

House Bill 2876

Sponsored by Representative WITT; Representatives BONAMICI, BRUUN, DALLUM, JENSON, MACPHERSON, SCHAUFLEER, SHIELDS, TOMEI

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**.

Directs State Department of Energy to investigate means to reduce energy consumption in state-owned or state-funded buildings and school district buildings.

Requires department to prepare plan for submission to Governor for making state-owned or state-funded buildings and school district buildings more energy efficient and installing renewable energy systems.

Directs department to encourage public bodies and municipal corporations to apply for funding to implement energy efficiency and renewable energy projects.

Expands definition of "eligible state agency" to include all public bodies for purposes of statutes relating to small scale local energy projects.

A BILL FOR AN ACT

1
2 Relating to energy projects; creating new provisions; and amending ORS 470.050, 470.060 and
3 470.150.

4 Whereas energy efficiency measures are cost-effective ways to substantially reduce the utility
5 costs of public agencies and school districts; and

6 Whereas investment in energy efficiency projects and renewable energy projects will reduce the
7 load on existing energy sources, minimizing power outages and reducing dependency on
8 nonrenewable, expensive and polluting energy sources during peak demand periods; and

9 Whereas an increase in renewable energy development will jump-start Oregon's transition to
10 renewable energy use, create local family wage jobs, reduce emissions that lead to global warming,
11 improve public health, strengthen energy security, increase energy dependability and reduce vul-
12 nerability to price spikes due to a volatile energy market; and

13 Whereas the goal of the State of Oregon is to reduce by 15 percent the energy consumption of
14 state government buildings and school district buildings by 2015 through energy efficiency and
15 renewable energy projects; now, therefore,

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

17 **SECTION 1. (1) The State Department of Energy shall investigate cost-effective means**
18 **of reducing peak load energy consumption and overall energy use in state-owned or state-**
19 **funded buildings and facilities, including school district buildings. In conducting this investi-**
20 **gation, the department shall:**

21 (a) **Examine existing energy efficiency and renewable energy programs and identify**
22 **underused program strategies; and**

23 (b) **Perform or cause to be performed comprehensive and customized energy audits on**
24 **state-owned or state-funded buildings and school district buildings that will determine where**
25 **system upgrades should be made to reduce energy use and realize energy savings. The audits**
26 **shall identify energy consumption patterns, climatic factors, conditions of existing energy**
27 **systems and areas needing energy efficiency improvement.**

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 (2) Based on the results of the department’s investigation under subsection (1) of this
 2 section, the department shall prepare a revenue-neutral plan that describes:

3 (a) Recommendations for increasing the energy efficiency of and the use of renewable
 4 energy sources;

5 (b) The maximum amount of renewable energy measures that can be taken while re-
 6 taining the revenue-neutral nature of the plan; and

7 (c) Recommendations for implementing the energy efficiency and renewable energy
 8 measures, including energy savings performance contracts.

9 (3) The department shall present the plan to the Governor not later than six months af-
 10 ter the effective date of this 2007 Act.

11 **SECTION 2.** The State Department of Energy shall encourage public bodies, as defined
 12 in ORS 174.109, to apply for small scale local energy project loans pursuant to ORS chapter
 13 470 and to apply for any other state or federal funding available for projects implementing
 14 energy efficiency or renewable energy measures.

15 **SECTION 3.** ORS 470.050 is amended to read:

16 470.050. As used in this chapter, unless the context requires otherwise:

17 (1) “Alternative fuel project” means:

18 (a) A fleet of vehicles that are modified or acquired directly from a factory and that:

19 (A) Use an alternative fuel including electricity, ethanol, gasohol with at least 10 percent de-
 20 naturated alcohol content, hydrogen, hythane, methane, methanol, natural gas, propane or any other
 21 fuel approved by the Director of the State Department of Energy; and

22 (B) Produce lower or equivalent exhaust emissions or are more energy efficient than vehicles
 23 fueled by gasoline; and

24 (b) A facility, including a fueling station, necessary to operate an alternative fuel vehicle fleet.

25 (2) “Applicant” means an applicant for a small scale local energy project loan.

26 (3) “Committee” means the Small Scale Local Energy Project Advisory Committee created under
 27 ORS 470.070.

28 (4) “Cooperative” means a cooperative corporation organized under ORS chapter 62.

29 (5) “Director” means the Director of the State Department of Energy appointed under ORS
 30 469.040.

