

A-Engrossed
House Bill 2091

Ordered by the House March 9
Including House Amendments dated March 9

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Rural Communities, Land Use and Water)

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.

Authorizes Public Utility Commission to use universal service fund moneys to encourage broadband service availability and to provide support to telecommunications carriers that provide both basic telephone service and broadband service. **Limits amount of surcharge imposed for purpose of depositing moneys in fund.**

Deletes obsolete language.

[Becomes operative July 1, 2017.]

[Declares emergency, effective on passage.]

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to telecommunications carriers; amending ORS 759.425; and prescribing an effective date.

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**
6 **include radio communications service, radio paging service, commercial mobile radio service,**
7 **personal communications service or cellular communications service.**

8 *[(1)]* **(2)(a)** The Public Utility Commission shall establish and implement a competitively neutral
9 and nondiscriminatory universal service fund. *[Subject to subsection (6) of this section,]* **Except as**
10 **provided in paragraph (b) of this subsection,** the Public Utility Commission shall use the uni-
11 versal service fund to ensure basic telephone service is available at a reasonable and affordable
12 rate. The Public Utility Commission may adopt rules to conform the universal service fund to sec-
13 tion 254 of the federal Telecommunications Act of 1996 (Public Law 104-104), and to related *[rules]*
14 **regulations** adopted by the Federal Communications Commission, to the extent that the Public
15 Utility Commission determines **conforming the rules** is appropriate. *[The commission may delay*
16 *implementation for rural telecommunications carriers, as defined in the federal Act, for up to six*
17 *months after the date the Federal Communications Commission adopts a cost methodology for rural*
18 *carriers.]*

19 **(b) In addition to using the universal service fund to ensure basic telephone service, the**
20 **Public Utility Commission may use the universal service fund to encourage broadband ser-**
21 **vice availability and to provide support to telecommunications carriers that provide both**
22 **basic telephone service and broadband service.**

23 *[(2)(a)]* **(3)(a)** The Public Utility Commission shall establish the price a telecommunications
24 utility may charge its customers for basic telephone service. The commission *[in its discretion]* shall

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 periodically review and evaluate the status of telecommunications services in the state and desig-
 2 nate the services included in basic telephone service. The commission *[in its discretion]* shall peri-
 3 odically review and adjust as necessary the price a telecommunications utility may charge for basic
 4 telephone service.

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

7 *[(3)(a)]* **(4)(a)** The *[Public Utility]* commission shall establish a benchmark for basic telephone
 8 service as necessary for the administration and distribution of the universal service fund. The uni-
 9 versal service fund shall provide explicit support to an eligible telecommunications carrier that is
 10 equal to the difference between the cost of providing basic telephone service and the benchmark,
 11 less any explicit compensation received by the **telecommunications** carrier from federal sources
 12 specifically *[targeted to recovery of]* **used to recover** local loop costs and less any explicit support
 13 received by the **telecommunications** carrier from a federal universal service program.

14 (b) The commission *[in its discretion]* shall periodically review the benchmark **established under**
 15 **paragraph (a) of this subsection** and adjust *[it]* **the benchmark** as necessary to reflect:

16 (A) Changes in competition in the telecommunications industry;

17 (B) Changes in federal universal service support; and

18 (C) Other relevant factors as determined by the commission.

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

22 *[(4)]* **(5)** *[Except as provided in subsections (7) and (8) of this section,]* There is imposed on the sale
 23 of all retail telecommunications services sold in this state a universal service surcharge. Unless
 24 otherwise provided by the *[Public Utility]* commission by rule, the **universal service** surcharge
 25 *[shall]* **must** be a uniform percentage of the sale of retail telecommunications services in an amount
 26 sufficient to support the *[purpose]* **purposes** of the universal service fund **established under sub-**
 27 **section (2) of this section, provided that the percentage does not exceed 8.5 percent of the**
 28 **sale of retail telecommunications services.** The **universal service** surcharge may be *[shown]*
 29 **listed** as a separate line item by all telecommunications carriers *[using language]*, **as** prescribed by
 30 the commission **by rule or order.** A telecommunications carrier shall *[deposit]* **transmit** amounts
 31 collected *[into the universal service fund according to]* **pursuant to this section to the commission**
 32 **in accordance with** a schedule adopted by the commission. **The commission shall deposit moneys**
 33 **transmitted to the commission pursuant to this subsection in the universal service fund es-**
 34 **ablished under subsection (2) of this section.**

