

Senate Bill 337

Sponsored by Senator HASS, Representative READ (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**.

Establishes Oregon Fund for Energy, Jobs and Innovation.

Authorizes Oregon Innovation Council to make grants and loans from fund for clean energy economic development proposals. Establishes minimum proposal requirements. Requires nonprofit entity or signature research center to issue request for proposals and make recommendations for funding to council. Requires council to adopt rules.

Permits council to determine eligibility of proposals for revenue bond financing. Requires Oregon Business Development Department to request issuance of revenue bonds by State Treasurer upon determination of eligibility.

Authorizes Oregon Innovation Council to establish one or more signature research centers.

Establishes clean energy economic development charge to be collected by public utilities for deposit in Oregon Fund for Energy, Jobs and Innovation to fund proposals for clean energy economic development.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to clean energy economic development; creating new provisions; amending ORS 284.740;
3 appropriating money; and declaring an emergency.

4 Whereas the Legislative Assembly finds that Oregon is recognized as a leader in sustainability
5 and mitigation of climate change and that Oregon has the foundation to become a leader in clean
6 energy economic development; and

7 Whereas clean energy economic development offers Oregon an excellent opportunity to create
8 family wage jobs; and

9 Whereas Oregon leads the nation in creating jobs associated with energy conservation and wind,
10 solar, hydropower, hydroelectric biomass, geothermal and wave energies; and

11 Whereas Oregon has invested more than \$2 billion to expand energy conservation and to im-
12 prove development of its clean energy resources; and

13 Whereas it is essential for Oregon to attract and retain top-level students and professors to
14 provide clusters of expertise and to expand the clean energy talent base in this state; and

15 Whereas a multidisciplinary approach to education and research is an essential ingredient for
16 the long-term success of clean energy economic development in Oregon; and

17 Whereas Oregon's public and private educational institutions must improve and expand their
18 engineering facilities, programs and educational and research capabilities to meet the needs of this
19 state's emerging clean energy industry; and

20 Whereas the Oregon University System, as well as private universities and research institutions
21 in this state, are strategic partners in meeting the unique educational and employment needs of
22 Oregon's clean energy industry; and

23 Whereas to become a leader in clean energy economic development, Oregon needs policies and
24 strategies to develop new clean energy technologies, to attract funding from federal sources and
25 private sector clean energy investments, to attract and grow clean energy businesses and to create

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 clean energy jobs; and

2 Whereas the Legislative Assembly finds that state agencies, clean energy technology businesses,
3 research institutions, national laboratories, and workforce development agencies must collaborate
4 so that Oregon is well-positioned to compete for funds from federal sources and private sector clean
5 energy investments; now, therefore,

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

7 **SECTION 1. Sections 2 to 8 of this 2011 Act are added to and made a part of ORS 284.701**
8 **to 284.740.**

9 **SECTION 2. (1) The Oregon Fund for Energy, Jobs and Innovation is established in the**
10 **State Treasury, separate and distinct from the General Fund. Interest earned by the Oregon**
11 **Fund for Energy, Jobs and Innovation shall be credited to the fund.**

12 **(2) Moneys in the Oregon Fund for Energy, Jobs and Innovation shall consist of:**

13 **(a) Amounts donated to the fund;**

14 **(b) Amounts appropriated or otherwise transferred to the fund by the Legislative As-**
15 **sembly;**

16 **(c) Investment earnings received on moneys in the fund; and**

17 **(d) Other amounts deposited in the fund from any source.**

18 **(3) Moneys in the fund are continuously appropriated to the Oregon Innovation Council**
19 **for the purpose of making grants and loans under section 3 of this 2011 Act.**

20 **(4) At least 15 percent of the moneys in the fund that are used to make grants or loans**
21 **under section 3 of this 2011 Act must be designated for the purposes of enhancing and sup-**
22 **porting the education of undergraduate and graduate students who are studying clean energy**
23 **and for hiring and retention of faculty who are instructing or conducting research in the**
24 **area of clean energy.**

25 **SECTION 3. (1) As used in sections 2 to 8 of this 2011 Act:**

26 **(a) “Clean energy” means a technology, product, process or innovation that involves**
27 **conservation of natural resources, solar energy, green building products and services,**
28 **biofuels, biomass energy, bio-based products or other renewable and sustainable energy as**
29 **defined by the Oregon Innovation Council by rule.**

30 **(b) “Gap funding” means funding provided to an Oregon clean energy business to fund**
31 **the initial phase of a business endeavor until funding for subsequent phases of the Oregon**
32 **clean energy business endeavor can be obtained from another source.**

