

B-Engrossed House Bill 2807

Ordered by the House June 24
Including House Amendments dated April 23 and June 24

Sponsored by COMMITTEE ON ENERGY AND ENVIRONMENT

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.

Modifies provisions related to collection of energy resource supplier assessment. Modifies certain provisions governing State Department of Energy operations.

Directs Director of State Department of Energy to convene work group composed of stakeholders for purpose of reviewing and making recommendations on certain departmental proposals.

Creates process by which department provides notice to certain energy resource suppliers of submitting comments or written or oral testimony in rulemaking, contested case, ratemaking or other proceeding conducted by certain state agencies or of intervening in proceeding conducted by federal agencies.

Requires department to make available, upon request, State Department of Energy Account records for prior fiscal year to any energy resource supplier that has paid annual assessment.

Transfers duties, functions and powers of Oregon Department of Administrative Services relating to Energy Facility Siting Council to State Department of Energy.

Makes technical amendments to provision authorizing State Department of Energy to use moneys in Jobs, Energy and Schools Fund.

A BILL FOR AN ACT

Relating to energy; creating new provisions; and amending ORS 184.345, 469.030, 469.110, 469.120, 469.421, 469.450 and 470.575 and section 47a, chapter 753, Oregon Laws 2009.

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

ANNUAL ENERGY RESOURCE SUPPLIER ASSESSMENT

SECTION 1. ORS 469.421 is amended to read:

469.421. (1) Subject to the provisions of ORS 469.441, any person submitting a notice of intent, a request for exemption under ORS 469.320, a request for an expedited review under ORS 469.370, a request for an expedited review under ORS 469.373, a request for the State Department of Energy to approve a pipeline under ORS 469.405 (3), an application for a site certificate or a request to amend a site certificate shall pay all expenses incurred by the Energy Facility Siting Council, *the State Department of Energy and the Oregon Department of Administrative Services* **and the department** related to the review and decision of the council. These expenses may include legal expenses, expenses incurred in processing and evaluating the application, issuing a final order or site certificate, commissioning an independent study by a contractor, state agency or local government under ORS 469.360, and changes to the rules of the council that are specifically required and related to the particular site certificate.

(2) Every person submitting a notice of intent to file for a site certificate, a request for ex-

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 emption or a request for expedited review shall submit the fee required under the fee schedule es-
 2 tablished under ORS 469.441 to the [State] department [of Energy] when the notice or request is
 3 submitted to the council. To the extent possible, the full cost of the evaluation shall be paid from
 4 the fee paid under this subsection. However, if costs of the evaluation exceed the fee, the person
 5 submitting the notice or request shall pay any excess costs shown in an itemized statement prepared
 6 by the council. In no event shall the council incur evaluation expenses in excess of 110 percent of
 7 the fee initially paid unless the council provides prior notification to the applicant and a detailed
 8 projected budget the council believes necessary to complete the project. If costs are less than the
 9 fee paid, the excess shall be refunded to the person submitting the notice or request.

10 (3) Before submitting a site certificate application, the applicant shall request from the [State]
 11 department [of Energy] an estimate of the costs expected to be incurred in processing the applica-
 12 tion. The department shall inform the applicant of that amount and require the applicant to make
 13 periodic payments of the costs pursuant to a cost reimbursement agreement. The cost reimbursement
 14 agreement shall provide for payment of 25 percent of the estimated costs when the applicant submits
 15 the application. If costs of the evaluation exceed the estimate, the applicant shall pay any excess
 16 costs shown in an itemized statement prepared by the council. In no event shall the council incur
 17 evaluation expenses in excess of 110 percent of the fee initially estimated unless the council pro-
 18 vided prior notification to the applicant and a detailed projected budget the council believes is
 19 necessary to complete the project. If costs are less than the fee paid, the council shall refund the
 20 excess to the applicant.

21 (4) Any person who is delinquent in the payment of fees under subsections (1) to (3) of this
 22 section shall be subject to the provisions of subsection (11) of this section.

