

# Senate Bill 453

Sponsored by Senator WESTLUND

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Requires public utilities to procure specified minimum percentage of electricity from eligible renewable energy resources. Directs Public Utility Commission to adopt rules establishing certification process for certain energy generating projects and audit verification process for utility procurement compliance. Permits utilities to recover procurement compliance costs through rates. Imposes penalties upon utilities for noncompliance. Provides for renewable energy credit allocation. Limits project bid fees and contract performance assurances.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to renewable energy; and declaring an emergency.

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

4 **SECTION 1. Sections 3 to 8 of this 2007 Act may be cited as the Oregon Renewable En-**  
5 **ergy Production Standard and Rural Economic Development Act.**

6 **SECTION 2. Sections 3 to 8 of this 2007 Act are added to and made a part of ORS chapter**  
7 **757.**

8 **SECTION 3. (1) The Legislative Assembly finds that:**

9 (a) **Oregon has an abundance of diverse renewable energy resources;**

10 (b) **Renewable energy production promotes sustainable rural economic development by**  
11 **creating new jobs and stimulating business and economic activity in local communities**  
12 **across Oregon; and**

13 (c) **Energy fuel diversity, stabilized electricity prices, an enhanced economy and reduced**  
14 **environmental degradation provide great benefits to both the public at large and public util-**  
15 **ities.**

16 (2) **The Legislative Assembly further finds that the development of clean, diversified en-**  
17 **ergy resources will:**

18 (a) **Protect the Oregon economy from energy shortages, price spikes and uncertainty of**  
19 **energy availability that are harmful to business and consumers and disruptive to local and**  
20 **regional investment;**

21 (b) **Augment the state and national pursuit of an energy policy that will result in a di-**  
22 **verse energy portfolio, including conventional and alternative energy resource development,**  
23 **energy efficiency and conservation;**

24 (c) **Accommodate the energy needs of a growing, mobile Oregon population;**

25 (d) **Better position Oregon energy infrastructure to respond to new environmental chal-**  
26 **lenges, including potential limitations on emissions;**

27 (e) **Take advantage of the development of new technologies that will lower the cost of**  
28 **renewable energy and reduce the cost of controlling emissions from energy development; and**

**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 (f) Stimulate distributed generation of locally owned renewable power generation.

2 **SECTION 4.** (1) As used in this section and sections 5 and 7 of this 2007 Act, “eligible  
3 renewable energy resource” means a facility that produces within this state, or produces  
4 outside this state for delivery, on a real-time basis, within this state, electricity from one  
5 or more of the following sources:

6 (a) Wind.

7 (b) Solar that is not cogenerated with a renewable resource that the Public Utility Com-  
8 mission has identified as a nonqualified renewable resource.

9 (c) Geothermal.

10 (d) Hydroelectric, if the hydroelectric project has a nameplate rating of one megawatt  
11 or less, or has a nameplate rating of 10 megawatts or less and:

12 (A) Does not require a new appropriation, diversion or impoundment of water; or

13 (B) Incorporates water diversion technology that is approved for use in this state.

14 (e) Landfill or farm-based methane gas.

15 (f) Gas produced during the treatment of wastewater.

16 (g) Nontoxic biomass material derived from dedicated energy crops or animal wastes, or  
17 solid organic fuels from wood, forest or field residue, excluding wood pieces that have been  
18 treated with creosote, pentachlorophenol, copper-croma-arsenic or other chemical  
19 preservatives.

20 (h) Hydrogen derived from qualifying resources set forth in this subsection.

21 (2)(a) Not later than for the 12-month period beginning July 1, 2010, and for the 12-month  
22 period beginning July 1, 2011, a public utility providing electricity in this state shall sell an  
23 annual quantity of electricity from eligible renewable energy resources that is at least five  
24 percent of all electricity sold annually by the utility.

25 (b) Not later than for the 12-month period beginning July 1, 2012, and for each 12-month  
26 period thereafter, a public utility providing electricity in this state shall sell an annual  
27 quantity of electricity from eligible renewable energy resources that is at least 10 percent  
28 of all electricity sold annually by the utility.