33 **(c) “Nonprofit entity” means a not-for-profit entity described in subsection (4) of this**
34 **section that is recognized as tax exempt under section 501(c)(3) of the Internal Revenue**
35 **Code, as in effect on the effective date of this 2011 Act.**

36 **(d) “Oregon clean energy business” means a business composed of an individual, associ-**
37 **ation of individuals, joint venture, partnership, limited liability company, nonprofit entity or**
38 **corporation that is engaged in a clean energy business endeavor to transfer clean energy**
39 **technology to the private sector or to commercialize clean energy research and development**
40 **in Oregon.**

41 **(e) “Seed capital” has the meaning given that term in ORS 348.701.**

42 **(2) The Oregon Innovation Council, in consultation with the Oregon Business Develop-**
43 **ment Department, may make grants and loans from the Oregon Fund for Energy, Jobs and**
44 **Innovation established under section 2 of this 2011 Act to fund proposals that have been re-**
45 **viewed by, and recommended to the council for funding by, a nonprofit entity or a signature**

1 research center as provided in subsection (3) of this section, and that have as their principal
2 objectives:

3 (a) The establishment of partnerships between and collaborations with research insti-
4 tutions to create and support innovation, economic development and competitiveness in clean
5 energy;

6 (b) The education and training of undergraduate and graduate students, and the hiring
7 and retention of faculty, in the area of clean energy;

8 (c) The transfer of clean energy technology to the private sector or the
9 commercialization of clean energy research and development in Oregon;

10 (d) To provide seed capital or gap funding to an Oregon clean energy business for a
11 business endeavor that seeks to market innovative clean energy concepts, to transfer clean
12 energy technology to the private sector or to commercialize clean energy research and de-
13 velopment in Oregon; or

14 (e) To provide monetary awards to winners of competitive contests designed to attract
15 innovative and entrepreneurial solutions and opportunities for clean energy economic devel-
16 opment in this state.

17 (3)(a) To qualify for a grant or loan under subsection (2) of this section, a proposal must
18 be submitted in accordance with this subsection and the standards and requirements adopted
19 by the Oregon Innovation Council by rule.

20 (b) Proposals for funding under subsection (2) of this section must be submitted to, re-
21 viewed by and recommended to the council for funding by a nonprofit entity or signature
22 research center that issues a request for proposal as provided in subsection (4) of this sec-
23 tion.

24 (c) All proposals for funding under subsection (2) of this section must establish return
25 on investment criteria and performance measures that include, but are not limited to:

26 (A) The number of clean energy technologies, products or services that will be newly
27 commercialized by Oregon companies;

28 (B) The amount of funding from federal sources and private sector investments that will
29 be raised for clean energy efforts in Oregon;

30 (C) Measurable increases in the volume of clean energy research conducted in Oregon;

31 (D) Measurable increases in the availability and quality of trained faculty and students
32 and of applied research facilities in clean energy in Oregon;

33 (E) Measurable increases in job growth and wages for Oregon workers; and

34 (F) The amount of annual tax revenues that would not have otherwise been received
35 without funding under subsection (2) of this section.

36 (d) Proposals for funding under subsection (2)(e) of this section must contain a verified
37 statement that, if the applicant receives a monetary award as a winner of a competitive
38 contest, the applicant has established, or intends to establish, an Oregon clean energy busi-
39 ness:

40 (A) That has its principal place of business and principal business operations located in
41 this state for a minimum of five years from the date of the award; and

42 (B) That spends at least 50 percent of its payroll on employees who are residents of this
43 state.

44 (4)(a) Requests for proposals for funding under subsection (2) of this section must be
45 prepared, published and issued by a nonprofit entity that meets the requirements of this

1 subsection, or by a signature research center established under ORS 284.740, in accordance
2 with rules adopted by the Oregon Innovation Council.

3 (b) A nonprofit entity described in paragraph (a) of this subsection must:

4 (A) Collaborate and cooperate with a signature research center established under ORS
5 284.740 whose focus includes clean energy research and development in Oregon;

6 (B) Advise the signature research center identified in subparagraph (A) of this paragraph
7 of any proposal received and reviewed by the nonprofit entity, allowing sufficient time for the
8 signature research center to solicit further information about the proposal and to provide
9 comment to the council regarding the advisability of funding the proposal, whether or not
10 the nonprofit entity recommends the proposal to the council for funding under subsection
11 (2) of this section;

12 (C) Establish a board of directors that includes, or expand an existing board of directors
13 so that it will include, a member of the council and a member of the Legislative Assembly;

14 (D) Provide an annual accounting to, and make financial statements and records avail-
15 able for inspection and copying by, a committee established by the council under ORS 284.706
16 for that purpose for each proposal that is recommended for funding by the nonprofit entity
17 and that is subsequently funded under subsection (2) of this section; and

18 (E) Have as a primary purpose, set forth in the nonprofit entity's bylaws or articles of
19 incorporation, to increase the availability of funding from federal sources and private sector
20 investments for the objectives set forth in subsection (2) of this section.

