

Senate Bill 952

Sponsored by Senator AVAKIAN

SUMMARY

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

Requires authorized state agencies to meet LEED Green Building Rating System standards and energy reduction mandates set forth in State Department of Energy rules for renovations to state facilities.

Requires authorized state agencies to conduct study by January 1, 2009, to determine feasibility of energy savings performance contracts as method of meeting energy use reduction targets in state facilities. Requires authorized state agencies to issue requests for proposals for renovations by September 30, 2009, if energy savings performance contract for renovation is feasible. Requires authorized state agency to adopt rules to prequalify persons that desire to submit proposals for renovations.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to energy use by state agencies; creating new provisions; amending ORS 276.905 and
3 276.915; and declaring an emergency.

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

5 **SECTION 1.** ORS 276.905 is amended to read:

6 276.905. As used in ORS 276.900 to 276.915[, *unless the context requires otherwise*]:

7 (1) "Alternative energy system" means solar, wind, geothermal, heat recovery or other systems
8 [*which*] **that** use a renewable resource and are environmentally sound.

9 (2) "Authorized state agency" means [*any*] a state agency, board, commission, department or
10 division that is authorized to finance the construction, purchase or renovation of buildings or other
11 structures to be used by the State of Oregon.

12 (3) "Cost-effective" means that an energy resource, facility or conservation measure during
13 [*its*] **the life cycle of the energy resource, facility or conservation measure** results in delivered
14 power costs to the ultimate consumer no greater than the comparable incremental cost of the least
15 cost alternative new energy resource, facility or conservation measure. **A cost comparison [*shall*]**
16 **between delivered power costs and the incremental cost of an energy resource, facility or**
17 **conservation measure must** include, but need not be limited to:

18 (a) Cost escalations and future availability of fuels;

19 (b) Waste disposal and decommissioning costs;

20 (c) Transmission and distribution costs;

21 (d) Geographic, climatic and other differences in the state; and

22 (e) Environmental impact.

23 (4) "Energy conservation measure" means a measure primarily designed to reduce the use of
24 nonrenewable energy resources in a state-owned facility.

25 (5) "Energy consumption analysis" means the evaluation of all energy systems and components
26 by demand and type of energy including the internal energy load imposed on a major facility by its
27 occupants, equipment and components and the external energy load imposed on a major facility by

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 the climatic conditions of its location. "Energy consumption analysis" includes, but is not limited
2 to:

3 (a) The comparison of a range of alternatives that is likely to include all reasonable, cost-
4 effective energy conservation measures and alternative energy systems;

5 (b) The simulation of each system over the entire range of operation of a major facility for a
6 year's operating period;

7 (c) The evaluation of energy consumption of component equipment in each system considering
8 the operation of such components at other than full or rated outputs; and

9 (d) The consideration of alternative energy systems.

10 (6) "Energy systems" means all utilities, including but not limited to heating, air conditioning,
11 ventilating, lighting and the supply of domestic hot water.

12 (7) **"Facility" means a building owned by the state or occupied by or under the control**
13 **of an authorized state agency.**

14 (8) **"LEED Green Building Rating System" means the Leadership in Energy and Envi-**
15 **ronmental Design rating system developed and adopted by the United States Green Building**
16 **Council for measuring, evaluating and certifying a building's energy and environmental per-**
17 **formance.**

18 [(7)] (9) "Major facility" means any state-owned building having 10,000 square feet or more of
19 usable floor space.

20 [(8)] (10) "Renovation" means any addition to, alteration of or repair of a facility [*which will*
21 *involve*] **that involves** addition to or alteration of the facility's energy systems[, *provided that the*
22 *affected energy systems account for 50 percent or more of the facility's total energy use*].

23 **SECTION 2.** ORS 276.915 is amended to read:

24 276.915. (1) An authorized state agency may construct or renovate a facility only if the author-
25 ized state agency determines that the design incorporates all reasonable cost-effective energy con-
26 servation measures and alternative energy systems **and that the construction or renovation**
27 **contributes to the authorized state agency's meeting the mandates set forth in rules adopted**
28 **by the State Department of Energy under subsection (3)(e) of this section.** The determination
29 by the authorized state agency shall include consideration of indoor air quality issues and operation
30 and maintenance costs.