23 (5) Subject to the provisions of ORS 469.441, each holder of a certificate shall pay an annual fee,
 24 due every July 1 following issuance of a site certificate. For each fiscal year, upon approval of the
 25 [State Department of Energy's] **department's** budget authorization by an odd-numbered year regular
 26 session of the Legislative Assembly or as revised by the Emergency Board meeting in an interim
 27 period or by the Legislative Assembly meeting in special session or in an even-numbered year reg-
 28 ular session, the Director of the State Department of Energy promptly shall enter an order estab-
 29 lishing an annual fee based on the amount of revenues that the director estimates is needed to fund
 30 the cost of ensuring that the facility is being operated consistently with the terms and conditions
 31 of the site certificate, any order issued by the department under ORS 469.405 (3) and any applicable
 32 health or safety standards. In determining this cost, the director shall include both the actual direct
 33 cost to be incurred by the council[, the State Department of Energy and the Oregon Department of
 34 Administrative Services] **and the department** to ensure that the facility is being operated consist-
 35 ently with the terms and conditions of the site certificate, any order issued by the [State] department
 36 [of Energy] under ORS 469.405 (3) and any applicable health or safety standards, and the general
 37 costs to be incurred by the council[, the State Department of Energy and the Oregon Department of
 38 Administrative Services] **and the department** to ensure that all certificated facilities are being op-
 39 erated consistently with the terms and conditions of the site certificates, any orders issued by the
 40 [State] department [of Energy] under ORS 469.405 (3) and any applicable health or safety standards
 41 that cannot be allocated to an individual, licensed facility. Not more than 35 percent of the annual
 42 fee charged each facility shall be for the recovery of these general costs. The fees for direct costs
 43 shall reflect the size and complexity of the facility and its certificate conditions.

44 (6) Each holder of a site certificate executed after July 1 of any fiscal year shall pay a fee for
 45 the remaining portion of the year. The amount of the fee shall be set at the cost of regulating the

1 facility during the remaining portion of the year determined in the same manner as the annual fee.

2 (7) When the actual costs of regulation incurred by the council[, *the State Department of Energy*
3 *and the Oregon Department of Administrative Services*] **and the department** for the year, including
4 that portion of the general regulation costs that have been allocated to a particular facility, are less
5 than the annual fees for that facility, the unexpended balance shall be refunded to the site certif-
6 icate holder. When the actual regulation costs incurred by the council[, *the State Department of*
7 *Energy and the Oregon Department of Administrative Services*] **and the department** for the year,
8 including that portion of the general regulation costs that have been allocated to a particular fa-
9 cility, are projected to exceed the annual fee for that facility, the director [*of the State Department*
10 *of Energy*] may issue an order revising the annual fee.

11 (8)(a) In addition to any other fees required by law, each energy resource supplier shall pay to
12 the [State] department [*of Energy*] annually its share of an assessment to fund the **programs and**
13 activities of the [*Energy Facility Siting Council, the Oregon Department of Administrative Services*
14 *and the State Department of Energy, determined by the Director of the State Department of Energy in*
15 *the following manner:*] **council and the department.**

16 (b) **Prior to filing budget forms under ORS 291.208 for purposes related to the compilation**
17 **and preparation of the Governor's budget under ORS 291.216, the director shall determine the**
18 **projected aggregate amount of revenue to be collected from energy resource suppliers under**
19 **this subsection that will be necessary to fund the programs and activities of the council and**
20 **the department for each fiscal year of the upcoming biennium. After making that determi-**
21 **nation, the director shall convene a public meeting with representatives of energy resource**
22 **suppliers and other interested parties for the purpose of providing energy resource suppliers**
23 **with a full accounting of:**

24 (A) **The projected revenue needed to fund each department program or activity; and**

25 (B) **The projected allocation of moneys derived from the assessment imposed under this**
26 **subsection to each department program or activity.**