21 (5) The Oregon Innovation Council shall adopt rules to administer subsections (2) to (4)
22 of this section.

23 **SECTION 4.** As used in sections 4 to 8 of this 2011 Act, "bond-related costs" means:

24 (1) The costs and expenses of issuing and administering bonds under sections 4 to 8 of
25 this 2011 Act, including but not limited to:

26 (a) Paying or redeeming the bonds, including principal, interest and premium, if any;

27 (b) Paying amounts due in connection with credit enhancement devices or reserve in-
28 struments;

29 (c) Paying the administrative costs and expenses of the State Treasurer, the Oregon
30 Business Development Department and the Oregon Innovation Council, including the cost
31 of consultants, attorneys and advisers retained by the State Treasurer, the department or
32 the council for the bonds; and

33 (d) Any other costs or expenses that the State Treasurer, the department or the council
34 determines are necessary or desirable in connection with issuing or administering the bonds;

35 (2) The cost of funding bond reserves;

36 (3) Capitalized interest for the bonds; and

37 (4) Rebates or penalties due to the United States in connection with the bonds.

38 **SECTION 5.** (1)(a) The Oregon Innovation Council, in consultation with the Oregon
39 Business Development Department, shall determine eligibility for revenue bond financing of
40 proposals for funding under section 3 of this 2011 Act pursuant to rules adopted by the
41 council in consultation with the department.

42 (b) After determining that a proposal, grant or loan is eligible for revenue bond financing
43 under paragraph (a) of this subsection, the department shall forward a request for the issu-
44 ance of revenue bonds to the State Treasurer who shall determine whether to issue revenue
45 bonds.

1 (2) The State Treasurer may issue revenue bonds in an amount not to exceed net pro-
2 ceeds of \$16 million for the purpose of financing or refinancing, in whole or part, grants and
3 loans made under section 3 of this 2011 Act, plus an additional amount to be estimated by
4 the State Treasurer for payment of bond-related costs.

5 (3) Net proceeds of the revenue bonds issued pursuant to this section must be deposited
6 in the Energy, Jobs and Innovation Bond Fund, established under section 6 of this 2011 Act,
7 in an amount sufficient to provide \$16 million in net proceeds and interest earnings for dis-
8 bursement to the Oregon Innovation Council to finance the making of grants and loans under
9 section 3 of this 2011 Act.

10 (4) Bond-related costs must be paid from the gross proceeds of the revenue bonds issued
11 under this section and from moneys deposited in the Oregon Fund for Energy, Jobs and In-
12 novation established under section 2 of this 2011 Act.

13 (5) The State Treasurer, with the approval of the Oregon Business Development Depart-
14 ment and the Oregon Innovation Council, may irrevocably pledge and assign all or a portion
15 of the moneys deposited in the Oregon Fund for Energy, Jobs and Innovation to secure re-
16 venue bonds or credit enhancements.

17 (6) Revenue bonds issued under this section:

18 (a) Are payable from the moneys deposited in the Oregon Fund for Energy, Jobs and In-
19 novation.

20 (b) Do not constitute a debt or general obligation of this state, the Legislative Assembly
21 or a political subdivision of this state but are secured solely by the moneys deposited in the
22 Oregon Fund for Energy, Jobs and Innovation, by amounts in a debt service reserve account
23 established with respect to revenue bonds issued under this section or by a credit enhance-
24 ment obtained for the revenue bonds issued under this section.

25 (7) The State Treasurer, the Oregon Business Development Department and the Oregon
26 Innovation Council have no obligation to pay bond-related costs except as provided in this
27 section. A holder of revenue bonds or other similar obligations issued under this section does
28 not have the right to compel the exercise of the taxing power of the state to pay bond-related
29 costs.

