

House Bill 2436

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Energy, Environment and Water)

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**.

Modifies provisions of energy efficiency and sustainable technology loan program. Changes terminology and requirements for primary contractors participating in construction of small scale local energy projects and for utility service territories served by sustainable energy project managers.

A BILL FOR AN ACT

1
2 Relating to energy efficiency and sustainable technology loan program; creating new provisions;
3 amending ORS 468A.040, 470.050, 470.505, 470.530, 470.535, 470.540, 470.550, 470.555, 470.560,
4 470.565, 470.630, 470.635, 470.650, 470.660, 470.665, 470.675 and 701.119 and section 49, chapter
5 753, Oregon Laws 2009; and repealing section 46, chapter 753, Oregon Laws 2009.

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

7 **SECTION 1.** ORS 470.050 is amended to read:

8 470.050. As used in this chapter, unless the context requires otherwise:

9 (1) "Alternative fuel project" means:

10 (a) Equipment, including vehicles that are not used primarily for personal, family or household
11 purposes, that is modified or acquired directly from a factory and that:

12 (A) Uses an alternative fuel including electricity, biofuel, gasohol with at least 20 percent de-
13 naturated alcohol content, hydrogen, hythane, methane, methanol, natural gas, propane or any other
14 fuel approved by the Director of the State Department of Energy; and

15 (B) Produces lower exhaust emissions or is more energy efficient than equivalent equipment fu-
16 eled by gasoline or diesel; and

17 (b) A facility, including a fueling station, or equipment necessary to produce alternative fuel or
18 operate equipment that uses an alternative fuel.

19 (2) "Applicant" means an applicant for a loan to construct a small scale local energy project.

20 (3) "Base efficiency package" means the package of energy efficiency upgrades or renewable
21 energy projects for a property that, when energy savings, project repayment costs, tax or other in-
22 centives, loan offset grants and other relevant economic factors are considered, is estimated to not
23 increase the utility bill of the customer over the loan repayment term.

24 (4) "Committee" means the Small Scale Local Energy Project Advisory Committee created under
25 ORS 470.070.

26 (5) "Cooperative" means a cooperative corporation organized under ORS chapter 62.

27 (6) "Director" means the Director of the State Department of Energy appointed under ORS
28 469.040.

29 (7) "Eligible federal agency" means a federal agency or public corporation created by the federal
30 government that proposes to use a loan for a small scale local energy project. "Eligible federal

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 agency” does not include a federal agency or public corporation created by the federal government
 2 that proposes to use a loan for a small scale local energy project to generate electricity for sale.

3 (8) “Eligible state agency” means a state officer, board, commission, department, institution,
 4 branch or agency of the state whose costs are paid wholly or in part from funds held in the State
 5 Treasury.

6 (9) “Energy efficiency and sustainable technology loan” means a loan for a small scale local
 7 energy project that is repayable by means of:

8 (a) A charge included with the participant’s utility customer account billing; or

9 (b) An alternative repayment method identified by the department and the borrower and speci-
 10 fied in the loan agreement.

11 (10) “Energy Project Bond Loan Fund” means the fund established under ORS 470.580.

12 (11) “Energy Project Supplemental Fund” means the fund established under ORS 470.570.

13 (12) “Energy Revenue Bond Repayment Fund” means the fund established under ORS 470.585.

14 (13) “Energy savings projection” means an examination of the energy performance and site
 15 characteristics of a property that, at a minimum, identifies:

16 (a) A base efficiency package; and

17 (b) Any additional optional measures that a customer is able to repay and that the sustainable
 18 energy project manager believes to be feasible for the site.

19 (14) “Jobs, Energy and Schools Fund” means the fund established under ORS 470.575.

20 (15) “Loan” includes the purchase or other acquisition of evidence of indebtedness and money
 21 used for the purchase or other acquisition of evidence of indebtedness.

22 (16) “Loan contract” means the evidence of indebtedness and all instruments used in the pur-
 23 chase or acquisition of the evidence of indebtedness. For eligible federal or state agencies or mu-
 24 nicipal corporations that are tax exempt entities, a loan contract may include a lease purchase
 25 agreement with respect to personal property.

26 (17) “Loan offset grant” means moneys from the Jobs, Energy and Schools Fund that are used
 27 to help offset the initial project costs or loan payments for energy efficiency, renewable energy and
 28 energy conservation projects.

29 (18) “Loan repayment charge” means an amount charged to a utility customer account through
 30 on-bill financing as a mechanism for the repayment of an energy efficiency and sustainable tech-
 31 nology loan.

32 (19) “Municipal corporation” has the meaning given in ORS 297.405 and also includes any Indian
 33 tribe or authorized Indian tribal organization or any combination of two or more of these tribes or
 34 organizations acting jointly in connection with a small scale local energy project.

35 (20) “On-bill financing” means a mechanism for collecting the repayment of an energy efficiency
 36 and sustainable technology loan through a utility customer account billing system.

