

# Senate Bill 19

Sponsored by Senator JOHNSON; Senator FERRIOLI, Representatives OLSON, WITT (at the request of Oregon Rural Electric Co-op Association, Oregon PUD Association)

## 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**.

Establishes renewable portfolio standard for consumer-owned utilities. Describes qualifying electricity for purposes of complying with standards.

Directs State Department of Energy to establish system of renewable energy certificates. Establishes rules for use, transfer and banking of certificates.

Modifies laws governing people's utility districts.

## A BILL FOR AN ACT

1  
2 Relating to renewable energy; creating new provisions; and amending ORS 261.010, 261.030, 261.050,  
3 261.235, 261.250, 261.253, 261.305, 261.335, 261.348, 261.355, 261.605, 262.005, 262.015, 262.075,  
4 285C.050 and 469.185.

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

6 **SECTION 1. Sections 2 to 15 of this 2007 Act are added to and made a part of ORS**  
7 **chapter 757.**

## DEFINITIONS

8  
9  
10  
11 **SECTION 2. Definitions. As used in sections 2 to 15 of this 2007 Act:**

12 (1) **"Banked renewable energy certificate" means a renewable energy certificate that is**  
13 **not used by a consumer-owned utility to comply with a renewable portfolio standard in a**  
14 **calendar year and that is carried forward for the purpose of compliance with a renewable**  
15 **portfolio standard in a subsequent year.**

16 (2) **"BPA electricity" means electricity provided by the Bonneville Power Administration,**  
17 **including all electricity from the Federal Columbia River Power System hydroelectric**  
18 **projects and other electricity acquired by the Bonneville Power Administration by contract.**

19 (3) **"Compliance year" means the calendar year for which the consumer-owned utility**  
20 **seeks to establish compliance with the COU renewable portfolio standard applicable to the**  
21 **utility in the report submitted under section 15 of this 2007 Act.**

22 (4) **"Consumer-owned utility" means a municipal electric utility, a people's utility district**  
23 **organized under ORS chapter 261 that sells electricity or an electric cooperative organized**  
24 **under ORS chapter 62.**

25 (5) **"COU renewable portfolio standard" means the standard established by section 6 of**  
26 **this 2007 Act for use of qualifying electricity by consumer-owned utilities.**

27 (6) **"Purchased renewable energy certificate" means a renewable energy certificate that**  
28 **is acquired by a consumer-owned utility by trade, purchase or other transfer. "Purchased**  
29 **renewable energy certificate" does not include a renewable energy certificate that is issued**

**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 for qualifying electricity purchased by a consumer-owned utility.

2 (7) "Qualifying electricity" means electricity described in section 3 of this 2007 Act.

3 (8) "Renewable energy source" means a source of electricity described in section 4 of this  
4 2007 Act.

5 (9) "Retail electricity consumer" means a retail electricity consumer, as defined in ORS  
6 757.600, that is located in Oregon.

7  
8 **QUALIFYING ELECTRICITY**

9  
10 **SECTION 3. Qualifying electricity.** (1) Electricity generated from a renewable energy  
11 source may be used to comply with the COU renewable portfolio standard if the facility that  
12 generates the electricity is located in the service territory of the Western Electricity Coordinating Council as that territory exists on the effective date of this 2007 Act.

13  
14 (2) BPA electricity may be used to comply with the COU renewable portfolio standard.

15 **SECTION 4. Renewable energy sources.** (1) Electricity generated utilizing the following  
16 types of energy may be used to comply with the COU renewable portfolio standard:

17 (a) Wind energy.

18 (b) Solar photovoltaic and solar thermal energy.

19 (c) Wave, tidal and ocean thermal energy.

20 (d) Geothermal energy.

21 (e) Energy from biogas produced from organic matter, wastewater, anaerobic digesters  
22 or landfills.

23 (2) Electricity generated from biomass and biomass byproducts, including organic human  
24 or animal waste, spent pulping liquor, solid organic fuels from wood, forest or field residues  
25 and dedicated energy crops, may be used to comply with the COU renewable portfolio  
26 standard. Electricity generated from biomass and biomass byproducts may not be used to  
27 comply with the COU renewable portfolio standard if any of the biomass or biomass byproducts used in generating the electricity include municipal solid waste or wood that has been  
28 treated with chemical preservatives such as creosote, pentachlorophenol or chromated copper arsenate.

29 (3) Electricity that is generated by hydroelectric facilities located outside any protected  
30 area designated by the Northwest Power and Conservation Council as of July 23, 1999, may  
31 be used to comply with the COU renewable portfolio standard.

32 (4) Electricity that is generated by a hydroelectric facility in operation on the effective  
33 date of this 2007 Act and that is attributable to efficiency upgrades made to the facility after  
34 the effective date of this 2007 Act may be used to comply with the COU renewable portfolio  
35 standard.

36 (5) Electricity generated from hydrogen that is reformed from, or electrolyzed from,  
37 sources of energy described in subsections (1) to (4) of this section may be used to comply  
38 with the COU renewable portfolio standard.

39 (6) If electricity generation employs multiple energy sources, that portion of the electricity generated that is attributable to energy sources described in subsections (1) to (5) of this section may be used to comply with the COU renewable portfolio standard.

40 (7) The State Department of Energy by rule may identify energy sources other than those  
41 described in this section that may be used to comply with the COU renewable portfolio  
42 standard.

1 standard.

2  
3 **COU RENEWABLE PORTFOLIO STANDARD**

4  
5 **SECTION 5. Application.** The COU renewable portfolio standard applies only to a  
6 consumer-owned utility that:

7 (1) Serves more than 50,000 retail electricity consumers on January 1, 2008; or

8 (2) Provides to the utility's retail electricity consumers more than five percent of the  
9 state's total electricity load on January 1, 2008.

10 **SECTION 6. COU renewable portfolio standard.** (1) Beginning in calendar year 2009, at  
11 least 25 percent of the electricity sold by a consumer-owned utility to retail electricity con-  
12 sumers in a compliance year must be qualifying electricity, or 60 percent of the utility's av-  
13 erage Oregon load growth for the compliance year must be qualifying electricity.

14 (2) The governing authority of each consumer-owned utility shall annually determine the  
15 utility's average Oregon load growth for the purpose of subsection (1) of this section. The  
16 authority shall first establish a base year average Oregon load by averaging the utility's  
17 Oregon loads in calendar years 2003, 2004, 2005, 2006 and 2007, adjusted to reflect load vari-  
18 ations due to weather conditions. The authority shall then establish a compliance year av-  
19 erage Oregon load by averaging the utility's Oregon loads in the compliance year and the  
20 preceding four calendar years, adjusted to reflect load variations due to weather conditions.  
21 The difference between the base year average Oregon load and the compliance year average  
22 Oregon load is the average Oregon load growth for the utility in the compliance year for the  
23 purpose of subsection (1) of this section. If the difference is zero or a negative number, the  
24 average Oregon load growth for the compliance year is zero.

