

Enrolled House Bill 4031

Sponsored by Representatives BOONE, PARRISH, Senator JOHNSON (at the request of State Interoperability Executive Council) (Presession filed.)

CHAPTER

AN ACT

Relating to interoperable public safety communications systems; creating new provisions; amending ORS 403.450, 403.455 and 403.460 and section 1, chapter 825, Oregon Laws 2005, and section 5, chapter 782, Oregon Laws 2009; limiting expenditures; and prescribing an effective date.

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

SECTION 1. As used in section 8 of this 2014 Act, ORS 403.450, 403.455 and 403.460 and section 1, chapter 825, Oregon Laws 2005:

(1) "FirstNet network" means a public safety broadband network designed to facilitate public safety data communications:

(a) As provided for in Title VI of the Middle Class Tax Relief and Job Creation Act of 2012 (P.L. 112-96); and

(b) For which planning, construction and operation are overseen by the United States Department of Commerce.

(2) "Interoperability plan" means the Oregon Statewide Communication Interoperability Plan described in ORS 403.455 that:

(a) Is required by Title XVIII of the Homeland Security Act of 2002, as amended;

(b) Is approved by the United States Department of Homeland Security, Office of Emergency Communications; and

(c) Is designed to ensure that emergency responders at all levels of government and across disciplines can communicate as needed, on demand and as authorized.

SECTION 2. Section 1, chapter 825, Oregon Laws 2005, as amended by section 1, chapter 402, Oregon Laws 2011, is amended to read:

Sec. 1. (1) The Oregon Legislative Assembly finds and declares that:

(a) The public safety communications infrastructure of the State of Oregon [*is rapidly aging, outdated and at severe risk of failure*] **requires ongoing operations and maintenance to support continuing functionality and to accommodate evolving technology;**

(b) The adopted policies and standards and specific deadlines mandated by the Federal Communications Commission [*will require*] **required** replacement of statewide public safety communications infrastructure in the State of Oregon;

(c) The reliability of [*mission-critical*] public safety communications infrastructure during [*a man-made or natural disaster*] **day-to-day public safety operations and during man-made and natural disasters** is crucial to saving lives and property and to protecting the public [*during an emergency*];

(d) The [*deteriorating*] condition of our public safety [*radio systems is of immediate concern because it compromises*] **communications systems is of continuing concern because it is critical to the safety and well-being of the [citizens] residents of the State of Oregon who depend upon lifesaving communications systems used by first responders;**

[(e) *The majority of the communications systems in the State of Oregon are unreliable, greatly increasing the danger to first responders and law enforcement officers in carrying out their duty to protect the citizens and property of the State of Oregon;*]

[(f) (e) It is in the public interest of Oregonians to plan for improvement of the public safety communications infrastructure to ensure long-term stability **and functionality as communications systems technology evolves;** and

[(g) (f) Federal funding for homeland security may be available to facilitate all or part of the development and implementation of a plan for improvement of the public safety communications infrastructure in the State of Oregon.

(2) The Legislative Assembly further finds and declares that:

(a) Title XVIII of the Homeland Security Act of 2002, as amended, requires the United States Department of Homeland Security, Office of Emergency Communications, to develop and update a National Emergency Communications Plan to ensure that emergency responders at all levels of government and across disciplines can communicate as needed, on demand and as authorized.

(b) The national plan:

(A) Identifies the capabilities and initiatives needed for communications operability, interoperability and continuity of communications for emergency responders nationwide.

(B) Sets strategic goals and identifies national objectives to enhance governance, planning, technology, training and exercises and disaster communications capabilities.

(C) Provides recommendations and milestones to guide emergency responders and government officials.

(c) As a condition of eligibility for future homeland security grants for communication interoperability initiatives, each state is required to establish a statewide communication interoperability plan and annually update the interoperability plan.

(d) The Oregon Statewide Communication Interoperability Plan is the statewide communication interoperability plan for the State of Oregon that has received the approval of the United States Department of Homeland Security, Office of Emergency Communications.

