

House Bill 2483

Sponsored by Representative NELSON (at the request of Lucien Gunderman)

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**.

Increases business energy tax credit. Limits fees utilities may charge for net metering facilities. Provides that renewable electric energy projects that have obtained all required government approvals automatically qualify for renewable energy certificates. Requires electric utilities to purchase all electricity generated by renewable electric energy projects at rates established by Public Utility Commission within specified parameters. Prohibits exclusion of renewable electric energy project from incentive program due to age of project.

A BILL FOR AN ACT

1
2 Relating to energy; creating new provisions; and amending ORS 315.354 and 757.300.

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

4 **SECTION 1.** ORS 315.354 is amended to read:

5 315.354. (1) A credit is allowed against the taxes otherwise due under ORS chapter 316 (or, if
6 the taxpayer is a corporation, under ORS chapter 317 or 318), based upon the certified cost of the
7 facility during the period for which that facility is certified under ORS 469.185 to 469.225. The credit
8 is allowed as follows:

9 (a) Except as provided in paragraph (b) of this subsection, the credit allowed in each of the first
10 [*two*] **five** tax years in which the credit is claimed shall be 10 percent of the certified cost of the
11 facility, but may not exceed the tax liability of the taxpayer. [*The credit allowed in each of the suc-*
12 *ceeding three years shall be five percent of the certified cost, but may not exceed the tax liability of the*
13 *taxpayer.*]

14 (b) If the application for certification under ORS 469.185 to 469.225 was filed with the State
15 Department of Energy on or after January 1, 2001, and the certified cost of the facility does not
16 exceed \$20,000, the total amount of the credit allowable under subsection (3) of this section may be
17 claimed in the first tax year for which the credit may be claimed, but may not exceed the tax li-
18 ability of the taxpayer.

19 (2) In order for a tax credit to be allowable under this section:

20 (a) The facility must be located in Oregon;

21 (b) The facility must have received final certification from the Director of the State Department
22 of Energy under ORS 469.185 to 469.225; and

23 (c) The taxpayer must be an eligible applicant under ORS 469.205 (1)(c).

24 (3) The maximum total credit or credits allowed for a facility under this section to eligible tax-
25 payers may not exceed [*35*] **50** percent of the certified cost of the facility.

26 (4)(a) Upon any sale, termination of the lease or contract, exchange or other disposition of the
27 facility, notice thereof shall be given to the Director of the State Department of Energy who shall
28 revoke the certificate covering the facility as of the date of such disposition. The new owner, or
29 upon re-leasing of the facility, the new lessor, may apply for a new certificate under ORS 469.215,

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 but the tax credit available to the new owner shall be limited to the amount of credit not claimed
 2 by the former owner or, for a new lessor, the amount of credit not claimed by the lessor under all
 3 previous leases.

4 (b) The State Department of Energy may not revoke the certificate covering a facility under
 5 paragraph (a) of this subsection if the tax credit associated with the facility has been transferred
 6 to a taxpayer who is an eligible applicant under ORS 469.205 (1)(c)(A).

7 (5) Any tax credit otherwise allowable under this section that is not used by the taxpayer in a
 8 particular year may be carried forward and offset against the taxpayer's tax liability for [*the next*
 9 *succeeding tax year. Any credit remaining unused in that next succeeding tax year may be carried*
 10 *forward and used in the second succeeding tax year, and likewise, any credit not used in that second*
 11 *succeeding tax year may be carried forward and used in the third succeeding tax year, and likewise,*
 12 *any credit not used in that third succeeding tax year may be carried forward and used in the fourth*
 13 *succeeding tax year, and likewise, any credit not used in that fourth succeeding tax year may be carried*
 14 *forward and used in the fifth succeeding tax year, and likewise, any credit not used in that fifth suc-*
 15 *ceeding tax year may be carried forward and used in the sixth succeeding tax year, and likewise, any*
 16 *credit not used in that sixth succeeding tax year may be carried forward and used in the seventh suc-*
 17 *ceeding tax year, and likewise, any credit not used in that seventh succeeding tax year may be carried*
 18 *forward and used in the eighth succeeding tax year, but may not be carried forward for any tax year*
 19 *thereafter. Credits may be carried forward to and used in a tax year beyond the years specified in*
 20 *subsection (1) of this section only as provided in this subsection.] **up to 15 consecutively succeeding**
 21 **tax years. The credit allowed in any one tax year:***

22 (a) **Shall be reduced by the total amount of the credit allowed under this subsection in**
 23 **any previous tax year; and**

24 (b) **May not exceed the tax liability of the taxpayer.**

25 (6) The credit provided by this section is not in lieu of any depreciation or amortization de-
 26 duction for the facility to which the taxpayer otherwise may be entitled for purposes of ORS chapter
 27 316, 317 or 318 for such year.

28 (7) The taxpayer's adjusted basis for determining gain or loss may not be decreased by any tax
 29 credits allowed under this section.

