

House Bill 2254

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of Governor Theodore R. Kulongoski for Housing and Community Services Department)

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**.

Gives Housing and Community Services Department policy-making authority for disbursement of Housing Development and Guarantee Account revenue earnings and moneys appropriated from Housing and Community Services Department Electricity Public Purpose Charge Fund. Eliminates interest rate formula for loans from account revenues. Allows department to set interest rate on loans made from account revenues and fund assistance moneys based on factors specific to project.

A BILL FOR AN ACT

1
2 Relating to provision of financial assistance by the Housing and Community Services Department;
3 creating new provisions; and amending ORS 456.587, 458.625, 458.655 and 757.612.

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

5 **SECTION 1.** ORS 456.587 is amended to read:

6 456.587. (1) The Housing and Community Services Department Electricity Public Purpose Charge
7 Fund is established in the State Treasury, separate and distinct from the General Fund. Interest
8 earned by the Housing and Community Services Department Electricity Public Purpose Charge Fund
9 shall be credited to the fund. Moneys in the fund are continuously appropriated to the Housing and
10 Community Services Department to be used for purposes specified in ORS [757.612 (3)(b)(D)] **458.625**
11 **(2).**

12 (2) The Housing and Community Services Department Low-Income Electric Bill Payment As-
13 sistance Fund is established in the State Treasury, separate and distinct from the General Fund.
14 Interest earned by the Housing and Community Services Department Low-Income Electric Bill Pay-
15 ment Assistance Fund shall be credited to the fund. Moneys in the fund are continuously appropri-
16 ated to the Housing and Community Services Department for purposes described in ORS 757.612 (7).

17 **SECTION 2.** ORS 458.625 is amended to read:

18 458.625. (1) The Housing and Community Services Department may disburse the revenue earned
19 from investment of the principal in the Housing Development and Guarantee Account **and moneys**
20 **from the Housing and Community Services Department Electricity Public Purpose Charge**
21 **Fund** to expand this state's supply of [*housing for*] low and very low income [*families and*
22 *individuals*] **housing**, including, but not limited to, housing for persons over 65 years of age, persons
23 with disabilities, farmworkers and Native Americans. [*The State Housing Council shall have a policy*
24 *that provides for distribution by the department of account investment revenue disbursements statewide*
25 *while concentrating account investment revenue disbursements in those areas of the state with the*
26 *greatest need for low and very low income housing, as determined by the council.*] **Notwithstanding**
27 **ORS 456.555 (5), the department shall establish a housing policy for distributing the account**
28 **investment revenue and fund moneys on a statewide basis while concentrating the disburse-**
29 **ments in areas of the state that have the greatest need for low and very low income housing.**

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 (2) **Subject to subsection (4) of this section**, the department may disburse **the** account in-
 2 vestment revenue **and fund moneys**, in the form of grants or loans as determined by the depart-
 3 ment, for any or all of the following purposes:

4 [(a) *To organizations as defined in ORS 458.610 and to for-profit business entities to construct new*
 5 *housing or to acquire or rehabilitate existing structures, or both, for housing for persons of low or very*
 6 *low income, or both;*]

7 **(a) Providing for organizations or for-profit business entities to construct, acquire or**
 8 **rehabilitate structures to produce low or very low income housing.**

9 (b) *[To provide]* **Providing** nonprofit organizations, as set forth in ORS 458.210 to 458.240, **with**
 10 technical *[assistance]* or predevelopment costs **assistance**, or both. Predevelopment costs include,
 11 but are not limited to, site acquisition, architectural services and project consultants. Predevelop-
 12 ment costs do not include costs described in paragraph (c) of this subsection.*[:]*

13 (c) *[For costs to develop]* **Developing** nonprofit organizations that show sufficient evidence of
 14 having strong community support and a strong likelihood of producing low or very low income
 15 housing. Account investment revenue **or fund moneys** may not be used by an organization for
 16 *[its]* general operations.*[:]*

17 (d) *[To match]* **Matching** public and private moneys available from other sources for purposes
 18 of *[production of]* **producing** low or very low income housing.*[: or]*

19 (e) *[For purposes of]* Administration of the account, not to exceed **the equivalent of** five percent
 20 of the account investment revenue.