35 *[(5)]* **(6)** *[The Public Utility Commission is authorized to establish a universal service fund,]* **The**
 36 **universal service fund established under subsection (2) of this section** is separate and distinct
 37 from the General Fund. The **universal service** fund shall consist of all universal service surcharge
 38 moneys collected by telecommunications carriers and *[paid into]* **transmitted to the commission**
 39 **for deposit in** the **universal service** fund. The **universal service** fund *[shall]* **may** be used only for
 40 the *[purpose]* **purposes** described in this section[,], and for payment of expenses incurred by the
 41 commission or a third party appointed by the commission to administer this section. All moneys in
 42 the **universal service** fund are continuously appropriated to the commission to carry out the pro-
 43 visions of this section. Interest on moneys deposited in the **universal service** fund shall accrue to
 44 the **universal service** fund.

45 *[(6)]* *In addition to the purpose specified in subsection (1) of this section, moneys in the universal*

1 service fund may be used by the Public Utility Commission to survey or map the state to determine
 2 where adequate broadband services are available. The amount of moneys in the universal service fund
 3 used for this purpose may not exceed the amount the state is required to expend to receive the maximum
 4 amount of funds available from federal sources for broadband services. If in-kind services are allowed
 5 for a state's share of a mapping project, the state shall use in-kind services before expending universal
 6 service funds. The commission may use an independent contractor to perform mapping services.]

7 [(7) For purposes of this section, "retail telecommunications service" does not include radio com-
 8 munications service, radio paging service, commercial mobile radio service, personal communications
 9 service or cellular communications service.]

10 [(8)(a) Notwithstanding subsection (7) of this section, a person who primarily provides radio com-
 11 munications service, radio paging service, commercial mobile radio service, personal communications
 12 service or cellular communications service may request designation as an eligible telecommunications
 13 carrier by the Public Utility Commission for purposes of participation in the universal service fund.]

14 [(b) In the event a person who primarily provides radio communications service, radio paging ser-
 15 vice, commercial mobile radio service, personal communications service or cellular communications
 16 service seeks designation as an eligible telecommunications carrier for purposes of participation in the
 17 universal service fund, the person shall provide written notice to the Public Utility Commission re-
 18 questing designation as an eligible telecommunications carrier within 60 days of the date the commis-
 19 sion establishes the fund. Upon receiving notice, the commission may designate the person as an eligible
 20 telecommunications carrier for purposes of participation in the fund.]

21 [(c) A person who primarily provides radio communications service, radio paging service, com-
 22 mercial mobile radio service, personal communications service or cellular communications service who
 23 fails to request designation as an eligible telecommunications carrier within 60 days of the date the
 24 universal service fund is established by the Public Utility Commission may not be designated as an
 25 eligible telecommunications carrier unless the person has contributed to the fund for at least one year
 26 immediately prior to requesting designation.]

27 **(7) A person that primarily provides radio communications service, radio paging service,**
 28 **commercial mobile radio service, personal communications service or cellular communi-**
 29 **cations service may request designation as an eligible telecommunications carrier by the**
 30 **commission for purposes of this section if the person imposes the universal service sur-**
 31 **charge described in subsection (5) of this section and transmits the moneys collected to the**
 32 **commission for deposit in the universal service fund established under subsection (2) of this**
 33 **section for at least one year immediately prior to requesting the designation.**

34 [(9)] (8) A pay telephone provider may apply to the [Public Utility] commission, on a form de-
 35 veloped by the commission, for a refund of the universal service surcharge imposed on the **pay**
 36 **telephone** provider under subsection [(4)] (5) of this section for the provision of pay telephone ser-
 37 vice.

38 **SECTION 2. This 2017 Act takes effect on the 91st day after the date on which the 2017**
 39 **regular session of the Seventy-ninth Legislative Assembly adjourns sine die.**