
MEMORANDUM

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To: Natural Resources Subcommittee

From: Michelle Deister, Legislative Fiscal Office
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Date: June 3, 2013

Subject: HB 2807 Work Session Recommendations

HB 2807A modifies provisions related to the collection of energy resource supplier assessment by the state Department of Energy.

The measure, the original staff measure summary, preliminary Joint Committee on Ways and Means staff measure summary, and fiscal impact statement are available on the Oregon Legislative Information System (OLIS).

The measure previously had a public hearing in the House Subcommittee on Energy and Environment in mid-April.

The measure has a minimal fiscal impact.

Amendment

There is a –A10 amendment to the measure that provides for notice to be given to energy resource suppliers when the Department submits comments or intervenes in federal proceedings, in some circumstances, clarifies that funds may be spent only for activities that the department and siting council are authorized to administer, and clarifies that funds in the Jobs, Energy and Schools Fund can be used to reduce the financing costs of related projects.

Motion #1: Move the –A10 amendment to HB 2807 A.

Measure as Modified

The measure, as amended, is recommended to be moved to the full Committee on Joint Ways and Means.

Motion #2: Move HB 2807-A to the full committee with a “do pass” recommendation, as amended.

Assignment of Carriers

Full: _____
2nd Chamber: _____

Joint Committee on Ways and Means

Carrier – House:
Carrier – Senate:

Revenue: Revenue Impact Statement Not Issued

Fiscal: Fiscal Impact Statement Not Issued

Action:

Vote:

House

Yeas:

Nays:

Exc:

Senate

Yeas:

Nays:

Exc:

Prepared By: Michelle Deister, Legislative Fiscal Office

Meeting Date: To be determined

WHAT THE MEASURE DOES: Requires ODOE Director to convene a public meeting with energy resource suppliers and interested parties to provide accounting of projected revenue needed to fund ODOE programs and project allocation of outlays after determining projected revenues and prior to filing forms to compile the Governor's budget. Reduces energy resource supplier assessment cap to .375% of supplier's gross operating revenue. Adds electronic medium to acceptable methods of ODOE Director order notification to energy resource suppliers. Requires energy resource supplier to provide to ODOE Director most recent fiscal year statement by May 1 of each year. Requires ODOE Director to convene advisory group. Provides advisory group membership guidelines, minimum number of meetings to be held each year and policy areas to review. Modifies guidelines for ODOE intervention with federal government in state-related energy interests to requiring that intervention to be done at direction of ODOE Director. Requires ODOE Director to provide notification of intervention within 15 days of intervention. Transfers duties, functions, unexpended fund balances, records, staff and powers of EFSC to ODOE from Department of Administrative Services (DAS).

ISSUES DISCUSSED:

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EFFECT OF COMMITTEE AMENDMENT: (-A10 amendment) Specifies that additional fees from an assessment will fund programs in addition to actives of the council and the department. Modifies directions to the director to determine the projected, rather than actual, aggregate amount of revenue to be collected from energy resource suppliers. Deletes requirements for the director to determine specific revenue to be collected from each energy resource supplier. Changes eligible verified statement of operating revenues that energy supplier may use to submit to the director, and specifies that it must be the same as what was used for the purpose of reporting on federal income taxes. Restores language that allows the director to collect penalties from resource suppliers. Restores language that allows the department to express its views of an agency action in relation to energy resources and state energy policy. Adds additional requirements related to public notice of department testimony. Adds clarifying language regarding the State Department of Energy Account and states that moneys may only be expended for programs and activates that the council and department are responsible for. Requires the director to, upon request, make a record of the prior fiscal years energy resource supplier assessment. States that the Jobs, Energy and Schools Fund is to use fund moneys to help reduce the overall financing costs associated with the promotion of energy efficiency, renewable energy and energy conservation.

BACKGROUND: The energy supplier assessment (ESA) is an assessment on utilities and energy suppliers that is not to exceed .5% of the assessed company's yearly total gross operating revenues. For much of the ESA's history,

the amount assessed was between .05% and .07% of the assessed company's yearly total gross operating revenues. The funds raised through this assessment represent a significant portion of the Oregon Department of Energy's budget.

**PROPOSED AMENDMENTS TO
A-ENGROSSED HOUSE BILL 2807**

1 On page 1 of the printed A-engrossed bill, line 2, after “469.110,” delete
2 the rest of the line and line 3 and insert “469.120, 469.421, 469.450 and 470.575
3 and section 47a, chapter 753, Oregon Laws 2009.”.

