

Senate Bill 1054

Sponsored by Senators L GEORGE, JOHNSON, Representatives BOONE, KRUMMEL; Senators ATKINSON, BATES, BEYER, G GEORGE, KRUSE, METSGER, MONNES ANDERSON, MONROE, MORRISSETTE, MORSE, NELSON, STARR, VERGER, WHITSETT, WINTERS, Representatives BARKER, BERGER, BOQUIST, BRUUN, CAMERON, COWAN, GILMAN, GIROD, HANNA, HUNT, JENSON, KRIEGER, LIM, MERKLEY, MORGAN, NELSON, OLSON, READ, ROBLAN, ROSENBAUM, SCHAUFLER, G SMITH, TOMEI, WITT

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**.

Requires that first \$7.7 million of amounts collected under public purpose charge in calendar year 2008 be distributed to State Department of Geology and Mineral Industries for purpose of paying costs of Oregon territorial sea mapping project at Oregon State University.

Changes distribution of amounts collected as public purpose charge by electric companies. Provides that first \$5 million collected annually be used by Department of Education to award grants to school districts for school facility conservation projects and for energy efficiency measures. Provides that moneys be distributed to school districts with ratio of assessed value of taxable property to ADMw that is within lowest one-third of all school districts in this state.

A BILL FOR AN ACT

1
2 Relating to public purpose charge; creating new provisions; amending ORS 757.612; and appropriat-
3 ing money.

4 Whereas wave energy is a renewable power source with a great potential to reduce our de-
5 pendence on oil and other fossil fuels; and

6 Whereas the Oregon coast is particularly well suited for wave energy development and gener-
7 ation; and

8 Whereas the technology for harnessing wave energy is rapidly evolving in many locations, in-
9 cluding Scotland, Portugal and here in Oregon; and

10 Whereas the Legislative Assembly of the State of Oregon strongly supports the development of
11 this technology for its global benefits, as well as its potential for economic development; and

12 Whereas the siting of wave energy facilities in the ocean has the potential for direct conflict
13 with other important uses of ocean resources; and

14 Whereas energy conservation in our public schools is important for both environmental pro-
15 tection and for saving much needed financial resources; and

16 Whereas many school districts do not have the necessary property tax base needed to fund vital
17 energy conservation upgrades; and

18 Whereas in many school districts the maintenance of facilities takes priority over energy con-
19 servation upgrades; now, therefore,

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

21 **SECTION 1. Electric companies that collect a public purpose charge imposed under ORS**
22 **757.612 shall pay all amounts collected under the public purpose charge during the calendar**
23 **year 2008, at the time that distributions required by ORS 757.612 (3) would otherwise be**
24 **made, to the State Department of Geology and Mineral Industries until the amount of \$7.7**
25 **million has been paid to the department. Thereafter, amounts collected under the public**

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 purpose charge shall be distributed as provided by ORS 757.612 (3). The amount distributed
 2 to the department under this section is appropriated to the department for the purpose of
 3 paying the costs of the Oregon territorial sea mapping project at Oregon State University.
 4 The appropriation made to the department under this section is available continuously until
 5 expended for the purpose specified by this section, and does not revert to the General Fund
 6 at the end of any biennium.

7 **SECTION 2.** (1) As used in this section, “ADMw” means the weighted average daily
 8 membership of a school district as calculated under ORS 327.013.

9 (2) The Department of Education shall award grants to school districts for school facility
 10 conservation projects and for energy efficiency measures from moneys appropriated to the
 11 department from the School Energy Conservation Fund established under section 3 of this
 12 2007 Act.

13 (3) Each fiscal year, the department shall distribute the grants based on the ratio of as-
 14 sessed value of taxable property in the school district to ADMw of the school district in the
 15 prior fiscal year. Distribution of grants under this section shall be made only to school dis-
 16 tricts with a ratio of assessed value of taxable property to ADMw in the prior fiscal year that
 17 is within the lowest one-third of all school districts in the state.

18 (4) The department shall determine which school districts are eligible for a grant for a
 19 fiscal year on the basis of the total assessed value of taxable property of school districts
 20 reported to the department by the Department of Revenue for the fiscal year prior to the
 21 year in which the grants are awarded under this section.

22 (5) Each school district determined to be eligible for a grant under this section shall re-
 23 ceive \$37,500 each fiscal year for the purposes specified in subsection (2) of this section.