27 [(a)] (c) Upon approval of the budget authorization of the [*Energy Facility Siting Council, the*
28 *Oregon Department of Administrative Services and the State Department of Energy*] **council and the**
29 **department** by an odd-numbered year regular session of the Legislative Assembly, the director [*of*
30 *the State Department of Energy*] shall promptly enter an order establishing the amount of revenues
31 required to be derived from an assessment pursuant to this subsection in order to fund [*the activities*
32 *of the Energy Facility Siting Council, the Oregon Department of Administrative Services and the State*
33 *Department of Energy, including those enumerated in ORS 469.030 and others authorized by law,*]
34 **programs and activities that the council and the department are charged with administering**
35 **and authorized to conduct under the laws of this state, including those enumerated in ORS**
36 **469.030, for the first fiscal year of the forthcoming biennium. On or before June 1 of each even-**
37 **numbered year, the director [*of the State Department of Energy*] shall enter an order establishing the**
38 **amount of revenues required to be derived from an assessment pursuant to this subsection in order**
39 **to fund the [*activities of the Energy Facility Siting Council, the Oregon Department of Administrative***
40 ***Services and the State Department of Energy, including those enumerated in ORS 469.030 and others***
41 ***authorized by law,*] programs and activities that the council and the department are charged**
42 **with administering and authorized to conduct under the laws of this state, including those**
43 **enumerated in ORS 469.030, for the second fiscal year of the biennium. The order shall take into**
44 **account any revisions to the biennial budget of the [*Energy Facility Siting Council, the State De-***
45 ***partment of Energy and the Oregon Department of Administrative Services*] **council and the depart-****

1 **ment** made by the Emergency Board meeting in an interim period or by the Legislative Assembly
 2 meeting in special session or in an even-numbered year regular session. [*However, an assessment*
 3 *under this section may not be used to derive revenue for funding State Department of Energy activities*
 4 *related to the energy efficiency and sustainable technology loan program described in ORS chapter*
 5 *470.*]

6 [(b)] (d) Each order issued by the director pursuant to paragraph [(a)] (c) of this subsection shall
 7 allocate the aggregate assessment set forth [*therein*] **in the order** to energy resource suppliers in
 8 accordance with paragraph [(c)] (e) of this subsection.

9 [(c)] (e) The amount assessed to an energy resource supplier shall be based on the ratio which
 10 that supplier's annual gross operating revenue derived within this state in the preceding calendar
 11 year bears to the total gross operating revenue derived within this state during that year by all
 12 energy resource suppliers. The assessment against an energy resource supplier shall not exceed
 13 [*five-tenths of one*] **0.375** percent of the supplier's gross operating revenue derived within this state
 14 in the preceding calendar year. The director shall exempt from payment of an assessment any indi-
 15 vidual energy resource supplier whose calculated share of the annual assessment is less than \$250.

16 [(d)] (f) The director shall send each energy resource supplier subject to assessment pursuant
 17 to this subsection a copy of each order issued[,] by registered or certified mail **or through use of**
 18 **an electronic medium with electronic receipt verification**. The amount assessed to the energy
 19 resource supplier pursuant to the order shall be considered to the extent otherwise permitted by law
 20 a government-imposed cost and recoverable by the energy resource supplier as a cost included
 21 within the price of the service or product supplied.

22 [(e)] (g) The amounts assessed to individual energy resource suppliers pursuant to paragraph
 23 [(c)] (e) of this subsection shall be paid to the [*State*] department [*of Energy*] as follows:

24 (A) Amounts assessed for the first fiscal year of a biennium shall be paid not later than 90 days
 25 following adjournment sine die of the odd-numbered year regular session of the Legislative Assem-
 26 bly; and

27 (B) Amounts assessed for the second fiscal year of a biennium shall be paid not later than July
 28 1 of each even-numbered year or 90 days following adjournment sine die of the even-numbered year
 29 regular session of the Legislative Assembly, whichever is later.

30 [(f)] (h) An energy resource supplier shall provide the director, on or before May 1 of each year,
 31 a verified statement showing its gross operating revenues derived within the state for the [*preceding*
 32 *calendar year.*] **calendar or fiscal year that was used by the energy resource supplier for the**
 33 **purpose of reporting federal income taxes for the preceding calendar or fiscal year**. The
 34 statement [*shall*] **must** be in the form prescribed by the director and is subject to audit by the di-
 35 rector. The statement [*shall*] **must** include an entry showing the total operating revenue derived by
 36 petroleum suppliers from fuels sold that are subject to the requirements of [*section 3a,*] Article IX,
 37 **section 3a**, of the Oregon Constitution, and ORS 319.020 with reference to aircraft fuel and motor
 38 vehicle fuel, and ORS 319.530. The director may grant an extension of not more than 15 days for the
 39 requirements of this subsection if:

40 (A) The energy supplier makes a showing of hardship caused by the deadline;

41 (B) The energy supplier provides reasonable assurance that the energy supplier can comply with
 42 the revised deadline; and

43 (C) The extension of time does not prevent the [*Energy Facility Siting Council, the Oregon De-*
 44 *partment of Administrative Services or the State Department of Energy*] **council or the department**
 45 from fulfilling [*their*] **its** statutory responsibilities.

