

Senate Bill 457

Sponsored by Senator GEORGE (Presession 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**.

Changes distribution of amounts collected as public purpose charge by electric companies and Oregon Community Power. Limits amount allocated annually for new cost-effective conservation and new market transformation.

Creates program for distribution of moneys for energy conservation measures to schools in areas where public purpose charge is collected, with moneys diverted from new cost-effective conservation and new market transformation purposes.

A BILL FOR AN ACT

1
2 Relating to electric company public purpose charges; creating new provisions; and amending ORS
3 757.612.

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

5 **SECTION 1. (1) As used in this section, "ADMw" means the weighted average daily**
6 **membership of a school district as calculated under ORS 327.013.**

7 **(2) An electric company or Oregon Community Power shall distribute moneys collected**
8 **for school districts under ORS 757.612 (3)(b)(A) as provided in subsections (3) to (6) of this**
9 **section.**

10 **(3) At the end of each month, an electric company or Oregon Community Power shall**
11 **divide the amount of moneys collected for distribution to school districts equally among**
12 **those school districts whose area is entirely or partially served by an electric company that**
13 **collects a public purpose charge or by Oregon Community Power, until \$100,000 to each eli-**
14 **gible school district has been distributed for that calendar year.**

15 **(4) After distributing moneys under subsection (3) of this section, an electric company**
16 **or Oregon Community Power shall distribute at the end of each month any remaining mon-**
17 **eys that may be available for that calendar year to school districts:**

18 **(a) With a ratio of assessed value of taxable property to ADMw in the prior fiscal year**
19 **that is within the lowest two-thirds of all school districts in this state; and**

20 **(b) Whose area is entirely or partially served by an electric company that collects a**
21 **public purpose charge or by Oregon Community Power.**

22 **(5) The State Department of Energy shall determine which school districts are eligible**
23 **for a distribution of the remaining moneys under subsection (4) of this section on the basis**
24 **of the total assessed value of taxable property of all school districts in this state, as reported**
25 **to the department by the Department of Revenue for the fiscal year preceding the calendar**
26 **year in which the distributions are made.**

27 **(6) A school district shall receive a distribution of the remaining moneys under sub-**
28 **section (4) of this section in an amount equal to the school district's ADMw multiplied by**
29 **(the total amount of moneys available in that calendar year after all distributions are made**

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 under subsection (3) of this section divided by the total ADMw of those school districts that
 2 are eligible for a distribution of the remaining moneys under subsection (4) of this section).

3 (7) The State Department of Energy may adopt any rules necessary for the adminis-
 4 tration of this section.

5 (8) Prior to February 1 of each calendar year, each school district receiving a distribution
 6 of moneys under this section shall submit a report to the State Department of Energy doc-
 7 umenting the expenditures made with its distribution during the preceding calendar year and
 8 verifying that the school district has spent the moneys on energy conservation measures.

9 **SECTION 2.** For calendar years 2012 and 2013, the State Department of Energy shall re-
 10 view the reports submitted by school districts under section 1 of this 2011 Act and make a
 11 written report to the appropriate legislative interim committee not later than October 1,
 12 2014. The department may make recommendations for proposed legislation to ensure com-
 13 pliance with section 1 of this 2011 Act.

14 **SECTION 3.** ORS 757.612 is amended to read:

15 757.612. (1) There is established an annual public purpose expenditure standard for electric
 16 companies and Oregon Community Power to fund new cost-effective local energy conservation, new
 17 market transformation efforts, **energy conservation assistance to school districts**, the above-
 18 market costs of new renewable energy resources and new low-income weatherization. The public
 19 purpose expenditure standard shall be funded by the public purpose charge described in subsection
 20 (2) of this section.

21 (2)(a) Beginning on the date an electric company or Oregon Community Power offers direct ac-
 22 cess to its retail electricity consumers, except residential electricity consumers, the electric com-
 23 pany or Oregon Community Power shall collect a public purpose charge from all of the retail
 24 electricity consumers located within its service area until January 1, 2026. Except as provided in
 25 paragraph (b) of this subsection, the public purpose charge shall be equal to three percent of the
 26 total revenues collected by the electric company, Oregon Community Power or the electricity ser-
 27 vice supplier from its retail electricity consumers for electricity services, distribution, ancillary
 28 services, metering and billing, transition charges and other types of costs included in electric rates
 29 on July 23, 1999.