37 (21) “Optional package” means measures for promoting energy efficiency or the use of renewable
 38 energy:

39 (a) That are in addition to the measures described in the customer’s base efficiency package;

40 (b) For which a customer has the ability to repay; and

41 (c) That the sustainable energy project manager believes to be feasible for the site.

42 (22) “Oregon business” means a sole proprietorship, partnership, company, cooperative, corpo-
 43 ration or other form of business entity that is organized or authorized to do business under Oregon
 44 law for profit.

45 **(23) “Primary contractor” means a contractor that:**

1 **(a) Has entered into a contract with an owner of property for which a proposed small**
2 **scale local energy project will be located;**

3 **(b) Is responsible for the completion of the small scale local energy project;**

4 **(c) Undertakes to complete the small scale local energy project; and**

5 **(d) Is responsible for any subcontractors performing work on the small scale local energy**
6 **project.**

7 [(23)] **(24)** “Public Purpose Fund Administrator” means the entity designated by the Public
8 Utility Commission to administer moneys collected by a company through the public purpose charge
9 described under ORS 757.612.

10 [(24)] **(25)** “Recycling project” means a facility or equipment that converts waste into a new and
11 usable product.

12 [(25)] **(26)** “Small business” means:

13 (a) An Oregon business that is:

14 (A) A retail or service business employing 50 or fewer persons at the time the loan is made; or

15 (B) An industrial or manufacturing business employing 200 or fewer persons at the time the loan
16 is made; or

17 (b) An Oregon subsidiary of a sole proprietorship, partnership, company, cooperative, corpo-
18 ration or other form of business entity for which the total number of employees for both the sub-
19 sidiary and the parent sole proprietorship, partnership, company, cooperative, corporation or other
20 form of business entity at the time the loan is made is:

21 (A) Fifty or fewer persons if the subsidiary is a retail or service business; and

22 (B) Two hundred or fewer if the subsidiary is an industrial or manufacturing business.

23 [(26)] **(27)** “Small scale local energy program loan” means a loan for a small scale local energy
24 project other than an energy efficiency and sustainable technology loan.

25 [(27)] **(28)** “Small scale local energy project” means any of the following:

26 (a) A system, mechanism or series of mechanisms located primarily in Oregon that directly or
27 indirectly uses or enables the use of, by the applicant or another person, renewable resources in-
28 cluding, but not limited to, solar, wind, geothermal, biomass, waste heat or water resources to
29 produce energy, including heat, electricity and substitute fuels, to meet a local community or re-
30 gional energy need in this state.

31 (b) A system, mechanism or series of mechanisms located primarily in Oregon or providing
32 substantial benefits to Oregon that directly or indirectly conserves energy or enables the conserva-
33 tion of energy by the applicant or another person, including energy used in transportation.

34 (c) A recycling project.

35 (d) An alternative fuel project.

36 (e) An improvement that increases the production or efficiency, or extends the operating life,
37 of a system, mechanism, series of mechanisms or project otherwise described in this subsection, in-
38 cluding but not limited to restarting a dormant project.

39 (f) A system, mechanism or series of mechanisms installed in a facility or portions of a facility
40 that directly or indirectly reduces the amount of energy needed for the construction and operation
41 of the facility and that meets the sustainable building practices standard established by the State
42 Department of Energy by rule. For purposes of this paragraph, “system, mechanism or series of
43 mechanisms” includes related and integrated upgrades to attain compliance with standards set in
44 the State of Oregon Structural Specialty Code and Fire and Life Safety Code, and seismic safety
45 upgrades.

1 (g) A project described in paragraphs (a) to (f) of this subsection, whether or not the existing
 2 project was originally financed under this chapter, together with any refinancing necessary to re-
 3 move prior liens or encumbrances against the existing project.

4 (h) A project described in paragraphs (a) to (g) of this subsection that conserves energy or
 5 produces energy by generation or by processing or collection of a renewable resource.

6 [(28)] (29) “Small Scale Local Energy Project Administration and Bond Sinking Fund” means the
 7 fund created under ORS 470.300.

8 [(29)] (30) “Small Scale Local Energy Project Loan Fund” means the loan fund created by Arti-
 9 cle XI-J of the Oregon Constitution and appropriated to the State Department of Energy under ORS
 10 470.130.

11 [(30)] (31) “Sustainable energy project manager” means the organization responsible for pro-
 12 moting the energy efficiency and sustainable technology loan program or the clean energy deploy-
 13 ment program and related incentives for energy efficiency and renewable energy at the
 14 neighborhood and community level.

15 [(31) “Sustainable energy territory” means the geographic service area that a sustainable energy
 16 project manager is responsible for serving.]

17 (32) “Utility service territory” means the allocated territory in which a utility subject to
 18 this chapter provides a utility service. For the purposes of this subsection, “allocated terri-
 19 tory” and “utility service” have the meanings given those terms in ORS 758.400.

