

# House Bill 3066

Sponsored by Representative WITT, Senator JOHNSON; Representatives BENTZ, CONGER, JOHNSON, WHITSETT, Senators GEORGE, OLSEN

## 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**.

Repeals statute establishing annual public purpose expenditure standard for electric companies and Oregon Community Power. Abolishes related funds. Transfers duties, functions and powers related to small scale local energy projects from Public Purpose Fund Administrator to Director of State Department of Energy. Makes conforming changes.

## A BILL FOR AN ACT

Relating to the repeal of the public purpose expenditure standard; creating new provisions; amending ORS 458.515, 468A.040, 469A.200, 470.050, 470.510, 470.515, 470.530, 470.550, 470.555, 470.560, 470.815, 757.365, 757.649, 757.659, 757.679, 757.689 and 757.872 and sections 43 and 45, chapter 753, Oregon Laws 2009; and repealing ORS 297.300, 456.587, 757.612, 757.617 and 757.687 and sections 3 and 4, chapter 566, Oregon Laws 2011.

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

## REPEALS

**SECTION 1. ORS 297.300, 456.587, 757.612, 757.617 and 757.687 and sections 3 and 4, chapter 566, Oregon Laws 2011, are repealed.**

## ABOLISHMENT OF FUNDS

**SECTION 2. (1) The Housing and Community Services Department Electricity Public Purpose Charge Fund and the Housing and Community Services Department Low-Income Electric Bill Payment Assistance Fund are abolished.**

**(2) Moneys remaining in the Housing and Community Services Department Electricity Public Purpose Charge Fund and the Housing and Community Services Department Low-Income Electric Bill Payment Assistance Fund on the effective date of this 2013 Act shall be transferred to the General Fund and used for general governmental purposes.**

## TRANSFER OF DUTIES AND POWERS RELATED TO SMALL SCALE LOCAL ENERGY PROJECTS

**SECTION 3. All the duties, functions and powers of the Public Purpose Fund Administrator under ORS chapter 470 are imposed upon, transferred to and vested in the Director of the State Department of Energy.**

**SECTION 4. The Public Purpose Fund Administrator shall deliver to the Director of the**

**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 State Department of Energy all records that relate to the duties, functions and powers  
2 transferred by section 3 of this 2013 Act.

3 **SECTION 5.** The transfer of duties, functions and powers to the Director of the State  
4 Department of Energy by section 3 of this 2013 Act does not affect any action, proceeding  
5 or prosecution involving or with respect to such duties, functions and powers begun before  
6 and pending at the time of the transfer, except that the director is substituted for the Public  
7 Purpose Fund Administrator in the action, proceeding or prosecution.

8 **SECTION 6.** (1) Nothing in sections 3 to 6 of this 2013 Act or the amendments to ORS  
9 470.555 and section 43, chapter 753, Oregon Laws 2009, by sections 7 and 8 of this 2013 Act  
10 relieves a person of a liability, duty or obligation accruing under or with respect to the du-  
11 ties, functions and powers transferred by section 3 of this 2013 Act. The Director of the State  
12 Department of Energy may undertake the collection or enforcement of any such liability,  
13 duty or obligation.

14 (2) The rights and obligations of the Public Purpose Fund Administrator legally incurred  
15 under contracts, leases and business transactions executed, entered into or begun before the  
16 effective date of this 2013 Act are transferred to the director. For the purpose of succession  
17 to these rights and obligations, the director is a continuation of the administrator and not  
18 a new authority.

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

20 470.555. (1) Except as provided in subsection (2) of this section, if a sustainable energy territory  
21 is all or part of the service territory for an investor-owned electric utility, the [*Public Purpose Fund*  
22 *Administrator*] **Director of the State Department of Energy** shall be the sustainable energy  
23 project manager for the sustainable energy territory. [*The Public Purpose Fund Administrator shall*  
24 *inform the Public Utility Commission and the State Department of Energy of the activities of the ad-*  
25 *ministrator by filing a yearly action plan and an end-of-year report with the commission and the de-*  
26 *partment.*]

27 (2) For a sustainable energy territory described in ORS 470.530 (3)(b), if the local gas utility is  
28 an investor-owned utility, the utility may act as the project manager for the territory or may con-  
29 tract with the [*Public Purpose Fund Administrator*] **director** to act as project manager on behalf  
30 of the utility.

