

Senate Bill 418

Sponsored by Senator WALKER

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**.

Eliminates limits on public purpose charge that may be collected from certain aluminum plants and from retail electricity consumers with loads greater than one average megawatt.

A BILL FOR AN ACT

1
2 Relating to public purpose charge; amending ORS 757.612 and 757.687.

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

4 **SECTION 1.** ORS 757.612 is amended to read:

5 757.612. (1) There is established an annual public purpose expenditure standard for electric
6 companies to fund new cost-effective local energy conservation, new market transformation efforts,
7 the above-market costs of new renewable energy resources and new low-income weatherization. The
8 public purpose expenditure standard shall be funded by the public purpose charge described in sub-
9 section (2) of this section.

10 (2)(a) Beginning on the date an electric company offers direct access to its retail electricity
11 consumers, except residential electricity consumers, the electric company shall collect a public
12 purpose charge from all of the retail electricity consumers located within its service area for a pe-
13 riod of 10 years. [*Except as provided in paragraph (b) of this subsection,*] The public purpose charge
14 shall be equal to three percent of the total revenues collected by the electric company or electricity
15 service supplier from its retail electricity consumers for electricity services, distribution, ancillary
16 services, metering and billing, transition charges and other types of costs included in electric rates
17 on July 23, 1999.

18 (b) *For an aluminum plant that averages more than 100 average megawatts of electricity use per*
19 *year, beginning on March 1, 2002, the electric company whose territory abuts the greatest percentage*
20 *of the site of the aluminum plant shall collect from the aluminum company a public purpose charge*
21 *equal to one percent of the total revenue from the sale of electricity services to the aluminum plant from*
22 *any source.*]

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

25 (b) Subject to paragraph (e) of this subsection, funds collected by an electric company through
26 public purpose charges shall be allocated as follows:

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

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

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

30 (D) Five percent shall be transferred to the Housing and Community Services Department Re-
31 volving Account created under ORS 456.574 and used for the purpose of providing grants as de-

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 scribed in ORS 458.625 (2). Moneys deposited in the account under this subparagraph are
2 continuously appropriated to the Housing and Community Services Department for the purposes of
3 ORS 458.625 (2). Interest on moneys deposited in the account under this subparagraph shall accrue
4 to the account.

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

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

19 (e)(A) The first 10 percent of the funds collected annually by an electric company under sub-
20 section (2) of this section shall be distributed to education service districts, as described in ORS
21 334.010, that are located in the service territory of the electric company. The funds shall be dis-
22 tributed to individual education service districts according to the weighted average daily member-
23 ship (ADMw) of the component school districts of the education service district for the prior fiscal
24 year as calculated under ORS 327.013. The commission shall establish by rule a methodology for
25 distributing a proportionate share of funds under this paragraph to education service districts that
26 are only partially located in the service territory of the electric company.

27 (B) An education service district that receives funds under this paragraph shall use the funds
28 first to pay for energy audits for school districts located within the education service district. An
29 education service district may not expend additional funds received under this paragraph on a
30 school district facility until an energy audit has been completed for that school district. To the
31 extent practicable, an education service district shall coordinate with the State Department of En-
32 ergy and incorporate federal funding in complying with this paragraph. Following completion of an
33 energy audit for an individual school district, the education service district may expend funds re-
34 ceived under this paragraph to implement the energy audit. Once an energy audit has been con-
35 ducted and completely implemented for each school district within the education service district, the
36 education service district may expend funds received under this paragraph for any of the following
37 purposes:

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

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

42 (iii) Energy conservation education programs.

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

45 (f) The commission may establish a different public purpose charge than the public purpose

1 charge otherwise described in subsection (2) of this section for an individual retail electricity con-
2 sumer or any class of retail electricity consumers located within the service area of an electric
3 company[, *provided that a retail electricity consumer with a load greater than one average megawatt*
4 *is not required to pay a public purpose charge in excess of three percent of its total cost of electricity*
5 *services*].

6 (g) The commission shall remove from the rates of each electric company any costs for public
7 purposes described in subsection (1) of this section that are included in rates. A rate adjustment
8 under this paragraph shall be effective on the date that the electric company begins collecting
9 public purpose charges.