(e) The employment of a full-time equivalent statewide interoperability coordinator is necessary and appropriate for facilitating implementation of the interoperability plan.

[(2) (3) Subject to subsection [(3) (4) of this section, the Legislative Assembly finds and declares that it is the policy of the State of Oregon:

(a) To [*develop, finance, maintain and operate a single emergency response wireless communications infrastructure that supports both the communications needs of all state agencies and ensures communications interoperability*] **ensure interoperable communications** among all state, local, tribal and federal public safety agencies[, *thereby maximizing shared use of this invaluable public asset*].

(b) To meet Federal Communications Commission mandates [*for the conversion of public safety communications frequencies and spectrum allocation by 2013*].

[(3) (4) The Legislative Assembly further finds and declares that:

(a) The communications infrastructure of the State Forestry Department:

(A) Meets the policies and standards mandated by the Federal Communications Commission; [*and*]

(B) Is compatible with the communications infrastructure utilized by other federal and state agencies and private partners that are primarily responsible for responding to wildland fire emergencies; **and**

(C) Does not require conversion to meet interoperability requirements of the interoperability plan.

(b) The **State Forestry** Department shall continue to partner with, advise and seek shared efficiencies with other public safety agencies regarding implementation of the *[Public Safety Wireless Infrastructure Replacement Plan developed under section 2, chapter 825, Oregon Laws 2005, and the Oregon Interoperable Communication Plan described in ORS 403.455; and]* **interoperability plan.**

[(c) Immediate conversion of the communications infrastructure of the department for compatibility with the Oregon Wireless Interoperability Network is not necessary, considering:]

[(A) The large investment already made and the high cost of conversion;]

[(B) The disruption and incompatibility that would be caused with the communications infrastructure of other federal and state agencies and private partners with whom the department shares primary responsibility to respond to wildland fire emergencies; and]

[(C) That the department's communications infrastructure conforms to the policies and standards mandated by the Federal Communications Commission.]

SECTION 3. ORS 403.450 is amended to read:

403.450. (1) The State Interoperability Executive Council is created *[within the Department of Transportation]* **under the Oregon Department of Administrative Services to be the statewide interoperability governing body serving as the primary steering group for the Oregon State-wide Communication Interoperability Plan.** The membership of the council *[shall consist]* **consists** of:

(a) Two members from the Legislative Assembly, as follows:

(A) The President of the Senate shall appoint one member from the Senate with an interest in public safety communications infrastructure; and

(B) The Speaker of the House of Representatives shall appoint one member from the House of Representatives with an interest in public safety and *[wireless]* **emergency** communications infrastructure.

(b) The following members appointed by the Governor:

(A) One member from the Department of State Police;

(B) One member from the Office of Emergency Management;

(C) One member from the State Forestry Department;

(D) One member from the Department of Corrections;

(E) One member from the Department of Transportation;

(F) One member from the Oregon Department of Administrative Services;

[(G) One member from the Department of Human Services;]

[(H)] (G) One member from the Oregon Health Authority;

[(I)] (H) One member from the Oregon Military Department;

[(J)] (I) One member from the Department of Public Safety Standards and Training;

(J) One member from the Oregon Broadband Advisory Council;

(K) One member of an Indian tribe as defined in ORS 97.740 or a designee of an Indian tribe;

and

[(L) One member from a nonprofit professional organization devoted to the enhancement of public safety communications systems; and]

[(M)] (L) One member *[from]* **of** the public.

(c) The following members appointed by the Governor with the concurrence of the President of the Senate and the Speaker of the House of Representatives:

(A) One member from the Oregon Fire Chiefs Association;

(B) One member from the Oregon Association Chiefs of Police;

(C) One member from the Oregon State Sheriffs' Association;

(D) One member from the Association of Oregon Counties;

(E) One member from the League of Oregon Cities; *[and]*

(F) One member from the Special Districts Association of Oregon[.];

(G) One member who is an information technology officer of an Oregon city;

(H) One member who is an information technology officer of an Oregon county;

(I) One member who represents a nonprofit professional organization interested in the enhancement of public safety communications systems; and

(J) One member of the public who works or resides in Federal Communications Commission Region 35.