25  
26 **COMPLIANCE**

27  
28 **SECTION 7. Manner of compliance.** (1) Except as provided in this section and section 8  
29 of this 2007 Act, a consumer-owned utility must comply with the COU renewable portfolio  
30 standard applicable to the utility in each calendar year by using banked renewable energy  
31 certificates, purchased renewable energy certificates, renewable energy certificates issued  
32 for qualifying electricity purchased by the utility during the calendar year and renewable  
33 energy certificates issued for qualifying electricity generated by the utility during the cal-  
34 endar year.

35 (2) Purchased renewable energy certificates that are acquired by a consumer-owned  
36 utility on or before March 31 in a calendar year, and renewable energy certificates issued for  
37 qualifying electricity purchased by the utility on or before March 31 in a calendar year, may  
38 be used by the utility to comply with the COU renewable portfolio standard applicable to the  
39 utility for the previous calendar year.

40 **SECTION 8. Compliance by expenditure.** (1) A consumer-owned utility complies with the  
41 COU renewable portfolio standard if, in the calendar year, the utility invests at least four  
42 percent of the utility's annual retail electricity revenue requirement, or at least eight per-  
43 cent of the utility's annual power supply and transmission revenue requirement, in:

44 (a) The incremental cost of acquiring or generating qualifying electricity as described in  
45 subsection (4) of this section;

1 (b) The cost of purchasing renewable energy certificates;

2 (c) Costs expended by the utility in developing a project that utilizes renewable energy  
 3 sources if that project, due to economic changes, force majeure or other circumstances be-  
 4 yond the control of the utility, terminated before the project could be placed in commercial  
 5 operation; or

6 (d) Research and development costs expended by the utility for the purpose of determin-  
 7 ing whether a renewable energy source could be a commercially viable source of electricity,  
 8 or for the purpose of making efficiency improvements to facilities that generate electricity  
 9 from renewable energy sources.

10 (2) For the purpose of subsection (1) of this section, a consumer-owned utility may elect  
 11 to use for any calendar year the utility's actual annual revenue requirements or averaged  
 12 annual revenue requirements determined under this subsection. A utility's averaged annual  
 13 retail electricity revenue requirement and averaged annual power supply and transmission  
 14 revenue requirement shall be determined by establishing base year requirements for the  
 15 utility that average the utility's requirements in calendar years 2004, 2005, 2006, 2007 and  
 16 2008. For calendar year 2010 and subsequent calendar years, the base year requirements shall  
 17 be adjusted annually by a percentage that is equal to the percentage change in the U.S. City  
 18 Average Consumer Price Index for All Urban Consumers (All Items) as published by the  
 19 Bureau of Labor Statistics of the United States Department of Labor.

20 (3) For the purpose of subsections (1) and (2) of this section, a consumer-owned utility's  
 21 annual revenue requirements do not include any requirements attributable to costs of con-  
 22 servation efforts or low-income billing assistance programs.

23 (4) For the purpose of subsection (1)(a) of this section, the incremental cost of acquiring  
 24 or generating qualifying electricity is the difference between the levelized annual delivered  
 25 cost of the qualifying electricity delivered to the utility, regardless of ownership, and the  
 26 levelized annual delivered cost of an equivalent amount of reasonably available substitute  
 27 electricity that is not qualifying electricity. For the purpose of this subsection, delivered cost  
 28 includes:

- 29 (a) Capital, operating and maintenance costs of facilities;
- 30 (b) Financing costs attributable to capital, operating and maintenance of facilities;
- 31 (c) Transmission and substation costs;
- 32 (d) Load following and ancillary services costs; and
- 33 (e) Costs associated with using other assets, physical or financial, to integrate or shape  
 34 a renewable energy source to meet retail electricity consumer load patterns.

35 (5) The governing authority of a consumer-owned utility shall establish procedures for  
 36 making the determinations required by this section.

37  
 38 **EXEMPTIONS**  
 39

40 **SECTION 9. Rate cap.** A consumer-owned utility is not required to comply with the COU  
 41 renewable portfolio standard to the extent that compliance would require the utility to im-  
 42 pose an average retail electricity rate for all customer classes of the utility that is more than  
 43 four percent higher than the average retail electricity rate that the utility would charge ex-  
 44 cept for the requirement of acquiring qualifying electricity to comply with the COU  
 45 renewable portfolio standard.

1        **SECTION 10. BPA electricity preference exemption.** (1) A consumer-owned utility is not  
 2 required to comply with the COU renewable portfolio standard to the extent that compliance  
 3 would require the utility to substitute qualifying electricity for BPA electricity that has been  
 4 allocated by the Bonneville Power Administration to the utility.

5        (2) The exemption provided by this section applies only to firm energy commitments of  
 6 BPA electricity that the Bonneville Power Administration has assured will be available to a  
 7 consumer-owned utility to meet agreed portions of the utility's load requirements for a de-  
 8 fined period of time.

9        **SECTION 11. Mid-Columbia dam contract exemption.** (1) A consumer-owned utility is not  
 10 required to comply with the COU renewable portfolio standard to the extent that compliance  
 11 would require the utility to substitute qualifying electricity for electricity available to the  
 12 utility under contracts for electricity from dams that are owned by Washington public utility  
 13 districts and are located between the Grand Coulee Dam and Columbia River's junction with  
 14 the Snake River. The provisions of this section apply only to contracts entered into before  
 15 the effective date of this 2007 Act.

16        (2) Except as provided in subsection (3) of this section, when a contract described in  
 17 subsection (1) of this section expires or is renewed, a consumer-owned utility must comply,  
 18 in the calendar year following the expiration or renewal of the contract, with the COU  
 19 renewable portfolio standard applicable to the utility.

20        (3) A consumer-owned utility may continue to claim the exemption provided by sub-  
 21 section (1) of this section if a contract described in subsection (1) of this section is renewed  
 22 and the increase in cost to the utility for electricity under the contract does not exceed 10  
 23 percent after adjustment for inflation.

## 24 25        RENEWABLE ENERGY CERTIFICATES

26  
27        **SECTION 12. Renewable energy certificates system.** (1) The State Department of Energy  
 28 shall establish a system of renewable energy certificates that can be used by a consumer-  
 29 owned utility to establish compliance with the COU renewable portfolio standard. The sys-  
 30 tem may recognize renewable energy certificates that are monitored, accounted for or  
 31 transferred by or through a regional system or trading program. The system shall allow is-  
 32 suance, transfer and use of certificates in electronic form.

33        (2) Renewable energy certificates shall be valued in units of kilowatt-hours of qualifying  
 34 electricity and the value may vary based on the renewable energy source used to generate  
 35 the electricity for which the certificates are issued, but a certificate must have a value of  
 36 at least one kilowatt-hour of qualifying electricity.

