

SENATE AMENDMENTS TO SENATE BILL 838

By COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES

April 6

1 In line 2 of the printed bill, after “electricity” insert “; creating new provisions; amending ORS
2 261.010, 261.030, 261.050, 261.235, 261.250, 261.253, 261.305, 261.335, 261.348, 261.355, 262.005, 262.015,
3 262.075, 757.612 and 757.687; and declaring an emergency”.

4 After line 2, insert:

5 “Whereas the Legislative Assembly finds that it is in the interest of the state to promote re-
6 search and development of new renewable energy sources in Oregon; and

7 “Whereas the Legislative Assembly finds that it is necessary for Oregon’s electric utilities to
8 decrease their reliance on fossil fuels for electricity generation and to increase their use of
9 renewable energy sources; and

10 “Whereas this 2007 Act may be cited as the Oregon Renewable Energy Act; and

11 “Whereas the Oregon Renewable Energy Act provides a comprehensive renewable energy policy
12 for Oregon, enabling industry, government and all Oregonians to accelerate the transition to a more
13 reliable and more affordable energy system; now, therefore,”.

14 Delete lines 4 through 12 and insert:

“DEFINITIONS

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18 **“SECTION 1. Definitions. As used in sections 1 to 24 of this 2007 Act:**

19 **“(1) ‘Banked renewable energy certificate’ means a bundled or unbundled renewable en-
20 ergy certificate that is not used by an electric utility or electricity service supplier to comply
21 with a renewable portfolio standard in a calendar year and that is carried forward for the
22 purpose of compliance with a renewable portfolio standard in a subsequent year.**

23 **“(2) ‘BPA electricity’ means electricity provided by the Bonneville Power Administration,
24 including all electricity from the Federal Columbia River Power System hydroelectric
25 projects and other electricity acquired by the Bonneville Power Administration by contract.**

26 **“(3) ‘Bundled renewable energy certificate’ means a renewable energy certificate for
27 qualifying electricity that is acquired:**

28 **“(a) By an electric utility or electricity service supplier by a trade, purchase or other
29 transfer of electricity that includes the certificate that was issued for the electricity; or**

30 **“(b) By an electric utility by generation of the electricity for which the certificate was
31 issued.**

32 **“(4) ‘Compliance year’ means the calendar year for which the electric utility or electric-
33 ity service supplier seeks to establish compliance with the renewable portfolio standard ap-
34 plicable to the utility or supplier in the compliance report submitted under section 19 of this
35 2007 Act.**

1 “(5) ‘Consumer-owned utility’ means a municipal electric utility, a people’s utility district
2 organized under ORS chapter 261 that sells electricity or an electric cooperative organized
3 under ORS chapter 62.

4 “(6) ‘Electric company’ has the meaning given that term in ORS 757.600.

5 “(7) ‘Electric utility’ has the meaning given that term in ORS 757.600.

6 “(8) ‘Electricity service supplier’ has the meaning given that term in ORS 757.600.

7 “(9) ‘Qualifying electricity’ means electricity described in section 2 of this 2007 Act.

8 “(10) ‘Renewable energy source’ means a source of electricity described in section 4 of
9 this 2007 Act.

10 “(11) ‘Retail electricity consumer’ means a retail electricity consumer, as defined in ORS
11 757.600, that is located in Oregon.

12 “(12) ‘Unbundled renewable energy certificate’ means a renewable energy certificate for
13 qualifying electricity that is acquired by an electric utility or electricity service supplier by
14 trade, purchase or other transfer without acquiring the electricity for which the certificate
15 was issued.

17 “QUALIFYING ELECTRICITY

18
19 “SECTION 2. Qualifying electricity. (1) Except as provided in this section, and subject to
20 section 15 of this 2007 Act, electricity generated from a renewable energy source may be used
21 to comply with a renewable portfolio standard only if the facility that generates the elec-
22 tricity meets the requirements of section 3 of this 2007 Act.

23 “(2) Any electricity that the Bonneville Power Administration has designated as envi-
24 ronmentally preferred power, or has given a similar designation for electricity generated
25 from a renewable resource, may be used to comply with a renewable portfolio standard.

26 “(3) The Legislative Assembly finds that hydroelectric energy is an important renewable
27 energy source and electricity from hydroelectric generators may be used to comply with a
28 renewable portfolio standard as provided in sections 1 to 24 of this 2007 Act.

29 “SECTION 3. Qualifying electricity; age of generating facility. (1) Except as provided in
30 this section, electricity may be used to comply with a renewable portfolio standard only if
31 the electricity is generated by a facility that becomes operational on or after January 1, 1995.

32 “(2) Electricity from a generating facility, other than a hydroelectric facility, that be-
33 came operational before January 1, 1995, may be used to comply with a renewable portfolio
34 standard if the electricity is attributable to capacity or efficiency upgrades made on or after
35 January 1, 1995.

36 “(3) Electricity from a hydroelectric facility that became operational before January 1,
37 1995, may be used to comply with a renewable portfolio standard if the electricity is attrib-
38 utable to efficiency upgrades made on or after January 1, 1995. If an efficiency upgrade is
39 made to a Bonneville Power Administration facility, only that portion of the electricity gen-
40 eration attributable to Oregon’s share of the electricity may be used to comply with a
41 renewable portfolio standard.

42 “(4) Subject to the limit imposed by section 4 (5) of this 2007 Act, electricity from a hy-
43 droelectric facility that is owned by an electric utility and that became operational before
44 January 1, 1995, may be used to comply with a renewable portfolio standard if the facility is
45 certified as a low-impact hydroelectric facility on or after January 1, 1995, by a national

1 certification organization recognized by the State Department of Energy by rule.

2 **“SECTION 4. Renewable energy sources.** (1) Electricity generated utilizing the following
3 types of energy may be used to comply with a renewable portfolio standard:

4 **“(a) Wind energy.**

5 **“(b) Solar photovoltaic and solar thermal energy.**

6 **“(c) Wave, tidal and ocean thermal energy.**

7 **“(d) Geothermal energy.**

8 **“(2) Except as provided in subsection (3) of this section, electricity generated from**
9 **biomass and biomass byproducts may be used to comply with a renewable portfolio standard,**
10 **including but not limited to electricity generated from:**

11 **“(a) Organic human or animal waste;**

12 **“(b) Spent pulping liquor;**

13 **“(c) Forest or rangeland woody debris from harvesting or thinning conducted to improve**
14 **forest or rangeland ecological health and to reduce uncharacteristic stand replacing wildfire**
15 **risk;**

16 **“(d) Wood material from hardwood timber grown on land described in ORS 321.267 (3);**

17 **“(e) Agricultural residues;**

18 **“(f) Dedicated energy crops; and**

19 **“(g) Biogas produced from organic matter, wastewater, anaerobic digesters or municipal**
20 **solid waste.**

21 **“(3) Electricity generated from the direct combustion of biomass may not be used to**
22 **comply with a renewable portfolio standard if any of the biomass combusted to generate the**
23 **electricity includes:**

24 **“(a) Municipal solid waste; or**

25 **“(b) Wood that has been treated with chemical preservatives such as creosote,**
26 **pentachlorophenol or chromated copper arsenate.**

27 **“(4) Electricity generated by a hydroelectric facility may be used to comply with a**
28 **renewable portfolio standard only if:**

29 **“(a) The facility is located outside any protected area designated by the Pacific Northwest**
30 **Electric Power and Conservation Planning Council as of July 23, 1999, or any area protected**
31 **under the federal Wild and Scenic Rivers Act, Public Law 90-542, or the Oregon Scenic**
32 **Waterways Act, ORS 390.805 to 390.925; or**

33 **“(b) The electricity is attributable to efficiency upgrades made to the facility on or after**
34 **January 1, 1995.**

35 **“(5) Up to 50 average megawatts of electricity per year generated by an electric utility**
36 **from certified low-impact hydroelectric facilities described in section 3 (4) of this 2007 Act**
37 **may be used to comply with a renewable portfolio standard, without regard to the number**
38 **of certified facilities operated by the electric utility or the generating capacity of those fa-**
39 **ilities.**

40 **“(6) Electricity generated from hydrogen gas derived from any source of energy described**
41 **in subsections (1) to (5) of this section may be used to comply with a renewable portfolio**
42 **standard.**

43 **“(7) If electricity generation employs multiple energy sources, that portion of the elec-**
44 **tricity generated that is attributable to energy sources described in subsections (1) to (6) of**
45 **this section may be used to comply with a renewable portfolio standard.**

1 “(8) The State Department of Energy by rule may approve energy sources other than
2 those described in this section that may be used to comply with a renewable portfolio
3 standard. The department may not approve petroleum, natural gas, coal or nuclear fission
4 as an energy source that may be used to comply with a renewable portfolio standard.

5
6 “RENEWABLE PORTFOLIO STANDARDS

7
8 “SECTION 5. Applicable standard. (1) Electric utilities must comply with the applicable
9 renewable portfolio standard described in section 6 or 7 of this 2007 Act.

10 “(2) Electricity service suppliers must comply with the renewable portfolio standard es-
11 tablished under section 9 of this 2007 Act.