31 (6) “Eligible federal agency” means a federal agency or public corporation created by the federal
 32 government that proposes to use a loan for a small scale energy project. “Eligible federal agency”
 33 does not include a federal agency or public corporation created by the federal government that
 34 proposes to use a loan for a small scale energy project to generate electricity for sale.

35 (7) “Eligible state agency” means a [*state officer, board, commission, department, institution,*
 36 *branch or agency of the state whose costs are paid wholly or in part from funds held in the State*
 37 *Treasury*] **public body, as defined in ORS 174.109, and any federally recognized Indian tribe.**

38 (8) “Loan” includes the purchase or other acquisition of evidence of indebtedness and money
 39 used for the purchase or other acquisition of evidence of indebtedness.

40 (9) “Loan contract” means the evidence of indebtedness and all instruments used in the purchase
 41 or acquisition of the evidence of indebtedness. For eligible federal **agencies** or **eligible** state agen-
 42 cies [*or municipal corporations that are tax exempt entities*], a loan contract may include a lease
 43 purchase agreement with respect to personal property.

44 (10) “Loan fund” means the Small Scale Local Energy Project Loan Fund created by Article XI-J
 45 of the Oregon Constitution.

1 (11) "Municipal corporation" has the meaning given in ORS 297.405 and also includes any Indian
 2 tribe or authorized Indian tribal organization or any combination of two or more of these tribes or
 3 organizations acting jointly in connection with a small scale local energy project.

4 (12) "Oregon business" means a sole proprietorship, partnership, company, cooperative, corpo-
 5 ration or other form of business entity that is organized or authorized to do business under Oregon
 6 law for profit.

7 (13) "Recycling project" means a facility or equipment that converts waste into a new and usa-
 8 ble product.

9 (14) "Small business" means:

10 (a) An Oregon business that is:

11 (A) A retail or service business employing 50 or fewer persons at the time the loan is made; or

12 (B) An industrial or manufacturing business employing 200 or fewer persons at the time the loan
 13 is made; or

14 (b) An Oregon subsidiary of a sole proprietorship, partnership, company, cooperative, corpo-
 15 ration or other form of business entity for which the total number of employees for both the sub-
 16 sidiary and the parent sole proprietorship, partnership, company, cooperative, corporation or other
 17 form of business entity at the time the loan is made is:

18 (A) Fifty or fewer persons if the subsidiary is a retail or service business; and

19 (B) Two hundred or fewer if the subsidiary is an industrial or manufacturing business.

20 (15) "Sinking fund" means the Small Scale Local Energy Project Administration and Bond
 21 Sinking Fund created in ORS 470.300.

22 (16) "Small scale local energy project" means:

23 (a) A system, mechanism or series of mechanisms located primarily in Oregon that directly or
 24 indirectly uses or enables the use of, by the applicant or another person, renewable resources in-
 25 cluding, but not limited to, solar, wind, geothermal, biomass, waste heat or water resources to
 26 produce energy, including heat, electricity and substitute fuels, to meet a local community or re-
 27 gional energy need in this state;

28 (b) A system, mechanism or series of mechanisms located primarily in Oregon or providing
 29 substantial benefits to Oregon that directly or indirectly conserves energy or enables the conserva-
 30 tion of energy by the applicant or another person, including energy used in transportation;

31 (c) A recycling project;

32 (d) An alternative fuel project;

33 (e) An improvement that increases the production or efficiency, or extends the operating life,
 34 of a system, mechanism, series of mechanisms or project otherwise described in this subsection, in-
 35 cluding but not limited to restarting a dormant project;

36 (f) A system, mechanism or series of mechanisms installed in a facility or portions of a facility
 37 that directly or indirectly reduces the amount of energy needed for the construction and operation
 38 of the facility and that meets the sustainable building practices standard established by the State
 39 Department of Energy by rule; or

40 (g) A project described in paragraphs (a) to (f) of this subsection, whether or not the existing
 41 project was originally financed under this chapter, together with any refinancing necessary to re-
 42 move prior liens or encumbrances against the existing project.

43 (h) A project described in paragraphs (a) to (g) of this subsection that conserves energy or
 44 produces energy by generation or by processing or collection of a renewable resource.

45 **SECTION 4.** ORS 470.060 is amended to read:

1 470.060. (1) Any individual who is a resident of Oregon, an Oregon business, a nonprofit or
2 public cooperative, a nonprofit corporation, an eligible federal agency, an eligible state agency, a
3 public corporation created by the state[,] **or** an intergovernmental entity created pursuant to an
4 intergovernmental agreement under ORS 190.003 to 190.130[, *or a municipal corporation*] may file
5 with the State Department of Energy an application to obtain loan funds for a small scale local
6 energy project as provided in this chapter.