1 [(g)] (i) As used in this section:

2 (A) "Energy resource supplier" means an electric utility, natural gas utility or petroleum sup-
3 plier supplying, generating, transmitting or distributing electricity, natural gas or petroleum pro-
4 ducts in Oregon.

5 (B) "Gross operating revenue" means gross receipts from sales or service made or provided
6 within this state during the regular course of the energy supplier's business, but does not include
7 either revenue derived from interutility sales within the state or revenue received by a petroleum
8 supplier from the sale of fuels that are subject to the requirements of [section 3a,] Article IX, **sec-**
9 **tion 3a**, of the Oregon Constitution, or ORS 319.020 or 319.530.

10 (C) "Petroleum supplier" has the meaning given that term in ORS 469.020.

11 [(h)] (j) In determining the amount of revenues that must be derived from any class of energy
12 resource suppliers by assessment pursuant to this subsection, the director shall take into account
13 all other known or readily ascertainable sources of revenue to the [Energy Facility Siting Council,
14 the Oregon Department of Administrative Services and the State Department of Energy] **council and**
15 **department**, including, but not limited to, fees imposed under this section and federal funds, and
16 may take into account any funds previously assessed pursuant to ORS 469.420 (1979 Replacement
17 Part) or section 7, chapter 792, Oregon Laws 1981.

18 [(i)] (k) Orders issued by the director pursuant to this section shall be subject to judicial review
19 under ORS 183.484. The taking of judicial review shall not operate to stay the obligation of an en-
20 ergy resource supplier to pay amounts assessed to it on or before the statutory deadline.

21 (9)(a) In addition to any other fees required by law, each operator of a nuclear fueled thermal
22 power plant or nuclear installation within this state shall pay to the [State] department [of Energy]
23 annually on July 1[,] an assessment in an amount determined by the director to be necessary to fund
24 the activities of the state and the counties associated with emergency preparedness for a nuclear
25 fueled thermal power plant or nuclear installation. The assessment shall not exceed \$461,250 per
26 year. Moneys collected as assessments under this subsection are continuously appropriated to the
27 [State] department [of Energy] for this purpose.

28 (b) The [State] department [of Energy] shall maintain and [shall] cause other state agencies and
29 counties to maintain time and billing records for the expenditure of any fees collected from an op-
30 erator of a nuclear fueled thermal power plant under paragraph (a) of this subsection.

31 (10) Reactors operated by a college, university or graduate center for research purposes and
32 electric utilities not connected to the Northwest Power Grid are exempt from the fee requirements
33 of subsections (5), (8) and (9) of this section.

34 (11)(a) All fees assessed by the director against holders of site certificates for facilities that have
35 an installed capacity of 500 megawatts or greater may be paid in several installments, the schedule
36 for which shall be negotiated between the director and the site certificate holder.

37 (b) Energy resource suppliers or applicants or holders of a site certificate who fail to pay a fee
38 provided under subsections (1) to (9) of this section or the fees required under ORS 469.360 after it
39 is due and payable shall pay, in addition to that fee, a penalty of two percent of the fee a month for
40 the period that the fee is past due. Any payment made according to the terms of a schedule nego-
41 tiated under paragraph (a) of this subsection shall not be considered past due. The director may
42 bring an action to collect an unpaid fee or penalty in the name of the State of Oregon in a court
43 of competent jurisdiction. The court may award reasonable attorney fees to the director if the di-
44 rector prevails in an action under this subsection. The court may award reasonable attorney fees
45 to a defendant who prevails in an action under this subsection if the court determines that the di-

1 rector had no objectively reasonable basis for asserting the claim or no reasonable basis for ap-
2 pealing an adverse decision of the trial court.