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

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

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

39 (A) Sixty-three percent for [*new cost-effective conservation and new market transformation*] **en-**
 40 **ergy conservation assistance to school districts pursuant to section 1 of this 2011 Act.**

41 (B) Nineteen percent for:

42 (i) The above-market costs of constructing and operating new renewable energy resources with
 43 a nominal electric generating capacity, as defined in ORS 469.300, of 20 megawatts or less; **and**

44 (ii) **New cost-effective conservation and new market transformation.**

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

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 **prior to any of the allocations under subsections (1) to (6) of this section.** The commission may
7 require that an electric company or Oregon Community Power direct funds collected through public
8 purpose charges to the state agencies responsible for implementing subsections (1) to (6) of this
9 section in order to pay the costs of administering such responsibilities.

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

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

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

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

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

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

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

2 (iii) Energy conservation education programs.

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

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

7 (g) If the commission directs funds collected through public purpose charges to a nongovern-
8 mental entity, the entity shall:

9 (A) Include on the entity's board of directors an ex officio member designated by the commis-
10 sion, who shall also serve on the entity's nominating committee for filling board vacancies.

11 (B) Require the entity's officers and directors to provide an annual disclosure of economic in-
12 terest to be filed with the commission on or prior to April 15 of each calendar year for public review
13 in a form similar to the statement of economic interest required for public officials under ORS
14 244.060.

15 (C) Require the entity's officers and directors to declare actual and potential conflicts of interest
16 at regular meetings of the entity's governing body when such conflicts arise, and require an officer
17 or director to abstain from participating in any discussion or vote on any item where that officer
18 or director has an actual conflict of interest. For the purposes of this subparagraph, "actual conflict
19 of interest" and "potential conflict of interest" have the meanings given those terms in ORS 244.020.

20 (D) Arrange for an independent auditor to audit the entity's financial statements annually, and
21 direct the auditor to file an audit opinion with the commission for public review.

22 (E) File with the commission annually the entity's budget, action plan and quarterly and annual
23 reports for public review.

24 (F) At least once every five years, contract for an independent management evaluation to review
25 the entity's operations, efficiency and effectiveness, and direct the independent reviewer to file a
26 report with the commission for public review.

27 (h) The commission may remove from the board of directors of a nongovernmental entity an of-
28 ficer or director who fails to provide an annual disclosure of economic interest or declare actual
29 or potential conflict of interest, as described in paragraph (g)(B) and (C) of this subsection, in con-
30 nection with the allocation or expenditure of funds collected through public purpose charges and
31 directed to the entity.

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

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

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

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

41 (5)(a) A retail electricity consumer that uses more than one average megawatt of electricity at
42 any site in the prior year shall receive a credit against public purpose charges billed by an electric
43 company or Oregon Community Power for that site. The amount of the credit shall be equal to the
44 total amount of qualifying expenditures for new energy conservation, not to exceed 68 percent of the
45 annual public purpose charges, and the above-market costs of purchases of new renewable energy

1 resources incurred by the retail electricity consumer, not to exceed 19 percent of the annual public
2 purpose charges, less administration costs incurred under this subsection. The credit may not ex-
3 ceed, on an annual basis, the lesser of:

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

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

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

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

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

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

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

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

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

41 (b) The commission shall establish the amount to be collected by each electric company in cal-
42 endar year 2008 from retail electricity consumers served by the company, and the rates to be
43 charged to retail electricity consumers served by the company, so that the total anticipated col-
44 lection for low-income electric bill payment assistance by all electric companies in calendar year
45 2008 is \$15 million. In calendar year 2009 and subsequent calendar years, the commission may not

1 change the rates established for retail electricity consumers, but the total amount collected in a
2 calendar year for low-income electric bill payment assistance may vary based on electricity usage
3 by retail electricity consumers and changes in the number of retail electricity consumers in this
4 state. In no event shall a retail electricity consumer be required to pay more than \$500 per month
5 per site for low-income electric bill payment assistance.

6 (c) Funds collected by the low-income electric bill payment assistance charge shall be paid into
7 the Housing and Community Services Department Low-Income Electric Bill Payment Assistance
8 Fund established by ORS 456.587 (2). Moneys deposited in the fund under this paragraph shall be
9 used by the Housing and Community Services Department for the purpose of funding low-income
10 electric bill payment assistance. The department's cost of administering this subsection shall be paid
11 out of funds collected by the low-income electric bill payment assistance charge. Moneys deposited
12 in the fund under this paragraph shall be expended solely for low-income electric bill payment as-
13 sistance. Funds collected from an electric company or Oregon Community Power shall be expended
14 in the service area of the electric company or Oregon Community Power from which the funds are
15 collected.

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

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

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

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

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

36 **SECTION 4. The amendments to ORS 757.612 by section 3 of this 2011 Act apply to public**
37 **purpose charges collected on or after January 1, 2012.**

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