

SENATE AMENDMENTS TO SENATE BILL 863

By COMMITTEE ON BUSINESS, TRANSPORTATION AND ECONOMIC DEVELOPMENT

April 27

1 In line 2 of the printed bill, after “families” insert “; creating new provisions; amending ORS
2 458.515 and 757.612; and declaring an emergency”.

3 Delete lines 4 through 9 and insert:

4 “**SECTION 1.** ORS 458.515 is amended to read:

5 “458.515. (1) The Director of the Housing and Community Services Department shall appoint an
6 advisory committee **on energy** whose members:

7 “(a) Shall be appointed based on a demonstrated interest in and knowledge of low income en-
8 ergy assistance programs; *[and]*

9 “(b) **Shall be** broadly representative of organizations, fuel providers and consumer groups that
10 represent low income persons, particularly elderly persons and persons with disabilities; *[and]*

11 “(c) **Shall** have special qualifications with respect to solving the energy consumption problems
12 of low income persons;

13 “(d) **Must include a representative from each electric company or Oregon Community**
14 **Power whose ratepayers contribute funding to the Housing and Community Services De-**
15 **partment Low-Income Electric Bill Payment Assistance Fund established in ORS 456.587; and**

16 “(e) **Must include a representative of the Citizens’ Utility Board established under ORS**
17 **chapter 774.**

18 “(2) The committee shall meet not less than *[twice]* **four times** a year to advise and assist the
19 Housing and Community Services Department in regard to rules, policies and programs regarding
20 low income energy assistance programs provided for under ORS 458.510.

21 “**SECTION 2.** ORS 757.612 is amended to read:

22 “757.612. (1) There is established an annual public purpose expenditure standard for electric
23 companies and Oregon Community Power to fund new cost-effective local energy conservation, new
24 market transformation efforts, the above-market costs of new renewable energy resources and new
25 low-income weatherization. The public purpose expenditure standard shall be funded by the public
26 purpose charge described in subsection (2) of this section.

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

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

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

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

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

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

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

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

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

23 “(d) The commission shall direct the manner in which public purpose charges are collected and
24 spent by an electric company or Oregon Community Power and may require an electric company
25 or Oregon Community Power to expend funds through competitive bids or other means designed to
26 encourage competition, except that funds dedicated for low-income weatherization shall be directed
27 to the Housing and Community Services Department as provided in subsection (7) of this section.
28 The commission may also direct that funds collected by an electric company or Oregon Community
29 Power through public purpose charges be paid to a nongovernmental entity for investment in public
30 purposes described in subsection (1) of this section. Notwithstanding any other provision of this
31 subsection:

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

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

36 “(e)(A) The first 10 percent of the funds collected annually by an electric company or Oregon
37 Community Power under subsection (2) of this section shall be distributed to education service dis-
38 tricts, as described in ORS 334.010, that are located in the service territory of the electric company
39 or Oregon Community Power. The funds shall be distributed to individual education service districts
40 according to the weighted average daily membership (ADMw) of the component school districts of
41 the education service district for the prior fiscal year as calculated under ORS 327.013. The com-
42 mission shall establish by rule a methodology for distributing a proportionate share of funds under
43 this paragraph to education service districts that are only partially located in the service territory
44 of the electric company or Oregon Community Power.

45 “(B) An education service district that receives funds under this paragraph shall use the funds

1 first to pay for energy audits for school districts located within the education service district. An
2 education service district may not expend additional funds received under this paragraph on a
3 school district facility until an energy audit has been completed for that school district. To the
4 extent practicable, an education service district shall coordinate with the State Department of En-
5 ergy and incorporate federal funding in complying with this paragraph. Following completion of an
6 energy audit for an individual school district, the education service district may expend funds re-
7 ceived under this paragraph to implement the energy audit. Once an energy audit has been con-
8 ducted and completely implemented for each school district within the education service district, the
9 education service district may expend funds received under this paragraph for any of the following
10 purposes:

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

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

15 “(iii) Energy conservation education programs.

16 “(iv) Purchasing electricity from environmentally focused sources and investing in renewable
17 energy resources.

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

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

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

24 “(B) Require the entity’s officers and directors to provide an annual disclosure of economic in-
25 terest to be filed with the commission on or prior to April 15 of each calendar year for public review
26 in a form similar to the statement of economic interest required for public officials under ORS
27 244.060.

28 “(C) Require the entity’s officers and directors to declare actual and potential conflicts of in-
29 terest at regular meetings of the entity’s governing body when such conflicts arise, and require an
30 officer or director to abstain from participating in any discussion or vote on any item where that
31 officer or director has an actual conflict of interest. For the purposes of this subparagraph, ‘actual
32 conflict of interest’ and ‘potential conflict of interest’ have the meanings given those terms in ORS
33 244.020.

34 “(D) Arrange for an independent auditor to audit the entity’s financial statements annually, and
35 direct the auditor to file an audit opinion with the commission for public review.