4 On page 3, line 9, before “activities” insert “programs and”.

5 In line 15, before “aggregate” insert “projected” and delete “resources”
6 and insert “resource”.

7 In line 17, after “biennium” delete the rest of the line and line 18 and
8 insert “. After mak-”.

9 In line 22, after “program” insert “or activity”.

10 In line 24, after “program” insert “or activity”.

11 On page 4, delete lines 30 through 32 and insert “calendar or fiscal year
12 that was used by the energy resource supplier for the purpose of reporting
13 federal income taxes for the preceding calendar or fiscal year.”.

14 On page 5, line 41, restore the bracketed material.

15 On page 6, line 38, restore the bracketed material.

16 In line 39, restore the bracketed material and delete the boldfaced mate-
17 rial.

18 Delete lines 40 through 45 and insert:

19 **“SECTION 5. Section 6 of this 2013 Act is added to and made a part
20 of ORS 469.300 to 469.563.**

21 **“SECTION 6. (1) As used in this section, ‘energy resource supplier’
22 has the meaning given that term in ORS 469.421.**

1 **“(2)(a) If the State Department of Energy submits comments or**
2 **written or oral testimony in a rulemaking, contested case, ratemaking**
3 **or other proceeding conducted by another agency, as defined in ORS**
4 **183.310, and if the comment or testimony is about a substantive matter**
5 **at issue in the proceeding, the department shall provide, once for each**
6 **proceeding, notice to energy resource suppliers as described in this**
7 **section.**

8 **“(b) If the department submits written comments or intervenes in**
9 **a proceeding conducted by a federal agency, the department shall**
10 **provide, once for each proceeding, notice to energy resource suppliers**
11 **as described in this section.**

12 **“(c) This section does not apply to:**

13 **“(A) The department’s participation in a procedural matter related**
14 **to a proceeding described in paragraph (a) or (b) of this subsection;**

15 **“(B) The department’s participation in a federal facility siting pro-**
16 **ceeding;**

17 **“(C) The department’s work with the Energy Facility Siting Coun-**
18 **cil;**

19 **“(D) The department’s work on nuclear safety and emergency**
20 **preparedness; or**

21 **“(E) Federal judicial or legislative proceedings.**

22 **“(3) The department shall create and maintain a list of energy re-**
23 **source suppliers that request to receive notice described in subsection**
24 **(2) of this section. The department may create separate lists for the**
25 **different types of proceedings.**

26 **“(4) Notice provided under this section may be provided by elec-**
27 **tronic mail and must include a description of the department’s inter-**
28 **est in the proceeding.**

29 **“(5) Except as provided in subsection (6) of this section, notice must**
30 **be provided under this section:**

1 “(a) No later than seven days before submitting initial comments
2 on a substantive matter at issue in a rulemaking proceeding described
3 in subsection (2)(a) of this section or a proceeding involving the
4 adoption of federal regulations;

5 “(b) No later than 15 days before submitting initial comments or
6 written or oral testimony on a substantive matter at issue in a con-
7 tested case, ratemaking or other proceeding described in subsection
8 (2)(a) of this section; or

9 “(c) No later than 15 days before submitting initial written com-
10 ments or written testimony on a substantive matter at issue in a
11 proceeding conducted by a federal agency other than a proceeding in-
12 volving the adoption of federal regulations.

13 “(6) If providing notice in accordance with subsection (5) of this
14 section is prejudicial to the department’s ability to participate in a
15 rulemaking, contested case, ratemaking or other proceeding described
16 in subsection (2) of this section, the department may provide notice
17 as soon as it is practicable to provide notice. If the department pro-
18 vides notice as described in this subsection, the department shall in-
19 clude in the notice an explanation of why providing notice in
20 accordance with subsection (5) of this section is prejudicial to the de-
21 partment.

22 “(7) The department may adopt rules as necessary to implement
23 this section.”.

24 On page 7, line 3, delete “4a” and insert “7”.

25 After line 29, insert:

26
27 **“STATE DEPARTMENT OF ENERGY ACCOUNT**

28
29 **“SECTION 8.** ORS 469.120 is amended to read:

30 “469.120. (1) The State Department of Energy Account is established.

1 “(2) **The account shall consist of** all funds received by the State De-
2 partment of Energy pursuant to law [*shall be paid into the State Treasury*
3 *and credited to the State Department of Energy Account*]. All moneys in the
4 account are continuously appropriated to the State Department of Energy for
5 payment of expenses of the [*State*] department [*of Energy, the Oregon De-*
6 *partment of Administrative Services*] and **of** the Energy Facility Siting
7 Council.

