

B-Engrossed House Bill 3612

Ordered by the Senate February 20
Including House Amendments dated February 13 and Senate Amendments
dated February 20

Sponsored by COMMITTEE ON ELECTIONS, ETHICS AND RULES (at the request of House Interim Committee
on Energy and the Environment)

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.

Requires state agency authorized to finance construction, purchase or renovation of facility used by state to require energy consumption analysis to be prepared by person prequalified to perform work for agency. **Requires State Department of Energy to adopt rules that establish guidelines for incorporating energy efficiency requirements into certain lease agreements, guidelines for implementing 20 percent reduction in energy use by 2015 in facilities agency owns and criteria for prequalification of persons that perform certain energy management work.**

Requires agency to reduce energy use in facility agency owns by 20 percent by 2015. Requires agency to report annually to [State Department of Energy] **department** concerning energy use. Requires agency that fails to reduce energy use to submit biennial energy conservation plan to department.

Authorizes department to require prequalification as condition for person **other than licensed professional engineer or architect** to submit bid or proposal [for certain services related to meeting energy reduction requirement] **to perform certain work related to operation and management of facility's energy systems.** Allows department to recover certain costs from agency.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to state agency energy use; creating new provisions; amending ORS 276.900, 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 276.900 is amended to read:

6 276.900. It is the policy of the State of Oregon that facilities to be constructed or purchased by
7 authorized state agencies be designed, constructed, renovated and operated so as to minimize the
8 use of [nonrenewable] energy resources and to serve as models of energy efficiency.

9 **SECTION 2.** ORS 276.905 is amended to read:

10 276.905. As used in ORS 276.900 to 276.915, unless the context requires otherwise:

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

13 (1) "Alternative energy system" means an environmentally sound energy system that
14 uses power derived from renewable resources including, but not limited to, the sun, wind,
15 geothermal sources and heat recovery.

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

19 (3) "Cost-effective" means that an energy resource, facility or conservation measure during its

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 life cycle results in delivered power costs to the ultimate consumer no greater than the comparable
2 incremental cost of the least cost alternative new energy resource, facility or conservation measure.

3 Cost comparison shall include, but need not be limited to:

- 4 (a) Cost escalations and future availability of fuels;
- 5 (b) Waste disposal and decommissioning costs;
- 6 (c) Transmission and distribution costs;
- 7 (d) Geographic, climatic and other differences in the state; and
- 8 (e) Environmental impact.

9 (4) "Energy conservation measure" means a measure primarily designed to reduce the use of
10 *[nonrenewable]* energy resources in a *[state-owned]* facility.

11 (5) "Energy consumption analysis" means the evaluation of all energy systems and components
12 by demand and type of energy including the internal energy load imposed on a major facility by its
13 occupants, equipment and components and the external energy load imposed on a major facility by
14 the climatic conditions of its location. "Energy consumption analysis" includes, but is not limited
15 to:

- 16 (a) The comparison of a range of alternatives that is likely to include all reasonable, cost-
17 effective energy conservation measures and alternative energy systems;
- 18 (b) The simulation of each system over the entire range of operation of a major facility for a
19 year's operating period;
- 20 (c) The evaluation of energy consumption of component equipment in each system considering
21 the operation of such components at other than full or rated outputs; and
- 22 (d) The consideration of alternative energy systems.

23 **(6) "Energy savings performance contract" has the meaning given that term in ORS**
24 **279A.010.**

25 *[(6)]* (7) "Energy systems" means all utilities, including but not limited to heating, *[air condi-*
26 *tioning, ventilating,]* **cooling, ventilation,** lighting and the supply of domestic hot water.

27 **(8) "Facility" means a building or other structure owned or controlled by an authorized**
28 **state agency that is used or occupied by employees of the authorized state agency or that**
29 **is used for conducting public business.**

30 *[(7)]* (9) "Major facility" means *[any state-owned building having]* **a facility that has** 10,000
31 square feet or more of usable floor space.

32 *[(8)]* (10) "Renovation" means *[any]* **an** addition to, alteration of or repair of a facility *[which*
33 *will involve addition to or alteration of]* **that adds to or alters** the facility's energy systems, pro-
34 vided that the affected energy systems account for 50 percent or more of the facility's total energy
35 use.

36 **SECTION 3.** ORS 276.915 is amended to read:

37 276.915. (1) An authorized state agency may construct or renovate a facility only if the author-
38 ized state agency determines that the design incorporates all reasonable cost-effective energy con-
39 servation measures and alternative energy systems. The determination by the authorized state
40 agency shall include consideration of indoor air quality issues and operation and maintenance costs.

41 (2) Whenever an authorized state agency determines that *[any]* **a** major facility is to be con-
42 structed or renovated, the **authorized state** agency shall cause to be included in the design phase
43 of the construction or renovation a provision that requires an energy consumption analysis *[identi-*
44 *fying all reasonable cost-effective energy conservation measures and alternative energy systems]* to be
45 prepared for the facility under the direction of a professional engineer or licensed architect **or un-**

1 **der the direction of a person that is prequalified in accordance with this section.** The author-
 2 ized **state** agency and the State Department of Energy shall agree to the list of energy conservation
 3 measures and alternative energy systems *[to be analyzed]* **that the energy consumption analysis**
 4 **will include.** The **energy consumption** analysis and facility design shall be delivered to the State
 5 Department of Energy during the design development phase of the facility design. The State De-
 6 partment of Energy shall review the **energy consumption** analysis and forward its findings to the
 7 authorized state agency within 10 working days after receiving the **energy consumption** analysis,
 8 if practicable.