12 “SECTION 6. Large utility renewable portfolio standard. (1) The large utility renewable
13 portfolio standard imposes the following requirements on an electric utility that makes sales
14 of electricity to retail electricity consumers in an amount that equals one and one-half per-
15 cent or more of all electricity sold to retail electricity consumers:

16 “(a) At least five percent of the electricity sold by the utility to retail electricity con-
17 sumers in each of the calendar years 2011, 2012, 2013 and 2014 must be qualifying electricity;

18 “(b) At least 15 percent of the electricity sold by the utility to retail electricity consum-
19 ers in each of the calendar years 2015, 2016, 2017, 2018 and 2019 must be qualifying electricity;

20 “(c) At least 20 percent of the electricity sold by the utility to retail electricity consum-
21 ers in each of the calendar years 2020, 2021, 2022, 2023 and 2024 must be qualifying electricity;
22 and

23 “(d) At least 25 percent of the electricity sold by the utility to retail electricity consum-
24 ers in calendar year 2025 and subsequent calendar years must be qualifying electricity.

25 “(2) If, on the effective date of this 2007 Act, an electric utility makes sales of electricity
26 to retail electricity consumers in an amount that equals less than one and one-half percent
27 of all electricity sold to retail electricity consumers, but in any three consecutive calendar
28 years thereafter makes sales of electricity to retail electricity consumers in amounts that
29 average one and one-half percent or more of all electricity sold to retail electricity consum-
30 ers, the utility is subject to the renewable portfolio standard described in subsection (3) of
31 this section. The utility becomes subject to the standard described in subsection (3) of this
32 section in the calendar year following the three-year period during which the utility makes
33 sales of electricity to retail electricity consumers in amounts that average one and one-half
34 percent or more of all electricity sold to retail electricity consumers.

35 “(3) An electric utility described in subsection (2) of this section must comply with the
36 following renewable portfolio standard:

37 “(a) Beginning in the fourth calendar year after the calendar year in which the utility
38 becomes subject to the standard described in this subsection, at least five percent of the
39 electricity sold by the utility to retail electricity consumers in a calendar year must be
40 qualifying electricity;

41 “(b) Beginning in the 10th calendar year after the calendar year in which the utility be-
42 comes subject to the standard described in this subsection, at least 15 percent of the elec-
43 tricity sold by the utility to retail electricity consumers in a calendar year must be qualifying
44 electricity;

45 “(c) Beginning in the 15th calendar year after the calendar year in which the utility be-

1 comes subject to the standard described in this subsection, at least 20 percent of the elec-
2 tricity sold by the utility to retail electricity consumers in a calendar year must be qualifying
3 electricity; and

4 “(d) Beginning in the 20th calendar year after the calendar year in which the utility be-
5 comes subject to the standard described in this subsection, at least 25 percent of the elec-
6 tricity sold by the utility to retail electricity consumers in a calendar year must be qualifying
7 electricity.

8 “SECTION 7. Small electric utilities. (1) Except as provided in this section, an electric
9 utility that makes sales of electricity to retail electricity consumers in an amount that
10 equals less than one and one-half percent of all electricity sold to retail electricity consumers
11 is not subject to sections 1 to 24 of this 2007 Act.

12 “(2) Beginning in calendar year 2025, at least five percent of the electricity sold to retail
13 electricity consumers in a calendar year by an electric utility described in subsection (1) of
14 this section must be qualifying electricity.

15 “(3) The exemption provided by subsection (1) of this section terminates if an electric
16 utility, or a joint operating entity that includes the utility as a member, acquires electricity
17 from an electricity generating facility that uses coal as an energy source or makes an in-
18 vestment on or after the effective date of this 2007 Act in an electricity generating facility
19 that uses coal as an energy source. This subsection does not apply to:

20 “(a) A wholesale market purchase by an electric utility for which the energy source for
21 the electricity is not known;

22 “(b) BPA electricity;

23 “(c) A renewal or replacement contract for a contract for purchase of electricity entered
24 into before the effective date of this 2007 Act;

25 “(d) A purchase of electricity if the electricity is included in a contract for the purchase
26 of qualifying electricity and is necessary to shape, firm or integrate the qualifying electricity;
27 or

28 “(e) Electricity provided to an electric utility under a contract for the acquisition of an
29 interest in an electricity generating facility that was entered into by the utility before the
30 effective date of this 2007 Act.

31 “(4) The exemption provided by subsection (1) of this section terminates for a
32 consumer-owned utility if at any time after the effective date of this 2007 Act the utility
33 acquires service territory of an electric company without the consent of the electric com-
34 pany.

35 “(5) Beginning in the calendar year following the year in which an electric utility’s ex-
36 emption terminates under subsection (3) or (4) of this section, the utility is subject to the
37 renewable portfolio standard described in section 6 (3) of this 2007 Act and related provisions
38 of sections 1 to 24 of this 2007 Act.

39 “(6) The provisions of this section do not affect the requirement that electric utilities
40 offer a green power rate under section 23 of this 2007 Act.

41 “SECTION 8. Exemptions from compliance with renewable portfolio standard. (1) Electric
42 utilities are not required to comply with the renewable portfolio standards described in
43 sections 6 and 7 of this 2007 Act to the extent that:

44 “(a) Compliance with the standard would require the utility to acquire electricity in ex-
45 cess of the utility’s projected load requirements in any calendar year; and

1 “(b) Acquiring the additional electricity would require the utility to substitute qualifying
2 electricity for electricity derived from an energy source other than coal, natural gas or pe-
3 troleum.

4 “(2)(a) Electric utilities are not required to comply with a renewable portfolio standard
5 to the extent that compliance would require the utility to substitute qualifying electricity for
6 electricity available to the utility under contracts for electricity from dams that are owned
7 by Washington public utility districts and are located between the Grand Coulee Dam and the
8 Columbia River’s junction with the Snake River. The provisions of this subsection apply only
9 to contracts entered into before the effective date of this 2007 Act and to renewal or re-
10 placement contracts for contracts entered into before the effective date of this 2007 Act. The
11 exemption provided by this subsection applies only to firm commitments for electricity under
12 a contract that assures the electric utility that the electricity will be available to meet
13 agreed portions of the utility’s load requirements for a defined period of time.

14 “(b) If a contract described in paragraph (a) of this subsection expires and is not renewed
15 or replaced, the utility must comply, in the calendar year following the expiration of the
16 contract, with the renewable portfolio standard applicable to the utility.

17 “(3) A consumer-owned utility is not required to comply with a renewable portfolio
18 standard to the extent that compliance would require the utility to reduce the utility’s pur-
19 chases of the lowest priced electricity from the Bonneville Power Administration pursuant
20 to section 5 of the Pacific Northwest Electric Power Planning and Conservation Act of 1980,
21 P.L. 96-501, as in effect on the effective date of this 2007 Act. The exemption provided by this
22 subsection applies only to firm commitments for BPA electricity that the Bonneville Power
23 Administration has assured will be available to a utility to meet agreed portions of the util-
24 ity’s load requirements for a defined period of time.

25 “SECTION 9. Renewable portfolio standard for electricity service suppliers. An electricity
26 service supplier must meet the requirements of the renewable portfolio standards that are
27 applicable to the electric utilities that serve the territories in which the electricity service
28 supplier sells electricity to retail electricity consumers. The Public Utility Commission shall
29 establish procedures for implementation of the renewable portfolio standards for electricity
30 service suppliers that sell electricity in the service territory of an electric company. If an
31 electricity service supplier sells electricity in territories served by more than one electric
32 company, the commission may provide for an aggregate standard based on the amount of
33 electricity sold by the electricity service supplier in each territory. Pursuant to ORS 757.676,
34 a consumer-owned utility may establish procedures for the implementation of the renewable
35 portfolio standards for electricity service suppliers that sell electricity in the territory served
36 by the consumer-owned utility.

37 “SECTION 10. Manner of complying with renewable portfolio standards. (1) Except as
38 provided in subsection (2) of this section, an electric utility or electricity service supplier
39 must comply with the renewable portfolio standard applicable to the utility or supplier in
40 each calendar year by:

41 “(a) Using bundled renewable energy certificates issued or acquired during the compli-
42 ance year;

43 “(b) Subject to the limitations described in sections 16 and 17 of this 2007 Act, using un-
44 bundled or banked renewable energy certificates; or

45 “(c) Making alternative compliance payments as described in section 20 of this 2007 Act.

1 “(2) Bundled or unbundled renewable energy certificates that are issued or acquired by
2 an electric utility or electricity service supplier on or before March 31 in a calendar year
3 may be used by the utility or supplier to comply with the renewable portfolio standard ap-
4 plicable to the utility or supplier for the preceding calendar year.

5 “SECTION 11. Implementation plan for electric companies; annual reports. (1) An electric
6 company that is subject to a renewable portfolio standard shall develop an implementation
7 plan for meeting the requirements of the standard and file the plan with the Public Utility
8 Commission. Implementation plans must be revised and updated at least once every two
9 years.

10 “(2) An implementation plan must at a minimum contain:

11 “(a) Annual targets for acquisition and use of qualifying electricity; and

12 “(b) The estimated cost of meeting the annual targets, including the cost of transmission,
13 the cost of firming, shaping and integrating qualifying electricity, the cost of alternative
14 compliance payments and the cost of acquiring renewable energy certificates.

