

HOUSE AMENDMENTS TO RESOLVE CONFLICTS TO A-ENGROSSED SENATE BILL 443

By COMMITTEE ON ELECTIONS, ETHICS AND RULES

June 20

1 On page 26 of the printed A-engrossed bill, after line 35, insert:

2 “**SECTION 43a. If Senate Bill 838 becomes law, section 43 of this 2007 Act (amending ORS**
3 **757.612) is repealed and ORS 757.612, as amended by section 27, chapter 301, Oregon Laws 2007**
4 **(Enrolled Senate Bill 838), is amended to read:**

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

10 “(2)(a) Beginning on the date an electric company **or Oregon Community Power** offers direct
11 access to its retail electricity consumers, except residential electricity consumers, the electric
12 company **or Oregon Community Power** shall collect a public purpose charge from all of the retail
13 electricity consumers located within its service area until January 1, 2026. Except as provided in
14 paragraph (b) of this subsection, the public purpose charge shall be equal to three percent of the
15 total revenues collected by the electric company, **Oregon Community Power** or **the** electricity
16 service supplier from its retail electricity consumers for electricity services, distribution, ancillary
17 services, metering and billing, transition charges and other types of costs included in electric rates
18 on July 23, 1999.

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

24 “(3)(a) The Public Utility Commission shall establish rules implementing the provisions of this
25 section relating to electric companies **and Oregon Community Power**.

26 “(b) Subject to paragraph (e) of this subsection, funds collected by an electric company **or**
27 **Oregon Community Power** through public purpose charges shall be allocated as follows:

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

29 “(B) Nineteen percent for the above-market costs of constructing and operating new renewable
30 energy resources with a nominal electric generating capacity, as defined in ORS 469.300, of 20
31 megawatts or less.

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

33 “(D) Five percent shall be transferred to the Housing and Community Services Department Re-
34 volving Account created under ORS 456.574 and used for the purpose of providing grants as de-
35 scribed in ORS 458.625 (2). Moneys deposited in the account under this subparagraph are

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

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

9 “(d) The commission shall direct the manner in which public purpose charges are collected and
10 spent by an electric company **or Oregon Community Power** and may require an electric company
11 **or Oregon Community Power** to expend funds through competitive bids or other means designed
12 to encourage competition, except that funds dedicated for low-income weatherization shall be di-
13 rected to the Housing and Community Services Department as provided in subsection (7) of this
14 section. The commission may also direct that funds collected by an electric company **or Oregon**
15 **Community Power** 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[.];

18 “(A) At least 80 percent of the funds allocated for conservation shall be spent within the service
19 area of the electric company that collected the funds[.]; **or**

20 “(B) **If Oregon Community Power collected the funds, at least 80 percent of the funds**
21 **allocated for conservation shall be spent within the service area of Oregon Community**
22 **Power.**

23 “(e)(A) The first 10 percent of the funds collected annually by an electric company **or Oregon**
24 **Community Power** under subsection (2) of this section shall be distributed to education service
25 districts, as described in ORS 334.010, that are located in the service territory of the electric com-
26 pany **or Oregon Community Power**. The funds shall be distributed to individual education service
27 districts according to the weighted average daily membership (ADMw) of the component school
28 districts of the education service district for the prior fiscal year as calculated under ORS 327.013.
29 The commission shall establish by rule a methodology for distributing a proportionate share of funds
30 under this paragraph to education service districts that are only partially located in the service
31 territory of the electric company **or Oregon Community Power**.