9 (3) The State Department of Energy, in consultation with *[the Oregon Department of Adminis-*
 10 *trative Services and the Oregon University System]* **authorized state agencies**, shall adopt rules to
 11 carry out the provisions of ORS 276.900 to 276.915. These rules shall:

12 (a) Include a simplified and usable method for determining which energy conservation measures
 13 and alternative energy systems are cost-effective. The method shall reflect the energy costs of the
 14 utility serving the facility.

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

17 (c) Establish fees through which an authorized state agency will reimburse the State Department
 18 of Energy for *[its]* **the department's** review of energy consumption analyses and facility designs and
 19 *[its]* **the department's** reporting tasks. *[Such]* **The** fees imposed *[shall]* **may** not exceed 0.2 percent
 20 of the capital construction cost of the facility. *[The fees shall]* **and must** be included in the energy
 21 consumption analysis required in subsection (2) of this section. The State Department of Energy may
 22 provide for a waiver of fees and reviews if the authorized state agency demonstrates that the facility
 23 will be designed and constructed in a manner that incorporates only cost-effective energy conser-
 24 vation measures or in a manner that exceeds the energy conservation provisions of the state build-
 25 ing code by 20 percent or more.

26 (d) Periodically define highly efficient facilities. A facility constructed or renovated after June
 27 30, 2001, shall exceed the energy conservation provisions of the state building code by 20 percent
 28 or more, unless otherwise required by rules adopted under this section.

29 *[(e) Require an authorized state agency to reduce the amount of use of nonrenewable energy by at*
 30 *least 10 percent from the amount used by the state agency in the 2000 calendar year.]*

31 **(e) Establish guidelines for implementing subsection (4) of this section.**

32 **(f) Establish guidelines for incorporating energy efficiency requirements into lease**
 33 **agreements of 10 or more years to be phased in as current lease agreements expire or as**
 34 **new lease agreements are entered into, allowing reasonable time for the owner to implement**
 35 **the requirements of this section.**

36 **(g) Establish criteria by which the State Department of Energy determines that a person**
 37 **is prequalified to perform work in accordance with this section.**

38 **(4) Before June 30, 2015, an authorized state agency shall reduce the total amount of**
 39 **energy the authorized state agency uses in the authorized state agency's owned facilities by**
 40 **at least 20 percent from a baseline amount the State Department of Energy determines by**
 41 **rule based on usage in calendar year 2000.**

42 **(5) An authorized state agency shall report annually to the State Department of Energy**
 43 **concerning energy use in the authorized state agency's facilities. The State Department of**
 44 **Energy shall specify by rule the form and content of and deadlines for the reports.**

45 **(6) [The State Department of Energy shall require state agencies] An authorized state agency**

1 that *[fail]* **fails** to achieve and maintain a *[10 percent reduction on and after June 30, 2003,]* **20 per-**
2 **cent reduction in energy use on and after June 30, 2015, shall** *[to]* submit biennial energy con-
3 servation plans to the State Department of Energy. The State Department of Energy shall specify
4 **by rule** the form and content of **and deadlines for** the energy conservation plans.

5 **(7) The State Department of Energy by rule may require mandatory prequalification as**
6 **a condition for a person to submit a bid or proposal to perform the following work for an**
7 **authorized state agency:**

8 **(a) Direct an energy consumption analysis for an authorized state agency under sub-**
9 **section (2) of this section, unless the person is a licensed professional engineer or architect;**

10 **(b) Enter into an energy savings performance contract; or**

11 **(c) Perform energy audits, building commissioning, monitoring and verification services**
12 **and other services related to the operation and management of a facility's energy systems,**
13 **except for architectural, engineering and land surveying services as defined in ORS 279C.100.**

14 **(8) The State Department of Energy may recover from authorized state agencies the**
15 **costs associated with administering the provisions of this section, including costs associated**
16 **with adopting rules, maintaining a state energy use database and prequalifying a person un-**
17 **der this section.**

18 *[(4)]* **(9) The State Department of Energy, the Oregon Department of Administrative Services and**
19 **the Oregon University System shall jointly prepare a biennial report summarizing the progress to-**
20 **ward achieving the goals of this section. The biennial report shall be made available to the public.**

21 **SECTION 4. (1) The amendments to ORS 276.900, 276.905 and 276.915 by sections 1 to 3**
22 **of this 2008 Act become operative 90 days following the effective date of this 2008 Act.**

23 **(2) The Director of the State Department of Energy may take any action before the op-**
24 **erative date set forth in subsection (1) of this section that is necessary to enable the director**
25 **to exercise, on and after the operative date, all the duties, functions and powers conferred**
26 **on the director by the amendments to ORS 276.900, 276.905 and 276.915 by sections 1 to 3 of**
27 **this 2008 Act.**

28 **SECTION 5. This 2008 Act being necessary for the immediate preservation of the public**
29 **peace, health and safety, an emergency is declared to exist, and this 2008 Act takes effect**
30 **on its passage.**

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