20 **SECTION 2.** ORS 470.560 is amended to read:

21 470.560. (1) The State Department of Energy shall adopt rules establishing certification stan-
 22 dards for **primary** contractors participating in the construction of small scale local energy projects
 23 financed through the energy efficiency and sustainable technology loan program. The department
 24 shall design the standards to ensure that the project work performed by a **primary** contractor
 25 holding the certification **and all the primary contractor’s subcontractors** is of high quality and
 26 will result in a high degree of customer satisfaction.

27 (2) The certification standards established by the department must, at a minimum, require that
 28 the **primary** contractor:

29 (a) Prove that the **primary** contractor *[has]* **and the primary contractor’s subcontractors**
 30 **have** sufficient skill to *[ensure that the contractor can]* successfully install energy efficiency,
 31 renewable energy or weatherization projects.

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

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

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

39 (e) Employ at least 80 percent of employees used for energy efficiency and sustainable technol-
 40 ogy loan program projects from the local work force, if a sufficient supply of skilled workers is
 41 available locally.

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

43 (g) Pay wages to employees used for energy efficiency and sustainable technology loan program
 44 projects at a rate equal to at least 180 percent of the state minimum wage.

45 (3) The State Department of Energy shall consult with the Public Purpose Fund Administrator

1 and utilities when developing [*contractor*] certification standards **for primary contractors**.

2 (4) The Construction Contractors Board may issue a qualifying **primary** contractor a certifi-
 3 cation authorizing the **primary** contractor to participate in the construction of small scale local
 4 energy projects financed through the energy efficiency and sustainable technology loan program. A
 5 **primary** contractor seeking certification shall apply to the board as provided under ORS 701.119.

6 (5) The State Department of Energy shall identify certified **primary** contractors that provide
 7 employees with health insurance benefits as preferred service providers and may take other actions
 8 as practicable to encourage certified **primary** contractors to provide employees with health insur-
 9 ance benefits.

10 **SECTION 3.** ORS 470.635 is amended to read:

11 470.635. (1) The State Department of Energy may not complete an agreement for the issuance
 12 of an energy efficiency and sustainable technology loan unless the sustainable energy project man-
 13 ager, a **primary** contractor designated by the **sustainable energy** project manager or a person ap-
 14 proved by the department completes an energy savings projection or similar evaluation for the
 15 property that will benefit from the small scale local energy project. The projection or other evalu-
 16 ation shall be in writing and shall, at a minimum, identify the following:

17 (a) The recommended base efficiency package for the structure. A base energy package may in-
 18 clude improvements to existing supply lines and equipment.

19 (b) Any optional package recommended for the structure.

20 (c) The estimated net monthly cost to the applicant when energy savings, project repayment
 21 costs, tax or other incentives, loan offset grants, base efficiency package fees and other relevant
 22 economic factors are considered.

23 (d) The monthly cost to the applicant to repay the loan principal and finance charges.

24 (e) If the base efficiency package or recommended optional package includes the use of nontra-
 25 ditional technology, a description of the nontraditional technology.

26 (2) A base efficiency package or optional package may not provide for achieving energy effi-
 27 ciency upgrades through the use of appliances or other equipment that lack sufficient relationship
 28 to the structure to be subject to a fixture filing or real property lien.

29 (3) The projection or other evaluation shall state in a clear and conspicuous manner:

30 (a) That the estimated net monthly cost to the applicant contained in the projection or other
 31 evaluation does not represent a guarantee of project performance or results; and

32 (b) That no liability attaches to the department, any state agency or officer, the **sustainable**
 33 **energy** project managers or any utility if actual energy savings are less than the estimated savings
 34 or if the construction process or constructed project is unsatisfactory in any way.

35 (4) If the base efficiency package or recommended optional package includes the use of nontra-
 36 ditional technology, the projection or other evaluation shall include a statement that the technology
 37 is nontraditional, initialed by the prospective loan applicant.

38 (5) An energy efficiency and sustainable technology loan may be used only for a project con-
 39 structed by a **primary** contractor certified under ORS 701.119.

40 (6) Prior to the disbursement of the loan moneys to the **primary** contractor, a **sustainable en-**
 41 **ergy** project manager or other person approved by the department shall verify that the small scale
 42 local energy project has been completed in a manner consistent with energy efficiency and
 43 sustainable technology loan program requirements. If this state or any agency of this state adopts
 44 or recognizes an energy efficiency scoring system for buildings, the department may require that the
 45 verification described in this subsection include the determination of an energy efficiency score for

1 the property benefited by the project.

2 (7) The department shall periodically consult with **primary** contractors certified under ORS
3 701.119 for the purpose of updating average cost and projected savings figures used for energy
4 savings projections or other evaluations under this section. The department shall encourage the use
5 of methods for conducting energy savings projections or other evaluations under this section that
6 are cost-effective and time-effective, take advantage of economies of scale and produce results that
7 are accurate and are replicable for equivalent base energy packages.