21 **(f) Administration of the fund, not to exceed the equivalent of five percent of the**
 22 **amounts credited to the fund.**

23 (3) The department shall give preference in making grants or loans to those entities that the
 24 department determines will:

25 (a) Provide the greatest number of low and very low income housing units constructed, acquired
 26 or rehabilitated for the amount of account investment revenue **and fund moneys** expended by
 27 matching account investment revenue **and fund moneys** with other grant, loan or eligible in-kind
 28 contributions;

29 (b) Ensure the longest use for the units as low or very low income housing units; or

30 (c) Include social services to occupants of the proposed housing, including but not limited to,
 31 programs that address home health care, mental health care, alcohol and drug treatment and post-
 32 treatment care, child care and case management.

33 (4) Account investment revenue derived in any calendar year may be used to construct, acquire
 34 or rehabilitate *[housing for]* low and very low income *[persons]* **housing** but not more than 25 per-
 35 cent of the account investment revenue derived in any calendar year may be used to construct, ac-
 36 quire or rehabilitate housing for low income households. Account investment revenue not disbursed
 37 by the department as grants or loans to construct, acquire or rehabilitate low or very low income
 38 housing may be retained and credited as account principal.

39 *[(5) Loans disbursed from account investment revenue shall bear an interest rate equal to the in-*
 40 *terest rate paid on United States Treasury long-term obligations as identified by the department.]*

41 **(5) The department may set interest rates on loans made under this section based upon**
 42 **the factors relevant for each specific project. The department shall adopt rules identifying**
 43 **typical factors that the department will consider in establishing interest rates on loans made**
 44 **under this section.**

45 **SECTION 3.** ORS 458.655 is amended to read:

1 458.655. (1) The Home Ownership Assistance Account shall be administered by the Housing and
2 Community Services Department to expand the state's supply of homeownership housing for low and
3 very low income families and individuals, including, but not limited to, housing for persons over 65
4 years of age, persons with disabilities, farmworkers and Native Americans. The State Housing
5 Council shall have a policy of distributing funds statewide while concentrating funds in those areas
6 of the state with the greatest need, as determined by the council, for low and very low income
7 homeownership housing. [*However, the council's policy of distributing funds may differ from the dis-*
8 *tribution policy for the Housing Development and Guarantee Account.*]

9 (2) Funds in the Home Ownership Assistance Account shall be granted to organizations, as de-
10 fined in ORS 458.610, that both sponsor and manage low income homeownership programs, including
11 lease-to-own programs, for the construction of new homeownership housing or for the acquisition
12 or rehabilitation of existing structures for homeownership housing for persons of low or very low
13 income, or both.

14 (3) The council shall develop a policy for disbursing grants for any or all of the following pur-
15 poses:

16 (a) To aid low income homeownership programs, including program administration, in purchas-
17 ing land, providing assistance with down payment costs, or providing homeownership training and
18 qualification services or any combination thereof. No Home Ownership Assistance Account funds
19 shall be used by an organization for its general operations or for a substantial portion of con-
20 struction or rehabilitation costs;

21 (b) To match public and private moneys available from other sources for purposes of the pro-
22 vision of low or very low income homeownership housing; or

23 (c) To administer the Home Ownership Assistance Account, not to exceed five percent of the
24 revenue.

25 (4) The council, in developing policy under subsection (3) of this section, shall give preference
26 in making grants to those entities that propose to:

27 (a) Provide the greatest number of low and very low income homeownership housing units con-
28 structed, acquired or rehabilitated for the amount of account money expended by matching account
29 funds with other grant, loan or eligible in-kind contributions;

30 (b) Ensure the longest use for the units as low or very low income homeownership housing units,
31 such as by including some form of equity recapture, as determined by the council; and

32 (c) Include social services for occupants and proposed occupants of the proposed housing, in-
33 cluding but not limited to, programs that address home health care, mental health care, alcohol and
34 drug treatment and post-treatment care, child care, homeownership training, mortgage qualification
35 service, credit repair and case management.