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

14 (5)(a) A retail electricity consumer that uses more than one average megawatt of electricity at
15 any site in the prior year shall receive a credit against public purpose charges billed by an electric
16 company for that site. The amount of the credit shall be equal to the total amount of qualifying
17 expenditures for new energy conservation, not to exceed 68 percent of the annual public purpose
18 charges, and the above-market costs of purchases of new renewable energy resources incurred by
19 the retail electricity consumer, not to exceed 19 percent of the annual public purpose charges, less
20 administration costs incurred under this subsection. The credit may not exceed, on an annual basis,
21 the lesser of:

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

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

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

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

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

44 (B) A retail electricity consumer shall be entitled each year to the credit described in this sub-
45 section unless a subsequent independent audit determines that new conservation investment oppor-

1 tunities are available. The State Department of Energy may require that a new independent audit
2 be performed on the site to determine whether new conservation measures are available, provided
3 that the independent audits shall occur no more than once every two years.

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

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

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

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

19 (c) Funds collected by the low-income electric bill payment assistance charge shall be paid into
20 the Housing and Community Services Department Revolving Account created under ORS 456.574.
21 Moneys deposited in the account under this paragraph are continuously appropriated to the Housing
22 and Community Services Department for the purpose of funding low-income electric bill payment
23 assistance. Interest earned on moneys deposited in the account under this paragraph shall accrue
24 to the account. The department's cost of administering this subsection shall be paid out of funds
25 collected by the low-income electric bill payment assistance charge. Moneys deposited in the ac-
26 count under this paragraph shall be expended solely for low-income electric bill payment assistance.
27 Funds collected from an electric company shall be expended in the service area of the electric
28 company from which the funds are collected.

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

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

40 (f) Notwithstanding ORS 757.310, the commission may allow an electric company to provide re-
41 duced rates or other payment or crisis assistance or low-income program assistance to a low-income
42 household eligible for assistance under the federal Low Income Home Energy Assistance Act of
43 1981, as amended and in effect on July 23, 1999.

44 (8) For purposes of this section, "retail electricity consumers" includes any direct service in-
45 dustrial consumer that purchases electricity without purchasing distribution services from the elec-

1 tric utility.

2 **SECTION 2.** ORS 757.687 is amended to read:

3 757.687. (1) Beginning on the date a consumer-owned utility provides direct access to any class
4 of retail electric consumers, the consumer-owned utility shall collect from that consumer class a
5 nonbypassable public purpose charge for a period of 10 years. [*Except as provided in subsection (8)*
6 *of this section,*] The amount of the public purpose charge shall be sufficient to produce revenue of
7 not less than three percent of the total revenue collected by the consumer-owned utility from its
8 retail electricity consumers for electricity services, distribution, ancillary services, metering and
9 billing, transition charges and any other costs included in rates as of July 23, 1999, except that the
10 consumer-owned utility may exclude from the calculation of such costs any cost related to the public
11 purposes described in subsection (5) of this section. If a consumer-owned utility has fewer than 17
12 consumers per mile of distribution line, the amount of the public purpose charge shall be sufficient
13 to produce revenue not less than three percent of the total revenue from the sale of electricity
14 services in the utility's service area to the consumer class that is provided direct access, or the
15 utility's consumer class percentage share of state total electricity sales multiplied by three percent
16 of total statewide retail electric revenue, whichever is less.

17 (2) Except as provided in subsection [(9)] (8) of this section, the governing body of a consumer-
18 owned utility shall determine the manner of collecting and expending funds for public purposes re-
19 quired by law to be assessed against and paid by the retail electric consumers of the utility. A
20 determination by the governing body shall include:

21 (a) The manner for collecting public purpose charges;

22 (b) Public purpose programs upon which revenue from the charges may be expended; and

23 (c) The allocation of expenditures for each program.

24 (3) Beginning on the same date two years after July 23, 1999, a consumer-owned utility shall
25 report annually to the State Department of Energy created under ORS 469.030 on the public purpose
26 charges paid to the utility by its retail electric consumers and the public purposes on which the
27 revenue was expended.

28 (4) A consumer-owned utility may comply with the public purpose requirements of this section
29 by participating in collaborative efforts with other consumer-owned utilities located in this state.

30 (5) Funds assessed and paid by, and credits or other financial assistance issued or extended to,
31 retail electric consumers for purposes of this section may, in the discretion of the governing body
32 of the consumer-owned utility, be expended to fund programs for energy conservation, renewable
33 resources or low-income energy services otherwise required by the laws of this state, adopted by the
34 governing body pursuant to the National Energy Conservation Policy Act (Public Law 95-619, as
35 amended November 10, 1981), or conducted by the utility pursuant to agreement with the Bonneville
36 Power Administration under the Pacific Northwest Electric Power Planning and Conservation Act
37 (Public Law 96-501). All such funds expended, credits issued and incremental costs incurred in con-
38 nection with the performance of a consumer-owned utility's obligations under this section shall be
39 credited toward the utility's public purpose funding obligation under this section.

