

House Bill 2888

Sponsored by Representative J SMITH (Pre-session filed.)

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**.

Directs State Department of Energy, in consultation with Superintendent of Public Instruction, to establish and administer program to provide matching grants or loans to public schools for energy efficient and sustainable construction, remodeling and renovation.

Authorizes issuance of Article XI-P bonds for capital costs of school districts.

Establishes Cool Schools Capital Matching Fund. Establishes Article XI-P Cool Schools Bond Fund and Article XI-P Cool Schools Bond Administration Fund. Continuously appropriates moneys from funds to State Department of Energy to administer cool schools program and to administer and pay bonds.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to borrowing for capital costs of school districts; creating new provisions; amending ORS
3 701.108 and 701.119; appropriating money; and declaring an emergency.

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

5 **SECTION 1. As used in sections 1 to 4 of this 2011 Act:**

6 (1) **"Article XI-P cool schools bonds" means general obligation bonds issued under the**
7 **authority of Article XI-P of the Oregon Constitution for the purpose described in section 2**
8 **(1)(b) of this 2011 Act.**

9 (2) **"Bond-related costs" means:**

10 (a) **The costs of paying the principal of, the interest on and the premium, if any, on Ar-**
11 **article XI-P cool schools bonds.**

12 (b) **The costs and expenses of issuing, administering and maintaining Article XI-P cool**
13 **schools bonds including, but not limited to, the costs and expenses of:**

14 (A) **Redeeming Article XI-P cool schools bonds.**

15 (B) **Paying amounts due in connection with credit enhancement devices or agreements**
16 **for exchange of interest rates.**

17 (C) **Paying the fees, administrative costs and expenses of the State Treasurer and the**
18 **State Department of Energy, including the costs of consultants or advisors retained by the**
19 **State Treasurer or the department for the Article XI-P cool schools bonds.**

20 (c) **The costs of funding reserves for the Article XI-P cool schools bonds.**

21 (d) **Capitalized interest for the Article XI-P cool schools bonds.**

22 (e) **Rebates or penalties due to the United States in connection with the Article XI-P cool**
23 **schools bonds.**

24 (f) **Any other costs or expenses that the State Treasurer or the department determines**
25 **are necessary or desirable in connection with issuing and maintaining the Article XI-P cool**
26 **schools bonds.**

27 **SECTION 2. (1) In accordance with the applicable provisions of ORS chapter 286A, the**

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 State Treasurer, at the request of the State Department of Energy, may issue Article XI-P
2 cool schools bonds:

3 (a) In the biennium beginning on July 1, 2011;

4 (b) In the amount of \$_____ for the purpose of financing the cool schools energy effi-
5 ciency and sustainable technology program described in section 6 of this 2011 Act, plus an
6 amount determined by the State Treasurer to pay estimated bond-related costs; and

7 (c) In addition to and not in lieu of the budget authorization for bond issuance established
8 under ORS 286A.035 for the State Department of Energy for the biennium.

9 (2) The State Treasurer may issue Article XI-P cool schools bonds for the purpose of
10 refunding Article XI-P cool schools bonds.

11 (3) The net proceeds of Article XI-P cool schools bonds must be deposited in the Cool
12 Schools Capital Matching Fund established under section 5 of this 2011 Act.

13 (4) If at any time the Oregon Department of Administrative Services and the State De-
14 partment of Energy determine that the net proceeds of Article XI-P cool schools bonds de-
15 posited in the Cool Schools Capital Matching Fund pursuant to subsection (3) of this section
16 exceed the amount necessary for the purposes described in subsection (1)(b) of this section,
17 the State Department of Energy may transfer the excess amount to the Oregon Department
18 of Administrative Services for deposit in the Article XI-P Cool Schools Bond Fund estab-
19 lished under section 3 of this 2011 Act or the Article XI-P Cool Schools Bond Administration
20 Fund established under section 4 of this 2011 Act.

