

B-Engrossed
House Bill 2603

Ordered by the House June 23
Including House Amendments dated April 8 and June 23

Sponsored by Representative GOMBERG (Pre-session filed.)

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.

Requires owners or operators of undersea cables to obtain financial assurances for installation and removal of cable and create plan for removal of cable.

Directs Department of Land Conservation and Development to review part of Territorial Sea Plan that addresses placement of cables, pipelines and other utilities in territorial sea and provide results to Ocean Policy Advisory Council.

Directs Ocean Policy Advisory Council to [*propose*] **develop recommendations for** amendments to Territorial Sea Plan regarding placement of undersea cables within territorial sea.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to undersea cables; and prescribing an effective date.

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

4 **SECTION 1. (1) As used in this section, "undersea cable" includes a cable used to conduct**
5 **electricity or light that is placed on state-owned submerged or submersible lands within the**
6 **territorial sea and any facilities associated with the cable.**

7 **(2) An applicant for an easement to place an undersea cable within the territorial sea**
8 **shall acquire and maintain, until construction of the undersea cable is completed, financial**
9 **assurance to ensure that the applicant constructs the undersea cable according to the terms**
10 **and conditions of the easement. The amount of financial assurance required under this sub-**
11 **section shall be an amount determined by the Department of State Lands to be sufficient**
12 **based on the scale of the project.**

13 **(3) At least 180 days before decommissioning an undersea cable, the owner or operator**
14 **of the undersea cable shall submit to the department for approval a decommissioning plan**
15 **that includes:**

16 **(a) A cost estimate, prepared by a person qualified by experience and knowledge to pre-**
17 **pare the estimate, for decommissioning the cable and restoring the area authorized by the**
18 **easement to a natural condition;**

19 **(b) A detailed description of and proposed schedule for the decommissioning and resto-**
20 **ration work, including any corrective action that may be required under the easement;**

21 **(c) A detailed description of segments of bore pipe and undersea cable proposed to be left**
22 **in place to avoid or minimize impacts to aquatic resources; and**

23 **(d) A proposed form of financial assurance in an amount equal to the cost estimate under**
24 **paragraph (a) of this subsection.**

25 **(4) Within 30 days of receiving a decommissioning plan under subsection (3) of this sec-**

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 tion, the department shall approve the plan or request revisions to the plan or additional
2 information. If, after receiving revisions to the decommissioning plan or additional infor-
3 mation, the department rejects the plan, the owner or operator of the undersea cable must
4 within 90 days submit to the department an application for an easement for the
5 encroachment created by the undersea cable.

6 (5) The owner or operator of an undersea cable may not begin decommissioning and
7 restoration work unless:

8 (a) The department has approved a decommissioning plan under subsection (4) of this
9 section;

10 (b) The owner or operator has acquired the financial assurance required under subsection
11 (3) of this section; and

12 (c) The owner or operator has provided to the department notice that the work will begin
13 at least 60 days prior to beginning the work.

14 (6) The financial assurance requirements established by subsections (2) and (3) of this
15 section may be satisfied by furnishing a financial assurance instrument that is:

16 (a) A surety bond, cash deposit or certificate of deposit; and

17 (b) In the name of the State of Oregon.

18 **SECTION 2.** (1) The Department of Land Conservation and Development, in consultation
19 with the Department of State Lands and relevant local governments and tribal governments,
20 shall review the part of the Territorial Sea Plan that addresses the placement of cables,
21 pipelines and other utilities in the territorial sea. The review must consider fee structures
22 and state and federal review processes, including permitting processes, for the placement of
23 undersea cables on state-owned submerged or submersible land within the territorial sea and
24 under the ocean shore and the siting of associated landing sites. The Department of Land
25 Conservation and Development shall provide the results of the review to the Ocean Policy
26 Advisory Council.

27 (2) The Ocean Policy Advisory Council shall develop recommendations for amendments
28 to the part of the Territorial Sea Plan that addresses the placement of cables, pipelines and
29 other utilities in the territorial sea. In developing recommendations, the council shall con-
30 sider the review provided to the council under subsection (1) of this section and evaluate:

31 (a) A coordinated permitting process for the placement of undersea cables that allows for
32 coordination between appropriate state agencies, tribal governments and local governments.

33 (b) Suitable landing sites, including a mapping analysis of opportunities, limitations and
34 requirements for landing sites.

35 (c) The impact of other state agencies, laws, zoning requirements or statewide planning
36 goals on potential undersea cable sites.

37 (d) Changes to fees structures and financing associated with administrative costs and the
38 protection and management of the territorial sea and ocean shore.

39 (e) Requirements for public information meetings or other methods for engaging com-
40 munities, tribal governments, ocean users and industries affected by a proposed undersea
41 cable.

42 (f) The impact of drilling on biological resources, including migratory species, and on
43 resources that are of economic, aesthetic, recreational, social or historic importance to the
44 people of this state.

45 (g) An application process that may include:

1 (A) A needs analysis that takes into account the socioeconomic and environmental needs
2 of the area;

3 (B) A geological study conducted by a registered professional geologist experienced in
4 coastal processes;

5 (C) Consultation with Oregon sea floor experts, such as an expert affiliated with an
6 Oregon university; and

7 (D) A detailed drilling, mitigation and accident response plan.

8 (h) Requirements for interagency preapplication process meetings.

9 (i) Standards for undersea cables in the States of California and Washington.

10 (j) Coordination with tribal governments on potential impacts of undersea cables on cul-
11 tural and traditional resources.

12 (3) The council may consult with any of the following state agencies when developing
13 recommendations for amendments under this section:

14 (a) The State Parks and Recreation Department;

15 (b) The Department of Environmental Quality;

16 (c) The State Department of Fish and Wildlife;

17 (d) The State Department of Geology and Mineral Industries; or

18 (e) Any other state agency with relevant expertise.

19 **SECTION 3.** The Ocean Policy Advisory Council shall develop recommendations for
20 amendments to the Territorial Sea Plan under section 2 of this 2021 Act no later than two
21 years after the effective date of this 2021 Act.

22 **SECTION 4.** Sections 2 and 3 of this 2021 Act are repealed on January 2, 2024.

23 **SECTION 5.** (1) Section 1 of this 2021 Act becomes operative on January 1, 2022.

24 (2) The Department of State Lands may take any action before the operative date speci-
25 fied in subsection (1) of this section that is necessary for the department to exercise, on and
26 after the operative date specified in subsection (1) of this section, all of the duties, functions
27 and powers conferred on the department by section 1 of this 2021 Act.

28 **SECTION 6.** Notwithstanding any other provision of law, the General Fund appropriation
29 made to the Department of Land Conservation and Development by section 1 (1), chapter
30 _____, Oregon Laws 2021 (Enrolled Senate Bill 5530), for the biennium beginning July 1,
31 2021, is increased by \$497,081 for the implementation of section 2 of this 2021 Act.

32 **SECTION 7.** Notwithstanding any other law limiting expenditures, the amount of \$196,176
33 is established, for the biennium beginning July 1, 2021, as the maximum limit for payment
34 of expenses from fees, moneys or other revenues, including Miscellaneous Receipts, but ex-
35 cluding lottery funds, federal funds and funds described in section 2, chapter _____, Oregon
36 Laws 2021 (Enrolled Senate Bill 5539), collected or received by the Department of State
37 Lands, for the implementation of section 2 of this 2021 Act.

38 **SECTION 8.** This 2021 Act takes effect on the 91st day after the date on which the 2021
39 regular session of the Eighty-first Legislative Assembly adjourns sine die.

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