15 “(3) The commission shall acknowledge the implementation plan no later than six months
16 after the plan is filed with the commission. The commission may acknowledge the plan sub-
17 ject to conditions specified by the commission.

18 “(4) The commission shall adopt rules:

19 “(a) Establishing requirements for the content of implementation plans;

20 “(b) Establishing the procedure for acknowledgement of implementation plans under this
21 section, including provisions for public comment; and

22 “(c) Providing for the integration of the implementation plan with the integrated re-
23 source planning guidelines established by the commission and in effect on the effective date
24 of this 2007 Act.

25 “(5) The implementation plan filed under this section may include procedures that will
26 be used by the electric company to determine whether the costs of constructing a facility
27 that generates electricity from a renewable energy source, or the costs of acquiring bundled
28 or unbundled renewable energy certificates, are consistent with the standards of the com-
29 mission relating to least-cost, least-risk planning for acquisition of resources.

30 “SECTION 11a. An electric company shall develop and file with the Public Utility Com-
31 mission an initial implementation plan under section 11 of this 2007 Act no later than Janu-
32 ary 1, 2010.

33
34 “COST LIMITATION
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36 “SECTION 12. Limits on cost of compliance with renewable portfolio standard. (1) Elec-
37 tric utilities are not required to comply with a renewable portfolio standard during a com-
38 pliance year to the extent that the incremental cost of compliance, the cost of unbundled
39 renewable energy certificates and the cost of alternative compliance payments under section
40 20 of this 2007 Act exceeds four percent of the utility’s annual revenue requirement for the
41 compliance year.

42 “(2) For each electric company, the Public Utility Commission shall establish the annual
43 revenue requirement for a compliance year no later than January 1 of the compliance year.
44 The governing body of a consumer-owned utility shall establish the annual revenue require-
45 ment for the consumer-owned utility.

1 “(3) The annual revenue requirement for an electric utility shall be calculated based only
2 on the operations of the utility relating to electricity. The annual revenue requirement does
3 not include any amount expended by the utility for energy efficiency programs for customers
4 of the utility or for low income energy assistance, the incremental cost of compliance with
5 a renewable portfolio standard, the cost of unbundled renewable energy certificates or the
6 cost of alternative compliance payments under section 20 of this 2007 Act. The annual re-
7 venue requirement does include:

8 “(a) All operating expenses of the utility during the compliance year, including depreci-
9 ation and taxes; and

10 “(b) For electric companies, an amount equal to the total rate base of the company for
11 the compliance year multiplied by the rate of return established by the commission for debt
12 and equity of the company.

13 “(4) For the purposes of this section, the incremental cost of compliance with a
14 renewable portfolio standard is the difference between the levelized annual delivered cost of
15 the qualifying electricity and the levelized annual delivered cost of an equivalent amount of
16 reasonably available electricity that is not qualifying electricity. For the purpose of this
17 subsection, the commission or governing body of a consumer-owned utility shall use the net
18 present value of delivered cost, including:

19 “(a) Capital, operating and maintenance costs of generating facilities;

20 “(b) Financing costs attributable to capital, operating and maintenance expenditures for
21 generating facilities;

22 “(c) Transmission and substation costs;

23 “(d) Load following and ancillary services costs; and

24 “(e) Costs associated with using other assets, physical or financial, to integrate, firm or
25 shape renewable energy sources on a firm annual basis to meet retail electricity needs.

26 “(5) For the purposes of this section, the governing body of a consumer-owned utility
27 may include in the incremental cost of compliance with a renewable portfolio standard all
28 expenses associated with research, development and demonstration projects related to the
29 generation of qualifying electricity by the consumer-owned utility.

30 “(6) The commission shall establish limits on the incremental cost of compliance with the
31 renewable portfolio standard for electricity service suppliers under section 9 of this 2007 Act
32 that are the equivalent of the cost limits applicable to the electric companies that serve the
33 territories in which the electricity service supplier sells electricity to retail electricity con-
34 sumers. If an electricity service supplier sells electricity in territories served by more than
35 one electric company, the commission may provide for an aggregate cost limit based on the
36 amount of electricity sold by the electricity service supplier in each territory. Pursuant to
37 ORS 757.676, a consumer-owned utility may establish limits on the cost of compliance with
38 the renewable portfolio standard for electricity service suppliers that sell electricity in the
39 territory served by the consumer-owned utility.

40 “**SECTION 12a.** The Public Utility Commission shall establish the methodology for de-
41 termining the annual revenue requirement of an electric company for purposes of section
42 12 of this 2007 Act no later than July 1, 2008.

43
44 “COST RECOVERY
45

1 SECTION 13. Cost recovery by electric companies. (1) Except as provided in section 20
2 (5) of this 2007 Act, all prudently incurred costs associated with compliance with a renewable
3 portfolio standard are recoverable in the rates of an electric company, including intercon-
4 nection costs, costs associated with using physical or financial assets to integrate, firm or
5 shape renewable energy sources on a firm annual basis to meet retail electricity needs and
6 other costs associated with transmission and delivery of qualifying electricity to retail elec-
7 tricity consumers.

8 “(2) Costs associated with compliance with a renewable portfolio standard are not an
9 above-market cost for the purposes of ORS 757.600 to 757.687.

10 “(3) The Public Utility Commission shall establish an automatic adjustment clause as
11 defined in ORS 757.210 or another method that allows timely recovery of costs prudently in-
12 curred by an electric company to construct or otherwise acquire facilities that generate
13 electricity from renewable energy sources or for associated electricity transmission. An
14 electric company must file with the commission for approval of the use of an automatic ad-
15 justment clause or other method for timely recovery of costs established under this sub-
16 section. The commission shall provide opportunity for public comment on the filing.

17 SECTION 13a. The Public Utility Commission shall establish the automatic adjustment
18 clause or another method for timely recovery of costs as required by section 13 of this 2007
19 Act no later than January 1, 2008. To the extent the use of an automatic adjustment clause
20 or other method for timely recovery of costs by an electric company is approved by the
21 commission, the clause or method shall apply to all prudently incurred costs described in
22 section 13 (1) of this 2007 Act incurred by an electric company since the date of the compa-
23 ny’s last general rate case that was decided by the commission before the effective date of
24 this 2007 Act.

25
26 **“RENEWABLE ENERGY CERTIFICATES**

27
28 SECTION 14. Renewable energy certificates system. (1) The State Department of Energy
29 shall establish a system of renewable energy certificates that can be used by an electric
30 utility or electricity service supplier to establish compliance with the applicable renewable
31 portfolio standard. The department shall consult with the Public Utility Commission before
32 establishing a system of renewable energy certificates under this section. The department
33 may allow use of renewable energy certificates that are issued, monitored, accounted for or
34 transferred by or through a regional system or trading program, including but not limited
35 to the Western Renewable Energy Generation Information System. The system established
36 by the department shall allow issuance, transfer and use of renewable energy certificates in
37 electronic form.

38 “(2) The validity of a bundled renewable energy certificate for purposes of compliance
39 with the applicable renewable portfolio standard is not affected by the substitution of any
40 other electricity for the qualifying electricity at any point after the time of generation.

41 SECTION 15. Renewable energy certificates that may be used to comply with standards.
42 (1) A bundled renewable energy certificate may be used to comply with a renewable portfolio
43 standard if:

44 “(a) The facility that generates the qualifying electricity for which the certificate is is-
45 sued is located in the United States and within the geographic boundary of the Western

1 Electricity Coordinating Council; and

2 “(b) The qualifying electricity for which the certificate is issued is delivered to the
3 Bonneville Power Administration, to the transmission system of an electric utility or to an-
4 other delivery point designated by an electric utility for the purpose of subsequent delivery
5 to the electric utility.

6 “(2) An unbundled renewable energy certificate may be used to comply with a renewable
7 portfolio standard if the facility that generates the qualifying electricity for which the cer-
8 tificate is issued is located within the geographic boundary of the Western Electricity Coor-
9 dinating Council.

10 “(3) Renewable energy certificates issued for any electricity that the Bonneville Power
11 Administration has designated as environmentally preferred power, or has given a similar
12 designation for electricity generated from a renewable resource, may be used to comply with
13 a renewable portfolio standard without regard to the location of the generating facility.

14 “SECTION 16. Use, transfer and banking of certificates. (1) Renewable energy certificates
15 may be traded, sold or otherwise transferred.

16 “(2) Renewable energy certificates that are not used by an electric utility or electricity
17 service supplier to comply with a renewable portfolio standard in a calendar year may be
18 banked and carried forward indefinitely for the purpose of complying with a renewable port-
19 folio standard in a subsequent year. For the purpose of complying with a renewable portfolio
20 standard in any calendar year:

21 “(a) Banked renewable energy certificates must be used, up to the limit imposed by sec-
22 tion 17 of this 2007 Act, before other certificates are used; and

23 “(b) Banked renewable energy certificates with the oldest issuance date must be used to
24 comply with the standard before banked renewable energy certificates with more recent is-
25 suance dates are used.

26 “(3) An electric utility or electricity service supplier is responsible for demonstrating
27 that a renewable energy certificate used to comply with a renewable portfolio standard is
28 derived from a renewable energy source and that the utility or supplier has not used, traded,
29 sold or otherwise transferred the certificate.

