

House Bill 2647

Sponsored by COMMITTEE ON REVENUE

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**.

Changes sunset date for utility public purpose charges from 2026 to 2012.

A BILL FOR AN ACT

Relating to utility public purpose charges; amending ORS 757.612 and 757.687.

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

SECTION 1. ORS 757.612 is amended to read:

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

(2)(a) Beginning on the date an electric company or Oregon Community Power offers direct access to its retail electricity consumers, except residential electricity consumers, the electric company or Oregon Community Power shall collect a public purpose charge from all of the retail electricity consumers located within its service area until January 1, [2026] **2012**. Except as provided in paragraph (b) of this subsection, the public purpose charge shall be equal to three percent of the total revenues collected by the electric company, Oregon Community Power or the electricity service supplier from its retail electricity consumers for electricity services, distribution, ancillary services, metering and billing, transition charges and other types of costs included in electric rates on July 23, 1999.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 (iii) Energy conservation education programs.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15 (b) The commission shall establish the amount to be collected by each electric company in cal-
16 endar year 2008 from retail electricity consumers served by the company, and the rates to be
17 charged to retail electricity consumers served by the company, so that the total anticipated col-
18 lection for low-income electric bill payment assistance by all electric companies in calendar year
19 2008 is \$15 million. In calendar year 2009 and subsequent calendar years, the commission may not
20 change the rates established for retail electricity consumers, but the total amount collected in a
21 calendar year for low-income electric bill payment assistance may vary based on electricity usage
22 by retail electricity consumers and changes in the number of retail electricity consumers in this
23 state. In no event shall a retail electricity consumer be required to pay more than \$500 per month
24 per site for low-income electric bill payment assistance.

25 (c) Funds collected by the low-income electric bill payment assistance charge shall be paid into
26 the Housing and Community Services Department Low-Income Electric Bill Payment Assistance
27 Fund established by ORS 456.587 (2). Moneys deposited in the fund under this paragraph shall be
28 used by the Housing and Community Services Department for the purpose of funding low-income
29 electric bill payment assistance. The department's cost of administering this subsection shall be paid
30 out of funds collected by the low-income electric bill payment assistance charge. Moneys deposited
31 in the fund under this paragraph shall be expended solely for low-income electric bill payment as-
32 sistance. Funds collected from an electric company or Oregon Community Power shall be expended
33 in the service area of the electric company or Oregon Community Power from which the funds are
34 collected.

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

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

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

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

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

10 **SECTION 2.** ORS 757.687 is amended to read:

11 757.687. (1) Beginning on the date a consumer-owned utility provides direct access to any class
12 of retail electric consumers, the consumer-owned utility shall collect from that consumer class a
13 nonbypassable public purpose charge until January 1, [2026] **2012**. Except as provided in subsection
14 (8) of this section, the amount of the public purpose charge shall be sufficient to produce revenue
15 of not less than three percent of the total revenue collected by the consumer-owned utility from its
16 retail electricity consumers for electricity services, distribution, ancillary services, metering and
17 billing, transition charges and any other costs included in rates as of July 23, 1999, except that the
18 consumer-owned utility may exclude from the calculation of such costs any cost related to the public
19 purposes described in subsection (5) of this section. If a consumer-owned utility has fewer than 17
20 consumers per mile of distribution line, the amount of the public purpose charge shall be sufficient
21 to produce revenue not less than three percent of the total revenue from the sale of electricity
22 services in the utility's service area to the consumer class that is provided direct access, or the
23 utility's consumer class percentage share of state total electricity sales multiplied by three percent
24 of total statewide retail electric revenue, whichever is less.

25 (2) Except as provided in subsection (9) of this section, the governing body of a consumer-owned
26 utility shall determine the manner of collecting and expending funds for public purposes required
27 by law to be assessed against and paid by the retail electric consumers of the utility. A determi-
28 nation by the governing body shall include:

29 (a) The manner for collecting public purpose charges;

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

31 (c) The allocation of expenditures for each program.

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

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

38 (5) Funds assessed and paid by, and credits or other financial assistance issued or extended to,
39 retail electric consumers for purposes of this section may, in the discretion of the governing body
40 of the consumer-owned utility, be expended to fund programs for energy conservation, renewable
41 resources or low-income energy services otherwise required by the laws of this state, adopted by the
42 governing body pursuant to the National Energy Conservation Policy Act (Public Law 95-619, as
43 amended November 10, 1981), or conducted by the utility pursuant to agreement with the Bonneville
44 Power Administration under the Pacific Northwest Electric Power Planning and Conservation Act
45 (Public Law 96-501). All such funds expended, credits issued and incremental costs incurred in con-

1 nection with the performance of a consumer-owned utility's obligations under this section shall be
2 credited toward the utility's public purpose funding obligation under this section.

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

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

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

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

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

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

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

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

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

1 estimated cost of available conservation measures.

2 (B) A retail electricity consumer shall be entitled each year to the credit described in this par-
3 agraph unless a subsequent audit determines that new conservation investment opportunities are
4 available. The department may require that a new audit be performed on the site to determine
5 whether new conservation measures are available, provided that the audits occur no more than once
6 every two years.

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

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

12 (11) Beginning on March 1, 2002, a consumer-owned utility shall have in operation a bill assist-
13 ance program for households that qualify for federal low-income energy assistance in the
14 consumer-owned utility's service area. A consumer-owned utility shall report annually to the Hous-
15 ing and Community Services Department detailing the utility's program and program expenditures.

16 (12) A consumer-owned utility may require an electricity service supplier to provide information
17 necessary to ensure compliance with this section. The consumer-owned utility shall ensure the pri-
18 vacy and protection of any proprietary information provided.

19