36 “(E) File with the commission annually the entity’s budget, action plan and quarterly and annual
37 reports for public review.

38 “(F) At least once every five years, contract for an independent management evaluation to re-
39 view the entity’s operations, efficiency and effectiveness, and direct the independent reviewer to file
40 a report with the commission for public review.

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

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

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

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

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

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

18 “(A) The amount of the retail electricity consumer’s qualifying expenditures; or

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

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

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

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

40 “(B) A retail electricity consumer shall be entitled each year to the credit described in this
41 subsection unless a subsequent independent audit determines that new conservation investment op-
42 portunities are available. The State Department of Energy may require that a new independent audit
43 be performed on the site to determine whether new conservation measures are available, provided
44 that the independent audits shall occur no more than once every two years.

45 “(C) The retail electricity consumer shall pay the cost of the independent audits described in

1 this subsection.

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

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

10 “(b) The commission shall establish the amount to be collected by each electric company in
11 calendar year 2008 from retail electricity consumers served by the company, and the rates to be
12 charged to retail electricity consumers served by the company, so that the total anticipated col-
13 lection for low-income electric bill payment assistance by all electric companies in calendar year
14 2008 is \$15 million. In calendar year 2009 and subsequent calendar years, the commission may not
15 change the rates established for retail electricity consumers, but the total amount collected in a
16 calendar year for low-income electric bill payment assistance may vary based on electricity usage
17 by retail electricity consumers and changes in the number of retail electricity consumers in this
18 state. In no event shall a retail electricity consumer be required to pay more than \$500 per month
19 per site for low-income electric bill payment assistance.

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

30 “(d)(A) The Housing and Community Services Department, in consultation with the [federal]
31 advisory committee on energy **established by ORS 458.515**, shall determine the manner in which
32 funds collected under this subsection will be allocated by the department to energy assistance pro-
33 gram providers for the purpose of providing low-income bill payment and crisis assistance.[*includ-*
34 *ing programs that*]

35 “(B) **The department shall investigate and may implement alternative delivery models**
36 **specified by the advisory committee on energy, in consultation with electric companies, to**
37 **effectively reduce service disconnections and related costs to retail electricity consumers and elec-**
38 **tric utilities.**

39 “(C) Priority assistance shall be directed to low-income electricity consumers who are in danger
40 of having their electricity service disconnected.

41 “(D) **The department shall maintain records and provide those records upon request to**
42 **an electric company, Oregon Community Power and the Citizens’ Utility Board established**
43 **under ORS chapter 774 on a quarterly basis. Records maintained must include the numbers**
44 **of low-income electricity consumers served, the average amounts paid and the type of as-**
45 **sistance provided. Electric companies and Oregon Community Power shall, if requested,**

1 **provide the department with aggregate data relating to consumers served on a quarterly**
2 **basis to support program development.**

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

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

11 “(8) For purposes of this section, ‘retail electricity consumers’ includes any direct service in-
12 dustrial consumer that purchases electricity without purchasing distribution services from the elec-
13 tric utility.

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

16 **“SECTION 3. (1) Notwithstanding the \$15 million limitation expressed in ORS 757.612**
17 **(7)(b), the Public Utility Commission shall direct electric companies or Oregon Community**
18 **Power to collect a combined total of an additional \$5 million per 12-month period from resi-**
19 **dential electricity consumers for the low-income electric bill payment assistance provided for**
20 **in ORS 757.612 (7)(a) if the Housing and Community Services Department requests an in-**
21 **crease due to finding, in consultation with the advisory committee on energy, that two or**
22 **more of the following events have occurred:**

23 **“(a) The unemployment rate in Oregon as determined by the Bureau of Labor Statistics**
24 **of the United States Department of Labor has exceeded 10 percent for at least six months**
25 **of the previous 12-month period.**

26 **“(b) The poverty rate in Oregon as determined by the United States Census Bureau has**
27 **exceeded 12 percent during the previous 12-month period.**

28 **“(c) The moneys allocated for the year under the federal Low Income Home Energy As-**
29 **sistance Act of 1981 (42 U.S.C. 8621 et seq.) are 75 percent or less of the previous year’s al-**
30 **location.**

31 **“(d) The number of households in Oregon receiving supplemental nutrition assistance has**
32 **exceeded 20 percent during the previous 12-month period.**

33 **“(2) The additional moneys collected pursuant to this section may not be collected for**
34 **more than:**

35 **“(a) Twelve months from the date that the Public Utility Commission directs the electric**
36 **companies or Oregon Community Power to make the collection, without an additional finding**
37 **by the Housing and Community Services Department, not less than nine months after its**
38 **initial finding under subsection (1) of this section, that two or more of the events specified**
39 **in subsection (1) of this section have occurred; or**

40 **“(b) A total of 24 months.**

41 **“SECTION 4. Section 3 of this 2011 Act is repealed on January 2, 2014.**

42 **“SECTION 5. This 2011 Act being necessary for the immediate preservation of the public**
43 **peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect**
44 **on its passage.”.**