(2) Each agency or organization identified in subsection (1)(b)(A) to (J) and (1)(c)(A) to (H) of this section shall recommend [*a person*] **an individual** from the agency or organization for membership on the council.

(3) Members of the council are not entitled to compensation, but in the discretion of the [*Director of Transportation*] **Director of the Oregon Department of Administrative Services** may be reimbursed from funds available to the [*Department of Transportation*] **Oregon Department of Administrative Services** for actual and necessary travel and other expenses incurred by them in the performance of their official duties in the manner and amount provided in ORS 292.495.

(4) Members of the Legislative Assembly appointed to the council are nonvoting members and may act in an advisory capacity only.

SECTION 4. ORS 403.450, as amended by section 3 of this 2014 Act, is amended to read:

403.450. (1) The State Interoperability Executive Council is created under the Oregon Department of Administrative Services to be the statewide interoperability governing body serving as the primary steering group for the Oregon Statewide Communication Interoperability Plan. The membership of the council consists of:

(a) Two members from the Legislative Assembly, as follows:

(A) The President of the Senate shall appoint one member from the Senate with an interest in public safety communications infrastructure; and

(B) The Speaker of the House of Representatives shall appoint one member from the House of Representatives with an interest in public safety and emergency communications infrastructure.

(b) The following members appointed by the Governor:

(A) One member from the Department of State Police;

(B) One member from the Office of Emergency Management;

(C) One member from the State Forestry Department;

(D) One member from the Department of Corrections;

(E) One member from the Department of Transportation;

(F) One member from the Oregon Department of Administrative Services;

(G) One member from the Oregon Health Authority;

(H) One member from the Oregon Military Department;

(I) One member from the Department of Public Safety Standards and Training;

[*(J) One member from the Oregon Broadband Advisory Council;*]

[*(K)*] **(J)** One member of an Indian tribe as defined in ORS 97.740 or a designee of an Indian tribe; and

[*(L)*] **(K)** One member of the public.

(c) The following members appointed by the Governor with the concurrence of the President of the Senate and the Speaker of the House of Representatives:

(A) One member from the Oregon Fire Chiefs Association;

(B) One member from the Oregon Association Chiefs of Police;

(C) One member from the Oregon State Sheriffs' Association;

(D) One member from the Association of Oregon Counties;

(E) One member from the League of Oregon Cities;

(F) One member from the Special Districts Association of Oregon;

(G) One member who is an information technology officer of an Oregon city;

(H) One member who is an information technology officer of an Oregon county;

(I) One member who represents a nonprofit professional organization interested in the enhancement of public safety communications systems; and

(J) One member of the public who works or resides in Federal Communications Commission Region 35.

(2) Each agency or organization identified in subsection (1)(b)(A) to [(J)] (I) and (1)(c)(A) to (H) of this section shall recommend an individual from the agency or organization for membership on the council.

(3) Members of the council are not entitled to compensation, but in the discretion of the Director of the Oregon Department of Administrative Services may be reimbursed from funds available to the Oregon Department of Administrative Services for actual and necessary travel and other expenses incurred by them in the performance of their official duties in the manner and amount provided in ORS 292.495.

(4) Members of the Legislative Assembly appointed to the council are nonvoting members and may act in an advisory capacity only.

SECTION 5. Section 5, chapter 782, Oregon Laws 2009, is amended to read:

Sec. 5. (1) Sections 1 to 4 [of this 2009 Act], **chapter 782, Oregon Laws 2009**, are repealed on January 2, 2016.

(2) The amendments to ORS 403.450 by section 4 of this 2014 Act become operative on January 2, 2016.