31 (2) Whenever an authorized state agency determines that any major facility is to be constructed
32 or renovated the agency shall cause to be included in the design phase of the construction or ren-
33 ovation a provision that requires an energy consumption analysis identifying all reasonable cost-
34 effective energy conservation measures and alternative energy systems to be prepared for the
35 facility under the direction of a professional engineer or licensed architect. The authorized agency
36 and the State Department of Energy shall agree to the list of energy conservation measures and
37 alternative energy systems to be analyzed. The analysis and facility design shall be delivered to the
38 State Department of Energy during the design development phase of the facility design. The State
39 Department of Energy shall review the analysis and forward its findings to the authorized state
40 agency within 10 working days after receiving the analysis, if practicable.

41 (3) The State Department of Energy, in consultation with the Oregon Department of Adminis-
42 trative Services and the Oregon University System, shall adopt rules to carry out the provisions of
43 ORS 276.900 to 276.915. These rules shall:

44 (a) Include a simplified and usable method for determining which energy conservation measures
45 and alternative energy systems are cost-effective. The method shall reflect the energy costs of the

1 utility serving the facility.

2 (b) Prescribe procedures for determining if a facility design incorporates all reasonable cost-
3 effective energy conservation measures and alternative energy systems.

4 (c) Establish fees through which an authorized state agency will reimburse the State Department
5 of Energy for *[its]* **the department's** review of energy consumption analyses and facility designs and
6 *[its]* **the department's** reporting tasks. Such fees imposed *[shall]* **may** not exceed 0.2 percent of the
7 capital construction cost of the facility. The fees shall be included in the energy consumption anal-
8 ysis required in subsection (2) of this section. The State Department of Energy may provide for a
9 waiver of fees and reviews if the authorized state agency demonstrates that the facility will be de-
10 signed and constructed in a manner that incorporates only cost-effective energy conservation meas-
11 ures or in a manner that exceeds the energy conservation provisions of the state building code by
12 20 percent or more.

13 (d) Periodically define highly efficient facilities. A facility constructed or renovated after June
14 30, 2001, shall exceed the energy conservation provisions of the state building code by 20 percent
15 or more, unless otherwise required by rules adopted under this section.

16 (e) Require an authorized state agency to:

17 (A) Reduce **by June 30, 2020**, the amount of use of nonrenewable energy by at least *[10]* **20**
18 percent from the amount used by the **authorized** state agency in the 2000 calendar year[. *The State*
19 *Department of Energy shall*]; **and**

20 (B) **Establish standards for measuring, evaluating and certifying a facility's energy and**
21 **environmental performance that are equivalent to or more stringent than LEED Green**
22 **Building Rating System standards and require the authorized state agency to meet the es-**
23 **tablished standards in constructing or renovating a facility.**

24 (f) Require state agencies that fail to achieve and maintain a *[10-percent]* **20 percent** reduction
25 on and after June 30, *[2003]* **2020**, to submit biennial energy conservation plans to the State De-
26 partment of Energy. The State Department of Energy shall specify the form and content of the en-
27 ergy conservation plans.

28 (4) The State Department of Energy, the Oregon Department of Administrative Services and the
29 Oregon University System shall jointly prepare a biennial report summarizing the progress toward
30 achieving the goals of this section. The biennial report shall be made available to the public.

31 **SECTION 3. As used in sections 3 to 6 of this 2007 Act:**

32 (1) "Authorized state agency" has the meaning given that term in ORS 276.905.

33 (2) "Energy conservation measure" has the meaning given that term in ORS 276.905.

34 (3) "Energy savings performance contract" has the meaning given that term in ORS
35 **279A.010.**

36 (4) "Energy use reduction target" means a specific goal for reducing consumption of
37 nonrenewable energy resources in a facility, expressed as a percentage reduction from en-
38 ergy consumption in the facility during the year 2000.

39 (5) "Facility" has the meaning given that term in ORS 276.905.

40 (6) "Renovation" has the meaning given that term in ORS 276.905.