40 (6) A consumer-owned utility also may credit toward its funding obligations under this section
41 any incremental costs incurred by the utility for capital expenditures made to reduce its distribution
42 system energy losses, existing biomass gas and waste to energy systems, existing hydroelectric
43 generation projects using fish attraction water, for new energy conservation and renewable resource
44 funding costs included in its wholesale power supplier's charges and for electric power generated
45 by renewable or cogeneration resources pursuant to requirements of the Public Utilities Regulatory

1 Policy Act of 1978 (Public Law 95-617), to the extent that such costs exceed the average cost of the
2 utility's other electric power resources.

3 (7) A consumer-owned utility also may credit toward its public purpose funding obligations under
4 this section any costs incurred in complying with ORS 469.649 to 469.659.

5 *[(8) Beginning on March 1, 2002, a consumer-owned utility whose territory abuts the greatest per-*
6 *centage of the site of an aluminum plant that averages more than 100 megawatts of electricity use per*
7 *year shall collect from the aluminum company a public purpose charge equal to one percent of the total*
8 *revenue from the sale of electricity services to the aluminum plant from any source.]*

9 ~~[(9)(a)]~~ **(8)(a)** A retail electricity consumer that uses more than one average megawatt of elec-
10 tricity at any site in the prior year shall receive a credit against public purpose charges billed by
11 a consumer-owned utility for that site. The amount of the credit shall be equal to the total amount
12 of qualifying expenditures for new energy conservation, not to exceed 68 percent of the annual
13 public purpose charges, and the above-market costs of purchases of new renewable energy resources
14 incurred by the retail electricity consumer, less administration costs incurred under this subsection.
15 The credit shall not exceed, on an annual basis, the lesser of:

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

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

20 (b) To obtain a credit under this subsection, a retail electricity consumer shall file with the
21 department a description of the proposed conservation project, new market transformation or new
22 renewable energy resource and a declaration that the retail electricity consumer plans to incur the
23 qualifying expenditure. The department shall issue a notice of precertification within 30 days of
24 receipt of the filing, if such filing is consistent with this subsection. Notice shall be issued to the
25 retail electricity consumer and the appropriate consumer-owned utility. The credit may be taken
26 after a retail electricity consumer provides a letter from a certified public accountant to the de-
27 partment verifying that the precertified qualifying expenditure has been made.

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

30 (d)(A) A retail electricity consumer that uses more than one average megawatt of electricity at
31 any site in the prior year may request that the department hire an independent auditor to assess
32 the potential for conservation measures at the site. If the independent auditor determines there is
33 no available conservation measure at the site that would have a simple payback of one to 10 years,
34 the retail electricity consumer shall be relieved of 54 percent of its payment obligation for public
35 purpose charges related to the site. If the auditor determines that there are potential conservation
36 measures available at the site, the retail electricity consumer shall be entitled to a credit against
37 public purpose charges related to the site equal to 54 percent of the public purpose charges less the
38 estimated cost of available conservation measures.

39 (B) A retail electricity consumer shall be entitled each year to the credit described in this par-
40 agraph unless a subsequent audit determines that new conservation investment opportunities are
41 available. The department may require that a new audit be performed on the site to determine
42 whether new conservation measures are available, provided that the audits occur no more than once
43 every two years.

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

45 *[(10) A retail electricity consumer with a load greater than one average megawatt shall not be re-*

1 *quired to pay a public purpose charge in excess of three percent of the consumer's total cost of elec-*
2 *tricity services unless the charge is established in an agreement between the consumer and the*
3 *consumer-owned utility.]*

4 [(11)] (9) Beginning on March 1, 2002, a consumer-owned utility shall have in operation a bill
5 assistance program for households that qualify for federal low-income energy assistance in the
6 consumer-owned utility's service area. A consumer-owned utility shall report annually to the Hous-
7 ing and Community Services Department detailing the utility's program and program expenditures.

8 [(12)] (10) A consumer-owned utility may require an electricity service supplier to provide in-
9 formation necessary to ensure compliance with this section. The consumer-owned utility shall ensure
10 the privacy and protection of any proprietary information provided.

11