31 (3) If a territory is served by a consumer-owned utility and is outside the service territory of  
32 an investor-owned electric utility, the consumer-owned utility shall be the project manager if the  
33 utility agrees to promote energy efficiency and sustainable technology loans as part of any energy  
34 efficiency or renewable energy program offered by the utility. A consumer-owned utility may con-  
35 duct energy efficiency and renewable energy programs within the territory of the utility regardless  
36 of whether the territory is served by an energy efficiency and sustainable technology loan program.  
37 A consumer-owned utility may decline to participate in the energy efficiency and sustainable tech-  
38 nology loan program.

39 (4) If a customer is served by both an investor-owned gas utility and a consumer-owned electric  
40 utility that have energy efficiency and sustainable technology loan programs, the utility that sup-  
41 plies the customer's primary source of heat for the property shall supply loan program services for  
42 that customer.

43 (5) The existence of an energy efficiency and sustainable technology loan program, or the ap-  
44 pointment of a sustainable energy project manager, in a sustainable energy territory does not pre-  
45 vent a consumer-owned utility from conducting any energy efficiency or renewable energy program

1 offered by the utility. If the consumer-owned utility declines to become the project manager for the  
 2 territory, the utility may:

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

4 (b) Work with the director [*of the State Department of Energy*] to solicit and select a qualified  
 5 entity to serve as the project manager as described in ORS 470.535 and 470.540.

6 (6) Subject to approval by the director, a project manager may contract with a qualified third  
 7 party to assist the project manager in providing project manager services within the territory. If a  
 8 sustainable energy territory is served by a project manager, the appointment of additional project  
 9 managers shall be a subcontract approved by the existing project manager. If the third party is  
 10 acting as a financier, the third party is not required to comply with laws regulating utilities based  
 11 on the actions of the third party as a financier. The project manager may enter into agreements  
 12 with trade associations and other public and private entities for the promotion or marketing of the  
 13 energy efficiency and sustainable technology loan program.

14 (7) [*The Public Purpose Fund Administrator and*] **The director and** sustainable energy project  
 15 managers shall cooperate with, and coordinate their outreach and promotional efforts with, local  
 16 utilities and other stakeholders to promote energy efficiency and renewable energy and to use the  
 17 customer contacts, resources and capacity of utilities to engage and inform utility customers about  
 18 the energy efficiency and sustainable technology loan program. [*The Public Purpose Fund Admin-*  
 19 *istrator and*] **The director and** project managers shall coordinate with gas utilities regarding any  
 20 changes to a gas pipeline and with electric utilities regarding electric charging or any changes to  
 21 electrical connections that are external to a structure. [*The Public Purpose Fund Administrator*  
 22 *and*] **The director and** project managers shall coordinate with a gas utility regarding the installa-  
 23 tion of appliances used for space heating, water heating and compressed natural gas refueling.

24 **SECTION 8.** Section 43, chapter 753, Oregon Laws 2009, is amended to read:

25 **Sec. 43.** (1) The [*Public Purpose Fund Administrator*] **Director of the State Department of**  
 26 **Energy** shall initiate pilot programs in investor-owned utility service territories to demonstrate the  
 27 feasibility of innovative approaches to financing and installing energy efficiency and sustainable  
 28 technology measures as described in [*sections 2 to 41 of this 2009 Act*] **ORS 470.500 to 470.710** in  
 29 residences and commercial buildings in urban and rural communities. The pilot programs shall test:

30 (a) The effectiveness of direct contact, door-to-door, media outlet and other community-focused  
 31 outreach and solicitation strategies designed to provide potential energy efficiency and sustainable  
 32 technology loan program participants with information about energy efficiency and renewable en-  
 33 ergy opportunities under the program and under similar local, state and federal incentive programs;

34 (b) The costs and benefits of taking alternative approaches to energy audits, including but not  
 35 limited to[,] the identification of measures that are cost-effective and time-effective, take advantage  
 36 of economies of scale and produce results that are accurate and are replicable for equivalent base  
 37 efficiency packages;

38 (c) Ways to assist program participants in understanding and accessing small scale local energy  
 39 project funding and making informed decisions in selecting appropriate energy efficiency and  
 40 renewable energy projects;

41 (d) The effectiveness of various levels of loan offset grants as an incentive to program partic-  
 42 ipation;

43 (e) The effectiveness of on-billing financing as a means of loan repayment and the effectiveness  
 44 of fixture filings, liens or other forms of security for loans;

45 (f) The feasibility and effectiveness of coordinated installations of residential and commercial

1 structure energy packages overseen by a single project manager;

2 (g) The manner in which the program interacts or conflicts with existing consumer-owned utility  
3 loan programs and other utility and regional energy efficiency programs;

4 (h) The relative demand for loan program services among residential and commercial properties  
5 and between low-income and other households, and factors that influence that relative demand;

6 (i) The administrative costs and participation rates associated with various forms of loan secu-  
7 rity; and

8 (j) Other strategies and measures identified by the [State Department of Energy] **director** or the  
9 Public Utility Commission.

