

House Bill 2184

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

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**.

Expands definition of "retail telecommunications service" for purposes of universal service surcharge. Authorizes Public Utility Commission to subject sale of communications and broadband services other than retail telecommunication services to universal service surcharge. Directs commission to transfer moneys deposited in universal service fund that are to be used for encouraging broadband service availability to Broadband Fund.

Establishes Broadband Fund. Continuously appropriates moneys in Broadband Fund to Oregon Business Development Department to provide grants and loans under program for assisting qualified entities with projects for development of open access broadband service. Directs department to adopt program for providing grants and loans by rule.

A BILL FOR AN ACT

1
2 Relating to the universal service fund; creating new provisions; and amending ORS 759.425.

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

4 **SECTION 1.** ORS 759.425 is amended to read:

5 759.425. (1) For purposes of this section, "retail telecommunications service" [*does not include*
6 *radio communications service, radio paging service, commercial mobile radio service, personal commu-*
7 *nications service or cellular communications service*] **includes both wireless and wireline services,**
8 **including but not limited to radio common carrier services and interconnected voice over**
9 **Internet protocol service.**

10 (2)(a) The Public Utility Commission shall establish and implement a competitively neutral and
11 nondiscriminatory universal service fund. Except as provided in paragraph (b) of this subsection, the
12 Public Utility Commission shall use the universal service fund to ensure basic telephone service is
13 available at a reasonable and affordable rate. The Public Utility Commission may adopt rules to
14 conform the universal service fund to section 254 of the federal Telecommunications Act of 1996
15 (Public Law 104-104), and to related regulations adopted by the Federal Communications Commis-
16 sion, to the extent that the Public Utility Commission determines conforming the rules is appropri-
17 ate.

18 (b) In addition to using the universal service fund to ensure basic telephone service, the Public
19 Utility Commission [*may*] **shall** use the universal service fund to encourage broadband service
20 availability and to provide support to telecommunications carriers that provide both basic telephone
21 service and broadband service. **The commission shall determine the amount of moneys depos-**
22 **ited in the universal service fund to be used to encourage broadband service availability and**
23 **shall, in accordance with a schedule adopted by the commission, transfer the moneys for**
24 **encouraging broadband service availability to the State Treasurer for deposit in the**
25 **Broadband Fund established under section 2 of this 2019 Act.**

26 (3)(a) The Public Utility Commission shall establish the price a telecommunications utility may
27 charge its customers for basic telephone service. The commission shall periodically review and

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 evaluate the status of telecommunications services in the state and designate the services included
 2 in basic telephone service. The commission shall periodically review and adjust as necessary the
 3 price a telecommunications utility may charge for basic telephone service.

4 (b) The provisions of this subsection do not apply to the basic telephone service provided by a
 5 telecommunications utility described in ORS 759.040.

6 (4)(a) The commission shall establish a benchmark for basic telephone service as necessary for
 7 the administration and distribution of the universal service fund. The universal service fund shall
 8 provide explicit support to an eligible telecommunications carrier that is equal to the difference
 9 between the cost of providing basic telephone service and the benchmark, less any explicit com-
 10 pensation received by the telecommunications carrier from federal sources specifically used to re-
 11 cover local loop costs and less any explicit support received by the telecommunications carrier from
 12 a federal universal service program.

13 (b) The commission shall periodically review the benchmark established under paragraph (a) of
 14 this subsection and adjust the benchmark as necessary to reflect:

- 15 (A) Changes in competition in the telecommunications industry;
- 16 (B) Changes in federal universal service support; and
- 17 (C) Other relevant factors as determined by the commission.

18 (c) Except for a telecommunications utility described in ORS 759.040, the commission shall seek
 19 to limit the difference between the price a telecommunications utility may charge for basic tele-
 20 phone service and the benchmark.