30 **SECTION 2. The amendments to ORS 315.354 by section 1 of this 2007 Act apply to tax**
 31 **credit certifications issued under ORS 469.215 on or after January 1, 2008.**

32 **SECTION 3.** ORS 757.300 is amended to read:

33 757.300. (1) As used in this section:

34 (a) "Customer-generator" means a user of a net metering facility.

35 (b) "Electric utility" means a public utility, a people's utility district operating under ORS
 36 chapter 261, a municipal utility operating under ORS chapter 225 or an electric cooperative organ-
 37 ized under ORS chapter 62.

38 (c) "Net metering" means measuring the difference between the electricity supplied by an elec-
 39 tric utility and the electricity generated by a customer-generator and fed back to the electric utility
 40 over the applicable billing period.

41 (d) "Net metering facility" means a facility for the production of electrical energy that:

42 (A) Generates electricity using solar power, wind power, fuel cells, hydroelectric power, landfill
 43 gas, digester gas, waste, dedicated energy crops available on a renewable basis or low-emission,
 44 nontoxic biomass based on solid organic fuels from wood, forest or field residues;

45 (B) Is located on the customer-generator's premises;

1 (C) Can operate in parallel with an electric utility's existing transmission and distribution fa-
 2 cilities; and

3 (D) Is intended primarily to offset part or all of the customer-generator's requirements for elec-
 4 tricity.

5 (2) An electric utility that offers residential and commercial electric service:

6 (a) Shall allow net metering facilities to be interconnected using a standard meter that is ca-
 7 pable of registering the flow of electricity in two directions.

8 **(b) Shall allow the customer-generator to aggregate credits and charges from multiple**
 9 **meters that are connected to the same electric utility.**

10 [(b)] (c) May at [its] **the electric utility's** own expense install one or more additional meters
 11 to monitor the flow of electricity in each direction.

12 [(c)] (d) May not charge a customer-generator a fee or charge that would increase the
 13 customer-generator's minimum monthly charge to an amount greater than that of other customers
 14 in the same rate class as the customer-generator. However, the Public Utility Commission, for a
 15 public utility, or the governing body, for a municipal electric utility, electric cooperative or people's
 16 utility district, may authorize an electric utility to assess a greater fee or charge, of any type, if the
 17 electric utility's direct costs of interconnection and administration of the net metering outweigh the
 18 distribution system, environmental and public policy benefits of allocating such costs among the
 19 electric utility's entire customer base. The commission may authorize a public utility to assess a
 20 greater fee or charge under this paragraph only following notice and opportunity for public com-
 21 ment. The governing body of a municipal electric utility, electric cooperative or people's utility
 22 district may assess a greater fee or charge under this paragraph only following notice and oppor-
 23 tunity for comment from the customers of the utility, cooperative or district. **The greater fee or**
 24 **charge authorized by the commission or governing body for a net metering facility may not**
 25 **exceed:**

26 **(A) \$5 per month for all net metering facilities owned by the same owner and connected**
 27 **to the grid of the same electric utility, and that cumulatively have a generating capacity of**
 28 **less than 50 kilowatts; or**

29 **(B) \$7.50 per month for all net metering facilities owned by the same owner and con-**
 30 **connected to the grid of the same electric utility, and that cumulatively have a generating ca-**
 31 **capacity of 50 kilowatts or more.**

32 (3)(a) For a customer-generator, an electric utility shall measure the net electricity produced or
 33 consumed during the billing period in accordance with normal metering practices.

34 (b) If an electric utility supplies a customer-generator more electricity than the customer-
 35 generator feeds back to the electric utility during a billing period, the electric utility shall charge
 36 the customer-generator for the net electricity that the electric utility supplied.

37 (c) Except as provided in paragraph (d) of this subsection, if a customer-generator feeds back to
 38 an electric utility more electricity than the electric utility supplies the customer-generator during
 39 a billing period, the electric utility may charge the minimum monthly charge described in subsection
 40 (2) of this section but must credit the customer-generator for the excess kilowatt-hours generated
 41 during the billing period. An electric utility may value the excess kilowatt-hours at the avoided cost
 42 of the utility, as determined by the commission or the appropriate governing body. An electric utility
 43 that values the excess kilowatt-hours at the avoided cost shall bear the cost of measuring the excess
 44 kilowatt-hours, issuing payments and billing for the excess hours. The electric utility also shall bear
 45 the cost of providing and installing additional metering to measure the reverse flow of electricity.

1 (d) For the billing cycle ending in March of each year, or on such other date as agreed to by
2 the electric utility and the customer-generator, any remaining unused kilowatt-hour credit accumu-
3 lated during the previous year shall be granted to the electric utility for distribution to customers
4 enrolled in the electric utility's low-income assistance programs, credited to the customer-generator
5 or dedicated for other use as determined by the commission, for a public utility, or the governing
6 body, for a municipal electric utility, electric cooperative or people's utility district, following notice
7 and opportunity for public comment.