37        **SECTION 13. Renewable energy certificates that may be used to comply with standard.**  
 38 (1) A renewable energy certificate may be used to comply with the COU renewable portfolio  
 39 standard if the certificate was issued by a generator for qualifying electricity that is deliv-  
 40 ered to a transmission system for transmission to a distribution point in Oregon designated  
 41 by a consumer-owned utility or a scheduling agent for the utility.

42        (2) If a renewable energy certificate was issued for qualifying electricity in the manner  
 43 provided by subsection (1) of this section, the validity of the certificate is not affected by the  
 44 substitution of any other electricity for the qualifying electricity during transmission and  
 45 distribution.

1 (3) If an electricity generator sells electricity that is generated from both renewable en-  
 2 ergy sources and other sources, the generator may issue renewable energy certificates only  
 3 for that portion of the electricity that is qualifying electricity.

4 (4) Notwithstanding subsection (1) of this section, renewable energy certificates issued  
 5 for electricity that the Bonneville Power Administration has designated as environmentally-  
 6 preferred power or has given a substantially similar designation may be used to comply with  
 7 the COU renewable portfolio standard, without regard to where the electricity is delivered.

8 **SECTION 14. Transfer and banking of certificates.** (1) Renewable energy certificates may  
 9 be traded, sold or otherwise transferred to any person.

10 (2) Renewable energy certificates that are not used by a consumer-owned utility to  
 11 comply with the COU renewable portfolio standard in a calendar year may be banked and  
 12 carried forward indefinitely for the purpose of complying with the COU renewable portfolio  
 13 standard in a subsequent year. For the purpose of complying with the COU renewable port-  
 14 folio standard in any calendar year:

15 (a) Banked renewable energy certificates must be used before other certificates are used;  
 16 and

17 (b) Banked renewable energy certificates with the oldest issuance date must be used to  
 18 comply with the standard before banked renewable energy certificates with more recent is-  
 19 suance dates are used.

20  
 21 **REPORTING**

22  
 23 **SECTION 15. Reporting.** (1) Before June 1 of the year following each compliance year,  
 24 each consumer-owned utility shall report to the State Department of Energy on the utility's  
 25 compliance, or failure to comply, with the COU renewable portfolio standard. The report is  
 26 for informational purposes only and is not subject to approval by the department.

27 (2) Sections 2 to 15 of this 2007 Act do not subject a consumer-owned utility to any reg-  
 28 ulation or control by the department or the Public Utility Commission not otherwise specif-  
 29 ically authorized by law.

30  
 31 **PEOPLE'S UTILITY DISTRICTS**

32  
 33 **SECTION 16.** ORS 261.010 is amended to read:

34 261.010. As used in this chapter, unless otherwise required by the context:

35 (1) "Affected territory" means that territory proposed to be formed into, annexed to or consol-  
 36 idated with a district.

37 (2) "Board of directors," "directors" or "board" means the governing body of a people's utility  
 38 district, elected and functioning under the provisions of this chapter.

39 (3) "County governing body" means either the county court or board of county commissioners  
 40 and, if the affected territory is composed of portions of two or more counties, the governing body  
 41 of that county having the greatest portion of the assessed value of all taxable property within the  
 42 affected territory, as shown by the most recent assessment roll of the counties.

43 (4) "Electors' petition" means a petition addressed to the county governing body and filed with  
 44 the county clerk, containing the signatures of electors registered in the affected territory, equal to  
 45 not less than three percent of the total number of votes cast for all candidates for Governor within

1 the affected territory at the most recent election at which a candidate for Governor was elected to  
 2 a full term, setting forth and particularly describing the boundaries of the parcel of territory, sepa-  
 3 rate parcels of territory, city and district, or any of them, referred to therein, and requesting the  
 4 county governing body to call an election to be held within the boundaries of the parcel of territory,  
 5 separate parcels of territory, city and district, or any of them, for the formation of a district, the  
 6 annexation of a parcel of territory or a city to a district, or the consolidation of two or more dis-  
 7 tricts.

8 (5) “Electric cooperative” means a cooperative corporation owning and operating an electric  
 9 distribution system.

10 (6) “Initial utility system” means a complete operating utility system, including energy efficiency  
 11 measures and installations within the district or proposed district, capable of supplying the con-  
 12 sumers required to be served by the district at the time of acquisition or construction with all of  
 13 their existing water or electrical energy needs.

14 (7) “Parcel of territory” means a portion of unincorporated territory, or an area in a city com-  
 15 prised of less than the entire city.

16 (8) “People’s utility district” or “district” means an incorporated people’s utility district, created  
 17 under the provisions of this chapter.

18 (9) “Replacement value of unreimbursed investment” means original cost new less depreciation  
 19 of capitalized energy efficiency measures and installations in the premises of customers of an in-  
 20 vestor owned utility.

21 (10) “Separate parcel of territory” means unincorporated territory that is not contiguous to  
 22 other territory that is a part of a district or that is described in a petition filed with the county  
 23 clerk in pursuance of the provisions of this chapter, but when a proposed district includes territory  
 24 in more than one county, the contiguous territory in each such county shall be considered as a  
 25 separate parcel of territory. When a proposed district includes any area in a city comprised of less  
 26 than the entire city, that area shall be considered as a separate parcel of territory.

27 (11) “Utility” means a plant, works or other property used for development, generation, storage,  
 28 distribution or transmission of [*electric energy produced from resources including, but not limited to,*  
 29 *hydroelectric, pump storage, wave, tidal, wind, solid waste, wood, straw or other fiber, coal or other*  
 30 *thermal generation, geothermal or solar resources*] **electricity**, or development or transmission of  
 31 water for domestic or municipal purposes, waterpower or electric energy, but transmission of water  
 32 shall not include water for irrigation or reclamation purposes, except as secondary to and when used  
 33 in conjunction with a hydroelectric plant.

34 **SECTION 17.** ORS 261.030 is amended to read:

35 261.030. Nothing contained in this chapter authorizes or empowers the board of directors of any  
 36 people’s utility district to interfere with or exercise any control over any existing utility owned and  
 37 operated by any electric cooperative or city in the district unless by consent of the governing body  
 38 of the electric cooperative or of the city council or the governing body of the plant owned by a city,  
 39 when the control of the plant is vested in a governing body other than the city council or governing  
 40 body of the city. However a district may participate fully with electric cooperatives and utilities  
 41 owned by cities **in common facilities under ORS 261.235 to 261.255 and** in the formation and op-  
 42 eration of joint operating agencies [*for electric power*] under ORS chapter 262.

43 **SECTION 18.** ORS 261.050 is amended to read:

44 261.050. (1) All property, real and personal, owned, used, operated or controlled by any people’s  
 45 utility district, in or for the production, transmission, distribution or furnishing of electric power

1 or energy or electric service for or to the public, shall be assessed and taxed in the same manner  
 2 and for the same purposes, and the district and the directors and officers thereof shall be subject  
 3 to the same requirements, as are provided by law in respect to assessment and taxation of similar  
 4 property owned, used, operated or controlled by private corporations or individuals for the purpose  
 5 of furnishing electric power or energy or electric service to the public.