10 [(2) The Public Purpose Fund Administrator shall report to the commission no later than October  
11 1, 2010. The administrator shall provide a copy of the report to the State Department of Energy. The  
12 report shall evaluate the effectiveness of the pilot programs, and shall include an evaluation of the ex-  
13 tent to which various strategies and measures:]

14 [(a) Help to produce significantly higher rates of energy savings or renewable energy production;]

15 [(b) Increase participation in energy efficiency and renewable energy programs;]

16 [(c) Increase the number of energy efficiency and renewable energy measures installed per building;  
17 and]

18 [(d) Reduce the administrative cost per building of providing energy efficiency and renewable en-  
19 ergy services.]

20 [(3) The commission shall review the report and:]

21 [(a) Order full implementation of the successful energy efficiency and sustainable technology loan  
22 program measures and strategies in investor-owned utility service territories; or]

23 [(b) Order the partial implementation of energy efficiency and sustainable technology loan program  
24 measures and strategies and make recommendations to the Legislative Assembly for appropriate statu-  
25 tory modification of the program.]

26 [(4)] (2) When carrying out pilot programs under this section, the [Public Purpose Fund Ad-  
27 ministrator] **director** and sustainable energy project managers shall cooperate and coordinate their  
28 efforts with the efforts of local utilities and encourage utilities to promote energy efficiency and  
29 renewable energy and to engage in outreach and promotional efforts to inform customers of the  
30 utility about the energy efficiency and sustainable technology loan program. The [Public Purpose  
31 Fund Administrator] **director** and project managers shall coordinate with gas utilities regarding any  
32 changes to a gas pipeline and with electric utilities regarding electric charging or any changes to  
33 electrical connections that are external to a structure. The [Public Purpose Fund Administrator]  
34 **director** and project managers shall coordinate with a gas utility regarding the installation of ap-  
35 pliances used for space heating, water heating and compressed natural gas refueling.

36  
37 **CONFORMING AMENDMENTS**

38  
39 **SECTION 9.** ORS 458.515 is amended to read:

40 458.515. (1) The Director of the Housing and Community Services Department shall appoint an  
41 advisory committee on energy whose members:

42 (a) Shall be appointed based on a demonstrated interest in and knowledge of low income energy  
43 assistance programs;

44 (b) Shall be broadly representative of organizations, fuel providers and consumer groups that  
45 represent low income persons, particularly elderly persons and persons with disabilities;

1 (c) Shall have special qualifications with respect to solving the energy consumption problems  
 2 of low income persons; **and**

3 [(d) Must include a representative from each electric company or Oregon Community Power whose  
 4 ratepayers contribute funding to the Housing and Community Services Department Low-Income Electric  
 5 Bill Payment Assistance Fund established in ORS 456.587; and]

6 [(e)] (d) Must include a representative of the Citizens' Utility Board established under ORS  
 7 chapter 774.

8 (2) The committee shall meet not less than four times a year to advise and assist the Housing  
 9 and Community Services Department in regard to rules, policies and programs regarding low income  
 10 energy assistance programs provided for under ORS 458.510.

11 **SECTION 10.** ORS 468A.040 is amended to read:

12 468A.040. (1) By rule the Environmental Quality Commission may require permits for air con-  
 13 tamination sources classified by type of air contaminants, by type of air contamination source or  
 14 by area of the state. The permits shall be issued as provided in ORS 468.065. A permit subject to  
 15 the federal operating permit program shall be issued in accordance with the rules adopted under  
 16 ORS 468A.310.

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

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

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

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

34 (4) For purposes of this section, a small scale local energy project, as defined in ORS 470.050  
 35 [(27)(a)] **(26)(a)**, located in a maintenance area or nonattainment area, and any infrastructure related  
 36 to that project located in the same area, is considered to provide a net air quality benefit to the  
 37 extent required by this chapter if the project provides reductions in each air contaminant in the  
 38 maintenance area or nonattainment area equal to the ratio specified in rules adopted by the com-  
 39 mission, unless the department determines that the project will pose a material threat to compliance  
 40 with air quality standards in the maintenance area or nonattainment area.

