

# Senate Bill 977

Sponsored by Senator WALKER, Representative READ

## 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 applicants seeking to construct certain energy facilities to enter into written agreement with state in which applicant agrees to compensate state for costs associated with state agency review and evaluation of certain permits, authorizations and certifications before applicant may be granted permit, authorization or certification.

Specifies costs for which state may seek compensation. Requires state agency to provide applicant with detailed account of certain costs upon request of applicant.

Creates Energy Facility Fund. Continuously appropriates moneys in fund to Oregon Department of Administrative Services.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to costs incurred by state agencies in connection with energy facilities; appropriating  
3 money; and declaring an emergency.

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

5 **SECTION 1. (1) For purposes of sections 1 to 3 of this 2009 Act:**

6 (a) "Energy facility" means:

7 (A) An electric power generating plant, including but not limited to:

8 (i) A thermal power plant; or

9 (ii) A combustion turbine power plant.

10 (B) A nuclear installation.

11 (C) High voltage transmission lines.

12 (D) A solar collecting facility.

13 (E) A pipeline that is used for the transportation of crude petroleum or a derivative  
14 thereof, natural gas, a geothermal energy form in a liquid state or another fossil energy re-  
15 source.

16 (F) A synthetic fuel plant that converts a natural resource including, but not limited to,  
17 coal or oil to a gas, liquid or solid product intended to be used as a fuel.

18 (G) A plant that converts biomass to a gas, liquid or solid product, or combination of  
19 such products, intended to be used as a fuel.

20 (H) A storage facility for liquefied natural gas.

21 (I) A surface facility related to an underground gas storage reservoir.

22 (J) A hydroelectric or hydrokinetic facility.

23 (K) A wind turbine.

24 (L) A geothermal power plant.

25 (M) A methane hydrate plant.

26 (N) Any other energy facility specified in a rule adopted by the Director of the Oregon  
27 Department of Administrative Services after consultation with the State Department of En-

**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 ergy.

2 (b) "State agency" means an agency as defined in ORS 183.310 (1).

3 (2) Except as provided in subsection (4) of this section, before an applicant seeking to  
4 construct an energy facility may be granted state-issued permits, authorizations or certifi-  
5 cations necessary for the facility's siting and construction, the applicant must enter into a  
6 written agreement with the Oregon Department of Administrative Services in which the ap-  
7 plicant agrees to compensate the State of Oregon for costs associated with review and eval-  
8 uation of any state agency permit, authorization or certification needed to site or construct  
9 the facility when the review or evaluation is requested by the applicant, requested by a state  
10 or federal agency responsible for issuing a permit, authorization or certification or otherwise  
11 required by statute or rule.

12 (3) The state may seek compensation under this section for a state agency's reasonable  
13 costs for reviewing and evaluating an applicant's request for a permit, authorization or cer-  
14 tification to site or construct an energy facility. The compensable costs are limited to the  
15 state agency's actual personnel costs and other expenses that are related to the agency's  
16 review and evaluation of the applicant's request. State agency overhead and other indirect  
17 costs must be specifically described in the agreement required by subsection (2) of this sec-  
18 tion to be included as part of compensable costs.

19 (4) Application fees or other payments by the applicant to the state agency related to the  
20 applicant's request for a permit, authorization or certification shall be applied against the  
21 costs for which the state may seek compensation under this section.

22 (5) A state agency shall, within 30 days of a request for a permit, authorization or cer-  
23 tification for an energy facility subject to this section, provide the applicant with a detailed  
24 estimate of the state agency's compensable costs for reviewing and evaluating the request,  
25 together with a description of the process and estimated schedule for completing the review  
26 and evaluation of the request. A state agency may not incur costs in excess of 110 percent  
27 of the estimated costs for a request without notifying the applicant in advance and providing  
28 the applicant with a detailed estimate of the additional costs needed to complete the agency's  
29 review and evaluation of the request. A state agency may require the applicant to pay 10  
30 percent of its estimated costs in advance of the date the agency incurs the costs. The state  
31 shall refund to the applicant any payments in excess of the compensable costs actually in-  
32 curred by the state.

33 (6) Upon request, a state agency shall provide an applicant with a detailed accounting for  
34 all compensable costs incurred and charged by the agency under this section. If a dispute  
35 arises regarding the compensability of costs charged to the applicant, and if the dispute is  
36 not resolved by the directors of the affected state agencies within 60 days of the applicant's  
37 notice to the state that the applicant disputes the costs charged, the applicant may seek ju-  
38 dicial review of the amount of the costs charged as provided in ORS 183.484, except that ORS  
39 182.090 and 183.497 do not apply to a proceeding under this section. If the applicant estab-  
40 lishes that any of the charges are not compensable under subsection (3) of this section, the  
41 amount found to be uncompensable must be refunded to the applicant. The applicant does  
42 not waive the right to judicial review by paying the portion of the costs in dispute.

43 **SECTION 2.** The Director of the Oregon Department of Administrative Services may  
44 adopt rules as necessary to implement section 1 of this 2009 Act.

45 **SECTION 3.** The Energy Facility Fund is established in the State Treasury, separate and

1 distinct from the General Fund. Interest earned by the Energy Facility Fund shall be cred-  
2 ited to the fund. Moneys in the fund are continuously appropriated to the Oregon Depart-  
3 ment of Administrative Services for purposes related to section 1 of this 2009 Act. The  
4 Oregon Department of Administrative Services may transfer moneys to any state agency  
5 conducting the review and evaluation specified in section 1 of this 2009 Act for purposes re-  
6 lated to that review and evaluation.

7 **SECTION 4.** (1) Section 1 of this 2009 Act and rules adopted under section 2 of this 2009  
8 Act apply to all permits, authorizations and certifications issued or given on or after the  
9 effective date of this 2009 Act, whether applied for before, on or after the effective date of  
10 this 2009 Act.

11 (2) If a request for a permit, authorization or certification for an energy facility subject  
12 to section 1 of this 2009 Act is pending on the effective date of this 2009 Act, the state shall  
13 within 60 days provide the applicant with a detailed estimate of the state's compensable costs  
14 for reviewing and evaluating all requests for that applicant pending on the effective date of  
15 this 2009 Act, together with a description of the process and estimated schedule for com-  
16 pleting the review and evaluation of the requests.

17 (3) Any costs incurred before the effective date of this 2009 Act may not be included as  
18 part of compensable costs under section 1 (3) of this 2009 Act.

19 **SECTION 5.** This 2009 Act being necessary for the immediate preservation of the public  
20 peace, health and safety, an emergency is declared to exist, and this 2009 Act takes effect  
21 on its passage.  
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