21 (5) Article XI-P cool schools bonds are a general obligation of the State of Oregon and
22 must contain a direct promise on behalf of the State of Oregon to pay the principal of, the
23 interest on and the premium, if any, on the Article XI-P cool schools bonds. The State of
24 Oregon shall pledge its full faith and credit and taxing power to the payment of the principal
25 of, the interest on and the premium, if any, on Article XI-P cool schools bonds, except that
26 the ad valorem taxing power of the State of Oregon may not be pledged to pay Article XI-P
27 cool schools bonds.

28 **SECTION 3.** (1) The Article XI-P Cool Schools Bond Fund is established in the State
29 Treasury, separate and distinct from the General Fund. Amounts in the Article XI-P Cool
30 Schools Bond Fund may be invested as provided in ORS 293.701 to 293.820, and interest
31 earned on the bond fund must be credited to the bond fund. Amounts credited to the bond
32 fund are continuously appropriated to the State Department of Energy for the purpose of
33 paying, when due, the principal of, the interest on and the premium, if any, on outstanding
34 Article XI-P cool schools bonds. The department shall deposit in the bond fund:

35 (a) Capitalized or accrued interest on Article XI-P cool schools bonds;

36 (b) Amounts appropriated or otherwise provided by the Legislative Assembly for deposit
37 in the bond fund;

38 (c) Reserves established for the payment of Article XI-P cool schools bonds; and

39 (d) Amounts transferred from the Cool Schools Capital Matching Fund established under
40 section 5 of this 2011 Act.

41 (2) At the request of the department, the State Treasurer may create separate accounts
42 in the bond fund for reserves and debt service for each series of Article XI-P cool schools
43 bonds as provided in ORS 286A.025 (2)(g).

44 **SECTION 4.** (1) The Article XI-P Cool Schools Bond Administration Fund is established
45 in the State Treasury, separate and distinct from the General Fund. Amounts in the Article

1 **XI-P Cool Schools Bond Administration Fund may be invested as provided in ORS 293.701 to**
 2 **293.820, and interest earned on the bond administration fund must be credited to the bond**
 3 **administration fund. Amounts credited to the bond administration fund are continuously**
 4 **appropriated to the State Department of Energy for payment of bond-related costs. The de-**
 5 **partment shall credit to the bond administration fund:**

6 (a) **Proceeds of Article XI-P cool schools bonds that were issued to pay bond-related**
 7 **costs;**

8 (b) **Amounts appropriated or otherwise provided by the Legislative Assembly for deposit**
 9 **in the bond administration fund; and**

10 (c) **Amounts transferred from the Cool Schools Capital Matching Fund established under**
 11 **section 5 of this 2011 Act.**

12 (2) **At the request of the department, the State Treasurer may create separate accounts**
 13 **in the bond administration fund as provided in ORS 286A.025 (2)(g).**

14 **SECTION 5. The Cool Schools Capital Matching Fund is established in the State Treas-**
 15 **ury, separate and distinct from the General Fund. Amounts in the Cool Schools Capital**
 16 **Matching Fund may be invested as provided in ORS 293.701 to 293.820, and interest earned**
 17 **on moneys in the fund must be credited to the fund. The Cool Schools Capital Matching Fund**
 18 **consists of net proceeds of Article XI-P cool schools bonds issued under sections 1 to 4 of**
 19 **this 2011 Act, moneys from the repayment of loans by school districts and other moneys**
 20 **made available by the Legislative Assembly for the purpose of financing the cool schools**
 21 **energy efficiency and sustainable technology program described in section 6 of this 2011 Act**
 22 **for the State Department of Energy. Moneys in the fund are continuously appropriated to**
 23 **the department for the purpose.**

24 **SECTION 6. (1) The Director of the State Department of Energy, in consultation with the**
 25 **Superintendent of Public Instruction, shall administer the cool schools energy efficiency and**
 26 **sustainable technology program for the purpose of providing financing and technical support**
 27 **for public schools constructing, remodeling or renovating public school facilities to achieve**
 28 **savings through investments in energy efficiency, renewable energy and energy conservation.**