36 **SECTION 4.** ORS 757.612 is amended to read:

37 757.612. (1) There is established an annual public purpose expenditure standard for electric
38 companies and Oregon Community Power to fund new cost-effective local energy conservation, new
39 market transformation efforts, the above-market costs of new renewable energy resources and new
40 low-income weatherization. The public purpose expenditure standard shall be funded by the public
41 purpose charge described in subsection (2) of this section.

42 (2)(a) Beginning on the date an electric company or Oregon Community Power offers direct ac-
43 cess to its retail electricity consumers, except residential electricity consumers, the electric com-
44 pany or Oregon Community Power shall collect a public purpose charge from all of the retail
45 electricity consumers located within its service area until January 1, 2026. Except as provided in

1 paragraph (b) of this subsection, the public purpose charge shall be equal to three percent of the
2 total revenues collected by the electric company, Oregon Community Power or the electricity ser-
3 vice supplier from its retail electricity consumers for electricity services, distribution, ancillary
4 services, metering and billing, transition charges and other types of costs included in electric rates
5 on July 23, 1999.

6 (b) For an aluminum plant that averages more than 100 average megawatts of electricity use
7 per year, beginning on March 1, 2002, the electric company or Oregon Community Power whose
8 territory abuts the greatest percentage of the site of the aluminum plant shall collect from the alu-
9 minum company a public purpose charge equal to one percent of the total revenue from the sale of
10 electricity services to the aluminum plant from any source.

11 (3)(a) The Public Utility Commission shall establish rules implementing the provisions of this
12 section relating to electric companies and Oregon Community Power.

13 (b) Subject to paragraph (e) of this subsection, funds collected by an electric company or Oregon
14 Community Power through public purpose charges shall be allocated as follows:

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

16 (B) Nineteen percent for the above-market costs of constructing and operating new renewable
17 energy resources with a nominal electric generating capacity, as defined in ORS 469.300, of 20
18 megawatts or less.

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

20 (D) Five percent shall be transferred to the Housing and Community Services Department
21 Electricity Public Purpose Charge Fund established by ORS 456.587 (1) [*and used for the purpose of*
22 *providing grants as described in ORS 458.625 (2)*].

23 (c) The costs of administering subsections (1) to (6) of this section for an electric company or
24 Oregon Community Power shall be paid out of the funds collected through public purpose charges.
25 The commission may require that an electric company or Oregon Community Power direct funds
26 collected through public purpose charges to the state agencies responsible for implementing sub-
27 sections (1) to (6) of this section in order to pay the costs of administering such responsibilities.

28 (d) The commission shall direct the manner in which public purpose charges are collected and
29 spent by an electric company or Oregon Community Power and may require an electric company
30 or Oregon Community Power to expend funds through competitive bids or other means designed to
31 encourage competition, except that funds dedicated for low-income weatherization shall be directed
32 to the Housing and Community Services Department as provided in subsection (7) of this section.
33 The commission may also direct that funds collected by an electric company or Oregon Community
34 Power through public purpose charges be paid to a nongovernmental entity for investment in public
35 purposes described in subsection (1) of this section. Notwithstanding any other provision of this
36 subsection:

37 (A) At least 80 percent of the funds allocated for conservation shall be spent within the service
38 area of the electric company that collected the funds; or

39 (B) If Oregon Community Power collected the funds, at least 80 percent of the funds allocated
40 for conservation shall be spent within the service area of Oregon Community Power.