24 (6) After distribution of grants under subsection (5) of this section, the remaining funds
 25 available for distribution for a fiscal year shall be distributed to school districts determined
 26 to be eligible under this section in an amount equal to the school district’s $ADMw \times$ (the
 27 total amount available for the grants in each fiscal year after the distributions required by
 28 subsection (5) of this section \div the total ADMw of all school districts that qualify for a
 29 grant).

30 (7) The State Board of Education shall adopt any rules necessary for the administration
 31 of this section.

32 **SECTION 3.** The School Energy Conservation Fund is established in the State Treasury,
 33 separate and distinct from the General Fund. Interest earned by the School Energy Conser-
 34 vation Fund shall be credited to the fund. Moneys in the fund are continuously appropriated
 35 to the Department of Education for purposes of the grant program created by section 2 of
 36 this 2007 Act.

37 **SECTION 4.** ORS 757.612 is amended to read:

38 757.612. (1) There is established an annual public purpose expenditure standard for electric
 39 companies to fund new cost-effective local energy conservation, new market transformation efforts,
 40 the above-market costs of new renewable energy resources and new low-income weatherization. The
 41 public purpose expenditure standard shall be funded by the public purpose charge described in sub-
 42 section (2) of this section.

43 (2)(a) Beginning on the date an electric company offers direct access to its retail electricity
 44 consumers, except residential electricity consumers, the electric company shall collect a public
 45 purpose charge from all of the retail electricity consumers located within its service area for a pe-

1 rioid of 10 years. Except as provided in paragraph (b) of this subsection, the public purpose charge
2 shall be equal to three percent of the total revenues collected by the electric company or electricity
3 service supplier from its retail electricity consumers for electricity services, distribution, ancillary
4 services, metering and billing, transition charges and other types of costs included in electric rates
5 on July 23, 1999.

6 (b) For an aluminum plant that averages more than 100 average megawatts of electricity use
7 per year, beginning on March 1, 2002, the electric company whose territory abuts the greatest per-
8 centage of the site of the aluminum plant shall collect from the aluminum company a public purpose
9 charge equal to one percent of the total revenue from the sale of electricity services to the alumi-
10 num plant from any source.

11 (3)(a) The Public Utility Commission shall establish rules implementing the provisions of this
12 section relating to electric companies.

13 (b) Subject to *[paragraph (e)]* **paragraphs (e) and (f)** of this subsection, funds collected by an
14 electric company through public purpose charges shall be allocated as follows:

15 (A) Sixty-three percent for new cost-effective conservation and new market transformation.

16 (B) Nineteen percent for the above-market costs of new renewable energy resources.

17 (C) Thirteen percent for new low-income weatherization.

18 (D) Five percent shall be transferred to the Housing and Community Services Department Re-
19 volving Account created under ORS 456.574 and used for the purpose of providing grants as de-
20 scribed in ORS 458.625 (2). Moneys deposited in the account under this subparagraph are
21 continuously appropriated to the Housing and Community Services Department for the purposes of
22 ORS 458.625 (2). Interest on moneys deposited in the account under this subparagraph shall accrue
23 to the account.

24 (c) The costs of administering subsections (1) to (6) of this section for an electric company shall
25 be paid out of the funds collected through public purpose charges. The commission may require that
26 an electric company direct funds collected through public purpose charges to the state agencies
27 responsible for implementing subsections (1) to (6) of this section in order to pay the costs of ad-
28 ministering such responsibilities.

29 (d) The commission shall direct the manner in which public purpose charges are collected and
30 spent by an electric company and may require an electric company to expend funds through com-
31 petitive bids or other means designed to encourage competition, except that funds dedicated for
32 low-income weatherization shall be directed to the Housing and Community Services Department as
33 provided in subsection (7) of this section. The commission may also direct that funds collected by
34 an electric company through public purpose charges be paid to a nongovernmental entity for in-
35 vestment in public purposes described in subsection (1) of this section. Notwithstanding any other
36 provision of this subsection, at least 80 percent of the funds allocated for conservation shall be spent
37 within the service area of the electric company that collected the funds.