29 (2) **The goals of the program are to:**

30 (a) **Provide capital at the lowest possible cost for the purpose of supporting energy effi-**
 31 **ciency and conservation and renewable energy projects for public school facilities;**

32 (b) **Provide technical and financing information to public schools;**

33 (c) **Foster energy savings;**

34 (d) **Stimulate job growth; and**

35 (e) **Help substantially reduce carbon emissions.**

36 (3) **Subject to rules adopted by the State Department of Energy, the department:**

37 (a) **May provide matching funds only to a school district that has received voter approval**
 38 **for local general obligation bonds to finance capital costs.**

39 (b) **May finance aspects of a construction, remodeling or renovation project that are not**
 40 **directly related to energy efficiency or sustainability improvements if the aspects of the**
 41 **project are essential to facilitate the efficiency or sustainability improvements.**

42 (c) **May not provide financing through grants or loans to finance operating costs of**
 43 **school districts.**

44 (4) **Projects financed in part through the cool schools energy efficiency and sustainable**
 45 **technology program are public works subject to prevailing wage laws at ORS 279C.800 to**

1 **279C.870.**

2 (5) A public school, school district and education service district may not perform more
 3 than five percent of the work on a project financed in part through the cool schools energy
 4 efficiency and sustainable technology program.

5 (6) The department, in consultation with the superintendent, shall establish by rule a
 6 program to provide school districts with matching fund grants or loans for the capital costs
 7 of school districts that are described in this section and financed with the net proceeds of
 8 Article XI-P cool schools bonds issued under sections 1 to 4 of this 2011 Act. The department,
 9 in consultation with the superintendent, shall establish, by rule:

10 (a) Ratios for matching local moneys with grants, and ratios for matching local moneys
 11 with loans; and

12 (b) The priority for funding cool schools projects.

13 (7) As used in this section, “capital costs” means costs of land and of other assets having
 14 a useful life of more than one year, including costs associated with acquisition, construction,
 15 improvement, remodeling, furnishing, equipping, maintenance or repair.

16 **SECTION 7.** (1) A contractor may participate in the construction, remodeling or reno-
 17 vation of public school facilities financed in part with a grant or loan provided through the
 18 cool schools energy efficiency and sustainable technology program only if the contractor is
 19 certified under this section.

20 (2) A contractor seeking certification shall apply to the Construction Contractors Board
 21 as provided under ORS 701.119.

22 (3) The State Department of Energy, in consultation with the board, shall:

23 (a) Adopt rules establishing certification standards.

24 (b) Design the certification standards to ensure that the project work performed by a
 25 contractor under the program is of high quality and will result in a high degree of building
 26 performance and customer satisfaction.

27 (4) The certification standards established by the department must, at a minimum, re-
 28 quire that the contractor:

29 (a) Prove that the contractor has sufficient skill to ensure successful completion of en-
 30 ergy efficiency, renewable energy or weatherization projects.

31 (b) Not be a contractor listed by the Commissioner of the Bureau of Labor and Industries
 32 under ORS 279C.860 as ineligible to receive a contract or subcontract for public works.

33 (c) Be an equal opportunity employer or small business or be a minority or women busi-
 34 ness enterprise or disadvantaged business enterprise as those terms are defined in ORS
 35 200.005.

36 (d) Demonstrate a history of compliance with the rules and other requirements of the
 37 board and of the Workers’ Compensation Division and the Occupational Safety and Health
 38 Division of the Department of Consumer and Business Services.

39 (e) Employ at least 85 percent of employees used for cool schools energy efficiency and
 40 sustainable technology program projects from the local work force, if a sufficient supply of
 41 skilled workers is available locally.

42 (f) Demonstrate a history of compliance with federal and state wage and hour laws.

43 (g) Pay wages to employees in accordance with prevailing wage laws at ORS 279C.800 to
 44 279C.870.

45 (5) The State Department of Energy may consult with utilities when developing contrac-

1 tor certification standards.