3 **SECTION 2.** Section 47a, chapter 753, Oregon Laws 2009, is amended to read:

4 **Sec. 47a.** Notwithstanding ORS 469.441, in addition to any assessment imposed under ORS
5 469.421 (8), the State Department of Energy may impose a special assessment on energy resource
6 suppliers that are subject to the assessment described in ORS 469.421 (8). The special assessment
7 authorized under this section may not exceed \$300,000. The department shall calculate the share of
8 the special assessment to be paid by an energy resource supplier based on the most recent gross
9 operating revenue ratio determined for that supplier under ORS 469.421 [(8)(c)] **(8)(e)** as of the spe-
10 cial assessment date. The department may not impose the special assessment authorized under this
11 section more than once and may not impose the special assessment after July 1, 2010. Moneys re-
12 ceived by the department from the special assessment must be deposited to the Energy Project
13 Supplemental Fund and used to pay costs incurred by the department or the Director of the State
14 Department of Energy in implementing or administering loan programs for small scale local energy
15 projects.

16 **SECTION 3. (1) The Director of the State Department of Energy shall convene an advi-**
17 **sory work group composed of stakeholders representing energy resource suppliers, the cus-**
18 **tomers who ultimately pay for the energy supplier assessment imposed under ORS 469.421**
19 **(8) through their energy bills and other groups that have an interest in the provision and**
20 **regulation of energy in this state.**

21 **(2) The advisory work group shall review and make recommendations on the State De-**
22 **partment of Energy's proposals related to:**

23 **(a) Planning, policy and technical analysis;**

24 **(b) Legislative concepts; and**

25 **(c) The department's requested budget.**

26 **(3) The work group shall meet at least two times per year at the call of the director.**

27 ENERGY-RELATED PROCEEDINGS

28 **SECTION 4.** ORS 469.110 is amended to read:

29
30 469.110. (1) **[As to] At the direction of the Director of the State Department of Energy, the**
31 **State Department of Energy may represent the state's energy-related interests in** any matter
32 involving the federal government, its departments or agencies, which is within the scope of the
33 power and duties of the State Department of Energy, *[the department may represent its interest or,*
34 *upon request, may]* **and may, upon request,** represent the interest of *[any]* a county, city, state
35 agency, **federally recognized Native American or American Indian tribe,** special district or
36 owner or operator of *[any]* **an energy facility.**

37
38 **(2) At the direction of the director,** the department may intervene in any proceeding under-
39 taken by an agency for the purpose of expressing its views as to the effect of an agency action, upon
40 state energy resources and state energy policy.

41 **SECTION 5. Section 6 of this 2013 Act is added to and made a part of ORS 469.300 to**
42 **469.563.**

43 **SECTION 6. (1) As used in this section, "energy resource supplier" has the meaning given**
44 **that term in ORS 469.421.**

45 **(2)(a) If the State Department of Energy submits comments or written or oral testimony**

1 in a rulemaking, contested case, ratemaking or other proceeding conducted by another
2 agency, as defined in ORS 183.310, and if the comment or testimony is about a substantive
3 matter at issue in the proceeding, the department shall provide, once for each proceeding,
4 notice to energy resource suppliers as described in this section.

5 (b) If the department submits written comments or intervenes in a proceeding conducted
6 by a federal agency, the department shall provide, once for each proceeding, notice to energy
7 resource suppliers as described in this section.

8 (c) This section does not apply to:

9 (A) The department's participation in a procedural matter related to a proceeding de-
10 scribed in paragraph (a) or (b) of this subsection;

11 (B) The department's participation in a federal facility siting proceeding;

12 (C) The department's work with the Energy Facility Siting Council;

13 (D) The department's work on nuclear safety and emergency preparedness; or

14 (E) Federal judicial or legislative proceedings.

15 (3) The department shall create and maintain a list of energy resource suppliers that
16 request to receive notice described in subsection (2) of this section. The department may
17 create separate lists for the different types of proceedings.

18 (4) Notice provided under this section may be provided by electronic mail and must in-
19 clude a description of the department's interest in the proceeding.