41 (5) As used in this section:

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

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

44 **SECTION 11.** ORS 469A.200 is amended to read:

45 469A.200. If an electric company or electricity service supplier that is subject to a renewable

1 portfolio standard under ORS 469A.005 to 469A.210 fails to comply with the standard in the manner  
 2 provided by ORS 469A.005 to 469A.210, the Public Utility Commission may impose a penalty against  
 3 the company or supplier in an amount determined by the commission. A penalty under this section  
 4 is in addition to any alternative compliance payment required or elected under ORS 469A.180.  
 5 Moneys paid for penalties under this section shall be [*transmitted by the commission to the nongov-*  
 6 *ernmental entity receiving moneys under ORS 757.612 (3)(d) and may be used only for the purposes*  
 7 *specified in ORS 757.612 (1)] **deposited in the Public Utility Commission Account established**  
 8 **under ORS 756.305 for the purpose of administering ORS 469A.005 to 469A.210.***

9 **SECTION 12.** ORS 470.050 is amended to read:

10 470.050. As used in this chapter, unless the context requires otherwise:

11 (1) "Alternative fuel project" means:

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

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

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

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

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

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

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

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

29 (6) "Director" means the Director of the State Department of Energy appointed under ORS  
 30 469.040.

31 (7) "Eligible federal agency" means a federal agency or public corporation created by the federal  
 32 government that proposes to use a loan for a small scale local energy project. "Eligible federal  
 33 agency" does not include a federal agency or public corporation created by the federal government  
 34 that proposes to use a loan for a small scale local energy project to generate electricity for sale.

35 (8) "Eligible state agency" means a state officer, board, commission, department, institution,  
 36 branch or agency of the state whose costs are paid wholly or in part from funds held in the State  
 37 Treasury.

38 (9) "Energy efficiency and sustainable technology loan" means a loan for a small scale local  
 39 energy project that is repayable by means of:

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

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

43 (10) "Energy Project Bond Loan Fund" means the fund established under ORS 470.580.

44 (11) "Energy Project Supplemental Fund" means the fund established under ORS 470.570.

45 (12) "Energy Revenue Bond Repayment Fund" means the fund established under ORS 470.585.

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

3 (a) A base efficiency package; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

35 [(24)] (23) “Recycling project” means a facility or equipment that converts waste into a new and  
 36 usable product.

37 [(25)] (24) “Small business” means:

38 (a) An Oregon business that is:

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

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

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

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

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

3 [(26)] **(25)** “Small scale local energy program loan” means a loan for a small scale local energy  
4 project other than an energy efficiency and sustainable technology loan.

5 [(27)] **(26)** “Small scale local energy project” means any of the following:

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

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

14 (c) A recycling project.

15 (d) An alternative fuel project.

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

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

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

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

31 [(28)] **(27)** “Small Scale Local Energy Project Administration and Bond Sinking Fund” means the  
32 fund created under ORS 470.300.

33 [(29)] **(28)** “Small Scale Local Energy Project Loan Fund” means the loan fund created by Arti-  
34 cle XI-J of the Oregon Constitution and appropriated to the State Department of Energy under ORS  
35 470.130.

36 [(30)] **(29)** “Sustainable energy project manager” means the organization responsible for pro-  
37 moting the energy efficiency and sustainable technology loan program or the clean energy deploy-  
38 ment program and related incentives for energy efficiency and renewable energy at the  
39 neighborhood and community level.

40 [(31)] **(30)** “Sustainable energy territory” means the geographic service area that a sustainable  
41 energy project manager is responsible for serving.

42 **SECTION 13.** ORS 470.510 is amended to read:

43 470.510. (1) Except as provided in subsection (3) of this section, the State Department of Energy  
44 may enter into contracts for the issuance of energy efficiency and sustainable technology loans.  
45 Except as provided in ORS 470.700, the department shall finance the loans using moneys from the



1 Small Scale Local Energy Project Loan Fund, the Energy Project Supplemental Fund or the Energy  
 2 Project Bond Loan Fund, or from a combination of those funds.

3 (2) The sustainable energy project manager may enter into agreements with trade associations  
 4 and other public and private entities for the promotion or marketing of the energy efficiency and  
 5 sustainable technology loan program.

6 (3) The department must obtain the consent of the utility before operating an energy efficiency  
 7 and sustainable technology loan program within the service territory of[.]

8 [(a)] an investor-owned electric utility that serves fewer than 20,000 customers[; or].

9 [(b) *An investor-owned gas utility that is actively administering an energy conservation program*  
 10 *established.*]

11 [(A) *on or before January 1, 2009; and*]

12 [(B) *Without assistance from a nongovernmental entity that receives public purpose charge moneys*  
 13 *under ORS 757.612.*]

14 **SECTION 14.** ORS 470.515 is amended to read:

15 470.515. The Public Utility Commission may adopt rules for carrying out the duties, functions  
 16 and powers of the commission [*and the Public Purpose Fund Administrator*] under ORS 470.500 to  
 17 470.710.