30 “(4) The same renewable energy certificate may be used by an electric utility or elec-
31 tricity service supplier to comply with a federal renewable portfolio standard and a renewable
32 portfolio standard established under sections 1 to 24 of this 2007 Act. An electric utility or
33 electricity service supplier that uses a renewable energy certificate to comply with a
34 renewable portfolio standard imposed by any other state may not use the same certificate
35 to comply with a renewable portfolio standard established under sections 1 to 24 of this 2007
36 Act.

37 “SECTION 17. Limitations on use of unbundled certificates to meet renewable portfolio
38 standard. (1) Except as otherwise provided in this section, unbundled renewable energy cer-
39 tificates, including banked unbundled renewable energy certificates, may not be used to meet
40 more than 20 percent of the requirements of the large utility renewable portfolio standard
41 described in section 6 of this 2007 Act for any compliance year.

42 “(2) The limitation imposed by subsection (1) of this section does not apply to renewable
43 energy certificates issued for electricity generated in Oregon from a renewable energy source
44 by a net metering facility as defined in ORS 757.300, or another generating facility that is
45 not directly connected to a distribution or transmission system.

1 “(3) The limitation imposed by subsection (1) of this section does not apply to renewable
2 energy certificates issued for electricity generated in Oregon by a qualifying facility under
3 ORS 758.505 to 758.555.

4 “(4) The limitation imposed by subsection (1) of this section does not apply to an elec-
5 tricity service supplier.

6 “SECTION 17a. Notwithstanding section 17 (1) of this 2007 Act, for compliance years be-
7 fore 2020, a consumer-owned utility subject to the large utility renewable portfolio standard
8 described in section 6 of this 2007 Act may use unbundled renewable energy certificates, in-
9 cluding banked unbundled renewable energy certificates, to meet up to 50 percent of the re-
10 quirements of the standard.

11 “SECTION 18. Multistate electric companies. The Public Utility Commission by rule shall
12 establish a process for allocating the use of renewable energy certificates by an electric
13 company that makes sales of electricity to retail customers in more than one state.

14 15 “COMPLIANCE REPORTS 16

17 “SECTION 19. Compliance reports. (1) Each electric utility and electricity service sup-
18 plier that is subject to a renewable portfolio standard shall make an annual compliance re-
19 port for the purpose of detailing compliance, or failure to comply, with the renewable
20 portfolio standard applicable in the compliance year. An electric company or electricity ser-
21 vice supplier shall make the report to the Public Utility Commission. A consumer-owned
22 utility shall make the report to the members or customers of the utility.

23 “(2) The commission shall review each compliance report filed under this section by an
24 electric company or electricity service supplier for the purposes of determining whether the
25 company or supplier has complied with the renewable portfolio standard applicable to the
26 company or supplier and the manner in which the company or supplier has complied. In re-
27 viewing the reports, the commission shall consider:

28 “(a) The relative amounts of renewable energy certificates and other payments used by
29 the company or supplier to meet the applicable renewable portfolio standard, including:

30 “(A) Bundled renewable energy certificates;

31 “(B) Unbundled renewable energy certificates;

32 “(C) Banked renewable energy certificates; and

33 “(D) Alternative compliance payments under section 20 of this 2007 Act.

34 “(b) The timing of electricity purchases.

35 “(c) The market prices for electricity purchases and unbundled renewable energy certif-
36 icates.

37 “(d) Whether the actions taken by the company or supplier are contributing to long term
38 development of generating capacity using renewable energy sources.

39 “(e) The effect of the actions taken by the company or supplier on the rates payable by
40 retail electricity consumers.

41 “(f) Good faith forecasting differences associated with the projected number of retail
42 electricity consumers served and the availability of electricity from renewable energy
43 sources.

44 “(g) For electric companies, consistency with the implementation plan filed under section
45 11 of this 2007 Act, as acknowledged by the commission.

1 “(h) Any other factors deemed reasonable by the commission.

2 “(3) The commission by rule may establish requirements for compliance reports submit-
3 ted by an electric company or electricity service supplier.

4
5 “ALTERNATIVE COMPLIANCE PAYMENTS
6

7 “SECTION 20. Electric companies; electricity service suppliers. (1) The Public Utility
8 Commission shall establish an alternative compliance rate for each compliance year for each
9 electric company or electricity service supplier that is subject to a renewable portfolio
10 standard. The rate shall be expressed in dollars per megawatt-hour.

11 “(2) The commission shall establish an alternative compliance rate based on the cost of
12 qualifying electricity, contracts that the electric company or electricity service supplier has
13 acquired for future delivery of qualifying electricity and the number of unbundled renewable
14 energy certificates that the company or supplier anticipates using in the compliance year to
15 meet the renewable portfolio standard applicable to the company or supplier. The commission
16 shall also consider any determinations made under section 19 of this 2007 Act in reviewing
17 the compliance report made by the electric company or electricity service supplier for the
18 previous compliance year. In establishing an alternative compliance rate, the commission
19 shall set the rate to provide adequate incentive for the electric company or electricity service
20 supplier to purchase or generate qualifying electricity in lieu of using alternative compliance
21 payments to meet the renewable portfolio standard applicable to the company or supplier.

22 “(3) An electric company or electricity service supplier may elect to use, or may be re-
23 quired by the commission to use, alternative compliance payments to comply with the
24 renewable portfolio standard applicable to the company or supplier. Any election by an elec-
25 tric company or electricity service supplier to use alternative compliance payments is subject
26 to review by the commission under section 19 of this 2007 Act. An electric company or elec-
27 tricity service supplier may not be required to make alternative compliance payments that
28 would result in the company or supplier exceeding the cost limitation established under
29 section 12 of this 2007 Act.

30 “(4) The commission shall determine for each electric company the extent to which al-
31 ternative compliance payments may be recovered in the rates of the company. Each electric
32 company shall deposit any amounts recovered in the rates of the company for alternative
33 compliance payments in a holding account established by the company. Amounts in the
34 holding account shall accrue interest at the rate of return authorized by the commission for
35 the electric company.

36 “(5) Amounts in holding accounts established under subsection (4) of this section may
37 be expended by an electric company only for costs of acquiring new generating capacity from
38 renewable energy sources, investments in efficiency upgrades to electricity generating facil-
39 ities owned by the company and energy conservation programs within the company’s service
40 area. The commission must approve expenditures by an electric company from a holding
41 account established under subsection (4) of this section. Amounts that are collected from
42 customers and spent by an electric company under this subsection may not be included in
43 the company’s rate base.

44 “(6) The commission shall require electricity service suppliers to establish holding ac-
45 counts and make payments to those accounts on a substantially similar basis as provided for

1 electric companies. The commission must approve expenditures by an electricity service
2 supplier from a holding account established under this subsection. The commission may ap-
3 prove expenditures only for energy conservation programs for customers of the electricity
4 service supplier.

5 **“SECTION 20a.** The Public Utility Commission shall establish initial alternative compli-
6 ance rates as required by section 20 of this 2007 Act no later than July 1, 2009.

7 **“SECTION 21. Consumer-owned utilities.** The governing body of a consumer-owned utility
8 shall establish an alternative compliance rate for the utility. To the extent possible, the al-
9 ternative compliance rate shall be determined by the governing body of the consumer-owned
10 utility in a manner similar to that used by the Public Utility Commission in establishing al-
11 ternative compliance rates under section 20 of this 2007 Act. Amounts collected as alterna-
12 tive compliance payments by a consumer-owned utility may be used for the purposes
13 specified in section 20 (5) of this 2007 Act and for the purpose of paying expenses associated
14 with research, development and demonstration projects related to the generation of qualify-
15 ing electricity by the utility.

16
17 **“PENALTY**

18
19 **“SECTION 22. Penalty.** If an electric company or electricity service supplier that is sub-
20 ject to a renewable portfolio standard under sections 1 to 24 of this 2007 Act fails to comply
21 with the standard in the manner provided by sections 1 to 24 of this 2007 Act, the Public
22 Utility Commission may impose a penalty against the company or supplier in an amount de-
23 termined by the commission. A penalty under this section is in addition to any alternative
24 compliance payment required or elected under section 20 of this 2007 Act. Moneys paid for
25 penalties under this section shall be transmitted by the commission to the nongovernmental
26 entity receiving moneys under ORS 757.612 (3)(d) and may be used only for the purposes
27 specified in ORS 757.612 (1).

28
29 **“GREEN POWER RATE**

30
31 **“SECTION 23. Green power rate.** (1) Electric utilities shall allow retail electricity con-
32 sumers to elect a green power rate. A significant portion of the electricity purchased or
33 generated by a utility that is attributable to moneys paid by retail electricity consumers who
34 elect the green power rate must be qualifying electricity, and the utility must inform con-
35 sumers of the sources of the electricity purchased or generated by the utility that is attrib-
36 utable to moneys paid by consumers who elect the green power rate. The green power rate
37 shall reasonably reflect the costs of the electricity purchased or generated by the utility that
38 is attributable to moneys paid by retail electricity consumers who elect the green power rate.
39 All prudently incurred costs associated with the green power rate are recoverable in a green
40 power rate offered by an electric company.