20 (5) Except as provided in subsection (6) of this section, notice must be provided under
21 this section:

22 (a) No later than seven days before submitting initial comments on a substantive matter
23 at issue in a rulemaking proceeding described in subsection (2)(a) of this section or a pro-
24 ceeding involving the adoption of federal regulations;

25 (b) No later than 15 days before submitting initial comments or written or oral testimony
26 on a substantive matter at issue in a contested case, ratemaking or other proceeding de-
27 scribed in subsection (2)(a) of this section; or

28 (c) No later than 15 days before submitting initial written comments or written testi-
29 mony on a substantive matter at issue in a proceeding conducted by a federal agency other
30 than a proceeding involving the adoption of federal regulations.

31 (6) If providing notice in accordance with subsection (5) of this section is prejudicial to
32 the department's ability to participate in a rulemaking, contested case, ratemaking or other
33 proceeding described in subsection (2) of this section, the department may provide notice as
34 soon as it is practicable to provide notice. If the department provides notice as described in
35 this subsection, the department shall include in the notice an explanation of why providing
36 notice in accordance with subsection (5) of this section is prejudicial to the department.

37 (7) The department may adopt rules as necessary to implement this section.

38
39 **DUTIES**

40
41 **SECTION 7.** ORS 469.030 is amended to read:

42 469.030. (1) There is created the State Department of Energy.

43 (2) The State Department of Energy shall:

44 (a) Be the central repository within the state government for the collection of data on energy
45 resources;

1 (b) Endeavor to utilize all public and private sources to inform and educate the public about
2 energy problems and ways in which the public can conserve energy resources;

3 (c) Engage in research, but whenever possible, contract with appropriate public or private
4 agencies and dispense funds for research projects and other services related to energy resources,
5 except that the State Department of Energy shall endeavor to avoid duplication of research whether
6 completed or in progress;

7 (d) Qualify for, accept and disburse or utilize any private or federal moneys or services available
8 for the administration of ORS 176.820, 192.501 to 192.505, 192.690, 469.010 to 469.155, 469.300 to
9 469.563, 469.990, 757.710 and 757.720;

10 (e) Administer federal and state energy allocation and conservation programs and energy re-
11 search and development programs and apply for and receive available funds therefor;

12 (f) Be a clearinghouse for energy research to which all agencies shall send information on all
13 energy related research;

14 (g) Prepare contingent energy programs to include all forms of energy not otherwise provided
15 pursuant to ORS 757.710 and 757.720;

16 (h) Maintain an inventory of energy research projects in Oregon and the results thereof;

17 (i) Collect, compile and analyze energy statistics, data and information;

18 (j) Contract with public and private agencies for energy activities consistent with ORS 469.010
19 and this section; *[and]*

20 (k) Upon request of the governing body of any affected jurisdiction, coordinate a public review
21 of a proposed transmission line according to the provisions of ORS 469.442[.]; **and**

22 **(L) Advise the Governor on energy-related matters.**

23
24 **STATE DEPARTMENT OF ENERGY ACCOUNT**

25
26 **SECTION 8.** ORS 469.120 is amended to read:

27 469.120. (1) The State Department of Energy Account is established.

28 (2) **The account shall consist of** all funds received by the State Department of Energy pursuant
29 to law [*shall be paid into the State Treasury and credited to the State Department of Energy*
30 *Account*]. All moneys in the account are continuously appropriated to the State Department of En-
31 ergy for payment of expenses of the [*State*] department [*of Energy, the Oregon Department of Ad-*
32 *ministrative Services*] and **of** the Energy Facility Siting Council.

33 **(3) Moneys collected under ORS 469.421 (8) may be expended only for the purposes of**
34 **programs and activities that the council and the department are charged with administering**
35 **and authorized to conduct under the laws of this state, including those enumerated in ORS**
36 **469.030.**

37 [(3)] **(4) The Director of the State Department of Energy shall keep a record of all moneys de-**
38 **posited in the [*State Department of Energy*] account. The record shall indicate by special cumulative**
39 **accounts the source from which moneys are derived and the individual activity **or program, in-****
40 **cluding any activities described in section 6 of this 2013 Act, against which each withdrawal is**
41 **charged. On or after October 1 of each year, the director shall make available, upon request,**
42 **the record for the prior fiscal year to any energy resource supplier that has paid the as-**
43 **essment imposed under ORS 469.421 (8). The director shall make the record available within**
44 **30 days of receiving the request.**

TRANSFER OF ENERGY FACILITY SITING COUNCIL

SECTION 9. The duties, functions and powers of the Oregon Department of Administrative Services relating to the Energy Facility Siting Council are imposed upon, transferred to and vested in the State Department of Energy.