30 (8) The holders of revenue bonds issued under this section, upon the issuance of the re-
31 venue bonds, have a perfected lien on the moneys deposited in the Oregon Fund for Energy,
32 Jobs and Innovation that are pledged and assigned to the payment of the revenue bonds. The
33 lien and pledge are valid and binding from the date of issuance of the revenue bonds and are
34 automatically perfected without physical delivery, filing or other act. The lien and pledge are
35 superior to subsequent claims or liens on the moneys deposited in the Oregon Fund for En-
36 ergy, Jobs and Innovation.

37 (9) As long as any revenue bonds issued under this section are outstanding, the pro-
38 visions of this section and the provisions of a security document related to the revenue bonds
39 are deemed to be contracts between the state and holders of the revenue bonds. The state:

40 (a) May not create a lien, encumbrance or any other obligation that is superior to the
41 liens authorized by subsection (8) of this section on the moneys in the Oregon Fund for En-
42 ergy, Jobs and Innovation that are pledged and assigned to the payment of the revenue
43 bonds; and

44 (b) May not give force or effect to a statute or initiative or referendum measure ap-
45 proved by the electors of this state, if doing so would unconstitutionally impair existing

1 covenants made with the holders of existing revenue bonds or would unconstitutionally im-
2 pair other obligations or agreements regarding the security of revenue bonds to which the
3 moneys deposited in the Oregon Fund for Energy, Jobs and Innovation are pledged and as-
4 signed.

5 (10) The Oregon Innovation Council is authorized to establish separate accounts within
6 the Oregon Fund for Energy, Jobs and Innovation for separate bond issues.

7 (11) The Oregon Innovation Council may:

8 (a) Make all contracts, execute all instruments and do all things necessary or convenient
9 in the exercise of the powers granted by this section, or in the performance of its covenants
10 or duties, or in order to secure the payment of revenue bonds issued under this section; and

11 (b) Enter into covenants for the benefit of bond owners regarding the use and expendi-
12 ture of moneys in the Oregon Fund for Energy, Jobs and Innovation.

13 (12) The State Treasurer, the Oregon Innovation Council or the Oregon Business Devel-
14 opment Department may appoint bond counsel as prescribed in ORS 286A.130.

15 **SECTION 6.** (1) The Energy, Jobs and Innovation Bond Fund is established in the State
16 Treasury, separate and distinct from the General Fund. The net proceeds from the sale of
17 revenue bonds issued under section 5 of this 2011 Act must be credited to the Energy, Jobs
18 and Innovation Bond Fund. Investment earnings received on moneys in the fund must be
19 credited to the fund.

20 (2) Moneys in the fund are continuously appropriated to the Oregon Innovation Council
21 for the purpose of making grants and loans under section 3 of this 2011 Act.

22 **SECTION 7.** (1) The Energy, Jobs and Innovation Debt Service Fund is established in the
23 State Treasury, separate and distinct from the General Fund. The Energy, Jobs and Inno-
24 vation Debt Service Fund consists of:

25 (a) An amount from the moneys deposited in the Oregon Fund for Energy, Jobs and In-
26 novation credited to the Energy, Jobs and Innovation Debt Service Fund by the State
27 Treasurer that is necessary in a fiscal year, as determined by the Oregon Innovation Council,
28 in consultation with the Oregon Business Development Department and the State Treasurer,
29 to pay the bond-related costs scheduled to be paid in that fiscal year on the revenue bonds
30 issued under section 5 of this 2011 Act;

31 (b) Any funds appropriated or allocated to the Energy, Jobs and Innovation Debt Service
32 Fund; and

33 (c) Investment earnings received on moneys in the Energy, Jobs and Innovation Debt
34 Service Fund.

35 (2) Moneys in the Energy, Jobs and Innovation Debt Service Fund are continuously ap-
36 propriated to the Oregon Innovation Council to pay, when due, the bond-related costs on
37 outstanding revenue bonds, to fund revenue bond reserves and to pay amounts due in con-
38 nection with credit enhancements.

39 (3) The Oregon Innovation Council, in consultation with the Oregon Business Develop-
40 ment Department and the State Treasurer, shall use amounts in the Energy, Jobs and In-
41 novation Debt Service Fund to pay, when due, the bond-related costs on outstanding revenue
42 bonds, to fund revenue bond reserves and to pay amounts due in connection with credit en-
43 hancements.

44 (4) If the moneys deposited in the Oregon Fund for Energy, Jobs and Innovation are not
45 sufficient to pay the bond-related costs due to be paid in a fiscal year, the Oregon Innovation

1 Council, in consultation with the Oregon Business Development Department and the State
2 Treasurer, shall make payments in that fiscal year according to the relative priority of re-
3 venue bonds secured by the moneys deposited in the Oregon Fund for Energy, Jobs and In-
4 novation.