41 **“(2)** Any qualifying electricity procured by an electric utility to provide electricity under
42 a green power rate may not be used by the utility to comply with the requirements of a
43 renewable portfolio standard.

44 **“(3)** The provisions of this section do not apply to electric companies that are subject to
45 ORS 757.603 (2)(a).

1 “(4) An electric utility may comply with the requirements of this section by contracting
2 with a third-party provider.

3
4 “COMMUNITY-BASED RENEWABLE ENERGY PROJECTS

5
6 “SECTION 24. Goal for community-based renewable energy projects. The Legislative As-
7 sembly finds that community-based renewable energy projects are an essential element of
8 Oregon’s energy future, and declares that it is the goal of the State of Oregon that by 2025
9 at least eight percent of Oregon’s retail electrical load comes from small-scale renewable
10 energy projects with a generating capacity of less than 20 megawatts. All agencies of the
11 executive department as defined in ORS 174.112 shall establish policies and procedures pro-
12 moting the goal declared in this section.

13
14 “JOB IMPACT STUDY

15
16 “SECTION 25. Job impact study. (1) The State Department of Energy shall periodically
17 conduct a study to evaluate the impact of sections 1 to 24 of this 2007 Act on jobs in this
18 state. The study shall assess the number of new jobs created in the renewable energy sector
19 in this state and the average wage rates and the provision of health care and other benefits
20 for those jobs. In addition, the study shall investigate the extent to which workforce training
21 opportunities are being provided to employees to prepare the employees for jobs in the
22 renewable energy sector.

23 “(2) The department shall conduct the first study under this section not later than two
24 years after the effective date of this 2007 Act.

25 “SECTION 26. Section 25 of this 2007 Act is repealed January 2, 2026.

26
27 “PUBLIC PURPOSE CHARGE

28
29 “SECTION 27. ORS 757.612 is amended to read:

30 “757.612. (1) There is established an annual public purpose expenditure standard for electric
31 companies to fund new cost-effective local energy conservation, new market transformation efforts,
32 the above-market costs of new renewable energy resources and new low-income weatherization. The
33 public purpose expenditure standard shall be funded by the public purpose charge described in sub-
34 section (2) of this section.

35 “(2)(a) Beginning on the date an electric company offers direct access to its retail electricity
36 consumers, except residential electricity consumers, the electric company shall collect a public
37 purpose charge from all of the retail electricity consumers located within its service area [*for a*
38 *period of 10 years*] **until January 1, 2026**. Except as provided in paragraph (b) of this subsection,
39 the public purpose charge shall be equal to three percent of the total revenues collected by the
40 electric company or electricity service supplier from its retail electricity consumers for electricity
41 services, distribution, ancillary services, metering and billing, transition charges and other types of
42 costs included in electric rates on July 23, 1999.

43 “(b) For an aluminum plant that averages more than 100 average megawatts of electricity use
44 per year, beginning on March 1, 2002, the electric company whose territory abuts the greatest per-
45 centage of the site of the aluminum plant shall collect from the aluminum company a public purpose

1 charge equal to one percent of the total revenue from the sale of electricity services to the alumi-
2 num plant from any source.

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

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

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

8 “(B) Nineteen percent for the above-market costs of [*new renewable energy resources*] **con-**
9 **structing and operating new renewable energy resources with a nominal electric generating**
10 **capacity, as defined in ORS 469.300, of 20 megawatts or less.**

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

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

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

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

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

40 “(B) An education service district that receives funds under this paragraph shall use the funds
41 first to pay for energy audits for school districts located within the education service district. An
42 education service district may not expend additional funds received under this paragraph on a
43 school district facility until an energy audit has been completed for that school district. To the
44 extent practicable, an education service district shall coordinate with the State Department of En-
45 ergy and incorporate federal funding in complying with this paragraph. Following completion of an

1 energy audit for an individual school district, the education service district may expend funds re-
2 ceived under this paragraph to implement the energy audit. Once an energy audit has been con-
3 ducted and completely implemented for each school district within the education service district, the
4 education service district may expend funds received under this paragraph for any of the following
5 purposes:

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

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

10 “(iii) Energy conservation education programs.

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

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

19 “[g] *The commission shall remove from the rates of each electric company any costs for public*
20 *purposes described in subsection (1) of this section that are included in rates. A rate adjustment under*
21 *this paragraph shall be effective on the date that the electric company begins collecting public purpose*
22 *charges.*]

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

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

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

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

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

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

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

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

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

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

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

27 “(b) The total amount collected for low-income electric bill payment assistance under this sec-
28 tion shall be \$10 million per year. The commission shall determine each electric company’s propor-
29 tionate share of the total amount. The commission shall determine the amount to be collected from
30 a retail electricity consumer, except that a retail electricity consumer is not required to pay more
31 than \$500 per month per site for low-income electric bill payment assistance.

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

42 “(d) The Housing and Community Services Department, in consultation with the federal Advi-
43 sory Committee on Energy, shall determine the manner in which funds collected under this sub-
44 section will be allocated by the department to energy assistance program providers for the purpose
45 of providing low-income bill payment and crisis assistance, including programs that effectively re-

1 duce service disconnections and related costs to retail electricity consumers and electric utilities.
2 Priority assistance shall be directed to low-income electricity consumers who are in danger of hav-
3 ing their electricity service disconnected.

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

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

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

15 “**SECTION 28. The amendments to ORS 757.612 (3)(b)(B) by section 27 of this 2007 Act**
16 **become operative on January 1, 2008.**

17 “**SECTION 29.** ORS 757.687 is amended to read:

18 “757.687. (1) Beginning on the date a consumer-owned utility provides direct access to any class
19 of retail electric consumers, the consumer-owned utility shall collect from that consumer class a
20 nonbypassable public purpose charge [*for a period of 10 years*] **until January 1, 2026**. Except as
21 provided in subsection (8) of this section, the amount of the public purpose charge shall be sufficient
22 to produce revenue of not less than three percent of the total revenue collected by the consumer-
23 owned utility from its retail electricity consumers for electricity services, distribution, ancillary
24 services, metering and billing, transition charges and any other costs included in rates as of July
25 23, 1999, except that the consumer-owned utility may exclude from the calculation of such costs any
26 cost related to the public purposes described in subsection (5) of this section. If a consumer-owned
27 utility has fewer than 17 consumers per mile of distribution line, the amount of the public purpose
28 charge shall be sufficient to produce revenue not less than three percent of the total revenue from
29 the sale of electricity services in the utility’s service area to the consumer class that is provided
30 direct access, or the utility’s consumer class percentage share of state total electricity sales multi-
31 plied by three percent of total statewide retail electric revenue, whichever is less.

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

36 “(a) The manner for collecting public purpose charges;

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

38 “(c) The allocation of expenditures for each program.

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

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

45 “(5) Funds assessed and paid by, and credits or other financial assistance issued or extended to,

1 retail electric consumers for purposes of this section may, in the discretion of the governing body
2 of the consumer-owned utility, be expended to fund programs for energy conservation, renewable
3 resources or low-income energy services otherwise required by the laws of this state, adopted by the
4 governing body pursuant to the National Energy Conservation Policy Act (Public Law 95-619, as
5 amended November 10, 1981), or conducted by the utility pursuant to agreement with the Bonneville
6 Power Administration under the Pacific Northwest Electric Power Planning and Conservation Act
7 (Public Law 96-501). All such funds expended, credits issued and incremental costs incurred in con-
8 nection with the performance of a consumer-owned utility's obligations under this section shall be
9 credited toward the utility's public purpose funding obligation under this section.

10 "(6) A consumer-owned utility also may credit toward its funding obligations under this section
11 any incremental costs incurred by the utility for capital expenditures made to reduce its distribution
12 system energy losses, existing biomass gas and waste to energy systems, existing hydroelectric
13 generation projects using fish attraction water, for new energy conservation and renewable resource
14 funding costs included in its wholesale power supplier's charges and for electric power generated
15 by renewable or cogeneration resources pursuant to requirements of the Public Utilities Regulatory
16 Policy Act of 1978 (Public Law 95-617), to the extent that such costs exceed the average cost of the
17 utility's other electric power resources.

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

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

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

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

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

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

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

45 "(d)(A) A retail electricity consumer that uses more than one average megawatt of electricity

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

9 “(B) A retail electricity consumer shall be entitled each year to the credit described in this
10 paragraph unless a subsequent audit determines that new conservation investment opportunities are
11 available. The department may require that a new audit be performed on the site to determine
12 whether new conservation measures are available, provided that the audits occur no more than once
13 every two years.

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

15 “(10) A retail electricity consumer with a load greater than one average megawatt shall not be
16 required to pay a public purpose charge in excess of three percent of the consumer’s total cost of
17 electricity services unless the charge is established in an agreement between the consumer and the
18 consumer-owned utility.

19 “(11) Beginning on March 1, 2002, a consumer-owned utility shall have in operation a bill as-
20 sistance program for households that qualify for federal low-income energy assistance in the
21 consumer-owned utility’s service area. A consumer-owned utility shall report annually to the Hous-
22 ing and Community Services Department detailing the utility’s program and program expenditures.