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

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

1 “(ii) Weatherization and upgrading the energy efficiency of school district facilities.
2 “(iii) Energy conservation education programs.
3 “(iv) Purchasing electricity from environmentally focused sources and investing in renewable
4 energy resources.
5 “(f) The commission may not establish a different public purpose charge than the public purpose
6 charge described in subsection (2) of this section.
7 “(4)(a) An electric company that satisfies its obligations under this section shall have no further
8 obligation to invest in conservation, new market transformation or new low-income weatherization
9 or to provide a commercial energy conservation services program and is not subject to ORS 469.631
10 to 469.645 and 469.860 to 469.900.
11 **“(b) Oregon Community Power, for any period during which Oregon Community Power
12 collects a public purpose charge under subsection (2) of this section:**
13 **“(A) Shall have no other obligation to invest in conservation, new market transformation
14 or new low-income weatherization or to provide a commercial energy conservation services
15 program; and**
16 **“(B) Is not subject to ORS 469.631 to 469.645 and 469.860 to 469.900.**
17 “(5)(a) A retail electricity consumer that uses more than one average megawatt of electricity
18 at any site in the prior year shall receive a credit against public purpose charges billed by an
19 electric company **or Oregon Community Power** for that site. The amount of the credit shall be
20 equal to the total amount of qualifying expenditures for new energy conservation, not to exceed 68
21 percent of the annual public purpose charges, and the above-market costs of purchases of new
22 renewable energy resources incurred by the retail electricity consumer, not to exceed 19 percent
23 of the annual public purpose charges, less administration costs incurred under this subsection. The
24 credit may not exceed, on an annual basis, the lesser of:
25 “(A) The amount of the retail electricity consumer’s qualifying expenditures; or
26 “(B) The portion of the public purpose charge billed to the retail electricity consumer that is
27 dedicated to new energy conservation, new market transformation or the above-market costs of new
28 renewable energy resources.
29 “(b) To obtain a credit under this subsection, a retail electricity consumer shall file with the
30 State Department of Energy a description of the proposed conservation project or new renewable
31 energy resource and a declaration that the retail electricity consumer plans to incur the qualifying
32 expenditure. The State Department of Energy shall issue a notice of precertification within 30 days
33 of receipt of the filing, if such filing is consistent with this subsection. The credit may be taken after
34 a retail electricity consumer provides a letter from a certified public accountant to the State De-
35 partment of Energy verifying that the precertified qualifying expenditure has been made.
36 “(c) Credits earned by a retail electricity consumer as a result of qualifying expenditures that
37 are not used in one year may be carried forward for use in subsequent years.
38 “(d)(A) A retail electricity consumer that uses more than one average megawatt of electricity
39 at any site in the prior year may request that the State Department of Energy hire an independent
40 auditor to assess the potential for conservation investments at the site. If the independent auditor
41 determines there is no available conservation measure at the site that would have a simple payback
42 of one to 10 years, the retail electricity consumer shall be relieved of 54 percent of its payment
43 obligation for public purpose charges related to the site. If the independent auditor determines that
44 there are potential conservation measures available at the site, the retail electricity consumer shall
45 be entitled to a credit against public purpose charges related to the site equal to 54 percent of the

1 public purpose charges less the estimated cost of available conservation measures.

2 “(B) A retail electricity consumer shall be entitled each year to the credit described in this
3 subsection unless a subsequent independent audit determines that new conservation investment op-
4 portunities are available. The State Department of Energy may require that a new independent audit
5 be performed on the site to determine whether new conservation measures are available, provided
6 that the independent audits shall occur no more than once every two years.

7 “(C) The retail electricity consumer shall pay the cost of the independent audits described in
8 this subsection.

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

14 “(7)(a) In addition to the public purpose charge provided under subsection (2) of this section,
15 beginning on October 1, 2001, an electric company **or Oregon Community Power** shall collect
16 funds for low-income electric bill payment assistance in an amount determined under paragraph (b)
17 of this subsection.

18 “(b) The total amount collected for low-income electric bill payment assistance under this sec-
19 tion shall be \$10 million per year. The commission shall determine each electric company’s propor-
20 tionate share of the total amount **and Oregon Community Power’s proportionate share of the**
21 **total amount.** The commission shall determine the amount to be collected from a retail electricity
22 consumer, except that a retail electricity consumer is not required to pay more than \$500 per month
23 per site for low-income electric bill payment assistance.

24 “(c) Funds collected by the low-income electric bill payment assistance charge shall be paid into
25 the Housing and Community Services Department Revolving Account created under ORS 456.574.
26 Moneys deposited in the account under this paragraph are continuously appropriated to the Housing
27 and Community Services Department for the purpose of funding low-income electric bill payment
28 assistance. Interest earned on moneys deposited in the account under this paragraph shall accrue
29 to the account. The department’s cost of administering this subsection shall be paid out of funds
30 collected by the low-income electric bill payment assistance charge. Moneys deposited in the ac-
31 count under this paragraph shall be expended solely for low-income electric bill payment assistance.
32 Funds collected from an electric company **or Oregon Community Power** shall be expended in the
33 service area of the electric company **or Oregon Community Power** from which the funds are col-
34 lected.

35 “(d) The Housing and Community Services Department, in consultation with the federal Advi-
36 sory Committee on Energy, shall determine the manner in which funds collected under this sub-
37 section will be allocated by the department to energy assistance program providers for the purpose
38 of providing low-income bill payment and crisis assistance, including programs that effectively re-
39 duce service disconnections and related costs to retail electricity consumers and electric utilities.
40 Priority assistance shall be directed to low-income electricity consumers who are in danger of hav-
41 ing their electricity service disconnected.

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

1 “(f) Notwithstanding ORS 757.310, the commission may allow an electric company **or Oregon**
2 **Community Power** to provide reduced rates or other payment or crisis assistance or low-income
3 program assistance to a low-income household eligible for assistance under the federal Low Income
4 Home Energy Assistance Act of 1981, as amended and in effect on July 23, 1999.

5 “(8) For purposes of this section, ‘retail electricity consumers’ includes any direct service in-
6 dustrial consumer that purchases electricity without purchasing distribution services from the elec-
7 tric utility.

8 “(9) **For purposes of this section, amounts collected by Oregon Community Power**
9 **through public purpose charges are not considered moneys received from electric utility op-**
10 **erations.”.**

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