8 **SECTION 4.** ORS 701.119 is amended to read:

9 701.119. (1) A licensed contractor that possesses an appropriate endorsement may apply to the
10 Construction Contractors Board for certification to participate **as a primary contractor, as de-**
11 **defined in ORS 470.050**, in the construction of small scale local energy projects financed through the
12 energy efficiency and sustainable technology loan program. The board may issue the certification
13 to a contractor that meets the standards established by the State Department of Energy under ORS
14 470.560. The board may charge a reasonable fee for certifying a contractor.

15 (2) If the board receives information that the contractor has failed to comply with the certif-
16 ication standards established by the department or has violated a wage and hours standard de-
17 scribed in ORS 701.108, the board shall hold a hearing and may revoke the certification.

18 (3) The board shall give the department notice of the issuance or revocation of a certification
19 under this section.

20 **SECTION 5.** ORS 470.530 is amended to read:

21 470.530. (1) Except as provided in subsection (5) of this section, the Director of the State De-
22 partment of Energy may establish qualifications for sustainable energy project managers and may
23 exercise oversight to ensure [*project manager*] compliance with those qualifications. A **sustainable**
24 **energy** project manager shall provide the promotion, technical and financial support and verifica-
25 tions necessary to administer [*the*] **an** energy efficiency and sustainable technology loan [*program*
26 *in the territory served by the project manager*].

27 **(2) A sustainable energy project manager may administer an energy efficiency and**
28 **sustainable technology loan only within a utility service territory of an investor-owned or**
29 **consumer-owned utility that provides electricity or gas services.**

30 [(2)] (3) [*The project manager shall serve a sustainable energy territory established by the*
31 *director.*] **A sustainable energy project manager shall serve the utility service territory for**
32 **which the sustainable energy project manager has been selected by the director.** The
33 **sustainable energy** project manager shall provide loan program information and technical and fi-
34 nancial information to promote energy efficiency and use of renewable energy at the neighborhood
35 and community levels. The **sustainable energy** project manager shall be responsible for small scale
36 local energy project verification and for monitoring program effectiveness for energy efficiency and
37 sustainable technology loans and small scale local energy program loans. The **sustainable energy**
38 project manager may administer the energy efficiency and sustainable technology loan program
39 within the **utility service** territory.

40 [(3)(a) *Except as provided in this subsection, the boundaries of a sustainable energy territory must*
41 *be consistent with the service territory of a local electric utility.*]

42 [(b) *The boundaries of a sustainable energy territory may be consistent with the service territory*
43 *of a local gas utility if:*]

44 [(A) *The local electric utility is a consumer-owned electric utility that elects not to be the project*
45 *manager for the sustainable energy territory; and*]

1 *[(B) The service territory of the local electric utility and the service territory of the local gas utility*
2 *overlap.]*

3 *[(c) Notwithstanding paragraphs (a) and (b) of this subsection, if the project manager for the*
4 *sustainable energy territory is other than the Public Purpose Fund Administrator or a consumer-owned*
5 *utility, the director may adjust the boundaries of the territory or create a larger or smaller territory if*
6 *the director believes that the territory boundaries as adjusted or created by the director would better*
7 *accomplish the goals of the energy efficiency and sustainable technology loan program.]*

8 (4) A city, county, metropolitan service district or other local government entity, or a nonprofit,
9 for-profit, tribal or state entity, may be a **sustainable energy** project manager if the entity meets
10 the qualifications established by the director under this section and is approved by the director to
11 provide promotion, outreach and customer support related to the energy efficiency and sustainable
12 technology loan program within a [*sustainable energy*] **utility service** territory. The Public Purpose
13 Fund Administrator is an ex officio sustainable energy project manager. The Public Purpose Fund
14 Administrator shall act as the **sustainable energy** project manager in any [*sustainable energy*]
15 **utility service** territory that is not served by another **sustainable energy** project manager.

16 (5) The director shall establish a sustainable energy project manager certification program.
17 However, the Public Purpose Fund Administrator or a consumer-owned utility is not required to
18 obtain a sustainable energy project manager certificate and the Public Purpose Fund Administrator
19 is not subject to any qualifications established by the director for a **sustainable energy** project
20 manager.

21 **SECTION 6.** ORS 470.535 is amended to read:

22 470.535. (1) The Director of the State Department of Energy shall initiate the certification pro-
23 cess for a sustainable energy project manager by publishing a request for proposals.

24 (2) An applicant for certification as a **sustainable energy** project manager shall submit infor-
25 mation to the director that includes:

26 (a) Background information about the applicant including, but not limited to, the qualifications,
27 relevant experience, financial status and staff of the applicant;

28 (b) A proposed plan for implementing and administering the goals and requirements of the en-
29 ergy efficiency and sustainable technology loan program in the [*sustainable energy*] **utility service**
30 territory; and

31 (c) Any additional information required by the director by rule.

32 (3) After reviewing all applications received, the director may select a **sustainable energy**
33 project manager. In selecting the **sustainable energy** project manager, the director shall consider
34 the following factors:

35 (a) The organizational experience of the applicant and the capacity of the applicant to success-
36 fully implement the energy efficiency and sustainable technology loan program goals and require-
37 ments.