21 (5) There is imposed on the sale of all retail telecommunications services sold in this state, **and**
 22 **on the sale of such other communications and broadband services as the commission in its**
 23 **discretion may determine**, a universal service surcharge. Unless otherwise provided by the com-
 24 mission by rule, the universal service surcharge must be a uniform percentage of the sale of [*retail*
 25 *telecommunications*] services **subject to the surcharge** in an amount sufficient to support the pur-
 26 poses of the universal service fund established under subsection (2) of this section, provided that the
 27 percentage does not exceed 8.5 percent of the sale of [*retail telecommunications*] services **subject to**
 28 **the surcharge**. The universal service surcharge may be listed as a separate line item by all [*tele-*
 29 *communications carriers*] **carriers required to collect the surcharge**, as prescribed by the com-
 30 mission by rule or order. A [*telecommunications carrier*] **carrier required to collect the surcharge**
 31 shall transmit amounts collected pursuant to this section to the commission in accordance with a
 32 schedule adopted by the commission. The commission shall deposit moneys transmitted to the com-
 33 mission pursuant to this subsection in the universal service fund established under subsection (2)
 34 of this section.

35 (6) The universal service fund established under subsection (2) of this section is separate and
 36 distinct from the General Fund. The universal service fund shall consist of all universal service
 37 surcharge moneys collected by [*telecommunications carriers*] **carriers required to collect the sur-**
 38 **charge** and transmitted to the commission for deposit in the universal service fund. The universal
 39 service fund may be used only for the purposes described in this section and for payment of expenses
 40 incurred by the commission or a third party appointed by the commission to administer this section.
 41 All moneys in the universal service fund are continuously appropriated to the commission to carry
 42 out the provisions of this section. Interest on moneys deposited in the universal service fund shall
 43 accrue to the universal service fund.

44 [(7) A person that primarily provides radio communications service, radio paging service, com-
 45 mercial mobile radio service, personal communications service or cellular communications service may

1 *request designation as an eligible telecommunications carrier by the commission for purposes of this*
 2 *section if the person imposes the universal service surcharge described in subsection (5) of this section*
 3 *and transmits the moneys collected to the commission for deposit in the universal service fund estab-*
 4 *lished under subsection (2) of this section for at least one year immediately prior to requesting the*
 5 *designation.]*

6 [(8)] (7) A pay telephone provider may apply to the commission, on a form developed by the
 7 commission, for a refund of the universal service surcharge imposed on the pay telephone provider
 8 under subsection (5) of this section for the provision of pay telephone service.

9 **SECTION 2. The Broadband Fund is established, separate and distinct from the General**
 10 **Fund. Moneys in the Broadband Fund are continuously appropriated to the Oregon Business**
 11 **Development Department to be used only for providing grants or loans through the program**
 12 **adopted by rule under section 3 of this 2019 Act. The fund shall consist of moneys deposited**
 13 **in the fund pursuant to ORS 759.425.**

14 **SECTION 3. (1) The Oregon Business Development Department shall adopt by rule a**
 15 **program for providing grants or loans to assist qualified entities with projects for develop-**
 16 **ment of open access broadband service infrastructure. Rules adopted under this section shall**
 17 **include, but not be limited to:**

18 (a) Rules for establishing eligibility for a grant or loan under the program;

19 (b) Rules for the evaluation of project proposals and distribution of grants or loans to
 20 qualified entities; and

21 (c) An appeals process for applicants for grants or loans under the program.

22 (2) To be funded by a grant or loan under the program, a proposed project for develop-
 23 ment of open access broadband service infrastructure must be designed to serve areas of this
 24 state that, prior to the project, are unserved or underserved by broadband service, with
 25 broadband service at download speeds of at least 25 megabits per second and upload speeds
 26 of at least three megabits per second.

27 (3) Grants or loans awarded under the program may be used for technical assistance,
 28 planning or implementation of open access broadband service infrastructure projects.

29 (4) Entities that may qualify for grants or loans under the program shall include for-
 30 profit or nonprofit business entities, utilities, philanthropic organizations, governments and
 31 governmental subdivisions, agencies or instrumentalities.

32 (5) When making grant or loan awards under the program, the department shall give
 33 preference to project proposals that are part of a comprehensive economic development
 34 strategy.