SECTION 6. ORS 403.455 is amended to read:

403.455. The State Interoperability Executive Council created under ORS 403.450 shall:

[(1) Work with public safety agencies in the state to develop a Public Safety Wireless Infrastructure Replacement Plan as provided under section 2, chapter 825, Oregon Laws 2005.]

[(2) Develop an Oregon Interoperable Communication Plan. The goal of the plan shall be to achieve statewide interoperability within six years of September 2, 2005. In developing the plan, the council shall:]

(1) Develop, annually update and monitor implementation of the Oregon Statewide Communication Interoperability Plan, the goal of which is to achieve statewide interoperability of public safety communications systems. As part of the executive council's duties under this subsection, the executive council shall:

(a) Recommend strategies to improve [wireless] **public safety communications** interoperability among state, [and] local, **tribal and federal** public safety agencies;

(b) Develop standards to promote consistent **design and** development of [existing and future wireless] **public safety** communications infrastructures **and recommend changes in existing public safety infrastructures that are necessary or appropriate for implementation of the interoperability plan;**

(c) Identify immediate short-term technological and policy solutions to tie existing [wireless] **public safety** communications infrastructures together into an interoperable communications system;

(d) Develop long-term technological and policy recommendations to establish a statewide public safety [radio] **communications** system to improve emergency response and day-to-day public safety operations; and

(e) Develop recommendations for legislation and for the development of state and local policies [to promote wireless] **that promote public safety communications** interoperability in Oregon.

[(3) Approve, subject to approval by the Director of Transportation, investments by the State of Oregon in public safety communications systems.]

[(4) Coordinate state and local activities related to obtaining federal grants for support of interoperability.]

[(5) Develop and provide technical assistance, training and, if requested, appropriate dispute resolution services to state and local agencies responsible for implementation of the Oregon Interoperable Communication Plan.]

[(6) Report, in the manner required by ORS 192.245, to the Legislative Assembly on or before February 1 of each odd-numbered year on the development of the Oregon Interoperable Communication Plan and the council's other activities.]

(2) Recommend to the Governor, for inclusion in the Governor's recommended budget, investments by the State of Oregon in public safety communications systems.

(3) Coordinate state, local and, as appropriate, tribal and federal activities related to obtaining federal grants for support of interoperability and request technical assistance related to interoperability.

(4) Conduct and submit an annual update of the interoperability plan to the United States Department of Homeland Security, Office of Emergency Communications, aligning the update with standards established in the National Emergency Communications Plan and by the federal office.

(5) Coordinate statewide interoperability activities among state, local and, as appropriate, tribal and federal agencies.

(6) Advise the Governor and the Legislative Assembly on implementation of the interoperability plan.

(7) Serve as the Governor's Public Safety Broadband Advisory Group.

(8) Report to the Joint Committee on Ways and Means, or to the Joint Interim Committee on Ways and Means, on or before February 1 of each odd-numbered year on the development of the interoperability plan and the executive council's other activities.

[(7)] (9) Adopt rules necessary to carry out its duties and powers.

SECTION 7. ORS 403.460 is amended to read:

403.460. [(1) *The Director of Transportation shall advise the State Interoperability Executive Council on the implementation of the Oregon Interoperable Communication Plan and coordinate interoperability among all state agencies.*]

[(2) *State agencies that own or operate public safety communications systems shall coordinate their efforts and investments to achieve the statewide interoperability goal set by the council and implement the Oregon Interoperable Communication Plan approved by the director.*]

(1) **The Oregon Department of Administrative Services shall establish and fill a full-time equivalent position for a statewide interoperability coordinator to serve as the central coordination point for the Oregon Statewide Communication Interoperability Plan and, through coordination and collaboration with agencies and entities in the emergency response community, to implement the interoperability plan.**

(2) **The statewide interoperability coordinator:**

(a) **Is the primary staff support provided by the Oregon Department of Administrative Services for the State Interoperability Executive Council created under ORS 403.450;**