23 “(12) A consumer-owned utility may require an electricity service supplier to provide informa-
24 tion necessary to ensure compliance with this section. The consumer-owned utility shall ensure the
25 privacy and protection of any proprietary information provided.

26 27 **“PEOPLE’S UTILITY DISTRICTS**

28
29 **“SECTION 30.** ORS 261.010 is amended to read:

30 “261.010. As used in this chapter, unless otherwise required by the context:

31 “(1) ‘Affected territory’ means that territory proposed to be formed into, annexed to or consol-
32 idated with a district.

33 “(2) ‘Board of directors,’ ‘directors’ or ‘board’ means the governing body of a people’s utility
34 district, elected and functioning under the provisions of this chapter.

35 “(3) ‘County governing body’ means either the county court or board of county commissioners
36 and, if the affected territory is composed of portions of two or more counties, the governing body
37 of that county having the greatest portion of the assessed value of all taxable property within the
38 affected territory, as shown by the most recent assessment roll of the counties.

39 “(4) ‘Electors’ petition’ means a petition addressed to the county governing body and filed with
40 the county clerk, containing the signatures of electors registered in the affected territory, equal to
41 not less than three percent of the total number of votes cast for all candidates for Governor within
42 the affected territory at the most recent election at which a candidate for Governor was elected to
43 a full term, setting forth and particularly describing the boundaries of the parcel of territory, sepa-
44 rate parcels of territory, city and district, or any of them, referred to therein, and requesting the
45 county governing body to call an election to be held within the boundaries of the parcel of territory,

1 separate parcels of territory, city and district, or any of them, for the formation of a district, the
2 annexation of a parcel of territory or a city to a district, or the consolidation of two or more dis-
3 tricts.

4 “(5) ‘Electric cooperative’ means a cooperative corporation owning and operating an electric
5 distribution system.

6 “(6) ‘Initial utility system’ means a complete operating utility system, including energy efficiency
7 measures and installations within the district or proposed district, capable of supplying the con-
8 sumers required to be served by the district at the time of acquisition or construction with all of
9 their existing water or electrical energy needs.

10 “(7) ‘Parcel of territory’ means a portion of unincorporated territory, or an area in a city com-
11 prised of less than the entire city.

12 “(8) ‘People’s utility district’ or ‘district’ means an incorporated people’s utility district, created
13 under the provisions of this chapter.

14 “(9) ‘Replacement value of unreimbursed investment’ means original cost new less depreciation
15 of capitalized energy efficiency measures and installations in the premises of customers of an in-
16 vestor owned utility.

17 “(10) ‘Separate parcel of territory’ means unincorporated territory that is not contiguous to
18 other territory that is a part of a district or that is described in a petition filed with the county
19 clerk in pursuance of the provisions of this chapter, but when a proposed district includes territory
20 in more than one county, the contiguous territory in each such county shall be considered as a
21 separate parcel of territory. When a proposed district includes any area in a city comprised of less
22 than the entire city, that area shall be considered as a separate parcel of territory.

23 “(11) ‘Utility’ means a plant, works or other property used for development, generation, storage,
24 distribution or transmission of [*electric energy produced from resources including, but not limited to,*
25 *hydroelectric, pump storage, wave, tidal, wind, solid waste, wood, straw or other fiber, coal or other*
26 *thermal generation, geothermal or solar resources*] **electricity**, or development or transmission of
27 water for domestic or municipal purposes, [*waterpower or electric energy,*] but transmission of water
28 shall not include water for irrigation or reclamation purposes, except as secondary to and when used
29 in conjunction with a hydroelectric plant.

30 “**SECTION 31.** ORS 261.030 is amended to read:

31 “261.030. Nothing contained in this chapter authorizes or empowers the board of directors of
32 any people’s utility district to interfere with or exercise any control over any existing utility owned
33 and operated by any electric cooperative or city in the district unless by consent of the governing
34 body of the electric cooperative or of the city council or the governing body of the plant owned by
35 a city, when the control of the plant is vested in a governing body other than the city council or
36 governing body of the city. However a district may participate fully with electric cooperatives and
37 utilities owned by cities **in common facilities under ORS 261.235 to 261.255 and** in the formation
38 and operation of joint operating agencies [*for electric power*] under ORS chapter 262.

39 “**SECTION 32.** ORS 261.050 is amended to read:

40 “261.050. (1) All property, real and personal, owned, used, operated or controlled by any people’s
41 utility district, in or for the production, transmission, distribution or furnishing of [*electric power or*
42 *energy*] **electricity** or electric service for or to the public, shall be assessed and taxed in the same
43 manner and for the same purposes, and the district and the directors and officers thereof shall be
44 subject to the same requirements, as are provided by law in respect to assessment and taxation of
45 similar property owned, used, operated or controlled by private corporations or individuals for the

1 purpose of furnishing [*electric power or energy*] **electricity** or electric service to the public.

2 “(2) **If a people’s utility district owns property jointly with a tax-exempt governmental**
3 **or municipal entity, only that portion of the property, or that proportion of the property**
4 **rights, directly owned, used, operated or controlled by the people’s utility district shall be**
5 **assessed and taxed pursuant to subsection (1) of this section.**

6 “**SECTION 33.** ORS 261.235 is amended to read:

7 “261.235. As used in ORS 261.235 to 261.255, unless the context requires otherwise:

8 “(1) ‘City’ means a city organized under the law of California, Idaho, Montana, Nevada, Oregon
9 or Washington and owning and operating an electric light and power system.

10 “(2) ‘Common facilities’ means any [*works and facilities necessary or incidental to*] **property used**
11 **for the generation, transmission, distribution or marketing of [*electric power*] electricity** and related
12 goods and [*commodities*] **services that are owned or operated jointly by a people’s utility dis-**
13 **trict organized under this chapter and at least one other city, district or electric**
14 **cooperative.**

15 “(3) ‘District’ means a people’s utility district organized under this chapter or a similar public
16 utility district organized under the law of California, Idaho, Montana, Nevada or Washington.

17 “(4) ‘Electric cooperative’ means a cooperative corporation organized under the law of
18 California, Idaho, Montana, Nevada, Oregon or Washington and owning and operating an electric
19 distribution system.

20 “**SECTION 34.** **Section 35 of this 2007 Act is added to and made a part of ORS 261.235 to**
21 **261.255.**

22 “**SECTION 35.** **A people’s utility district may become a member of an electric cooperative,**
23 **or of a limited liability company, for the purposes of planning, financing, constructing, ac-**
24 **quiring, operating, owning or maintaining property used for the generation, transmission,**
25 **distribution or marketing of electricity within or outside this state. A district may not be-**
26 **come a stockholder in, or lend the credit of the district to, an electric cooperative or a lim-**
27 **ited liability company.**

28 “**SECTION 36.** ORS 261.250 is amended to read:

29 “261.250. (1) In carrying out the powers granted in ORS 261.245 **and section 35 of this 2007**
30 **Act,** a district of this state [*shall be*] **is** liable only for its own acts with regard to the planning, fi-
31 nancing, construction, acquisition, operation, ownership or maintenance of common facilities. No
32 moneys or other contributions supplied by a district of this state for the planning, financing, con-
33 struction, acquisition, operation or maintenance of common facilities shall be credited or applied
34 otherwise to the account of any other participant in the common facilities.

35 “(2) A district shall not exercise its power of eminent domain to acquire a then existing thermal
36 power plant or any part thereof.

37 “**SECTION 37.** ORS 261.253 is amended to read:

38 “261.253. (1) [*No*] **A** public contract entered into by a noninvestor-owned electric utility [*shall*]
39 **may not** contain a clause or condition that imposes an unconditional and unlimited financial obli-
40 gation on the electric utility that is party to the contract unless the terms and conditions of the
41 contract are subject to approval and are approved by the electors of the people’s utility district or
42 city that owns the electric utility.

43 “(2) Nothing in subsection (1) of this section is intended to affect provisions of law requiring
44 approval of electors for any particular type of public contract that are in effect on October 15, 1983,
45 or that are later enacted.

1 “(3) Nothing in subsection (1) of this section is intended to conflict with ORS 279C.650 to
2 279C.670.

3 “(4) **This section does not apply to a public contract executed in connection with the ac-**
4 **quisition of renewable energy certificates or the acquisition, construction, improvement or**
5 **equipping of, or the financing of any interest in, a renewable energy facility or electrical**
6 **capacity.**

7 “[~~(4)~~] (5) As used in this section:

8 “(a) ‘Public contract’ includes a contract, note, general obligation bond or revenue bond by
9 which the people’s utility district or city or any subdivision of any of them is obligated to pay for
10 or finance the acquisition of goods, services, materials, real property or any interest therein, im-
11 provement, betterments or additions from any funds, including receipts from rates or charges as-
12 sessed to or collected from its customers.

13 “(b) ‘Unconditional and unlimited financial obligation’ means a public contract containing a
14 provision that the people’s utility district or city that is party to the contract is obligated to make
15 payments required by the contract whether or not the project to be undertaken thereunder is
16 undertaken, completed, operable or operating notwithstanding the suspension, interruption, inter-
17 ference, reduction or curtailment of the output or product of the project.