38 (b) The strength of the applicant's proposed plan for implementing the goals and requirements
39 of the energy efficiency and sustainable technology loan program.

40 (c) The cost at which the applicant can conduct outreach, promotion, loan applicant support and
41 project verification services necessary to implement the energy efficiency and sustainable technol-
42 ogy loan program.

43 (d) Any other factors the director adopts by rule or directive.

44 (4) An applicant may not be certified as a **sustainable energy** project manager if the applicant
45 has a fiduciary or other obligation that creates an actual or apparent conflict of interest that may

1 interfere with achieving the goals of the energy efficiency and sustainable technology loan program.

2 **SECTION 7.** ORS 470.555 is amended to read:

3 470.555. (1) *[Except as provided in subsection (2) of this section, if a sustainable energy territory*
 4 *is all or part of the service territory for an investor-owned electric utility,]* The Public Purpose Fund
 5 Administrator shall be the sustainable energy project manager for *[the sustainable energy territory]*
 6 **investor-owned electric utilities.** The Public Purpose Fund Administrator shall inform the Public
 7 Utility Commission and the State Department of Energy of the activities of the administrator by
 8 filing a yearly action plan and an end-of-year report with the commission and the department.

9 (2) *[For a sustainable energy territory described in ORS 470.530 (3)(b), if the local gas utility is]*
 10 An investor-owned **gas** *[utility, the]* utility may act as *[the]* **a sustainable energy** project manager
 11 for the **utility service** territory **serviced by the utility** or may contract with the Public Purpose
 12 Fund Administrator to act as **the sustainable energy** project manager on behalf of the utility.

13 (3) *[If a territory is served by a consumer-owned utility and is outside the service territory of an*
 14 *investor-owned electric utility, the]* **A** consumer-owned utility shall be the **sustainable energy** project
 15 manager **for the utility service territory serviced by the utility** if the utility agrees to promote
 16 energy efficiency and sustainable technology loans as part of *[any]* **an** energy efficiency or
 17 renewable energy program offered by the utility. A consumer-owned utility may conduct energy ef-
 18 ficiency and renewable energy programs within the **utility service** territory of the utility regardless
 19 of whether the **utility service** territory is served by an energy efficiency and sustainable technology
 20 loan program. A consumer-owned utility may decline to participate in the energy efficiency and
 21 sustainable technology loan program.

22 (4) If a customer is served by both *[an investor-owned]* **a** gas utility and *[a consumer-owned]* **an**
 23 electric utility that have energy efficiency and sustainable technology loan programs, the utility that
 24 supplies the customer's primary source of heat for the property shall supply loan program services
 25 for that customer.

26 (5) The existence of an energy efficiency and sustainable technology loan program, or the ap-
 27 pointment of a sustainable energy project manager, in *[a sustainable energy]* **a utility service** ter-
 28 ritory does not prevent a consumer-owned utility from conducting *[any]* **an** energy efficiency or
 29 renewable energy program offered by the utility. If the consumer-owned utility declines to *[become*
 30 *the]* **serve as a sustainable energy** project manager for the **utility service** territory, the utility
 31 may:

32 (a) Continue with existing utility services and policies; or

33 (b) Work with the Director of the State Department of Energy to solicit and select a qualified
 34 entity to serve as the **sustainable energy** project manager as described in ORS 470.535 and 470.540.

35 (6) Subject to approval by the director, a **sustainable energy** project manager may contract
 36 with a qualified third party to assist the **sustainable energy** project manager in *[providing project*
 37 *manager services within the territory. If a sustainable energy territory is served by a project manager,*
 38 *the appointment of additional project managers shall be a subcontract approved by the existing project*
 39 *manager]* **serving a utility service territory. If a utility service territory is served by a**
 40 **sustainable energy project manager, the appointment of additional sustainable energy project**
 41 **managers may be made only by entering into a subcontract approved by the existing**
 42 **sustainable energy project manager.** If the third party is acting as a financier, the third party is
 43 not required to comply with laws regulating utilities based on the actions of the third party as a
 44 financier. The **sustainable energy** project manager may enter into agreements with trade associ-
 45 ations and other public and private entities for the promotion or marketing of the energy efficiency

1 and sustainable technology loan program.

2 (7) The Public Purpose Fund Administrator and sustainable energy project managers shall co-
 3 operate with, and coordinate their outreach and promotional efforts with, local utilities and other
 4 stakeholders to promote energy efficiency and renewable energy and to use the customer contacts,
 5 resources and capacity of **the** utilities to engage and inform utility customers about the energy ef-
 6 ficiency and sustainable technology loan program. The Public Purpose Fund Administrator and
 7 **sustainable energy** project managers shall coordinate with gas utilities regarding any changes to
 8 a gas pipeline and with electric utilities regarding electric charging or any changes to electrical
 9 connections that are external to a structure. The Public Purpose Fund Administrator and
 10 **sustainable energy** project managers shall coordinate with a gas utility regarding the installation
 11 of appliances used for space heating, water heating and compressed natural gas refueling.