(b) **Shall assist the executive council in conducting and submitting annual updates to the interoperability plan, in coordination and collaboration with the emergency responders in this state;**

(c) **Shall identify funding opportunities for planned interoperability improvements and coordinate efforts to acquire funding;**

(d) **Shall engage stakeholders to coordinate strategic interoperability plans;**

(e) **Shall serve as a member of the National Council of Statewide Interoperability Coordinators; and**

(f) **Shall represent the State of Oregon in local, regional and national efforts to plan and implement changes required to ensure communications operability, interoperability and continuity of communications for emergency responders in this state.**

(3) **Public bodies, as defined in ORS 174.109, that own or operate public safety communications infrastructure may collaborate and coordinate their efforts and investments to achieve the statewide interoperability goal set by the executive council and implement the interoperability plan approved by the executive council.**

(4) **Under the direction of the executive council, the statewide interoperability coordinator may mediate disputes between public bodies collaborating to implement interoperable public safety communications systems.**

SECTION 8. In consultation with the State Interoperability Executive Council created in ORS 403.450, the Oregon Department of Administrative Services shall:

(1) Facilitate decision making and planning for potential implementation of the FirstNet network; and

(2) Make recommendations to the state agency responsible for administering federal funds from the United States Department of Commerce, National Telecommunications and Information Administration.

SECTION 9. (1) The duties, functions and powers of the Department of Transportation relating to the Oregon Statewide Communication Interoperability Plan, the State Interoperability Executive Council and ORS 403.450, 403.455 and 403.460 are imposed upon, transferred to and vested in the Oregon Department of Administrative Services.

(2) This section does not apply to duties, functions or powers related to the completion, operation or maintenance of the State Radio Project, which is the land-mobile radio system of the State of Oregon, for voice communications, formerly known as the Oregon Wireless Interoperability Network.

SECTION 10. (1) The Director of Transportation shall:

(a) Deliver to the Oregon Department of Administrative Services all records and property within the jurisdiction of the Director of Transportation that relate to the duties, functions and powers transferred by section 9 of this 2014 Act; and

(b) Transfer to the Oregon Department of Administrative Services those employees, including the statewide interoperability coordinator, engaged primarily in the exercise of the duties, functions and powers transferred by section 9 of this 2014 Act.

(2) The Director of the Oregon Department of Administrative Services shall take possession of the records and property and shall take charge of the employees and employ the employees in the exercise of the duties, functions and powers transferred by section 9 of this 2014 Act, without reduction of compensation but subject to change or termination of employment or compensation as provided by law.

(3) The Governor shall resolve any dispute between the Department of Transportation and the Oregon Department of Administrative Services relating to the transfer of records, property and employees under this section. The Governor's decision is final.

SECTION 11. (1) The unexpended balances of amounts authorized to be expended by the Department of Transportation for the biennium beginning July 1, 2013, from revenues dedicated, continuously appropriated, appropriated or otherwise made available for the purpose of administering and enforcing the duties, functions and powers transferred by section 9 of this 2014 Act are transferred to and are available for expenditure by the Oregon Department of Administrative Services for the biennium beginning July 1, 2013, for the purpose of administering and enforcing the duties, functions and powers transferred by section 9 of this 2014 Act.

(2) The unexpended balances of amounts authorized to be expended by the Department of Transportation for a six-year period beginning July 1, 2009, or beginning July 1, 2011, from revenues dedicated, continuously appropriated, appropriated or otherwise made available for the purpose of administering and enforcing the duties, functions and powers transferred by section 9 of this 2014 Act by acquiring land and by acquiring, planning, constructing, altering, repairing, furnishing and equipping buildings and facilities, are transferred to and are available for expenditure by the Oregon Department of Administrative Services for the six-year period specified in section 54, chapter 107, Oregon Laws 2010, or in section 2, chapter 79, Oregon Laws 2012, for the purpose of administering and enforcing the duties, functions and powers transferred by section 9 of this 2014 Act.