18 “**SECTION 38.** ORS 261.305 is amended to read:

19 “261.305. People’s utility districts shall have power:

20 “(1) To have perpetual succession.

21 “(2) To adopt a seal and alter it at pleasure.

22 “(3) To sue and be sued, to plead and be impleaded.

23 “(4) To acquire and hold, including by lease-purchase agreement, real and other property nec-
24 essary or incident to the business of the districts, within or without, or partly within or partly
25 without, the district, and to sell or dispose of that property; to acquire, develop and otherwise pro-
26 vide for a supply of water for domestic and municipal purposes, waterpower and electric energy, or
27 electric energy generated from any utility, and to distribute, sell and otherwise dispose of water,
28 waterpower and electric energy, within or without the territory of such districts.

29 “(5) **To acquire, own, trade, sell or otherwise transfer renewable energy certificates.**

30 “[~~(5)~~] (6) To exercise the power of eminent domain for the purpose of acquiring any property,
31 within or without the district, necessary for the carrying out of the provisions of this chapter.

32 “[~~(6)~~] (7) To borrow money and incur indebtedness; to issue, sell and assume evidences of
33 indebtedness; to refund and retire any indebtedness that may exist against or be assumed by the
34 district or that may exist against the revenues of the district and to pledge any part of its revenues.
35 Except as provided in ORS 261.355 and 261.380, no revenue or general obligation bonds shall be is-
36 sued or sold without the approval of the electors. The board of directors may borrow from banks
37 or other financial institutions[, *on notes payable within 12 months,*] such sums as the board of di-
38 rectors deems necessary or advisable; *however, the amounts so borrowed, together with the principal*
39 *amounts of other like borrowings then outstanding and unpaid, shall not exceed the amount that the*
40 *board of directors estimates as the district’s net income (determined in accordance with the system of*
41 *accounts maintained by the board pursuant to ORS 261.470) for the 12 full calendar months following*
42 *the date of the proposed borrowing, adjusted by adding to the net income an amount equal to the esti-*
43 *imated charges to depreciation for the 12-month period]. No indebtedness shall be incurred or assumed*
44 *except [on account of] for the development, purchase and operation of [a utility] electric utility*
45 **facilities or for the purchase of electricity, electrical capacity or renewable energy certif-**

1 **icates.**

2 “[(7) *To enter into rental or lease-purchase agreements to rent, lease or acquire real or personal*
3 *property, or both, required for district purposes. Except when approved by a majority of the electors*
4 *of the district voting on the question, a people’s utility district shall not enter into rental or leasing*
5 *agreements when the annual aggregate amount of payment for any and all property directly related to*
6 *a single transaction exceeds 10 percent of the revenues of the district in the preceding fiscal year.]*

7 “(8) **To exercise the powers otherwise granted to districts by ORS 271.390.**

8 “[8] (9) To levy and collect, or cause to be levied and collected, subject to constitutional lim-
9 itations, taxes for the purpose of carrying on the operations and paying the obligations of the dis-
10 trict as provided in this chapter.

11 “[9] (10) To make contracts, to employ labor and professional staff, to set wages in conform-
12 ance with ORS 261.345, to set salaries and provide compensation for services rendered by employees
13 and by directors, to provide for life insurance, hospitalization, disability, health and welfare and
14 retirement plans for employees, and to do all things necessary and convenient for full exercise of
15 the powers herein granted. The provision for life insurance, hospitalization, disability, health and
16 welfare and retirement plans for employees shall be in addition to any other authority of people’s
17 utility districts to participate in those plans and shall not repeal or modify any statutes except those
18 that may be in conflict with the provision for life insurance, hospitalization, disability, health and
19 welfare and retirement plans.

20 “[10] (11) To enter into contracts with **any person, any public or private corporation,** the
21 United States Government, [with] the State of Oregon, or with any other state, municipality or
22 utility district, and with any department of any of these, for carrying out any provisions of this
23 chapter.

24 “[11] (12) To enter into agreements with the State of Oregon or with any local governmental
25 unit, utility, special district or private or public corporation for the purpose of promoting economic
26 growth and the expansion or addition of business and industry within the territory of the people’s
27 utility district. Before spending district funds under such an agreement, the board of directors shall
28 enter on the written records of the district a brief statement that clearly indicates the purpose and
29 amount of any proposed expenditure under the agreement.

30 “[12] (13) To fix, maintain and collect rates and charges for any water, waterpower, [*electric*
31 *energy*] **electricity** or other commodity or service furnished, developed or sold by the district.

32 “[13] (14) To construct works across or along any street or public highway, or over any lands
33 which are property of this state, or any subdivision thereof, and to have the same rights and privi-
34 leges appertaining thereto as have been or may be granted to cities within the state, and to con-
35 struct its works across and along any stream of water or watercourse. Any works across or along
36 any state highway shall be constructed only with the permission of the Department of Transporta-
37 tion. Any works across or along any county highway shall be constructed only with the permission
38 of the appropriate county court. Any works across or along any city street shall be constructed only
39 with the permission of the city governing body and upon compliance with applicable city regulations
40 and payment of any fees called for under applicable franchise agreements, intergovernmental
41 agreements under ORS chapter 190 or contracts providing for payment of such fees. The district
42 shall restore any such street or highway to its former state as near as may be, and shall not use
43 the same in a manner unnecessarily to impair its usefulness.

44 “[14] (15) To elect a board of five directors to manage its affairs.

45 “[15] (16) To enter into franchise agreements with cities and pay fees under negotiated fran-

1 chise agreements, intergovernmental agreements under ORS chapter 190 and contracts providing for
2 the payment of such fees.

3 “[(16)] (17) To take any other actions necessary or convenient for the proper exercise of the
4 powers granted to a district by this chapter and by section 12, Article XI of the Oregon Constitu-
5 tion.

6 “**SECTION 39.** ORS 261.335 is amended to read:

7 “261.335. (1) **Except as provided in subsection (2) of this section,** people’s utility districts
8 are subject to the public contracting and purchasing requirements of ORS 279.835 to 279.855,
9 279C.005, 279C.100 to 279C.125 and 279C.300 to 279C.470 and ORS chapters 279A and 279B, except
10 ORS 279A.140 and 279A.250 to 279A.290.

11 “(2) **The public contracting and purchasing requirements of ORS 279.835 to 279.855,**
12 **279C.005, 279C.100 to 279C.125 and 279C.300 to 279C.470 and ORS chapters 279A and 279B do**
13 **not apply to contracts entered into by districts for the acquisition, construction, improve-**
14 **ment or equipping of a renewable energy facility or for the purchase or sale of electricity,**
15 **electrical capacity or renewable energy certificates.**

16 “**SECTION 40.** ORS 261.348 is amended to read:

17 “261.348. (1) Notwithstanding any other law, people’s utility districts and municipal electric
18 utilities may enter into transactions with other persons or entities for the production, supply or
19 delivery of electricity on an economic, dependable and cost-effective basis, including financial pro-
20 ducts contracts and other service contracts that reduce the risk of economic losses in the trans-
21 actions. This [section] **subsection** does not authorize any transaction that:

22 “[(1)] (a) Constitutes the investment of surplus funds for the purpose of receiving interest or
23 other earnings from the investment; or

24 “[(2)] (b) Is intended or useful for any purpose other than the production, supply or delivery of
25 electricity on a cost-effective basis.

26 “(2) **Nothing in subsection (1) of this section prohibits a people’s utility district or a**
27 **municipal electric utility from entering into any transaction for the acquisition, con-**
28 **struction, improvement or equipping of a renewable energy facility or for the purchase or**
29 **sale of electricity, electrical capacity or renewable energy certificates.**

30 “**SECTION 41.** ORS 261.355 is amended to read:

31 “261.355. (1) For the purpose of carrying into effect the powers granted in this chapter, any
32 district may issue and sell revenue bonds, when authorized by a majority of its electors voting at
33 any primary election, general election or special election.

34 “(2) All revenue bonds issued and sold under this chapter shall be so conditioned as to be paid
35 solely from that portion of the revenues derived [from] **by** the district [by] **from** the sale of water,
36 waterpower and [electric energy] **electricity,** or any of them, or any other service, commodity or
37 facility which may be produced, used or furnished in connection therewith, remaining after paying
38 from those revenues all expenses of operation and maintenance, including taxes.