2 (6) The board may issue a qualifying contractor a certification authorizing the contractor
 3 to participate in the construction, remodeling or renovation of public school facilities fi-
 4 nanced through the cool schools energy efficiency and sustainable technology program.

5 (7) The department shall identify certified contractors that provide employees with health
 6 insurance benefits as preferred service providers and may take other actions as practicable
 7 to encourage certified contractors to provide employees with health insurance benefits.

8 **SECTION 8.** (1) A public school applicant for an energy efficiency and sustainable tech-
 9 nology grant or loan approved by the State Department of Energy shall pay the department
 10 a project initiation fee.

11 (2) The department may establish the fee amount by rule, not to exceed four percent of
 12 the approved grant or loan amount. If the department does not establish the fee amount, the
 13 fee is two percent of the approved grant or loan amount.

14 (3) Upon request of the grant or loan applicant, the department in its discretion may:

15 (a) For an approved grant, waive the initiation fee.

16 (b) For an approved loan, add all or part of a project initiation fee to the principal of the
 17 loan.

18 **SECTION 9.** (1) The State Department of Energy shall collaborate with the State
 19 Workforce Investment Board and other interested parties to identify opportunities for ap-
 20 prenticeship and for job training and development that would further the goals of sections 6
 21 to 8 of this 2011 Act and provide valuable skills to Oregon workers.

22 (2) In adopting rules for carrying out apprenticeship and job training and development
 23 under the cool schools energy efficiency and sustainable technology program, the department
 24 and the board shall consult with representatives from:

25 (a) State workforce programs;

26 (b) Organized labor;

27 (c) Organizations representing construction contractors;

28 (d) The Bureau of Labor and Industries; and

29 (e) Consumer advocacy organizations.

30 **SECTION 10.** ORS 701.119 is amended to read:

31 701.119. (1) A licensed contractor that possesses an appropriate endorsement may apply to the
 32 Construction Contractors Board for certification to participate in the construction of:

33 (a) Small scale local energy projects financed through the energy efficiency and sustainable
 34 technology loan program[.]; or

35 (b) Public school energy projects financed in part through the cool schools energy effi-
 36 ciency and sustainable technology program.

37 (2) The board may issue the certification to a contractor that meets the standards established
 38 by the State Department of Energy under ORS 470.560 or section 7 of this 2011 Act, as appro-
 39 priate. The board may charge a reasonable fee for certifying a contractor.

40 [(2)] (3) If the board receives information that the contractor has failed to comply with the
 41 certification standards established by the department or has violated a wage and hours standard
 42 described in ORS 701.108, the board shall hold a hearing and may revoke the certification.

43 [(3)] (4) The board shall give the department notice of the issuance or revocation of a certif-
 44 ication under this section.

45 **SECTION 11.** ORS 701.108 is amended to read:

1 701.108. (1) If a project financed under the energy efficiency and sustainable technology loan
 2 program is to be constructed for a commercial structure, the State Department of Energy shall re-
 3 quire that the certified contractor pay the employees used for the project at the prevailing wage
 4 rate determined by the Commissioner of the Bureau of Labor and Industries for each trade or oc-
 5 cupation employed. If a project is not to be constructed for a commercial structure, but the depart-
 6 ment is uncertain whether prevailing wage requirements apply to the project, the department shall
 7 consult with the Bureau of Labor and Industries. As used in this subsection, “commercial
 8 structure” means a structure that is not a residential structure.

9 (2) If the Construction Contractors Board receives a complaint that a contractor certified under
 10 ORS 701.119 has failed to comply with a wage and hours standard for work on a project financed
 11 under the energy efficiency and sustainable technology loan program **or the cool schools energy**
 12 **efficiency and sustainable technology program**, the board shall forward the complaint to the
 13 Bureau of Labor and Industries. If the bureau determines that the contractor has violated a wage
 14 and hours standard for work on a project financed under the loan program, the bureau shall notify
 15 the board of the determination.

16 **SECTION 12. This 2011 Act being necessary for the immediate preservation of the public**
 17 **peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect**
 18 **on its passage.**

19 _____