6 **(2) If a people’s utility district owns property jointly with a tax-exempt governmental or**  
 7 **municipal entity, only that portion of the property, or that proportion of the property rights,**  
 8 **directly owned, used, operated or controlled by the people’s utility district shall be assessed**  
 9 **and taxed pursuant to subsection (1) of this section.**

10 **SECTION 19.** ORS 261.235 is amended to read:

11 261.235. As used in ORS 261.235 to 261.255, unless the context requires otherwise:

12 (1) “City” means a city organized under the law of California, Idaho, Montana, Nevada, Oregon  
 13 or Washington and owning and operating an electric light and power system.

14 (2) “Common facilities” means any [*works and facilities necessary or incidental to the generation,*  
 15 *transmission, distribution or marketing of electric power and related goods and commodities*] **property**  
 16 **that is owned or operated jointly by a people’s utility district organized under this chapter**  
 17 **and at least one other city, district or electric cooperative.**

18 (3) “District” means a people’s utility district organized under this chapter or a similar public  
 19 utility district organized under the law of California, Idaho, Montana, Nevada or Washington.

20 (4) “Electric cooperative” means a cooperative corporation organized under the law of  
 21 California, Idaho, Montana, Nevada, Oregon or Washington and owning and operating an electric  
 22 distribution system.

23 **SECTION 20. Section 21 of this 2007 Act is added to and made a part of ORS 261.235 to**  
 24 **261.255.**

25 **SECTION 21. A people’s utility district may become a member of an electric cooperative,**  
 26 **or of a limited liability company, for the purposes of planning, financing, constructing, ac-**  
 27 **quiring, operating, owning or maintaining any utility within or outside this state. A district**  
 28 **may not become a stockholder in, or lend the credit of the district to, an electric cooperative**  
 29 **or a limited liability company.**

30 **SECTION 22.** ORS 261.250 is amended to read:

31 261.250. (1) In carrying out the powers granted in ORS 261.245 **and section 21 of this 2007**  
 32 **Act,** a district of this state [*shall be*] **is** liable only for its own acts with regard to the planning, fi-  
 33 nancing, construction, acquisition, operation, ownership or maintenance of common facilities. No  
 34 moneys or other contributions supplied by a district of this state for the planning, financing, con-  
 35 struction, acquisition, operation or maintenance of common facilities shall be credited or applied  
 36 otherwise to the account of any other participant in the common facilities.

37 (2) A district shall not exercise its power of eminent domain to acquire a then existing thermal  
 38 power plant or any part thereof.

39 **SECTION 23.** ORS 261.253 is amended to read:

40 261.253. (1) [*No*] **A** public contract entered into by a noninvestor-owned electric utility [*shall*]  
 41 **may not** contain a clause or condition that imposes an unconditional and unlimited financial obli-  
 42 gation on the electric utility that is party to the contract unless the terms and conditions of the  
 43 contract are subject to approval and are approved by the electors of the people’s utility district or  
 44 city that owns the electric utility.

45 (2) Nothing in subsection (1) of this section is intended to affect provisions of law requiring



1 approval of electors for any particular type of public contract that are in effect on October 15, 1983,  
 2 or that are later enacted.

3 (3) Nothing in subsection (1) of this section is intended to conflict with ORS 279C.650 to  
 4 279C.670.

5 **(4) This section does not apply to a public contract executed in connection with the ac-**  
 6 **quisition of renewable energy certificates under sections 2 to 15 of this 2007 Act or the ac-**  
 7 **quisition, construction, improvement or equipping of, or the financing of any interest in, a**  
 8 **renewable energy facility or electrical capacity.**

9 [(4)] (5) As used in this section:

10 (a) "Public contract" includes a contract, note, general obligation bond or revenue bond by  
 11 which the people's utility district or city or any subdivision of any of them is obligated to pay for  
 12 or finance the acquisition of goods, services, materials, real property or any interest therein, im-  
 13 provement, betterments or additions from any funds, including receipts from rates or charges as-  
 14 sessed to or collected from its customers.

15 (b) "Unconditional and unlimited financial obligation" means a public contract containing a  
 16 provision that the people's utility district or city that is party to the contract is obligated to make  
 17 payments required by the contract whether or not the project to be undertaken thereunder is  
 18 undertaken, completed, operable or operating notwithstanding the suspension, interruption, inter-  
 19 ference, reduction or curtailment of the output or product of the project.

20 **SECTION 24.** ORS 261.305 is amended to read:

21 261.305. People's utility districts shall have power:

- 22 (1) To have perpetual succession.
- 23 (2) To adopt a seal and alter it at pleasure.
- 24 (3) To sue and be sued, to plead and be impleaded.

25 (4) To acquire and hold, including by lease-purchase agreement, real and other property neces-  
 26 sary or incident to the business of the districts, within or without, or partly within or partly with-  
 27 out, the district, and to sell or dispose of that property; to acquire, develop and otherwise provide  
 28 for a supply of water for domestic and municipal purposes, waterpower and electric energy, or  
 29 electric energy generated from any utility, and to distribute, sell and otherwise dispose of water,  
 30 waterpower and electric energy, within or without the territory of such districts.

31 **(5) To acquire, own, trade, sell or otherwise transfer renewable energy certificates under**  
 32 **sections 2 to 15 of this 2007 Act.**

33 [(5)] (6) To exercise the power of eminent domain for the purpose of acquiring any property,  
 34 within or without the district, necessary for the carrying out of the provisions of this chapter.

35 [(6)] (7) To borrow money and incur indebtedness; to issue, sell and assume evidences of  
 36 indebtedness; to refund and retire any indebtedness that may exist against or be assumed by the  
 37 district or that may exist against the revenues of the district and to pledge any part of its  
 38 revenues; **and to obtain letters of credit or similar financial instruments from banks or other**  
 39 **financial institutions.** Except as provided in ORS 261.355 and 261.380, no revenue or general obli-  
 40 gation bonds shall be issued or sold without the approval of the electors. The board of directors  
 41 may borrow from banks or other financial institutions[ *on notes payable within 12 months,*] such  
 42 sums as the board of directors deems necessary or advisable[; *however, the amounts so borrowed,*  
 43 *together with the principal amounts of other like borrowings then outstanding and unpaid, shall not*  
 44 *exceed the amount that the board of directors estimates as the district's net income (determined in ac-*  
 45 *cordance with the system of accounts maintained by the board pursuant to ORS 261.470) for the 12 full*

1 *calendar months following the date of the proposed borrowing, adjusted by adding to the net income*  
 2 *an amount equal to the estimated charges to depreciation for the 12-month period]. No indebtedness*  
 3 *shall be incurred or assumed except [on account of] for the development, purchase and operation of*  
 4 *a utility or for the purchase of electricity, electrical capacity or renewable energy certificates*  
 5 **under sections 2 to 15 of this 2007 Act.**