7 (2) Applications to obtain funds for a small scale local energy project shall be made in writing
8 on a form prescribed by the State Department of Energy. Applications submitted to the State De-
9 partment of Energy shall:

10 (a) Describe the nature and purpose of the proposed small scale local energy project.

11 (b) State whether any purposes other than energy production, but consistent with energy pro-
12 duction, will be served by the proposed small scale local energy project, and the nature of the other
13 purposes, if any.

14 (c) Include an evaluation of the potential of the small scale local energy project to meet local
15 community energy needs.

16 (d) Include an evaluation of the potential environmental impacts of the small scale local energy
17 project.

18 (e) State whether any moneys other than those in the loan fund are proposed to be used for the
19 development of the proposed small scale local energy project, and whether any other moneys are
20 available or have been sought for the project.

21 (f) Describe the source of funds for repayment of the loan applied for.

22 (3) A fee of one-tenth of one percent of the amount of the loan applied for or \$2,500, whichever
23 is less, shall be submitted with each application. In addition, the applicant may be required to pay
24 for costs incurred in connection with the application that exceed the application fee and which the
25 Director of the State Department of Energy determines are incurred solely in connection with pro-
26 cessing the application. The applicant shall be advised of any additional costs the applicant must
27 pay before the costs are incurred.

28 **SECTION 5.** ORS 470.150 is amended to read:

29 470.150. Except as provided in ORS 470.155, if the Director of the State Department of Energy
30 approves the financing of a small scale local energy project, the director, on behalf of the state, and
31 the applicant may enter into a loan contract, secured by a first lien or by other good and sufficient
32 collateral in the manner provided in ORS 470.155 to 470.210. For purposes of this section, the in-
33 terest of the State Department of Energy under a lease purchase contract entered into with an eli-
34 gible federal **agency** or **an eligible** state agency [*or a municipal corporation*] may constitute good
35 and sufficient collateral. The contract:

36 (1) May provide that the director, on behalf of the state, must approve the arrangements made
37 by the applicant for the development, operation and maintenance of the small scale local energy
38 project, using moneys in the loan fund for the project development.

39 (2) Shall provide a plan for repayment by the applicant to the sinking fund of moneys borrowed
40 from the loan fund used for the development of the small scale local energy project and interest on
41 those moneys used at a rate of interest the director determines is necessary to provide adequate
42 funds to recover the administrative expenses incurred under this chapter. The director shall set the
43 interest rate at an incremental rate above the interest rate on the underlying bonds. The incre-
44 mental rate for projects proposed by an eligible federal agency shall be greater than the incremental
45 rate charged to any other governmental borrower. The repayment plan, among other matters:

1 (a) Shall provide for commencement of repayment by the applicant of moneys used for project
2 development and interest thereon not later than two years after the date of the loan contract or at
3 any other time as the director may provide. In addition to any other prepayment option provided in
4 a borrower's loan agreement, the department shall provide a borrower the opportunity to prepay the
5 borrower's loan, without any additional premium, by defeasing such loan to the call date of the bond
6 or bonds funding the applicable loan, or any refunding bonds linked to the loan, but such defeasance
7 shall occur only if the director finds that after the defeasance, the sinking fund will have sufficient
8 funds to make payments required under ORS 470.300 (1).

9 (b) May provide for reasonable extension of the time for making any repayment in emergency
10 or hardship circumstances, if approved by the director.

11 (c) Shall provide for evidence of debt assurance of and security for repayment by the applicant
12 considered necessary or proper by the director.

13 (d) Shall set forth the period of loan which shall not exceed the usable life of the completed
14 project, or 30 years from the date of the loan contract, whichever is less.

15 (e) May set forth a procedure for formal declaration of default of payment by the director, in-
16 cluding formal notification of all relevant federal, state and local agencies; and further, a procedure
17 for notification of all relevant federal, state and local agencies that declaration of default has been
18 rescinded when appropriate.

19 (3) May include provisions satisfactory to the director for field inspection, the director to be the
20 final judge of completion of the project.

21 (4) May provide that the liability of the state under the contract is contingent upon the avail-
22 ability of moneys in the loan fund for use in the planning and development of the project.

23 (5) May include further provisions the director considers necessary to ensure expenditure of the
24 funds for the purposes set forth in the approved application.

25 (6) May provide that the director may institute an appropriate action or suit to prevent use of
26 the project financed by the loan fund by any person who is delinquent in the repayment of any
27 moneys due the sinking fund.

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