

**Enrolled**  
**House Bill 4023**

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

CHAPTER .....

AN ACT

Relating to broadband technology; creating new provisions; amending ORS 276A.406 and 276A.412; and declaring an emergency.

Whereas access to high-speed, affordable broadband services is vital to the delivery of education, health care, public safety, economic development and other public services; and

Whereas the Legislative Assembly continuously seeks to encourage collaboration between communities and the tribal governments and public bodies that serve them; and

Whereas it is not the state’s intent to provide broadband services in direct competition with telecommunications providers that offer comparable broadband services; now, therefore,

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

**LOCAL BROADBAND CHAMPIONS**

**SECTION 1.** (1) As used in this section, “local broadband champion” means a local government official, elected official, educator, business, organization, resident, community leader or other person that advocates for local broadband infrastructure improvements in the person’s community.

(2) The Oregon Broadband Advisory Council, established under section 1, chapter 782, Oregon Laws 2009, shall conduct a study to identify options for a local broadband champion program to foster and support local broadband champions. No later than December 1, 2018, the council shall report to the interim legislative committees on economic development with a proposed local broadband champion program structure that identifies potential public or private partnerships and anticipated funding needs and sources.

**SECTION 2.** Section 1 of this 2018 Act is repealed on January 2, 2019.

**CONNECTING OREGON SCHOOLS FUND**

**SECTION 3.** (1) The Connecting Oregon Schools Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the Connecting Oregon Schools Fund shall be credited to the fund.

(2) The Connecting Oregon Schools Fund consists of any moneys deposited in the fund from whatever source and may include moneys appropriated, allocated, deposited or transferred to the fund by the Legislative Assembly or otherwise and interest earned on moneys in the fund.

(3) The moneys in the fund are continuously appropriated to the Department of Education for the purpose of providing matching funds for federal moneys received by school districts for the purpose of providing broadband access to eligible schools in this state.

(4) A school is eligible to receive matching funds under this section if the school:

- (a) Is a kindergarten through grade 12 public school in this state;
- (b) Receives federal moneys for the purpose of providing broadband access to the school;
- (c) Takes steps to determine whether existing broadband infrastructure, including fiber-based broadband, may be integrated into the proposed broadband access project; and
- (d) Meets any other eligibility requirements established by the State Board of Education by rule.

(5)(a) Before the department may distribute any state moneys under this section, the board shall adopt rules to implement the provisions of this section, including rules setting criteria that govern the distribution of the moneys to eligible schools.

(b) Rules adopted under this section must take into consideration any eligibility requirements established by the federal program awarding federal moneys.

#### BROADBAND SERVICES ADVISORY COMMITTEE

**SECTION 4.** ORS 276A.406 is amended to read:

276A.406. (1) As used in this section **and ORS 276A.412 and section 5 of this 2018 Act:**

*[(a) "Advanced digital communications" means equipment, facilities and capability to distribute digital communications signals for transmitting voice, data, image and video over distance.]*

**(a) "Broadband" means wide bandwidth communications transmissions over coaxial cable, optical fiber, radio or twisted pair with an ability to simultaneously transport multiple signals and traffic types at a minimum transmission speed established by the State Chief Information Officer by rule, but in no event less than 25 megabits per second for downloads and three megabits per second for uploads.**

**(b) "Communications" means media that communicate voice, data, text or video over a distance using electrical, electronic or light wave transmissions.**

**(c) "State agency" has the meaning given that term in ORS 279A.010.**

*[(b)] (d) "Telecommunications provider" means any person that is capable of providing [advanced digital communications] broadband and communications services including, but not limited to, a telecommunications utility as defined in ORS 759.005, a competitive telecommunications provider as defined in ORS 759.005, a cable television provider or an interstate telecommunications provider.*

(2) Notwithstanding ORS chapters 279A, 279B and 279C, the State Chief Information Officer *[may]*:

**(a) Shall provide broadband and communications services and operations for the state and state agencies; and**

**(b) Subject to section 5 of this 2018 Act and notwithstanding ORS 276A.206 (6)(c), may provide broadband services and operations in unserved or underserved areas to any other public body, as defined in ORS 174.109, any federally recognized Indian tribe in Oregon or any nonprofit organization that the State Chief Information Officer designates as a community of interest under ORS 276A.206.**

**(3) The State Chief Information Officer provides the services and operations under subsection (2) of this section if the State Chief Information Officer:**

**(a) *[Provide advanced digital communications]* Provides the services directly, *[may]*;**

**(b) *[Enter]* Enters into an interagency or intergovernmental agreement under ORS chapter 190 to have another state agency or governmental agency provide *[advanced digital communications]* the services *[or may]*; or**