8 “(3) **Moneys collected under ORS 469.421 (8) may be expended only**
9 **for the purposes of programs and activities that the council and the**
10 **department are charged with administering and authorized to conduct**
11 **under the laws of this state, including those enumerated in ORS**
12 **469.030.**

13 “[(3)] (4) The Director of the State Department of Energy shall keep a
14 record of all moneys deposited in the [*State Department of Energy*] account.
15 The record shall indicate by special cumulative accounts the source from
16 which moneys are derived and the individual activity **or program, includ-**
17 **ing any activities described in section 6 of this 2013 Act**, against which
18 each withdrawal is charged. **On or after October 1 of each year, the di-**
19 **rector shall make available, upon request, the record for the prior**
20 **fiscal year to any energy resource supplier that has paid the assess-**
21 **ment imposed under ORS 469.421 (8). The director shall make the re-**
22 **cord available within 30 days of receiving the request.”.**

23 In line 33, delete “5” and insert “9”.

24 In line 36, delete “6” and insert “10”.

25 On page 8, line 16, delete “7” and insert “11”.

26 In line 25, delete “8” and insert “12”.

27 In line 29, delete “5” and insert “9”.

28 In line 31, delete “5” and insert “9”.

29 In line 34, delete “5” and insert “9”.

30 In line 40, delete “9” and insert “13”.

1 In line 44, delete “5” and insert “9”.
2 On page 9, line 1, delete “5” and insert “9”.
3 In line 6, delete “10” and insert “14”.
4 In line 7, delete “5” and insert “9”.
5 In line 11, delete “11” and insert “15” and delete “5 and 8 to 13” and in-
6 sert “9 and 12 to 17”.
7 In line 12, delete “6 and 7” and insert “10 and 11”.
8 In line 14, delete “5” and insert “9”.
9 In line 18, delete “5” and insert “9”.
10 In line 19, delete “5” and insert “9”.
11 In line 23, delete “12” and insert “16” and delete “5” and insert “9”.
12 In line 25, delete “5” and insert “9”.
13 In line 31, delete “13” and insert “17”.
14 In line 33, delete “5” and insert “9”.
15 In line 36, delete “5” and insert “9”.
16 After line 39, insert:

17
18 **“JOBS, ENERGY AND SCHOOLS FUND**

19
20 **“SECTION 18.** ORS 470.575 is amended to read:

21 “470.575. (1) The Jobs, Energy and Schools Fund is established in the
22 State Treasury, separate and distinct from the General Fund. Interest earned
23 by the Jobs, Energy and Schools Fund shall be credited to the Jobs, Energy
24 and Schools Fund. Moneys in the fund are continuously appropriated to the
25 State Department of Energy for use as provided in this section.

26 “(2) The fund shall consist of any moneys directed by law, gift, grant or
27 donation to the fund and moneys from base efficiency package fees collected
28 pursuant to ORS 470.655.

29 “(3) The department shall use fund moneys:

30 “(a) To promote energy efficiency, renewable energy and energy conser-

1 vation projects, including the clean energy deployment program established
2 in ORS 470.810, that would otherwise result in a higher overall cost to the
3 applicant when energy costs and the financing and repayment costs for the
4 project are considered, [*by using the fund moneys to help produce a lower-or*
5 *zero-interest cost of loans obtained through the Small Scale Local Energy*
6 *Project Loan Fund established in section 1, Article XI-J of the Oregon Con-*
7 *stitution, or the Clean Energy Deployment Fund established in ORS 470.800*
8 *for the applicant*] **by using the fund moneys to help reduce the overall**
9 **financing costs associated with related projects; or**

10 “(b) To transfer to an appropriate fund for carrying out any purpose un-
11 der this chapter specified as a condition of a gift, grant or donation.”.

12 In line 43, delete “14” and insert “19”.

13 In line 44, after “activities” insert “and programs”.

14 On page 10, line 5, delete “15” and insert “20”.

15

FISCAL IMPACT OF PROPOSED LEGISLATION

Measure: HB 2807 - A10

Seventy-Seventh Oregon Legislative Assembly – 2013 Regular Session
Legislative Fiscal Office

*Only Impacts on Original or Engrossed
Versions are Considered Official*

Prepared by: Krista McDowell
Reviewed by: Michelle Deister
Date: 5/28/2013

Measure Description:

Modifies provisions related to collection of energy resource supplier assessment.

Government Unit(s) Affected:

Department of Energy

Analysis:

The proposed legislation has been determined to have
MINIMAL EXPENDITURE IMPACT
on state or local government.

While this individual measure has a “Minimal” fiscal impact, an agency may incur a net fiscal impact greater than minimal depending on the cumulative impact of all measures enacted into law that affect the agency.