

HOUSE AMENDMENTS TO RESOLVE CONFLICTS TO B-ENGROSSED SENATE BILL 461

By JOINT COMMITTEE ON WAYS AND MEANS

June 25

1 On page 5 of the printed B-engrossed bill, after line 22, insert:

2 **“SECTION 2a. If Senate Bill 443 becomes law, section 1 of this 2007 Act (amending ORS**
3 **757.612) is repealed and ORS 757.612, as amended by section 43a, chapter __, Oregon Laws**
4 **2007 (Enrolled Senate Bill 443), 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, new
7 market transformation efforts, the above-market costs of new renewable energy resources and new
8 low-income weatherization. The public purpose expenditure standard shall be funded by the public
9 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 ser-
16 vice 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 minium 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 to
12 encourage competition, except that funds dedicated for low-income weatherization shall be directed
13 to the Housing and Community Services Department as provided in subsection (7) of this section.
14 The commission may also direct that funds collected by an electric company or Oregon Community
15 Power through public purpose charges be paid to a nongovernmental entity for investment in public
16 purposes described in subsection (1) of this section. Notwithstanding any other provision of this
17 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 allocated
21 for conservation shall be spent within the service area of Oregon Community Power.

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

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

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

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

1 “(iii) Energy conservation education programs.

2 “(iv) Purchasing electricity from environmentally focused sources and investing in renewable
3 energy resources.

4 “(f) The commission may not establish a different public purpose charge than the public purpose
5 charge described in subsection (2) of this section.

6 “(4)(a) An electric company that satisfies its obligations under this section shall have no further
7 obligation to invest in conservation, new market transformation or new low-income weatherization
8 or to provide a commercial energy conservation services program and is not subject to ORS 469.631
9 to 469.645 and 469.860 to 469.900.

10 “(b) Oregon Community Power, for any period during which Oregon Community Power collects
11 a public purpose charge under subsection (2) of this section:

12 “(A) Shall have no other obligation to invest in conservation, new market transformation or new
13 low-income weatherization or to provide a commercial energy conservation services program; and

14 “(B) Is not subject to ORS 469.631 to 469.645 and 469.860 to 469.900.

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

23 “(A) The amount of the retail electricity consumer’s qualifying expenditures; or

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

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

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

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

45 “(B) A retail electricity consumer shall be entitled each year to the credit described in this

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

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

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

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

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

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

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

44 “(d) The Housing and Community Services Department, in consultation with the federal Advi-
45 sory Committee on Energy, shall determine the manner in which funds collected under this sub-

1 section will be allocated by the department to energy assistance program providers for the purpose
2 of providing low-income bill payment and crisis assistance, including programs that effectively re-
3 duce service disconnections and related costs to retail electricity consumers and electric utilities.
4 Priority assistance shall be directed to low-income electricity consumers who are in danger of hav-
5 ing their electricity service disconnected.

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

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

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

17 “(9) For purposes of this section, amounts collected by Oregon Community Power through public
18 purpose charges are not considered moneys received from electric utility operations.

19 “**SECTION 2b.** If Senate Bill 443 becomes law, section 2 of this 2007 Act is amended to read:

20 “**Sec. 2.** The amendments to ORS 757.612 by section [1] **2a** of this 2007 Act apply to electricity
21 consumer billings that are made on or after January 1, 2008.”.

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