 preceding the first property tax year for which the exemption is sought.

30 [(b)] (c) The application must include:

31 (A) A certification that the project meets [*the requirements*] **all of the conditions** of subsection
 32 (2) of this section; and

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

34 [(c)] (d) The application fee shall be distributed evenly to the commission and the department
 35 to reimburse the commission for the costs of reviewing the application and the department for the
 36 costs of appraising the property of the company submitting the application.

37 [(4)(a)] (6)(a) On or before March 1 of the year in which the application is submitted under
 38 subsection [(3)] (5) of this section, the commission shall determine whether the project is a qualified
 39 project.

40 (b) During the period in which the commission is making a determination under this subsection:

41 (A) The commission may discuss the information included in the application with the company
 42 and the department;

43 (B) The commission shall consult with any city with which the company has entered into a
 44 franchise fee agreement to provide services to which the application relates;

45 (C) The company may amend the application; and

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

3 (c) If the commission determines that the project is not a qualified project, the application may
 4 not be approved. The commission shall notify the company of the negative determination and state
 5 the reasons.

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

7 (A) The application shall be approved.

8 (B) The commission shall notify the company, the department and the assessor of each county
 9 in which the project is located of the approval.

10 (C) Subject to ORS 308.673, the property of the company shall be granted the exemption under
 11 subsection [(5)] (7) of this section beginning with the first property tax year that begins after the
 12 date of the determination.

13 [(5)(a)] (7)(a) The property of a company described in subsection (1) of this section shall be
 14 granted an exemption for a property tax year in an amount equal to the positive value, if any, ob-
 15 tained by subtracting from the real market value of the company's real property and tangible and
 16 intangible personal property, including property that would otherwise be assessed under ORS
 17 308.519, that is allocated to Oregon and included in the unit subject to central assessment, reduced
 18 by the portion of the value of any exemption elected under ORS 308.671 that is allocated to Oregon,
 19 an amount equal to the greater of \$250 million or the real market value of the company's real and
 20 tangible personal property located in Oregon as of the assessment date, without reduction for any
 21 exemption elected under ORS 308.671.

22 (b) The exemption shall be granted for the period during which an owner maintains and operates
 23 the qualified project.

24 [(6)] (8) If the amount determined under subsection [(5)(a)] (7)(a) of this section is not positive,
 25 subject to ORS 308.673, the real market value of the company's real property and tangible and in-
 26 tangible personal property, excluding property that is assessed under ORS 308.519, allocated to
 27 Oregon and included in the unit subject to central assessment, reduced by the portion of the value
 28 of any exemption elected under ORS 308.671 that is allocated to Oregon, shall be the real market
 29 value of the company's property allocated to Oregon for the property tax year.

30 [(7)(a)] (9)(a) If the property of a company is granted an exemption under this section for a
 31 property tax year, the property is not eligible for any other exemption from ad valorem property
 32 taxation for the property tax year.

33 (b) Notwithstanding paragraph (a) of this subsection:

34 (A) An exemption granted under ORS 308.671 to property that is granted an exemption under
 35 this section shall be allowed in the manner provided under this section and ORS 308.671.

36 (B) An exemption granted under this section for a property tax year has no effect on the benefits
 37 that the property of the company or the company may be granted under ORS chapter 285C or ORS
 38 307.123 for the property tax year.

39 **SECTION 2. The amendments to ORS 308.677 by section 1 of this 2017 Act apply to ap-
 40 plications relating to property tax years beginning on or after July 1, 2017.**

41 **SECTION 3. This 2017 Act takes effect on the 91st day after the date on which the 2017
 42 regular session of the Seventy-ninth Legislative Assembly adjourns sine die.**