6 *[(7) To enter into rental or lease-purchase agreements to rent, lease or acquire real or personal*  
 7 *property, or both, required for district purposes. Except when approved by a majority of the electors*  
 8 *of the district voting on the question, a people's utility district shall not enter into rental or leasing*  
 9 *agreements when the annual aggregate amount of payment for any and all property directly related to*  
 10 *a single transaction exceeds 10 percent of the revenues of the district in the preceding fiscal year.]*

11 **(8) To exercise the powers otherwise granted to districts by ORS 271.390.**

12 *[(8)] (9) To levy and collect, or cause to be levied and collected, subject to constitutional limi-*  
 13 *tations, taxes for the purpose of carrying on the operations and paying the obligations of the district*  
 14 *as provided in this chapter.*

15 *[(9)] (10) To make contracts, to employ labor and professional staff, to set wages in conformance*  
 16 *with ORS 261.345, to set salaries and provide compensation for services rendered by employees and*  
 17 *by directors, to provide for life insurance, hospitalization, disability, health and welfare and retire-*  
 18 *ment plans for employees, and to do all things necessary and convenient for full exercise of the*  
 19 *powers herein granted. The provision for life insurance, hospitalization, disability, health and wel-*  
 20 *fare and retirement plans for employees shall be in addition to any other authority of people's utility*  
 21 *districts to participate in those plans and shall not repeal or modify any statutes except those that*  
 22 *may be in conflict with the provision for life insurance, hospitalization, disability, health and welfare*  
 23 *and retirement plans.*

24 *[(10)] (11) To enter into contracts with **any person, any public or private corporation,** the*  
 25 *United States Government, [with] the State of Oregon, or with any other state, municipality or*  
 26 *utility district, and with any department of any of these, for carrying out any provisions of this*  
 27 *chapter.*

28 *[(11)] (12) To enter into agreements with the State of Oregon or with any local governmental*  
 29 *unit, utility, special district or private or public corporation for the purpose of promoting economic*  
 30 *growth and the expansion or addition of business and industry within the territory of the people's*  
 31 *utility district. Before spending district funds under such an agreement, the board of directors shall*  
 32 *enter on the written records of the district a brief statement that clearly indicates the purpose and*  
 33 *amount of any proposed expenditure under the agreement.*

34 *[(12)] (13) To fix, maintain and collect rates and charges for any water, waterpower, electric*  
 35 *energy or other commodity or service furnished, developed or sold by the district.*

36 *[(13)] (14) To construct works across or along any street or public highway, or over any lands*  
 37 *which are property of this state, or any subdivision thereof, and to have the same rights and privi-*  
 38 *leges appertaining thereto as have been or may be granted to cities within the state, and to con-*  
 39 *struct its works across and along any stream of water or watercourse. Any works across or along*  
 40 *any state highway shall be constructed only with the permission of the Department of Transporta-*  
 41 *tion. Any works across or along any county highway shall be constructed only with the permission*  
 42 *of the appropriate county court. Any works across or along any city street shall be constructed only*  
 43 *with the permission of the city governing body and upon compliance with applicable city regulations*  
 44 *and payment of any fees called for under applicable franchise agreements, intergovernmental*  
 45 *agreements under ORS chapter 190 or contracts providing for payment of such fees. The district*

1 shall restore any such street or highway to its former state as near as may be, and shall not use  
2 the same in a manner unnecessarily to impair its usefulness.

3 [(14)] (15) To elect a board of five directors to manage its affairs.

4 [(15)] (16) To enter into franchise agreements with cities and pay fees under negotiated franchise  
5 agreements, intergovernmental agreements under ORS chapter 190 and contracts providing for the  
6 payment of such fees.

7 [(16)] (17) To take any other actions necessary or convenient for the proper exercise of the  
8 powers granted to a district by this chapter and by section 12, Article XI of the Oregon Constitu-  
9 tion.

10 **SECTION 25.** ORS 261.335 is amended to read:

11 261.335. (1) **Except as provided in subsection (2) of this section,** people's utility districts are  
12 subject to the public contracting and purchasing requirements of ORS 279.835 to 279.855, 279C.005,  
13 279C.100 to 279C.125 and 279C.300 to 279C.470 and ORS chapters 279A and 279B, except ORS  
14 279A.140 and 279A.250 to 279A.290.

15 (2) **The public contracting and purchasing requirements of ORS 279.835 to 279.855,**  
16 **279C.005, 279C.100 to 279C.125 and 279C.300 to 279C.470 and ORS chapters 279A and 279B do**  
17 **not apply to contracts entered into by districts for the acquisition, construction, improve-**  
18 **ment or equipping of a renewable energy facility, for the purchase or sale of electricity or**  
19 **electrical capacity, or for the purchase or sale of renewable energy certificates under**  
20 **sections 2 to 15 of this 2007 Act.**

21 **SECTION 26.** ORS 261.348 is amended to read:

22 261.348. (1) Notwithstanding any other law, people's utility districts and municipal electric  
23 utilities may enter into transactions with other persons or entities for the production, supply or  
24 delivery of electricity on an economic, dependable and cost-effective basis, including financial pro-  
25 ducts contracts and other service contracts that reduce the risk of economic losses in the trans-  
26 actions. This [section] **subsection** does not authorize any transaction that:

27 [(1)] (a) Constitutes the investment of surplus funds for the purpose of receiving interest or  
28 other earnings from the investment; or

29 [(2)] (b) Is intended or useful for any purpose other than the production, supply or delivery of  
30 electricity on a cost-effective basis.

31 (2) **Nothing in subsection (1) of this section prohibits a people's utility district or a mu-**  
32 **nicipal electric utility from entering into any transaction for the acquisition, construction,**  
33 **improvement or equipping of a renewable energy facility, for the purchase or sale of elec-**  
34 **tricity or electrical capacity, or for the purchase or sale of renewable energy certificates**  
35 **under sections 2 to 15 of this 2007 Act.**

36 **SECTION 27.** ORS 261.355 is amended to read:

37 261.355. (1) For the purpose of carrying into effect the powers granted in this chapter, any dis-  
38 trict may issue and sell revenue bonds, when authorized by a majority of its electors voting at any  
39 primary election, general election or special election.

40 (2) All revenue bonds issued and sold under this chapter shall be so conditioned as to be paid  
41 solely from that portion of the revenues derived [from] **by** the district [by] **from** the sale of water,  
42 waterpower and electric energy, or any of them, or any other service, commodity or facility which  
43 may be produced, used or furnished in connection therewith, remaining after paying from those re-  
44 venues all expenses of operation and maintenance, including taxes.