**(c) *[Acquire advanced digital communications]* Acquires the services by entering into contracts with telecommunications providers or a consortium of telecommunications providers in a manner that is consistent with the State Chief Information Officer's rules, policies and standards.**

*[(3) After a telecommunications provider or a consortium of telecommunications providers has installed an advanced digital communications network, The State Chief Information Officer shall provide all telecommunications services and operations for the state and state agencies directly, or shall enter into interagency or intergovernmental agreements under ORS chapter 190 to have another state agency or another governmental agency provide the telecommunications services and operations in a manner that is consistent with the State Chief Information Officer's rules, policies and standards.]*

(4) The State Chief Information Officer may not **enter into any contract or agreement under subsection (3) of this section or** approve the procurement of any *[telecommunications]* **broadband or communications** system or equipment that is incompatible with the network or that is inconsistent with the State Chief Information Officer's rules, policies and standards.

**SECTION 5. (1)(a) If the State Chief Information Officer determines that the broadband services and operations proposed to be provided by the State Chief Information Officer under ORS 276A.406 (2)(b) would directly compete with services already offered by a telecommunications provider, the State Chief Information Officer may only provide those services pursuant to the rules described in subsection (2) of this section.**

(b) For the purposes of this section, broadband services are considered to be already offered by a telecommunications provider if the provider can demonstrate its ability to provide the broadband services in the geographic area to be served within a reasonable time and for a reasonable cost.

(2) The State Chief Information Officer shall adopt rules governing how it provides the broadband services and operations under subsection (1)(a) of this section. The rules must:

(a) Describe the services that the State Chief Information Officer proposes to provide, including specifications for broadband services, such as minimum bandwidth, reliability, redundancy, deployment schedule and comparable cost;

(b) Describe the method by which the State Chief Information Officer will maintain and update its service offerings;

(c) Describe the process by which a telecommunications provider may demonstrate its ability to provide broadband services under subsection (1) of this section and to meet the specifications proposed by the State Chief Information Officer under paragraph (a) of this subsection; and

(d) Describe the situations in which the State Chief Information Officer may not provide the services.

(3) The State Chief Information Officer shall appoint an advisory committee no later than 60 days prior to rulemaking under this section to assist the State Chief Information Officer in the administration of this section.

(4) The advisory committee must include one representative from each of the following:

(a) A telecommunications provider in this state.

(b) A rural telecommunications consortium in this state.

(c) The Association of Oregon Counties.

(d) The League of Oregon Cities.

(e) A public school or education service district.

(f) A public university listed in ORS 352.002.

(g) The State Interoperability Executive Council established under ORS 403.450.

(h) The Oregon Broadband Advisory Council established under section 1, chapter 782, Oregon Laws 2009.

(i) The public with an interest in broadband service availability.

(j) A nonprofit entity with an interest in broadband service availability.

(k) Any other public, private or nonprofit entity that the State Chief Information Officer determines is necessary to assist the advisory committee in performing its duties under this section.

(5) Before adopting rules described in this section, the State Chief Information Officer shall present the proposed rules to the Joint Legislative Committee on Information Management and Technology.

**SECTION 6.** ORS 276A.412 is amended to read:

276A.412. (1) For the purposes of ORS 276A.400 to 276A.412, the State Chief Information Officer may, in a manner that is consistent with the State Chief Information Officer's rules, policies and standards, enter into a contract or contracts with telecommunications [service] providers and equipment manufacturers for purchasing, using or operating telecommunications equipment and services for a period not to exceed 10 years.

(2) Notwithstanding subsection (1) of this section, the State Chief Information Officer may enter into a contract or a configuration of agreements related to broadband infrastructure, including leases, maintenance and operations of broadband transmission equipment, for a period that exceeds 10 years.

[2] (3) For purposes of ORS 276A.206, the State Chief Information Officer may extend the benefits of telecommunications contracts for **broadband networks, communications systems,** equipment and services to nonprofit organizations that the State Chief Information Officer designates as communities of interest under ORS 276A.206.

**CAPTIONS**

**SECTION 7.** The unit captions used in this 2018 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2018 Act.

**EMERGENCY CLAUSE**

**SECTION 8.** This 2018 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2018 Act takes effect on its passage.

Passed by House March 3, 2018

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Timothy G. Sekerak, Chief Clerk of House

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Tina Kotek, Speaker of House

Passed by Senate March 3, 2018

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Peter Courtney, President of Senate

Received by Governor:

.....M.,....., 2018

Approved:

.....M.,....., 2018

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Kate Brown, Governor

Filed in Office of Secretary of State:

.....M.,....., 2018

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Dennis Richardson, Secretary of State