38 (e)(A) The first 10 percent of the funds collected annually by an electric company under sub-
39 section (2) of this section shall be distributed to education service districts, as described in ORS
40 334.010, that are located in the service territory of the electric company. The funds shall be dis-
41 tributed to individual education service districts according to the weighted average daily member-
42 ship (ADMw) of the component school districts of the education service district for the prior fiscal
43 year as calculated under ORS 327.013. The commission shall establish by rule a methodology for
44 distributing a proportionate share of funds under this paragraph to education service districts that
45 are only partially located in the service territory of the electric company.

1 (B) An education service district that receives funds under this paragraph shall use the funds
2 first to pay for energy audits for school districts located within the education service district. An
3 education service district may not expend additional funds received under this paragraph on a
4 school district facility until an energy audit has been completed for that school district. To the
5 extent practicable, an education service district shall coordinate with the State Department of En-
6 ergy and incorporate federal funding in complying with this paragraph. Following completion of an
7 energy audit for an individual school district, the education service district may expend funds re-
8 ceived under this paragraph to implement the energy audit. Once an energy audit has been con-
9 ducted and completely implemented for each school district within the education service district, the
10 education service district may expend funds received under this paragraph for any of the following
11 purposes:

12 (i) Conducting energy audits. A school district shall conduct an energy audit prior to expending
13 funds on any other purpose authorized under this paragraph unless the school district has performed
14 an energy audit within the three years immediately prior to receiving the funds.

15 (ii) Weatherization and upgrading the energy efficiency of school district facilities.

16 (iii) Energy conservation education programs.

17 (iv) Purchasing electricity from environmentally focused sources and investing in renewable
18 energy resources.

19 **(f) When an electric company makes a distribution under paragraph (e) of this sub-**
20 **section, all remaining amounts collected by the electric company during the distribution pe-**
21 **riod shall be deposited in the School Energy Conservation Fund established under section 3**
22 **of this 2007 Act until the fund receives \$5 million per calendar year from public purpose**
23 **charges collected by electric companies. Moneys deposited in the fund under this paragraph**
24 **shall be used for the purpose of distribution as grants to school districts under section 2 of**
25 **this 2007 Act.**

26 [(f)] (g) The commission may establish a different public purpose charge than the public purpose
27 charge otherwise described in subsection (2) of this section for an individual retail electricity con-
28 sumer or any class of retail electricity consumers located within the service area of an electric
29 company, provided that a retail electricity consumer with a load greater than one average megawatt
30 is not required to pay a public purpose charge in excess of three percent of its total cost of elec-
31 tricity services.

32 [(g)] (h) The commission shall remove from the rates of each electric company any costs for
33 public purposes described in subsection (1) of this section that are included in rates. A rate adjust-
34 ment under this paragraph shall be effective on the date that the electric company begins collecting
35 public purpose charges.

36 (4) An electric company that satisfies its obligations under this section shall have no further
37 obligation to invest in conservation, new market transformation, new renewable energy resources
38 or new low-income weatherization or to provide a commercial energy conservation services program
39 and is not subject to ORS 469.631 to 469.645, 469.860 to 469.900 and 758.505 to 758.555.

40 (5)(a) A retail electricity consumer that uses more than one average megawatt of electricity at
41 any site in the prior year shall receive a credit against public purpose charges billed by an electric
42 company for that site. The amount of the credit shall be equal to the total amount of qualifying
43 expenditures for new energy conservation, not to exceed 68 percent of the annual public purpose
44 charges, and the above-market costs of purchases of new renewable energy resources incurred by
45 the retail electricity consumer, not to exceed 19 percent of the annual public purpose charges, less

1 administration costs incurred under this subsection. The credit may not exceed, on an annual basis,
2 the lesser of:

3 (A) The amount of the retail electricity consumer's qualifying expenditures; or

4 (B) The portion of the public purpose charge billed to the retail electricity consumer that is
5 dedicated to new energy conservation, new market transformation or the above-market costs of new
6 renewable energy resources.

7 (b) To obtain a credit under this subsection, a retail electricity consumer shall file with the
8 State Department of Energy a description of the proposed conservation project or new renewable
9 energy resource and a declaration that the retail electricity consumer plans to incur the qualifying
10 expenditure. The State Department of Energy shall issue a notice of precertification within 30 days
11 of receipt of the filing, if such filing is consistent with this subsection. The credit may be taken after
12 a retail electricity consumer provides a letter from a certified public accountant to the State De-
13 partment of Energy verifying that the precertified qualifying expenditure has been made.