5 **SECTION 8.** (1) The Energy, Jobs and Innovation Bond Administration Fund is estab-
6 lished in the State Treasury, separate and distinct from the General Fund. The Energy, Jobs
7 and Innovation Bond Administration Fund consists of:

8 (a) The amount of revenue bond proceeds remaining after depositing the net proceeds in
9 the Energy, Jobs and Innovation Bond Fund pursuant to section 6 of this 2011 Act;

10 (b) The proceeds of revenue bonds issued to pay bond-related costs;

11 (c) Any funds appropriated or allocated to the Energy, Jobs and Innovation Bond Ad-
12 ministration Fund; and

13 (d) Investment earnings received on moneys in the Energy, Jobs and Innovation Bond
14 Administration Fund.

15 (2) Moneys in the Energy, Jobs and Innovation Bond Administration Fund are contin-
16 uously appropriated to the Oregon Innovation Council for paying bond-related costs during
17 the term of revenue bonds issued under section 5 of this 2011 Act.

18 (3) The Oregon Innovation Council, in consultation with the Oregon Business Develop-
19 ment Department and the State Treasurer, may use amounts in the Energy, Jobs and Inno-
20 vation Bond Administration Fund to pay bond-related costs during the term of revenue bonds
21 issued under section 5 of this 2011 Act. Amounts in the bond administration fund must be
22 disbursed upon the written request of the Oregon Innovation Council in consultation with
23 the Oregon Business Development Department.

24 **SECTION 9.** ORS 284.740 is amended to read:

25 284.740. (1) The Oregon Innovation Council [*shall*] **may** establish [*a*] **one or more** signature
26 research [*center*] **centers** to maximize collaborative ventures among research institutions, the fed-
27 eral government and private industry that will capitalize on opportunities to obtain private and
28 federal funding for [*the*] research and development of:

29 (a) Nanoscience and microscience products, technology and multiscale materials.

30 (b) Solar energy, green building products and services, biofuels, biomass energy, bio-
31 based products and other renewable and sustainable energy technologies.

32 (2) The council may contract with [*a private, not-for-profit corporation*] **a nonprofit entity** for
33 the administration of the [*center*] **centers**.

34 (3) **Signature research centers, emerging businesses, research institutions and Oregon**
35 **clean energy businesses**, as defined in section 3 of this 2011 Act, contracting to develop
36 business endeavors, or to conduct research within a signature research center may receive
37 grants and loans from moneys in the Oregon Innovation Fund created under ORS 284.720,
38 the Oregon Commercialized Research Fund created under ORS 284.725 or the Oregon Fund
39 for Energy, Jobs and Innovation established under section 2 of this 2011 Act.

40 **SECTION 10.** Section 11 of this 2011 Act is added to and made a part of ORS chapter 757.

41 **SECTION 11.** (1) As used in this section:

42 (a) “Clean energy” has the meaning given that term in section 3 of this 2011 Act.

43 (b) “Public utility” has the meaning given that term in ORS 757.005. “Public utility” also
44 includes a consumer-owned utility as defined in ORS 757.270.

45 (2)(a) A public utility shall collect funds for clean energy economic development in an

1 amount determined under paragraph (b) of this subsection.

2 (b)(A) The Public Utility Commission shall establish the amount to be collected by each
3 public utility in calendar year 2012 from public utility consumers, and the rates to be charged
4 to the consumers served by the public utility, so that the total anticipated collection for
5 clean energy economic development under this section in calendar year 2012 is \$16 million.
6 In calendar year 2013 and subsequent calendar years, the commission may not change the
7 rates established for public utility consumers, but the total amount collected in a calendar
8 year for clean energy economic development under this section may vary based on utility
9 usage by public utility consumers and changes in the number of public utility consumers in
10 this state.

11 (B) Notwithstanding subparagraph (A) of this paragraph:

12 (i) A public utility consumer may not be required to pay more than \$_____ per month
13 for a clean energy economic development charge under this paragraph.

14 (ii) An industrial or commercial utility consumer may not be required to pay more than
15 \$_____ per month for a clean energy economic development charge under this paragraph.

16 (c) Funds collected by a public utility for clean energy economic development under this
17 subsection shall be paid to the Oregon Innovation Council for the Oregon Fund for Energy,
18 Jobs and Innovation established under section 2 of this 2011 Act. The council's cost of ad-
19 ministering this section shall be paid out of funds collected for the clean energy economic
20 development charge under this section.

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

24 _____