SECTION 10. ORS 469.450 is amended to read:

469.450. (1) There is established **in the State Department of Energy** an Energy Facility Siting Council, *[to be located within the Oregon Department of Administrative Services and]* consisting of seven public members, who shall be appointed by the Governor, subject to confirmation by the Senate in the manner prescribed in ORS 171.562 and 171.565.

(2) The term of office of each member is four years, but a member serves at the pleasure of the Governor. Before the expiration of the term of a member, the Governor shall appoint a successor whose term begins on July 1 next following. A member is eligible for reappointment, but no member shall serve more than two full terms. If there is a vacancy for any cause, the Governor shall make an appointment to become immediately effective for the unexpired term.

(3) No member of the council shall be an employee, director or retired employee or director of, or a consultant to, or have any pecuniary interest, other than an incidental interest which is disclosed and made a matter of public record at the time of the appointment to the council, in:

(a) Any corporation or utility operating or interested in establishing an energy facility in this state; or *[in]*

(b) Any manufacturer of *[related]* equipment **related to the operation or establishment of an energy facility in this state.**

(4) No member shall for two years after the expiration of the term of the member accept employment with *[any]* an owner or operator of *[any]* an energy facility that is subject to ORS 469.300 to 469.563, 469.590 to 469.619, 469.930 and 469.992.

(5) Employment of a person in violation of this section shall be grounds for revocation of any license issued by this state or *[any]* an agency *[thereof and]* **of this state that is** held by the owner or operator of the energy facility that employs *[such]* **the** person.

(6) The State Department of Energy shall provide clerical and staff support to the council and fund the activities of the council through fees collected under ORS 469.421.

SECTION 11. ORS 184.345 is amended to read:

184.345. *[(1)]* The Oregon Department of Administrative Services shall provide on a reimbursable basis administrative and other services, as agreed to, to:

[(a)] (1) The Department of Corrections;

[(b)] (2) The Department of Human Services;

[(c)] (3) The Oregon Health Authority; and

[(d)] (4) The State Board of Education.

[(2)] *In addition to its duties under subsection (1) of this section, the Oregon Department of Administrative Services shall provide clerical support to the Energy Facility Siting Council.]*

SECTION 12. (1) On the effective date of this 2013 Act:

(a) The Director of the Oregon Department of Administrative Services shall:

(A) Deliver to the State Department of Energy all records and property within the jurisdiction of the director that relate to the duties, functions and powers transferred by section 9 of this 2013 Act; and

(B) Transfer to the State Department of Energy those employees engaged primarily in

1 the exercise of the duties, functions and powers transferred by section 9 of this 2013 Act.

2 (b) The Director of the State Department of Energy shall take possession of the records
3 and property, and shall take charge of the employees and employ them in the exercise of the
4 duties, functions and powers transferred by section 9 of this 2013 Act, without reduction of
5 compensation but subject to change or termination of employment or compensation as pro-
6 vided by law.

7 (2) The Governor shall resolve any dispute between the Oregon Department of Adminis-
8 trative Services and the State Department of Energy relating to transfers of records, prop-
9 erty and employees under this section, and the Governor's decision is final.

10 SECTION 13. (1) The unexpended balances of amounts authorized to be expended by the
11 Oregon Department of Administrative Services for the biennium beginning July 1, 2013, from
12 revenues dedicated, continuously appropriated, appropriated or otherwise made available for
13 the purpose of administering and enforcing the duties, functions and powers transferred by
14 section 9 of this 2013 Act are transferred to and are available for expenditure by the State
15 Department of Energy for the biennium beginning July 1, 2013, for the purpose of adminis-
16 tering and enforcing the duties, functions and powers transferred by section 9 of this 2013
17 Act.

18 (2) The expenditure classifications, if any, established by Acts authorizing or limiting
19 expenditures by the Oregon Department of Administrative Services remain applicable to
20 expenditures by the State Department of Energy under this section.