45 (3) Notwithstanding subsection (1) of this section and subject to subsection (4) of this section,

1 any district may, by a duly adopted resolution of its board, issue and sell revenue bonds for the  
 2 purpose of **financing** betterments and extensions [*within the existing boundaries*] of the district, **in-**  
 3 **cluding renewable energy facilities, the purchase or sale of electricity or electrical capacity**  
 4 **of a renewable energy facility, or the purchase or sale of renewable energy certificates under**  
 5 **sections 2 to 15 of this 2007 Act**, but the amount of **revenue bonds** so issued shall be limited to  
 6 the reasonable value of the betterments and extensions plus an amount not to exceed 10 percent  
 7 thereof for administrative purposes. Revenue bonds shall not be issued and sold for the purpose of  
 8 acquiring an initial utility system or acquiring property or facilities owned by another entity that  
 9 provides electric utility service **unless**:

10 (a) **The acquisition is a voluntary transaction between the district and the other entity**  
 11 **that provides electric utility service; or**

12 (b) [*without first obtaining the affirmative vote of*] The electors within the district **have approved**  
 13 **issuance of the bonds by a vote.**

14 (4) Not later than the 30th day prior to a board meeting at which adoption of a resolution under  
 15 subsection (3) of this section will be considered, the district shall:

16 (a) Provide for and give public notice, reasonably calculated to give actual notice to interested  
 17 persons including news media which have requested notice, of the time and place of the meeting and  
 18 of the intent of the board to consider and possibly adopt the resolution; and

19 (b) Mail to its customers notice of the time and place of the meeting and of the intent of the  
 20 board to consider and possibly adopt the resolution.

21 (5) **Except as provided in subsection (3)(a) of this section**, any authorizing resolution adopted  
 22 for the purposes of subsection (3) of this section shall provide that electors residing within the dis-  
 23 trict may file a petition with the district asking to have the question of whether to issue such bonds  
 24 referred to a vote.

25 (6) If within 60 days after adoption of a resolution under subsection (3) of this section the dis-  
 26 trict receives petitions containing valid signatures of not fewer than five percent of the electors of  
 27 the district, the question of issuing the bonds shall be placed on the ballot at the next date on which  
 28 a district election may be held under ORS 255.345 (1).

29 (7) When petitions containing the number of signatures required under subsection (6) of this  
 30 section are filed with the district within 60 days after adoption of a resolution under subsection (3)  
 31 of this section, revenue bonds shall not be sold until the resolution is approved by a majority of the  
 32 electors of the district voting on the resolution.

33 (8) Any district issuing revenue bonds may pledge that part of the revenue which the district  
 34 may derive from its operations as security for payment of principal and interest thereon remaining  
 35 after payment from such revenues of all expenses of operation and maintenance, including taxes, and  
 36 consistent with the other provisions of this chapter.

37 (9) Prior to any district board taking formal action to issue and sell any revenue bonds, the  
 38 board shall have on file with the secretary of the district a certificate executed by a qualified en-  
 39 gineer that the net annual revenues of the district, including the property to be acquired or con-  
 40 structed with the proceeds of the bonds, shall be sufficient to pay the maximum amount that will  
 41 be due in any one fiscal year for both principal of and interest on both the bonds then proposed to  
 42 be issued and all bonds of the district then outstanding.

43 (10) **Except as provided in subsection (3)(a) of this section**, the district shall order an  
 44 election for the authorization of revenue bonds to finance the acquisition or construction of an ini-  
 45 tial utility system, including the replacement value of the unreimbursed investment of an investor

1 owned utility in energy efficiency measures and installations within the proposed district, as early  
 2 as practicable under ORS 255.345 after filing the certificate required under subsection (9) of this  
 3 section. An election under this subsection shall be held no more than twice in any one calendar year  
 4 for any district. In even-numbered years no election shall be held on any other date than the date  
 5 of the primary election or general election.

6 **SECTION 28.** ORS 261.605 is amended to read:

7 261.605. (1) The board of directors of a people’s utility district may by petition commence pro-  
 8 ceedings in the circuit court of the county in which the district, or the greater portion thereof, is  
 9 located, for the purpose of having a judicial examination and judgment of the court as to **the** regu-  
 10 larity and legality of [*proceedings in connection with creation of the district, including*]:

11 (a) Any action or proceeding of the county governing body proclaiming the creation of the dis-  
 12 trict, or declaring the result of any general or special election therein.

13 (b) The proceedings of the board [*and district*] providing for and authorizing issue and sale of  
 14 bonds of the district, whether such bonds or any of them have or have not been sold or disposed  
 15 of.

16 (c) Any order of the board levying a tax.

17 (d) The [*legality of the authorization*] **execution** of any contract [*with the United States*] and the  
 18 validity of such contract, whether or not it has been executed.

19 (e) **Any decision of the board that raises novel or important legal issues that would be**  
 20 **resolved efficiently and effectively by a proceeding before the decision becomes effective and**  
 21 **that:**

22 (A) **Require a significant expenditure of public funds;**

23 (B) **Significantly affect the lives or businesses of a significant number of persons within**  
 24 **the boundaries of the district; or**

25 (C) **Indirectly impose a significant financial burden on the cost of conducting business**  
 26 **within the boundaries of the district.**

27 (f) **Any ordinance, resolution or regulation of the district.**

28 (2) All proceedings of the district may be judicially examined and determined in one special  
 29 proceeding, or any part thereof may be separately examined and determined by the court.

30  
 31 **MISCELLANEOUS PROVISIONS**

32  
 33 **SECTION 29.** ORS 262.005 is amended to read:

34 262.005. As used in ORS 262.015 to 262.105, unless the context requires otherwise:

35 (1) “Electric cooperative” means a cooperative corporation owning and operating an electric  
 36 distribution system.

37 (2) “Joint operating agency” means an agency organized by three or more cities or people’s  
 38 utility districts under the laws of this state for the purposes and according to ORS 262.005 to  
 39 262.105.

40 (3) “Privately owned electric utility company” means an electric utility operated for profit and  
 41 subject to regulation by the Public Utility Commission of Oregon or the equivalent officer or com-  
 42 mission of any other state.

43 (4) “Utility properties” means [*plants, systems and facilities, and any enlargement or extension*  
 44 *thereof, used for or incidental to the generation and transmission of electric power and energy,*] **a**  
 45 **plant, works or other property used for development, generation, storage, distribution or**

1 **transmission of electricity.** [*provided, however, that it shall not mean*] **“Utility properties” does**  
 2 **not include** facilities for uranium refining, processing or reprocessing.

3 **SECTION 30.** ORS 262.015 is amended to read:

4 262.015. (1) Any three or more cities or people’s utility districts or combinations thereof, or-  
 5 ganized under the laws of this state, may form a joint operating agency to plan, acquire, construct,  
 6 own, operate and otherwise promote the development of utility properties [*in this state*] for the  
 7 generation, [*and*] **transmission and marketing** of [*electric power and energy*] **electricity, electrical**  
 8 **capacity or renewable energy certificates under sections 2 to 15 of this 2007 Act.**

9 (2) A joint operating agency may participate with other publicly owned utilities, including other  
 10 joint operating agencies, or with electric cooperatives, or with privately owned electric utility  
 11 companies, or with any combination thereof, for any purpose set forth in subsection (1) of this sec-  
 12 tion, whether such agencies or utilities are organized or incorporated under the laws of this state  
 13 or any other jurisdiction. However, no joint operating agency may act alone or as the managing  
 14 participant to acquire, construct, own or operate utility properties[, *nor may a joint operating agency*  
 15 *own more than 50 percent of any utility property, except combustion turbines*].