8 (4)(a) A net metering facility shall meet all applicable safety and performance standards estab-
9 lished in the state building code. The standards shall be consistent with the applicable standards
10 established by the National Electrical Code, the Institute of Electrical and Electronics Engineers
11 and Underwriters Laboratories or other similarly accredited laboratory.

12 (b) Following notice and opportunity for public comment, the commission, for a public utility,
13 or the governing body, for a municipal electric utility, electric cooperative or people's utility dis-
14 trict, may adopt additional control and testing requirements for customer-generators to protect
15 public safety or system reliability.

16 (c) An electric utility may not require a customer-generator whose net metering facility meets
17 the standards in paragraphs (a) and (b) of this subsection to comply with additional safety or per-
18 formance standards, perform or pay for additional tests or purchase additional liability insurance.
19 However, an electric utility shall not be liable directly or indirectly for permitting or continuing to
20 allow an attachment of a net metering facility, or for the acts or omissions of the customer-
21 generator that cause loss or injury, including death, to any third party.

22 (5) Nothing in this section is intended to prevent an electric utility from offering, or a
23 customer-generator from accepting, products or services related to the customer-generator's net
24 metering facility that are different from the net metering services described in this section.

25 (6) The commission, for a public utility, or the governing body, for a municipal electric utility,
26 electric cooperative or people's utility district, may not limit the cumulative generating capacity of
27 solar, wind, fuel cell and microhydroelectric net metering systems to less than one-half of one per-
28 cent of a utility's, cooperative's or district's historic single-hour peak load. After a cumulative limit
29 of one-half of one percent has been reached, the obligation of a public utility, municipal electric
30 utility, electric cooperative or people's utility district to offer net metering to a new customer-
31 generator may be limited by the commission or governing body in order to balance the interests of
32 retail customers. When limiting net metering obligations under this subsection, the commission or
33 the governing body shall consider the environmental and other public policy benefits of net metering
34 systems. The commission may limit net metering obligations under this subsection only following
35 notice and opportunity for public comment. The governing body of a municipal electric utility,
36 electric cooperative or people's utility district may limit net metering obligations under this sub-
37 section only following notice and opportunity for comment from the customers of the utility, coop-
38 erative or district.

39 (7) The commission or the governing body may adopt rules or ordinances to ensure that the
40 obligations and costs associated with net metering apply to all power suppliers within the service
41 territory of a public utility, municipal electric utility, electric cooperative or people's utility district.

42 (8) This section applies only to net metering facilities that have [a] **an average** generating ca-
43 pacity of 25 kilowatts or less[, *except that*]. The commission by rule may provide for a higher
44 [*limit*] **average generating capacity** for customers of a public utility. **The average generating**
45 **capacity of a net metering facility shall be determined on an annual basis.**

1 (9) Notwithstanding subsections (2) to (8) of this section, an electric utility serving fewer than
 2 25,000 customers in Oregon that has its headquarters located in another state and offers net me-
 3 tering services or a substantial equivalent offset against retail sales in that state shall be deemed
 4 to be in compliance with this section if the electric utility offers net metering services to its cus-
 5 tomers in Oregon in accordance with tariffs, schedules and other regulations promulgated by the
 6 appropriate authority in the state where the electric utility's headquarters are located.

7 **SECTION 4. For the purposes of sections 5, 6 and 7 of this 2007 Act, "renewable electric**
 8 **energy project" means any facility that generates electricity using solar power, wind power,**
 9 **fuel cells, hydroelectric power, landfill gas, digester gas, waste, dedicated energy crops**
 10 **available on a renewable basis or low-emission, nontoxic biomass based on solid organic fuels**
 11 **from wood, forest or field residues.**

12 **SECTION 5. (1) Any renewable electric energy project that has received all required local,**
 13 **state and federal government certifications, licenses or other approvals shall automatically**
 14 **qualify for renewable energy certificates without any further certification or approval by any**
 15 **other entity.**

16 (2) The State Department of Energy shall adopt rules to implement the provisions of
 17 subsection (1) of this section.

18 **SECTION 6. (1) An electric utility shall purchase all electricity generated from a**
 19 **renewable electric energy project that is located in the service territory of the utility at a**
 20 **rate established by the Public Utility Commission that is:**

21 (a) At least 1.5 cents per kilowatt-hour greater than the highest retail electricity rate in
 22 effect for the utility; and

23 (b) Not more than five cents per kilowatt-hour greater than the highest retail electricity
 24 rate in effect for the utility.

25 (2) As used in this section, "electric utility" means a public utility, a people's utility dis-
 26 trict operating under ORS chapter 261, a municipal utility operating under ORS chapter 225
 27 or an electric cooperative organized under ORS chapter 62.

28 **SECTION 7. Notwithstanding any other provision of law, a renewable electric energy**
 29 **project may not be excluded from any incentive program established by law because of the**
 30 **date of construction or placement into service of the project.**

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