14 (c) Credits earned by a retail electricity consumer as a result of qualifying expenditures that
15 are not used in one year may be carried forward for use in subsequent years.

16 (d)(A) A retail electricity consumer that uses more than one average megawatt of electricity at
17 any site in the prior year may request that the State Department of Energy hire an independent
18 auditor to assess the potential for conservation investments at the site. If the independent auditor
19 determines there is no available conservation measure at the site that would have a simple payback
20 of one to 10 years, the retail electricity consumer shall be relieved of 54 percent of its payment
21 obligation for public purpose charges related to the site. If the independent auditor determines that
22 there are potential conservation measures available at the site, the retail electricity consumer shall
23 be entitled to a credit against public purpose charges related to the site equal to 54 percent of the
24 public purpose charges less the estimated cost of available conservation measures.

25 (B) A retail electricity consumer shall be entitled each year to the credit described in this sub-
26 section unless a subsequent independent audit determines that new conservation investment oppor-
27 tunities are available. The State Department of Energy may require that a new independent audit
28 be performed on the site to determine whether new conservation measures are available, provided
29 that the independent audits shall occur no more than once every two years.

30 (C) The retail electricity consumer shall pay the cost of the independent audits described in this
31 subsection.

32 (6) Electric utilities and retail electricity consumers shall receive a fair and reasonable credit
33 for the public purpose expenditures of their energy suppliers. The State Department of Energy shall
34 adopt rules to determine eligible expenditures and the methodology by which such credits are ac-
35 counted for and used. The rules also shall adopt methods to account for eligible public purpose
36 expenditures made through consortia or collaborative projects.

37 (7)(a) In addition to the public purpose charge provided under subsection (2) of this section, be-
38 ginning on October 1, 2001, an electric company shall collect funds for low-income electric bill
39 payment assistance in an amount determined under paragraph (b) of this subsection.

40 (b) The total amount collected for low-income electric bill payment assistance under this section
41 shall be \$10 million per year. The commission shall determine each electric company's proportionate
42 share of the total amount. The commission shall determine the amount to be collected from a retail
43 electricity consumer, except that a retail electricity consumer is not required to pay more than \$500
44 per month per site for low-income electric bill payment assistance.

45 (c) Funds collected by the low-income electric bill payment assistance charge shall be paid into

1 the Housing and Community Services Department Revolving Account created under ORS 456.574.
2 Moneys deposited in the account under this paragraph are continuously appropriated to the Housing
3 and Community Services Department for the purpose of funding low-income electric bill payment
4 assistance. Interest earned on moneys deposited in the account under this paragraph shall accrue
5 to the account. The department's cost of administering this subsection shall be paid out of funds
6 collected by the low-income electric bill payment assistance charge. Moneys deposited in the ac-
7 count under this paragraph shall be expended solely for low-income electric bill payment assistance.
8 Funds collected from an electric company shall be expended in the service area of the electric
9 company from which the funds are collected.

10 (d) The Housing and Community Services Department, in consultation with the federal Advisory
11 Committee on Energy, shall determine the manner in which funds collected under this subsection
12 will be allocated by the department to energy assistance program providers for the purpose of pro-
13 viding low-income bill payment and crisis assistance, including programs that effectively reduce
14 service disconnections and related costs to retail electricity consumers and electric utilities. Priority
15 assistance shall be directed to low-income electricity consumers who are in danger of having their
16 electricity service disconnected.

17 (e) Notwithstanding ORS 293.140, interest on moneys deposited in the Housing and Community
18 Services Department Revolving Account under this subsection shall accrue to the account and may
19 be used to provide heating bill payment and crisis assistance to electricity consumers whose primary
20 source of heat is not electricity.

21 (f) Notwithstanding ORS 757.310, the commission may allow an electric company to provide re-
22 duced rates or other payment or crisis assistance or low-income program assistance to a low-income
23 household eligible for assistance under the federal Low Income Home Energy Assistance Act of
24 1981, as amended and in effect on July 23, 1999.

25 (8) For purposes of this section, "retail electricity consumers" includes any direct service in-
26 dustrial consumer that purchases electricity without purchasing distribution services from the elec-
27 tric utility.

28 **SECTION 5. The amendments to ORS 757.612 by section 4 of this 2007 Act apply to public**
29 **purpose charges collected on or after January 1, 2008.**

30