16 (3) Joint operating agencies, cities, people’s utility districts and privately owned utilities, or  
 17 combinations thereof, may participate in joint ownership of [*thermal generation and transmission*]  
 18 **common** facilities in accordance with ORS 225.450 to 225.490 or 261.235 to 261.255.

19 **SECTION 31.** ORS 262.075 is amended to read:

20 262.075. (1) Each joint operating agency shall be a political subdivision of the State of Oregon,  
 21 and shall be a municipal corporation with the right to sue and be sued in its own name. Except  
 22 as otherwise provided, a joint operating agency shall have all the powers, rights, privileges and ex-  
 23 emptions conferred on people’s utility districts.

24 (2) A joint operating agency shall have the power to acquire, hold, sell and dispose of real and  
 25 other property, within or without this state, which the board of directors in its discretion finds  
 26 reasonably necessary or incident to the generation, [*and*] **transmission and marketing** of [*electric*  
 27 *power and energy*] **electricity, electrical capacity or renewable energy certificates under**  
 28 **sections 2 to 15 of this 2007 Act.** However, such an agency shall not acquire or operate any fa-  
 29 cilities for the distribution of electric energy.

30 (3) A joint operating agency shall have the power of eminent domain which it may exercise for  
 31 the purpose of acquiring property; however, a joint operating agency shall not condemn any prop-  
 32 erties owned by a publicly or privately owned utility which are being used for the generation or  
 33 transmission of electric energy or power or are being developed for such purposes with due dili-  
 34 gence, except to acquire a right of way to cross such properties in a manner which will not interfere  
 35 with the use thereof by the owner.

36 (4) A joint operating agency shall have the power to enter into contracts, leases and other  
 37 undertakings considered necessary or proper by its board, including but not limited to contracts for  
 38 any term relating to the purchase, sale, interchange, assignment, allocation, transfer or wheeling  
 39 of power with the Government of the United States, or any agency thereof, and with any other  
 40 municipal corporation or privately owned utility, or any combination thereof, within or without the  
 41 state, and may purchase, deliver or receive power anywhere.

42 (5) A joint operating agency shall have the power to borrow money and incur indebtedness, to  
 43 issue, sell and assume evidences of indebtedness, to refund and retire any indebtedness that may  
 44 exist against the agency or its revenues, and to pledge any part of its revenues. A joint operating  
 45 agency may borrow from banks or other financial institutions such sums on such terms as the board

1 considers necessary or advisable. A joint operating agency may also issue, sell and assume bond  
2 anticipation notes, refunding bond anticipation notes, or their equivalent, which shall bear such date  
3 or dates, mature at such time or times, be in such denominations and in such form, be payable in  
4 such medium, at such place or places, and be subject to such terms of redemption, as the board  
5 considers necessary or advisable. The issuance and sale of revenue obligations by a joint operating  
6 agency shall be governed by ORS 262.085.

7 (6) The joint operating agency may apply for, accept, receive and expend appropriations, grants,  
8 loans, gifts, bequests and devises in carrying out its functions as provided by law.

9 **SECTION 32.** ORS 285C.050 is amended to read:

10 285C.050. As used in ORS 285C.050 to 285C.250, unless the context requires otherwise:

11 (1) "Assessment date" and "assessment year" have the meanings given those terms in ORS  
12 308.007.

13 (2) "Authorized business firm" means an eligible business firm that has been authorized under  
14 ORS 285C.140.

15 (3) "Business firm" means a person operating or conducting one or more trades or businesses,  
16 **a people's utility district organized under ORS chapter 261 or a joint operating agency formed**  
17 **under ORS chapter 262**, but does not include any **other** governmental agency, municipal corpo-  
18 ration or nonprofit corporation.

19 (4) "County average annual wage" means:

20 (a) The most recently available average annual covered payroll for the county in which the en-  
21 terprise zone is located, as determined by the Employment Department; or

22 (b) If the enterprise zone is located in more than one county, the highest county average annual  
23 wage as determined under paragraph (a) of this subsection.

24 (5) "Electronic commerce" means engaging in commercial or retail transactions predominantly  
25 over the Internet or a computer network, utilizing the Internet as a platform for transacting busi-  
26 ness, or facilitating the use of the Internet by other persons for business transactions, and may be  
27 further defined by the Economic and Community Development Department by rule.

28 (6) "Eligible business firm" means a firm engaged in an activity described under ORS 285C.135  
29 that may file an application for authorization under ORS 285C.140.

30 (7) "Employee" means a person who works more than 32 hours per week, but does not include  
31 a person with a temporary or seasonal job or a person hired solely to construct qualified property.

32 (8) "Enterprise zone" means one of the 30 areas designated or terminated and redesignated by  
33 order of the Governor under ORS 284.160 (1987 Replacement Part) before October 3, 1989, one of the  
34 areas designated by the Director of the Economic and Community Development Department under  
35 ORS 285C.080, a federal enterprise zone area designated under ORS 285C.085, an area designated  
36 under ORS 285C.250 or a reservation enterprise zone designated under ORS 285C.306.

37 (9) "Federal enterprise zone" means any discrete area wholly or partially within this state that  
38 is designated as an empowerment zone, an enterprise community, a renewal community or some  
39 similar designation for purposes of improving the economic and community development of the area.

40 (10) "First-source hiring agreement" means an agreement between an authorized business firm  
41 and a publicly funded job training provider whereby the provider refers qualified candidates to the  
42 firm for new jobs and job openings in the firm.

43 (11) "In service" means being used or occupied or fully ready for use or occupancy for com-  
44 mercial purposes consistent with the intended operations of the business firm as described in the  
45 application for authorization.

1 (12) "Modification" means modernization, renovation or remodeling of an existing building,  
 2 structure or real property machinery or equipment.

3 (13) "New employees hired by the firm":

4 (a) Includes only those employees of an authorized business firm engaged for a majority of their  
 5 time in eligible operations.

6 (b) Does not include individuals employed in a job or position that:

7 (A) Is created and first filled after December 31 of the first tax year in which qualified property  
 8 of the firm is exempt under ORS 285C.175;

9 (B) Existed prior to the submission of the relevant application for authorization; or

10 (C) Is performed primarily at a location outside of the enterprise zone.

11 (14) "Publicly funded job training provider" includes but is not limited to a community college,  
 12 a service provider under the federal Workforce Investment Act Title I-B (29 U.S.C. 2801 et seq.), or  
 13 a similar program.

14 (15) "Qualified business firm" means a business firm described in ORS 285C.200, the qualified  
 15 property of which is exempt from property tax under ORS 285C.175.

16 (16) "Qualified property" means property described under ORS 285C.180.

