

B-Engrossed
Senate Bill 461

Ordered by the Senate June 22
Including Senate Amendments dated April 10 and June 22

Sponsored by Senator DECKERT

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.

Increases amount to be collected from retail electricity consumers for low-income electric bill payment assistance. Allows annual amount collected by each electric company to vary based on electricity usage by consumers and changes in number of consumers.

Applies to electricity consumer billings that are made on or after January 1, 2008.

Increases limitation on expenditures from fees, moneys or other revenues, including Miscellaneous Receipts and specified federal funds, but excluding lottery funds and other federal funds, collected or received by Housing and Community Services Department for purposes of carrying out public purpose expenditure standard.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to low-income electric bill payment assistance; creating new provisions; amending ORS
3 757.612; limiting expenditures; and declaring an emergency.

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

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

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

11 (2)(a) Beginning on the date an electric company offers direct access to its retail electricity
12 consumers, except residential electricity consumers, the electric company shall collect a public
13 purpose charge from all of the retail electricity consumers located within its service area for a pe-
14 riod of 10 years. Except as provided in paragraph (b) of this subsection, the public purpose charge
15 shall be equal to three percent of the total revenues collected by the electric company or 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 whose territory abuts the greatest per-
21 centage of the site of the aluminum plant shall collect from the aluminum company a public purpose
22 charge equal to one percent of the total revenue from the sale of electricity services to the alumi-
23 num plant from any source.

24 (3)(a) The Public Utility Commission shall establish rules implementing the provisions of this

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 section relating to electric companies.

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

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

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

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

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

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

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

27 (e)(A) The first 10 percent of the funds collected annually by an electric company under sub-
28 section (2) of this section shall be distributed to education service districts, as described in ORS
29 334.010, that are located in the service territory of the electric company. The funds shall be dis-
30 tributed to individual education service districts according to the weighted average daily member-
31 ship (ADMw) of the component school districts of the education service district for the prior fiscal
32 year as calculated under ORS 327.013. The commission shall establish by rule a methodology for
33 distributing a proportionate share of funds under this paragraph to education service districts that
34 are only partially located in the service territory of the electric company.

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

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

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

5 (iii) Energy conservation education programs.

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

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

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

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

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

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

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

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

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

43 (d)(A) A retail electricity consumer that uses more than one average megawatt of electricity at
44 any site in the prior year may request that the State Department of Energy hire an independent
45 auditor to assess the potential for conservation investments at the site. If the independent auditor

1 determines there is no available conservation measure at the site that would have a simple payback
2 of one to 10 years, the retail electricity consumer shall be relieved of 54 percent of its payment
3 obligation for public purpose charges related to the site. If the independent auditor determines that
4 there are potential conservation measures available at the site, the retail electricity consumer shall
5 be entitled to a credit against public purpose charges related to the site equal to 54 percent of the
6 public purpose charges less the estimated cost of available conservation measures.

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

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

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

19 (7)(a) In addition to the public purpose charge provided under subsection (2) of this section,
20 [beginning on October 1, 2001,] an electric company shall collect funds for low-income electric bill
21 payment assistance in an amount determined under paragraph (b) of this subsection.

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

27 **(b) The commission shall establish the amount to be collected by each electric company**
28 **in calendar year 2008 from retail electricity consumers served by the company, and the rates**
29 **to be charged to retail electricity consumers served by the company, so that the total an-**
30 **ticipated collection for low-income electric bill payment assistance by all electric companies**
31 **in calendar year 2008 is \$15 million. In calendar year 2009 and subsequent calendar years, the**
32 **commission may not change the rates established for retail electricity consumers, but the**
33 **total amount collected in a calendar year for low-income electric bill payment assistance may**
34 **vary based on electricity usage by retail electricity consumers and changes in the number**
35 **of retail electricity consumers in this state. In no event shall a retail electricity consumer**
36 **be required to pay more than \$500 per month per site for low-income electric bill payment**
37 **assistance.**

38 (c) Funds collected by the low-income electric bill payment assistance charge shall be paid into
39 the Housing and Community Services Department Revolving Account created under ORS 456.574.
40 Moneys deposited in the account under this paragraph are continuously appropriated to the Housing
41 and Community Services Department for the purpose of funding low-income electric bill payment
42 assistance. Interest earned on moneys deposited in the account under this paragraph shall accrue
43 to the account. The department's cost of administering this subsection shall be paid out of funds
44 collected by the low-income electric bill payment assistance charge. Moneys deposited in the ac-
45 count under this paragraph shall be expended solely for low-income electric bill payment assistance.

1 Funds collected from an electric company shall be expended in the service area of the electric
2 company from which the funds are collected.

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

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

14 (f) Notwithstanding ORS 757.310, the commission may allow an electric company to provide re-
15 duced rates or other payment or crisis assistance or low-income program assistance to a low-income
16 household eligible for assistance under the federal Low Income Home Energy Assistance Act of
17 1981, as amended and in effect on July 23, 1999.

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

21 **SECTION 2. The amendments to ORS 757.612 by section 1 of this 2007 Act apply to elec-**
22 **tricity consumer billings that are made on or after January 1, 2008.**

23 **SECTION 3. Notwithstanding any other law limiting expenditures, the limitation on**
24 **expenditures established by section 2, chapter __, Oregon Laws 2007 (Enrolled Senate Bill**
25 **5517), for the biennium beginning July 1, 2007, as the maximum limit for payment of expenses**
26 **from fees, moneys or other revenues, including Miscellaneous Receipts and federal funds**
27 **from the United States Department of Housing and Urban Development for contract ser-**
28 **vices, but excluding lottery funds and other federal funds, that are collected or received by**
29 **the Housing and Community Services Department, is increased by \$7,607,250 for the purpose**
30 **of carrying out the provisions of ORS 757.612 (7).**

31 **SECTION 4. This 2007 Act being necessary for the immediate preservation of the public**
32 **peace, health and safety, an emergency is declared to exist, and this 2007 Act takes effect**
33 **on its passage.**

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