12 **SECTION 8.** ORS 470.565 is amended to read:

13 470.565. (1) At the request of a loan applicant, a **primary** contractor that is authorized to par-
 14 ticipate in the construction of small scale local energy projects financed through the energy effi-
 15 ciency and sustainable technology loan program may conduct an energy savings projection or
 16 similar evaluation for a property and conduct post-project verifications of energy savings in a
 17 [*sustainable energy territory that does not have a*] **utility service territory not served by a**
 18 sustainable energy project manager.

19 (2) The State Department of Energy shall process a loan application submitted by an applicant
 20 in a [*sustainable energy territory that does not have a*] **utility service territory not served by a**
 21 **sustainable energy** project manager in the same manner as an application submitted through a
 22 **sustainable energy** project manager.

23 (3) The department may approve an energy efficiency and sustainable technology loan for prop-
 24 erty located in a [*sustainable energy territory that does not have a*] **utility service territory not**
 25 **served by a sustainable energy** project manager if:

26 (a) On-bill financing is available to the loan applicant through a local utility serving the bene-
 27 fited property; or

28 (b) The department and the loan applicant agree to an alternative method for ensuring repay-
 29 ment of the loan.

30 **SECTION 9.** ORS 470.630 is amended to read:

31 470.630. (1) The State Department of Energy may disburse energy efficiency and sustainable
 32 technology loan and small scale local energy program loan moneys by providing the loan moneys
 33 through a sustainable energy project manager or providing the loan moneys to or through an entity
 34 described in ORS 470.060. Loan moneys may be disbursed through a **sustainable energy** project
 35 manager only for the purpose of enabling the **sustainable energy** project manager to issue energy
 36 efficiency and sustainable technology loans and small scale local energy program loans to applicants
 37 in the [*sustainable energy*] **utility service** territory served by the **sustainable energy** project man-
 38 ager.

39 (2) The **sustainable energy** project manager may issue a loan from moneys disbursed under this
 40 section only if adequate security exists to ensure repayment of the loan. An energy efficiency and
 41 sustainable technology loan from a **sustainable energy** project manager to an applicant located in
 42 the [*sustainable energy*] **utility service** territory served by the **sustainable energy** project manager
 43 must have the features described in ORS 470.150 and 470.645 and is subject to the requirements and
 44 processes imposed under ORS 470.500 to 470.710 for energy efficiency and sustainable technology
 45 loans issued by the Director of the State Department of Energy. A **sustainable energy** project

1 manager that issues an energy efficiency and sustainable technology loan to support a small scale
2 local energy project may record a fixture filing and lien on the property that benefits from the **small**
3 **scale local energy** project as provided in ORS 470.680 or 470.685.

4 **SECTION 10.** ORS 470.660 is amended to read:

5 470.660. (1) All investor-owned utilities, except those that have withheld consent under ORS
6 470.510 (3), shall provide on-bill financing, except as described in subsection (4) of this section. After
7 an investor-owned utility [*servicing a sustainable energy territory*] has established an on-bill financing
8 system, an energy efficiency and sustainable technology loan shall be repaid by on-bill financing
9 unless the loan agreement specifies that the State Department of Energy and the borrower have
10 agreed to an alternative method for ensuring repayment of the loan.

11 (2) Unless the Public Utility Commission grants an investor-owned utility a waiver under sub-
12 section (4) of this section, the on-bill financing system of the utility must:

13 (a) Enable a customer to make a single payment to satisfy the periodic utility charges and re-
14 payment on an energy efficiency and sustainable technology loan;

15 (b) Provide a clearly identifiable line item or separate statement in the utility bill that shows
16 the energy efficiency and sustainable technology loan repayment amount; and

17 (c) Direct energy efficiency and sustainable technology loan repayment amounts collected by the
18 utility to the appropriate sustainable energy project manager or to the department for deposit to the
19 credit of the Small Scale Local Energy Project Administration and Bond Sinking Fund, Energy
20 Project Bond Loan Fund or Energy Project Supplemental Fund.

21 (3) The Public Utility Commission shall adopt rules for the use of on-bill financing by investor-
22 owned utilities. The rules may include, but need not be limited to, rules regarding nonpayment, in-
23 sufficient payment, delinquency notices, repayment charge transfers, processing fees, late fees and
24 refunds. The commission may not adopt any rule that imposes responsibility for the repayment of
25 an energy efficiency and sustainable technology loan on the utility.

26 (4) The commission may waive the requirement that an investor-owned utility provide on-bill fi-
27 nancing for one or more loans if the commission determines that providing the on-bill financing is
28 not practicable. If the commission grants a utility a waiver under this subsection, the utility shall
29 bill the affected customers for loan repayment separately from any utility customer meter billings.