21 SECTION 14. The transfer of duties, functions and powers to the State Department of
22 Energy by section 9 of this 2013 Act does not affect any action, proceeding or prosecution
23 involving or with respect to such duties, functions and powers begun before and pending at
24 the time of the transfer, except that the State Department of Energy is substituted for the
25 Oregon Department of Administrative Services in the action, proceeding or prosecution.

26 SECTION 15. (1) Nothing in sections 9 and 12 to 17 of this 2013 Act or the amendments
27 to ORS 184.345, 469.421 and 469.450 by sections 1, 10 and 11 of this 2013 Act relieves a person
28 of a liability, duty or obligation accruing under or with respect to the duties, functions and
29 powers transferred by section 9 of this 2013 Act. The State Department of Energy may
30 undertake the collection or enforcement of any such liability, duty or obligation.

31 (2) The rights and obligations of the Oregon Department of Administrative Services le-
32 gally incurred under contracts, leases and business transactions executed, entered into or
33 begun before the effective date of section 9 of this 2013 Act accruing under or with respect
34 to the duties, functions and powers transferred by section 9 of this 2013 Act are transferred
35 to the State Department of Energy. For the purpose of succession to these rights and obli-
36 gations, the State Department of Energy is a continuation of the Oregon Department of
37 Administrative Services and not a new authority.

38 SECTION 16. Notwithstanding the transfer of duties, functions and powers by section 9
39 of this 2013 Act, the rules of the Oregon Department of Administrative Services with respect
40 to such duties, functions or powers that are in effect on the effective date of section 9 of this
41 2013 Act continue in effect until superseded or repealed by rules of the State Department of
42 Energy. References in such rules of the Oregon Department of Administrative Services to
43 the Oregon Department of Administrative Services or an officer or employee of the Oregon
44 Department of Administrative Services are considered to be references to the State Depart-
45 ment of Energy or an officer or employee of the State Department of Energy.

1 **SECTION 17.** Whenever, in any uncodified law or resolution of the Legislative Assembly
2 or in any rule, document, record or proceeding authorized by the Legislative Assembly, in
3 the context of the duties, functions and powers transferred by section 9 of this 2013 Act,
4 reference is made to the Oregon Department of Administrative Services, or an officer or
5 employee of the Oregon Department of Administrative Services, whose duties, functions or
6 powers are transferred by section 9 of this 2013 Act, the reference is considered to be a
7 reference to the State Department of Energy or an officer or employee of the State Depart-
8 ment of Energy who by this 2013 Act is charged with carrying out such duties, functions and
9 powers.

10 JOBS, ENERGY AND SCHOOLS FUND

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13 **SECTION 18.** ORS 470.575 is amended to read:

14 470.575. (1) The Jobs, Energy and Schools Fund is established in the State Treasury, separate
15 and distinct from the General Fund. Interest earned by the Jobs, Energy and Schools Fund shall be
16 credited to the Jobs, Energy and Schools Fund. Moneys in the fund are continuously appropriated
17 to the State Department of Energy for use as provided in this section.

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

20 (3) The department shall use fund moneys:

21 (a) To promote energy efficiency, renewable energy and energy conservation projects, including
22 the clean energy deployment program established in ORS 470.810, that would otherwise result in a
23 higher overall cost to the applicant when energy costs and the financing and repayment costs for
24 the project are considered, [*by using the fund moneys to help produce a lower-or zero-interest cost of*
25 *loans obtained through the Small Scale Local Energy Project Loan Fund established in section 1, Ar-*
26 *ticle XI-J of the Oregon Constitution, or the Clean Energy Deployment Fund established in ORS*
27 *470.800 for the applicant]* by using the fund moneys to help reduce the overall financing costs
28 associated with related projects; or

29 (b) To transfer to an appropriate fund for carrying out any purpose under this chapter specified
30 as a condition of a gift, grant or donation.

31 APPLICABILITY

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34 **SECTION 19.** The amendments to ORS 469.421 by section 1 of this 2013 Act apply to the
35 establishment of the amount required to fund the activities and programs of the Energy
36 Facility Siting Council and the State Department of Energy for the 2015-2017 biennium and
37 subsequent biennia.

38 CAPTIONS

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41 **SECTION 20.** The unit captions used in this 2013 Act are provided only for the conven-
42 ience of the reader and do not become part of the statutory law of this state or express any
43 legislative intent in the enactment of this 2013 Act.