29 (c) In order to encourage a broad, diverse spectrum of sources of renewable energy re-  
30 sources:

31 (A) At least 50 percent of the energy taken into account in determining compliance with  
32 this subsection shall be generated from baseload energy created from biomass and  
33 geothermal resources with annual capacity factors exceeding 70 percent.

34 (B) At least five percent of the electricity taken into account in determining compliance  
35 with the standards set forth in paragraphs (a) and (b) of this subsection shall be generated  
36 from qualifying solar energy resources.

37 (3) To determine compliance with subsection (2) of this section, a public utility shall  
38 calculate its annual minimum procurement requirements from eligible renewable energy re-  
39 sources based on the preceding year’s sales by the utility of electricity to retail customers  
40 in Oregon.

41 (4) Compliance with subsection (2) of this section must be calculated on a delivered-  
42 energy basis after accounting for any line losses.

43 (5)(a) A public utility may execute a contract described in paragraph (b) of this sub-  
44 section at any point during the compliance period or during the first three months after the  
45 end of the compliance period in order to have the annualized output of that contract be taken

1 into account in determining compliance with this section.

2 (b) A contract may be taken into account for compliance purposes under paragraph (a)  
 3 of this subsection if the contract:

4 (A) Is a fixed price long-term electric power purchase agreement;

5 (B) Is with an entity that generates electricity from eligible renewable energy resources;

6 (C) Transacts electricity that is derived from a project that has been certified under  
 7 section 5 of this 2007 Act; and

8 (D) Is for a term of not less than 10 years.

9 (6)(a) The commission shall impose a penalty on a public utility of five cents for each  
 10 kilowatt hour of electricity that is sold by the utility that is not in compliance with the re-  
 11 quirements of subsection (2) of this section.

12 (b) If a nongovernmental entity described in ORS 757.612 (3)(d) exists, penalties collected  
 13 under this subsection shall be transferred to the entity.

14 (7) A public utility may petition the commission for a short-term waiver from compliance  
 15 with subsection (2) of this section and the penalties imposed under subsection (6) of this  
 16 section. In order for the waiver to be granted, the petition must demonstrate that the utility  
 17 has undertaken all reasonable steps to procure new eligible renewable energy resources, but  
 18 that for reasons outside the control of the utility, compliance is not feasible.

19 **SECTION 5.** The Public Utility Commission shall prescribe rules establishing:

20 (1) A certification process by which a person may apply to have an energy generating  
 21 project be certified as an eligible renewable energy resource; and

22 (2) An auditing system designed to verify compliance with the renewable energy pro-  
 23 curement requirements of section 4 of this 2007 Act.

24 **SECTION 6.** The Public Utility Commission shall allow a public utility to recover, in  
 25 rates, electricity procurement and administrative costs associated with compliance with the  
 26 requirements of section 4 of this 2007 Act.

27 **SECTION 7.** Unless otherwise required by law, all renewable energy credits associated  
 28 with eligible renewable energy resources that have been certified by the Public Utility Com-  
 29 mission shall be allocated to the public utility that owns the project certified under section  
 30 5 of this 2007 Act or that purchases electricity generated by the project. If more than one  
 31 utility purchases electricity from the project, credits shall be allocated based on each utility's  
 32 proportionate share of all electricity purchased by utilities from the project.

33 **SECTION 8.** In the case of an energy generating project for which certification under  
 34 section 5 of this 2007 Act is to be sought:

35 (1) Project bid fees may not exceed \$200 per megawatt of nameplate capacity.

36 (2) Contract performance assurance requirements shall be due upon project commercial  
 37 start-up and may not exceed \$30,000 per megawatt of nameplate capacity.

38 **SECTION 9.** This 2007 Act being necessary for the immediate preservation of the public  
 39 peace, health and safety, an emergency is declared to exist, and this 2007 Act takes effect  
 40 on its passage.