30 **SECTION 11.** ORS 470.665 is amended to read:

31 470.665. (1) If a consumer-owned utility [*servicing a sustainable energy territory*] has established
32 an on-bill financing system, an energy efficiency and sustainable technology loan shall be repaid by
33 on-bill financing unless the loan agreement specifies that the State Department of Energy and the
34 borrower have agreed to an alternative method for ensuring repayment of the loan.

35 (2) Unless the Director of the State Department of Energy grants a consumer-owned utility a
36 waiver under subsection (4) of this section, the on-bill financing system of the utility must:

37 (a) Enable a customer to make a single payment to satisfy the periodic utility charges and re-
38 payment on an energy efficiency and sustainable technology loan;

39 (b) Provide a clearly identifiable line item or separate statement in the utility bill that shows
40 the energy efficiency and sustainable technology loan repayment amount; and

41 (c) Direct energy efficiency and sustainable technology loan repayment amounts collected by the
42 utility to the appropriate sustainable energy project manager or to the department for deposit to the
43 credit of the Small Scale Local Energy Project Administration and Bond Sinking Fund, Energy
44 Project Bond Loan Fund or Energy Project Supplemental Fund.

45 (3) The director may not adopt any rule that imposes responsibility for the repayment of an

1 energy efficiency and sustainable technology loan on the utility.

2 (4) The director may waive the requirement that a consumer-owned utility provide on-bill fi-
 3 nancing for one or more loans if the director determines, after consultation with the Bonneville
 4 Power Administration, that providing the on-bill financing is not practicable. If the director grants
 5 a waiver under this subsection, the utility shall bill the affected customers for loan repayment sep-
 6 arately from any utility customer account or customer meter billings.

7 **SECTION 12.** ORS 470.675 is amended to read:

8 470.675. (1) If a utility incurs reasonable costs in implementing an on-bill financing system that
 9 exceed any moneys received by the utility to assist in the implementation, the costs are legitimate
 10 costs for ratemaking purposes.

11 (2) A loan repayment charge for an energy efficiency and sustainable technology loan may in-
 12 clude, but need not be limited to, the amount of the loan, interest on the loan and the cost incurred
 13 by the State Department of Energy to implement, promote and administer the energy efficiency and
 14 sustainable technology loan program.

15 (3) The amount of an energy efficiency and sustainable technology loan repayment and any
 16 moneys received by a utility to assist in the implementation of an on-bill financing system are not
 17 gross revenue for purposes of calculating franchise fees or other regulatory assessments.

18 *[(4) If there is a change in ownership or other interest in property benefited by an energy efficiency
 19 and sustainable technology loan, and the loan relies on an on-bill financing system for collection of the
 20 loan repayment charge, the utility shall transfer the loan repayment charge to the utility customer ac-
 21 count of the person acquiring the ownership or other interest in the property.]*

22 **SECTION 13.** ORS 468A.040 is amended to read:

23 468A.040. (1) By rule the Environmental Quality Commission may require permits for air con-
 24 tamination sources classified by type of air contaminants, by type of air contamination source or
 25 by area of the state. The permits shall be issued as provided in ORS 468.065. A permit subject to
 26 the federal operating permit program shall be issued in accordance with the rules adopted under
 27 ORS 468A.310.

28 (2) If a request for review of the final Department of Environmental Quality action, or any part
 29 thereof, is made on an application for a permit issued under the federal operating permit program
 30 established under ORS 468A.310 in accordance with the rules adopted by the commission, the effect
 31 of the contested conditions and any conditions that are not severable from those contested shall be
 32 stayed upon a showing that compliance with the contested conditions during the pendency of the
 33 appeal would require substantial expenditures or losses that would not be incurred if the permittee
 34 prevails on the merits of the review and there exists a reasonable likelihood of success on the
 35 merits. The department may require that the contested conditions not be stayed if the department
 36 finds that substantial endangerment of public health or welfare would result from the staying of the
 37 conditions.

38 (3) Any source under an existing permit shall:

39 (a) Comply with the conditions of the existing permit during any modification or reissuance
 40 proceeding; and

41 (b) To the extent conditions of any new or modified permit are stayed under subsection (2) of
 42 this section, comply with the conditions of the existing permit that correspond to the stayed condi-
 43 tions, unless compliance would be technologically incompatible with compliance with other condi-
 44 tions of the new or modified permit that have not been stayed.

45 (4) For purposes of this section, a small scale local energy project, as defined in ORS 470.050

1 [(27)(a)], located in a maintenance area or nonattainment area, and any infrastructure related to that
 2 project located in the same area, is considered to provide a net air quality benefit to the extent
 3 required by this chapter if the project provides reductions in each air contaminant in the mainte-
 4 nance area or nonattainment area equal to the ratio specified in rules adopted by the commission,
 5 unless the department determines that the project will pose a material threat to compliance with
 6 air quality standards in the maintenance area or nonattainment area.

7 (5) As used in this section:

8 (a) "Maintenance area" has the meaning given that term in rules adopted by the commission.