41 **SECTION 4. Each authorized state agency shall conduct a study by January 1, 2009, to**
42 **determine the feasibility of using energy savings performance contracts to finance reno-**
43 **ventions to the authorized state agency's facilities. For purposes of this section, an energy**
44 **savings performance contract is feasible if the contract will provide one or more of the fol-**
45 **lowing benefits to the authorized state agency:**

1 (1) The contract will help to reduce the need for an outlay of public funds to finance the
2 anticipated renovations. The study may investigate the degree to which cost reimbursement
3 pricing mechanisms, phased project implementation and energy cost savings may combine
4 to reduce expenditures of public funds for renovations.

5 (2) The contract will include an energy savings guarantee that the reduction in energy
6 consumption resulting from the renovation will amount to 20 percent or more.

7 (3) The contract will enable the authorized state agency to finance the cost of energy
8 conservation measures installed in or added to a facility during the renovation through en-
9 ergy savings realized over the life cycle of the energy conservation measure.

10 (4) The contract will enable the authorized state agency to meet or contribute signif-
11 icantly to the authorized state agency's ability to meet an energy use reduction target of at
12 least 20 percent.

13 (5) The contract reasonably may be anticipated to bring the authorized state agency
14 other benefits required by the model rules adopted under ORS 279A.065 for energy savings
15 performance contracts.

16 **SECTION 5.** (1) Each authorized state agency shall issue a request for proposals by Sep-
17 tember 30, 2009, for renovations to one or more of the authorized state agency's existing
18 facilities, the combined effect of which will enable the authorized state agency to meet an
19 energy use reduction target of 20 percent by June 30, 2020.

20 (2) Notwithstanding subsection (1) of this section, an authorized state agency shall issue
21 a request for proposals by September 30, 2009, only in those instances when a study con-
22 ducted under section 4 of this 2007 Act has determined that the authorized state agency may
23 renovate a facility under the terms of a feasible energy savings performance contract.

24 **SECTION 6.** (1) An authorized state agency by rule shall prequalify persons that desire
25 to submit proposals for renovations conducted under ORS 276.900 to 276.915.

26 (2) Notwithstanding the requirement under ORS 279C.430 (2) that the authorized state
27 agency make a determination as to whether a person is qualified only under applicable
28 standards of responsibility listed in ORS 279C.375 (3)(b), in determining a person's qualifica-
29 tions for submitting a proposal in response to a request for proposals issued under section
30 5 of this 2007 Act, an authorized state agency may also make a determination on the basis
31 of the following criteria:

32 (a) The person must have experience with energy savings performance contracts and
33 must have the technical expertise necessary to perform all elements and phases of work
34 under an energy savings performance contract;

35 (b) The person is not disqualified under ORS 279C.440;

36 (c) The person does not have any civil judgments pending against the person; and

37 (d) The person has paid the prevailing wage rate determined under ORS 279C.800 to
38 279C.870 for all public works contracts to which the person has been a party in this state and
39 has agreed to pay the prevailing wage rate under any energy savings performance contract
40 for a public works that results from a successful proposal in response to a request for pro-
41 posals issued under section 5 of this 2007 Act.

42 **SECTION 7.** (1) Sections 3 to 6 of this 2007 Act and the amendments to ORS 276.905 and
43 276.915 by sections 1 and 2 of this 2007 Act apply to authorized state agencies on and after
44 the operative date of sections 3 to 6 of this 2007 Act.

45 (2) Sections 3 to 6 of this 2007 Act and the amendments to ORS 276.905 and 276.915 by

1 sections 1 and 2 of this 2007 Act become operative January 1, 2008.

2 (3) Notwithstanding subsection (1) of this section, sections 3 to 6 of this 2007 Act and the
3 amendments to ORS 276.905 and 276.915 by sections 1 and 2 of this 2007 Act do not apply to
4 contracts first advertised or, if not advertised, entered into before the operative date of
5 sections 3 to 6 of this 2007 Act.

6 SECTION 8. This 2007 Act being necessary for the immediate preservation of the public
7 peace, health and safety, an emergency is declared to exist, and this 2007 Act takes effect
8 on its passage.

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