39 “(3) Notwithstanding subsection (1) of this section and subject to subsection (4) of this section,
40 any district may, by a duly adopted resolution of its board, issue and sell revenue bonds for the
41 purpose of **financing** betterments and extensions [within the existing boundaries] of the district, **in-**
42 **cluding renewable energy facilities or the purchase or sale of electricity, electrical capacity**
43 **or renewable energy certificates,** but the amount of **revenue bonds** so issued shall be limited to
44 the reasonable value of the betterments and extensions plus an amount not to exceed 10 percent
45 thereof for administrative purposes. Revenue bonds shall not be issued and sold for the purpose of

1 acquiring an initial utility system or acquiring property or facilities owned by another entity that
2 provides electric utility service **unless:**

3 **“(a) The acquisition is a voluntary transaction between the district and the other entity**
4 **that provides electric utility service; or**

5 **“(b) [without first obtaining the affirmative vote of] The electors within the district have ap-**
6 **proved issuance of the bonds by a vote.**

7 **“(4) Not later than the 30th day prior to a board meeting at which adoption of a resolution**
8 **under subsection (3) of this section will be considered, the district shall:**

9 **“(a) Provide for and give public notice, reasonably calculated to give actual notice to interested**
10 **persons including news media which have requested notice, of the time and place of the meeting and**
11 **of the intent of the board to consider and possibly adopt the resolution; and**

12 **“(b) Mail to its customers notice of the time and place of the meeting and of the intent of the**
13 **board to consider and possibly adopt the resolution.**

14 **“(5) Except as provided in subsection (3)(a) of this section, any authorizing resolution**
15 **adopted for the purposes of subsection (3) of this section shall provide that electors residing within**
16 **the district may file a petition with the district asking to have the question of whether to issue such**
17 **bonds referred to a vote.**

18 **“(6) If within 60 days after adoption of a resolution under subsection (3) of this section the dis-**
19 **trict receives petitions containing valid signatures of not fewer than five percent of the electors of**
20 **the district, the question of issuing the bonds shall be placed on the ballot at the next date on which**
21 **a district election may be held under ORS 255.345 (1).**

22 **“(7) When petitions containing the number of signatures required under subsection (6) of this**
23 **section are filed with the district within 60 days after adoption of a resolution under subsection (3)**
24 **of this section, revenue bonds shall not be sold until the resolution is approved by a majority of the**
25 **electors of the district voting on the resolution.**

26 **“(8) Any district issuing revenue bonds may pledge that part of the revenue which the district**
27 **may derive from its operations as security for payment of principal and interest thereon remaining**
28 **after payment from such revenues of all expenses of operation and maintenance, including taxes, and**
29 **consistent with the other provisions of this chapter.**

30 **“(9) Prior to any district board taking formal action to issue and sell any revenue bonds, the**
31 **board shall have on file with the secretary of the district a certificate executed by a qualified en-**
32 **gineer that the net annual revenues of the district, including the property to be acquired or con-**
33 **structed with the proceeds of the bonds, shall be sufficient to pay the maximum amount that will**
34 **be due in any one fiscal year for both principal of and interest on both the bonds then proposed to**
35 **be issued and all bonds of the district then outstanding.**

36 **“(10) Except as provided in subsection (3)(a) of this section, the district shall order an**
37 **election for the authorization of revenue bonds to finance the acquisition or construction of an ini-**
38 **tial utility system, including the replacement value of the unreimbursed investment of an investor**
39 **owned utility in energy efficiency measures and installations within the proposed district, as early**
40 **as practicable under ORS 255.345 after filing the certificate required under subsection (9) of this**
41 **section. An election under this subsection shall be held no more than twice in any one calendar year**
42 **for any district. In even-numbered years no election shall be held on any other date than the date**
43 **of the primary election or general election.**

44 **“SECTION 42. ORS 262.005 is amended to read:**

45 **“262.005. As used in ORS 262.015 to 262.105, unless the context requires otherwise:**

1 “(1) ‘Electric cooperative’ means a cooperative corporation owning and operating an electric
2 distribution system.

3 “(2) ‘Joint operating agency’ means an agency organized by three or more cities or people’s
4 utility districts under the laws of this state for the purposes and according to ORS 262.005 to
5 262.105.

6 “(3) ‘Privately owned electric utility company’ means an electric utility operated for profit and
7 subject to regulation by the Public Utility Commission of Oregon or the equivalent officer or com-
8 mission of any other state.

9 “(4) ‘Utility properties’ means [*plants, systems and facilities, and any enlargement or extension*
10 *thereof, used for or incidental to the generation and transmission of electric power and energy,*] **a**
11 **plant, works or other property used for development, generation, storage, distribution or**
12 **transmission of electricity.** [*provided, however, that it shall not mean*] ‘Utility properties’ **does**
13 **not include** facilities for uranium refining, processing or reprocessing.

14 “**SECTION 43.** ORS 262.015 is amended to read:

15 “262.015. (1) Any three or more cities or people’s utility districts or combinations thereof, or-
16 ganized under the laws of this state, may form a joint operating agency to plan, acquire, construct,
17 own, operate and otherwise promote the development of utility properties [*in this state*] for the
18 generation, [*and*] transmission **and marketing** of [*electric power and energy*] **electricity, electrical**
19 **capacity or renewable energy certificates.**

20 “(2) A joint operating agency may participate with other publicly owned utilities, including
21 other joint operating agencies, or with electric cooperatives, or with privately owned electric utility
22 companies, or with any combination thereof, for any purpose set forth in subsection (1) of this sec-
23 tion, whether such agencies or utilities are organized or incorporated under the laws of this state
24 or any other jurisdiction. However, no joint operating agency may act alone or as the managing
25 participant to acquire, construct, own or operate utility properties[, *nor may a joint operating agency*
26 *own more than 50 percent of any utility property, except combustion turbines*].

27 “(3) Joint operating agencies, cities, people’s utility districts and privately owned utilities, or
28 combinations thereof, may participate in joint ownership of [*thermal generation and transmission*]
29 **common** facilities in accordance with ORS 225.450 to 225.490 or 261.235 to 261.255.

30 “**SECTION 44.** ORS 262.075 is amended to read:

31 “262.075. (1) Each joint operating agency shall be a political subdivision of the State of Oregon,
32 and shall be a municipal corporation with the right to sue and be sued in its own name. Except as
33 otherwise provided, a joint operating agency shall have all the powers, rights, privileges and ex-
34 emptions conferred on people’s utility districts.

35 “(2) A joint operating agency shall have the power to acquire, hold, sell and dispose of real and
36 other property, within or without this state, which the board of directors in its discretion finds
37 reasonably necessary or incident to the generation, [*and*] transmission **and marketing** of [*electric*
38 *power and energy*] **electricity, electrical capacity or renewable energy certificates.** However,
39 such an agency shall not acquire or operate any facilities for the distribution of [*electric energy*]
40 **electricity.**

41 “(3) A joint operating agency shall have the power of eminent domain which it may exercise for
42 the purpose of acquiring property; however, a joint operating agency shall not condemn any prop-
43 erties owned by a publicly or privately owned utility which are being used for the generation or
44 transmission of [*electric energy or power*] **electricity** or are being developed for such purposes with
45 due diligence, except to acquire a right of way to cross such properties in a manner which will not

1 interfere with the use thereof by the owner.

2 “(4) A joint operating agency shall have the power to enter into contracts, leases and other
3 undertakings considered necessary or proper by its board, including but not limited to contracts for
4 any term relating to the purchase, sale, interchange, assignment, allocation, transfer or wheeling
5 of power with the Government of the United States, or any agency thereof, and with any other
6 municipal corporation or privately owned utility, or any combination thereof, within or without the
7 state, and may purchase, deliver or receive power anywhere.

8 “(5) A joint operating agency shall have the power to borrow money and incur indebtedness, to
9 issue, sell and assume evidences of indebtedness, to refund and retire any indebtedness that may
10 exist against the agency or its revenues, and to pledge any part of its revenues. A joint operating
11 agency may borrow from banks or other financial institutions such sums on such terms as the board
12 considers necessary or advisable. A joint operating agency may also issue, sell and assume bond
13 anticipation notes, refunding bond anticipation notes, or their equivalent, which shall bear such date
14 or dates, mature at such time or times, be in such denominations and in such form, be payable in
15 such medium, at such place or places, and be subject to such terms of redemption, as the board
16 considers necessary or advisable. The issuance and sale of revenue obligations by a joint operating
17 agency shall be governed by ORS 262.085.

18 “(6) The joint operating agency may apply for, accept, receive and expend appropriations,
19 grants, loans, gifts, bequests and devises in carrying out its functions as provided by law.

20
21 **“COST RECOVERY FOR CONSERVATION MEASURES**

22
23 **“SECTION 45. Section 46 of this 2007 Act is added to and made a part of ORS 757.600 to**
24 **757.687.**

25 **“SECTION 46. (1) In addition to the public purpose charge established by ORS 757.612, the**
26 **Public Utility Commission may authorize an electric company to include in its rates the costs**
27 **of funding or implementing cost-effective energy conservation measures implemented on or**
28 **after the effective date of this 2007 Act. The costs may include amounts for weatherization**
29 **programs that conserve energy.**

30 **“(2) The commission shall ensure that a retail electricity consumer with a load greater**
31 **than one average megawatt:**

32 **“(a) Is not required to pay an amount that is more than three percent of the consumer’s**
33 **total cost of electricity service for the public purpose charge under ORS 757.612 and any**
34 **amounts included in rates under this section; and**

35 **“(b) Does not receive any direct benefit from energy conservation measures if the costs**
36 **of the measures are included in rates under this section.**

37
38 **“MISCELLANEOUS**

39
40 **“SECTION 47. The unit and section captions used in this 2007 Act are provided only for**
41 **the convenience of the reader and do not become part of the statutory law of this state or**
42 **express any legislative intent in the enactment of this 2007 Act.**

43 **“SECTION 48. This 2007 Act being necessary for the immediate preservation of the public**
44 **peace, health and safety, an emergency is declared to exist, and this 2007 Act takes effect**
45 **on its passage.”.**