9 (b) "Nonattainment area" has the meaning given that term in rules adopted by the commission.

10 **SECTION 14.** ORS 470.505 is amended to read:

11 470.505. Notwithstanding any other provision of this chapter, if the Director of the State De-
 12 partment of Energy determines that the State Department of Energy is unable to issue a sufficient
 13 number of energy efficiency and sustainable technology loans to offset the reasonable cost to the
 14 department of operating the loan program, the director may delay or suspend the energy efficiency
 15 and sustainable technology loan program in one or more [*sustainable energy*] **utility service** terri-
 16 tories or may delay or suspend any feature of the energy efficiency and sustainable technology loan
 17 program.

18 **SECTION 15.** ORS 470.540 is amended to read:

19 470.540. (1) Upon selecting a proposed sustainable energy project manager, the Director of the
 20 State Department of Energy shall notify all unsuccessful applicants for the position that another
 21 candidate is proposed for appointment. The director shall negotiate with the proposed **sustainable**
 22 **energy** project manager regarding any modifications to the service cost estimates or other features
 23 of the applicant's proposed plan that are necessary to ensure that the applicant will meet the goals
 24 and requirements of the energy efficiency and sustainable technology loan program and State De-
 25 partment of Energy rules.

26 (2) To the extent practicable, the director shall certify a **sustainable energy** project manager
 27 not later than four months after publication of the request for proposals and not later than two
 28 months after the selection of the proposed **sustainable energy** project manager. However, the di-
 29 rector may at any time select a different applicant as the proposed **sustainable energy** project
 30 manager or may reinstate the certification process.

31 (3) Upon deciding to certify the proposed **sustainable energy** project manager, the director
 32 shall give notice of the decision to all unsuccessful candidates, the public and the Small Scale Local
 33 Energy Project Advisory Committee. The director may approve the final certification of the
 34 **sustainable energy** project manager if:

35 (a) A request to appeal under ORS 470.545 is not filed within 15 days after the date the notice
 36 is sent; and

37 (b) The committee does not undertake a review of the proposed certification within 15 days after
 38 the date the notice is sent.

39 **SECTION 16.** ORS 470.550 is amended to read:

40 470.550. (1) Unless the sustainable energy project manager is the Public Purpose Fund Admin-
 41 istrator or a consumer-owned utility, the certification of a **sustainable energy** project manager
 42 shall be for a five-year term. The Director of the State Department of Energy shall issue the
 43 **sustainable energy** project manager a certification approval letter that states any conditions ap-
 44 plicable to the certification.

45 (2) The director may terminate the certification of a **sustainable energy** project manager for:

1 (a) Failure to adequately implement an applicable plan for implementing the energy efficiency
2 and sustainable technology loan program;

3 (b) Noncompliance with the regulatory or statutory requirements of the energy efficiency and
4 sustainable technology loan program;

5 (c) Failure to meet any **sustainable energy** project manager criteria established by the director;
6 or

7 (d) Failure to perform other certification conditions.

8 **SECTION 17.** ORS 470.650 is amended to read:

9 470.650. (1) If an applicant for a loan to construct a residential small scale local energy project
10 has household income that may qualify the person for a weatherization program operated by the
11 Housing and Community Services Department, the sustainable energy project manager shall refer
12 the applicant to the department. This subsection does not prohibit a **sustainable energy** project
13 manager from accepting an application from a person who has been denied, or is receiving, assist-
14 ance under a department weatherization program.

15 (2) If an applicant for a loan to construct a residential small scale local energy project has
16 household income that is less than 250 percent of the federal poverty guidelines, upon request by
17 the applicant, the State Department of Energy may waive all or part of an application fee for the
18 loan and may waive all or part of the project initiation fee.

19 **SECTION 18.** Section 49, chapter 753, Oregon Laws 2009, as amended by section 15, chapter
20 92, Oregon Laws 2010, is amended to read:

21 **Sec. 49.** Sections 42, 43, 44, 45[, 46] and 47a, chapter 753, Oregon Laws 2009, are repealed Jan-
22 uary 2, 2016.

23 **SECTION 19.** Section 46, chapter 753, Oregon Laws 2009, is repealed.

24 **SECTION 20.** The amendments to ORS 470.560, 470.565, 470.635 and 701.119 by sections 2
25 to 4 and 8 of this 2013 Act apply to applications for certification to participate in the con-
26 struction of small scale local energy projects that are submitted on or after the effective
27 date of this 2013 Act.

28 **SECTION 21.** Notwithstanding the amendments to ORS 470.530, 470.535, 470.555, 470.565,
29 470.630, 470.660 and 470.665 by sections 5 to 11 of this 2013 Act, a sustainable energy project
30 manager serving a sustainable energy territory before the effective date of this 2013 Act may
31 continue to serve that sustainable energy territory until the Director of the State Depart-
32 ment of Energy selects another sustainable energy project manager for that sustainable en-
33 ergy territory.

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