17 (17) "Rural enterprise zone" means:

18 (a) An enterprise zone located in an area of this state in which an urban enterprise zone could  
 19 not be located; or

20 (b) A reservation enterprise zone designated under ORS 285C.306.

21 (18) "Sparsely populated county" means a county with a density of 100 or fewer persons per  
 22 square mile, based on the most recently available population figure for the county from the Portland  
 23 State University Center for Population Research and Census.

24 (19) "Sponsor" means:

25 (a) The city, county or port, or any combination of cities, counties or ports, that received ap-  
 26 proval of an enterprise zone under ORS 284.150 and 284.160 (1987 Replacement Part), under ORS  
 27 285C.065 and 285C.075, under ORS 285C.085 or under ORS 285C.250;

28 (b) The tribal government, in the case of a reservation enterprise zone; or

29 (c) A city, county or port that joined the enterprise zone through a boundary change under ORS  
 30 285C.115 (7) or a port that joined the enterprise zone under ORS 285C.068.

31 (20) "Tax year" has the meaning given that term in ORS 308.007.

32 (21) "Urban enterprise zone" means an enterprise zone in a metropolitan statistical area, as  
 33 defined by the most recent federal decennial census, that is located inside a regional or metropolitan  
 34 urban growth boundary.

35 (22) "Year" has the meaning given that term in ORS 308.007.

36 **SECTION 33.** ORS 469.185 is amended to read:

37 469.185. As used in ORS 469.185 to 469.225 and 469.878:

38 (1) "Alternative fuel vehicle" means a vehicle as defined by the Director of the State Depart-  
 39 ment of Energy by rule that is used primarily in connection with the conduct of a trade or business  
 40 and that is manufactured or modified to use an alternative fuel, including but not limited to elec-  
 41 tricity, ethanol, methanol, gasohol and propane or natural gas, regardless of energy consumption  
 42 savings.

43 (2) "Car sharing facility" means the expenses of operating a car sharing program, including but  
 44 not limited to the fair market value of parking spaces used to store the fleet of cars available for  
 45 a car sharing program, but does not include the costs of the fleet of cars.



1 (3) "Car sharing program" means a program in which drivers pay to become members in order  
2 to have joint access to a fleet of cars from a common parking area on an hourly basis. "Car sharing  
3 program" does not include operations conducted by car rental agencies.

4 (4) "Cost" means the capital costs and expenses necessarily incurred in the acquisition, erection,  
5 construction and installation of a facility, including site development costs and expenses for a  
6 sustainable building practices facility.

7 (5) "Energy facility" means any capital investment for which the first year energy savings yields  
8 a simple payback period of greater than one year. An energy facility includes:

9 (a) Any land, structure, building, installation, excavation, machinery, equipment or device, or  
10 any addition to, reconstruction of or improvement of, land or an existing structure, building, instal-  
11 lation, excavation, machinery, equipment or device necessarily acquired, erected, constructed or in-  
12 stalled by any person in connection with the conduct of a trade or business and actually used in the  
13 processing or utilization of renewable energy resources to:

14 (A) Replace a substantial part or all of an existing use of electricity, petroleum or natural gas;

15 (B) Provide the initial use of energy where electricity, petroleum or natural gas would have been  
16 used;

17 (C) Generate electricity to replace an existing source of electricity or to provide a new source  
18 of electricity for sale by or use in the trade or business; or

19 (D) Perform a process that obtains energy resources from material that would otherwise be solid  
20 waste as defined in ORS 459.005.

21 (b) Any acquisition of, addition to, reconstruction of or improvement of land or an existing  
22 structure, building, installation, excavation, machinery, equipment or device necessarily acquired,  
23 erected, constructed or installed by any person in connection with the conduct of a trade or business  
24 in order to substantially reduce the consumption of purchased energy.

25 (c) A necessary feature of a new commercial building or multiple unit dwelling, as dwelling is  
26 defined by ORS 469.160, that causes that building or dwelling to exceed an energy performance  
27 standard in the state building code.

28 (d) The replacement of an electric motor with another electric motor that substantially reduces  
29 the consumption of electricity.

30 (6) "Facility" means an energy facility, recycling facility, transportation facility, car sharing  
31 facility, sustainable building practices facility, alternative fuel vehicle or facilities necessary to op-  
32 erate alternative fuel vehicles, including but not limited to an alternative fuel vehicle refueling  
33 station.

34 (7) "Qualified transit pass contract" means a purchase agreement entered into between a  
35 transportation provider and a person, the terms of which obligate the person to purchase transit  
36 passes on behalf or for the benefit of employees, students, patients or other individuals over a  
37 specified period of time.

38 (8) "Recycling facility" means equipment used by a trade or business solely for recycling:

39 (a) Including:

40 (A) Equipment used solely for hauling and refining used oil;

41 (B) New vehicles or modifications to existing vehicles used solely to transport used recyclable  
42 materials that cannot be used further in their present form or location such as glass, metal, paper,  
43 aluminum, rubber and plastic;

44 (C) Trailers, racks or bins that are used for hauling used recyclable materials and are added to  
45 or attached to existing waste collection vehicles; and

1 (D) Any equipment used solely for processing recyclable materials such as bailers, flatteners,  
2 crushers, separators and scales.

3 (b) But not including equipment used for transporting or processing scrap materials that are  
4 recycled as a part of the normal operation of a trade or business as defined by the director.

5 (9)(a) "Renewable energy resource" includes, but is not limited to, straw, forest slash, wood  
6 waste or other wastes from farm or forest land, industrial waste, solar energy, wind power, water  
7 power, **wave, tidal or ocean thermal energy** or geothermal energy.

8 (b) "Renewable energy resource" does not include a hydroelectric generating facility larger than  
9 one megawatt of installed capacity unless the facility qualifies as a research, development or dem-  
10 onstration facility.

11 (10) "Sustainable building practices facility" means a commercial building in which building  
12 practices that reduce the amount of energy, water or other resources needed for construction and  
13 operation of the building are used. "Sustainable building practices facility" may be further defined  
14 by the State Department of Energy by rule, including rules that establish traditional building prac-  
15 tice baselines in energy, water or other resource usage for comparative purposes for use in deter-  
16 mining whether a facility is a sustainable building practices facility.

17 (11) "Transportation facility" means a transportation project that reduces energy use during  
18 commuting to and from work or school, during work-related travel, or during travel to obtain med-  
19 ical or other services, and may be further defined by the department by rule. "Transportation facil-  
20 ity" includes, but is not limited to, a qualified transit pass contract or a transportation services  
21 contract.

22 (12) "Transportation provider" means a public, private or nonprofit entity that provides trans-  
23 portation services to members of the public.

24 (13) "Transportation services contract" means a contract that is related to a transportation fa-  
25 cility, and may be further defined by the department by rule.

26 **SECTION 34. The unit and section captions used in this 2007 Act are provided only for**  
27 **the convenience of the reader and do not become part of the statutory law of this state or**  
28 **express any legislative intent in the enactment of this 2007 Act.**

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