(3) The expenditure classifications, if any, established by Acts authorizing or limiting expenditures by the Department of Transportation remain applicable to expenditures by the Oregon Department of Administrative Services under this section.

SECTION 12. The transfer of duties, functions and powers to the Oregon Department of Administrative Services by section 9 of this 2014 Act does not affect any action, proceeding or prosecution involving or with respect to the duties, functions and powers begun before

and pending at the time of the transfer, except that the Oregon Department of Administrative Services is substituted for the Department of Transportation in the action, proceeding or prosecution.

SECTION 13. (1) Nothing in sections 9 to 15 of this 2014 Act relieves a person of a liability, duty or obligation accruing under or with respect to the duties, functions and powers transferred by section 9 of this 2014 Act. The Oregon Department of Administrative Services may undertake the collection or enforcement of the liabilities, duties or obligations.

(2) The rights and obligations of the Department of Transportation legally incurred under contracts, leases and business transactions executed, entered into or begun before the effective date of this 2014 Act accruing under or with respect to the duties, functions and powers transferred by section 9 of this 2014 Act are transferred to the Oregon Department of Administrative Services. For the purpose of succession to these rights and obligations, the Oregon Department of Administrative Services is a continuation of the Department of Transportation and not a new authority.

SECTION 14. Notwithstanding the transfer of duties, functions and powers by section 9 of this 2014 Act, the rules of the Department of Transportation with respect to the duties, functions or powers that are in effect on the effective date of this 2014 Act continue in effect until superseded or repealed by rules of the Oregon Department of Administrative Services. References in the rules of the Department of Transportation to the Department of Transportation or an officer or employee of the Department of Transportation are considered to be references to the Oregon Department of Administrative Services or an officer or employee of the Oregon Department of Administrative Services.

SECTION 15. Whenever, in any uncodified law or resolution of the Legislative Assembly or in any rule, document, record or proceeding authorized by the Legislative Assembly, in the context of the duties, functions and powers transferred by section 9 of this 2014 Act, reference is made to the Department of Transportation, or an officer or employee of the Department of Transportation, whose duties, functions or powers are transferred by section 9 of this 2014 Act, the reference is considered to be a reference to the Oregon Department of Administrative Services or an officer or employee of the Oregon Department of Administrative Services who by sections 9 to 15 of this 2014 Act is charged with carrying out the duties, functions and powers.

SECTION 16. (1) A purpose of the amendments to ORS 403.455 by section 6 of this 2014 Act is to change the name of the "Oregon Interoperable Communication Plan" to the "Oregon Statewide Communication Interoperability Plan."

(2) For the purpose of harmonizing and clarifying statutory law, the Legislative Counsel may substitute for words designating the "Oregon Interoperable Communication Plan," wherever they occur in statutory law, other words designating the "Oregon Statewide Communication Interoperability Plan."

SECTION 17. Notwithstanding any other law limiting expenditures, the limitation on expenditures established by section 2 (3), chapter 627, Oregon Laws 2013, for the biennium beginning July 1, 2013, as the maximum limit for payment of expenses from fees, moneys or other revenues, including Miscellaneous Receipts and federal funds received from charges, but excluding lottery funds and federal funds not described in section 2, chapter 627, Oregon Laws 2013, collected or received by the Oregon Department of Administrative Services for the Chief Information Office, is increased by \$654,298.

SECTION 18. This 2014 Act takes effect on July 1, 2014.

Passed by House March 3, 2014

.....
Ramona J. Line, Chief Clerk of House

.....
Tina Kotek, Speaker of House

Passed by Senate March 6, 2014

.....
Peter Courtney, President of Senate

Received by Governor:

.....M,....., 2014

Approved:

.....M,....., 2014

.....
John Kitzhaber, Governor

Filed in Office of Secretary of State:

.....M,....., 2014

.....
Kate Brown, Secretary of State