41 (e)(A) The first 10 percent of the funds collected annually by an electric company or Oregon
42 Community Power under subsection (2) of this section shall be distributed to education service dis-
43 tricts, as described in ORS 334.010, that are located in the service territory of the electric company
44 or Oregon Community Power. The funds shall be distributed to individual education service districts
45 according to the weighted average daily membership (ADMw) of the component school districts of

1 the education service district for the prior fiscal year as calculated under ORS 327.013. The com-
 2 mission shall establish by rule a methodology for distributing a proportionate share of funds under
 3 this paragraph to education service districts that are only partially located in the service territory
 4 of the electric company or Oregon Community Power.

5 (B) An education service district that receives funds under this paragraph shall use the funds
 6 first to pay for energy audits for school districts located within the education service district. An
 7 education service district may not expend additional funds received under this paragraph on a
 8 school district facility until an energy audit has been completed for that school district. To the
 9 extent practicable, an education service district shall coordinate with the State Department of En-
 10 ergy and incorporate federal funding in complying with this paragraph. Following completion of an
 11 energy audit for an individual school district, the education service district may expend funds re-
 12 ceived under this paragraph to implement the energy audit. Once an energy audit has been con-
 13 ducted and completely implemented for each school district within the education service district, the
 14 education service district may expend funds received under this paragraph for any of the following
 15 purposes:

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

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

20 (iii) Energy conservation education programs.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

31 (7)(a) In addition to the public purpose charge provided under subsection (2) of this section, an
32 electric company or Oregon Community Power shall collect funds for low-income electric bill pay-
33 ment assistance in an amount determined under paragraph (b) of this subsection.

34 (b) The commission shall establish the amount to be collected by each electric company in cal-
35 endar year 2008 from retail electricity consumers served by the company, and the rates to be
36 charged to retail electricity consumers served by the company, so that the total anticipated col-
37 lection for low-income electric bill payment assistance by all electric companies in calendar year
38 2008 is \$15 million. In calendar year 2009 and subsequent calendar years, the commission may not
39 change the rates established for retail electricity consumers, but the total amount collected in a
40 calendar year for low-income electric bill payment assistance may vary based on electricity usage
41 by retail electricity consumers and changes in the number of retail electricity consumers in this
42 state. In no event shall a retail electricity consumer be required to pay more than \$500 per month
43 per site for low-income electric bill payment assistance.

44 (c) Funds collected by the low-income electric bill payment assistance charge shall be paid into
45 the Housing and Community Services Department Low-Income Electric Bill Payment Assistance

1 Fund established by ORS 456.587 (2). Moneys deposited in the fund under this paragraph shall be
 2 used by the Housing and Community Services Department for the purpose of funding low-income
 3 electric bill payment assistance. The department's cost of administering this subsection shall be paid
 4 out of funds collected by the low-income electric bill payment assistance charge. Moneys deposited
 5 in the fund under this paragraph shall be expended solely for low-income electric bill payment as-
 6 sistance. Funds collected from an electric company or Oregon Community Power shall be expended
 7 in the service area of the electric company or Oregon Community Power from which the funds are
 8 collected.

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

16 (e) Interest on moneys deposited in the Housing and Community Services Department Low-
 17 Income Electric Bill Payment Assistance Fund established by ORS 456.587 (2) may be used to pro-
 18 vide heating bill payment and crisis assistance to electricity consumers whose primary source of
 19 heat is not electricity.

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

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

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

29 **SECTION 5. (1) Notwithstanding the amendments to ORS 458.625 by section 2 of this 2009**
 30 **Act, the statewide distribution policy adopted by the State Housing Council under ORS**
 31 **458.625 (1) (2007 Edition) that is in effect immediately prior to the effective date of this 2009**
 32 **Act shall remain in effect until the Housing and Community Services Department adopts a**
 33 **superseding statewide distribution policy under ORS 458.625 (1).**

34 **(2) The amendments to ORS 458.625 by section 2 of this 2009 Act apply to interest rates**
 35 **charged on loans the department makes on or after the effective date of this 2009 Act.**

36