18 **SECTION 15.** ORS 470.530 is amended to read:

19 470.530. (1) Except as provided in subsection (5) of this section, the Director of the State De-  
 20 partment of Energy may establish qualifications for sustainable energy project managers and may  
 21 exercise oversight to ensure project manager compliance with those qualifications. A project man-  
 22 ager shall provide the promotion, technical and financial support and verifications necessary to ad-  
 23 minister the energy efficiency and sustainable technology loan program in the territory served by  
 24 the project manager.

25 (2) The project manager shall serve a sustainable energy territory established by the director.  
 26 The project manager shall provide loan program information and technical and financial information  
 27 to promote energy efficiency and use of renewable energy at the neighborhood and community lev-  
 28 els. The project manager shall be responsible for small scale local energy project verification and  
 29 for monitoring program effectiveness for energy efficiency and sustainable technology loans and  
 30 small scale local energy program loans. The project manager may administer the energy efficiency  
 31 and sustainable technology loan program within the territory.

32 (3)(a) Except as provided in this subsection, the boundaries of a sustainable energy territory  
 33 must be consistent with the service territory of a local electric utility.

34 (b) The boundaries of a sustainable energy territory may be consistent with the service territory  
 35 of a local gas utility if:

36 (A) The local electric utility is a consumer-owned electric utility that elects not to be the  
 37 project manager for the sustainable energy territory; and

38 (B) The service territory of the local electric utility and the service territory of the local gas  
 39 utility overlap.

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

45 (4) A city, county, metropolitan service district or other local government entity, or a nonprofit,

1 for-profit, tribal or state entity, may be a project manager if the entity meets the qualifications es-  
 2 tablished by the director under this section and is approved by the director to provide promotion,  
 3 outreach and customer support related to the energy efficiency and sustainable technology loan  
 4 program within a sustainable energy territory. *[The Public Purpose Fund Administrator is an ex*  
 5 *officio sustainable energy project manager. The Public Purpose Fund Administrator shall act as the*  
 6 *project manager in any sustainable energy territory that is not served by another project manager.]*

7 (5) The director shall establish a sustainable energy project manager certification program.  
 8 However, *[the Public Purpose Fund Administrator or]* a consumer-owned utility is not required to  
 9 obtain a sustainable energy project manager certificate *[and the Public Purpose Fund Administrator*  
 10 *is not subject to any qualifications established by the director for a project manager].*

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

12 470.550. (1) Unless the sustainable energy project manager is *[the Public Purpose Fund Admin-*  
 13 *istrator or]* a consumer-owned utility, the certification of a project manager shall be for a five-year  
 14 term. The Director of the State Department of Energy shall issue the project manager a certification  
 15 approval letter that states any conditions applicable to the certification.

16 (2) The director may terminate the certification of a project manager for:

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

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

21 (c) Failure to meet any project manager criteria established by the director; or

22 (d) Failure to perform other certification conditions.

23 **SECTION 17.** ORS 470.560 is amended to read:

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

29 (2) The certification standards established by the department must, at a minimum, require that  
 30 the contractor:

31 (a) Prove that the contractor has sufficient skill to ensure that the contractor can successfully  
 32 install energy efficiency, renewable energy or weatherization projects.

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

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

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

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

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

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

1 (3) The State Department of Energy shall consult with [*the Public Purpose Fund Administrator*  
2 *and*] utilities when developing contractor certification standards.

3 (4) The Construction Contractors Board may issue a qualifying contractor a certification au-  
4 thORIZING the contractor to participate in the construction of small scale local energy projects fi-  
5 nanced through the energy efficiency and sustainable technology loan program. A contractor  
6 seeking certification shall apply to the board as provided under ORS 701.119.

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

10 **SECTION 18.** ORS 470.815 is amended to read:

11 470.815. (1) School districts that participate in the clean energy deployment program established  
12 in ORS 470.810 may finance projects to:

13 (a) Weatherize, upgrade and retrofit kindergarten through grade 12 public schools;

14 (b) Retrofit school bus fleets to operate on compressed natural gas or other alternative fuels  
15 such as propane or to operate with high-efficiency types of engines such as hybrid electric engines;  
16 or

17 (c) Replace school bus fleets with school buses that operate on compressed natural gas or other  
18 alternative fuels such as propane or that operate with high-efficiency types of engines such as hybrid  
19 electric engines.

20 (2) The projects described in subsection (1) of this section shall be designed to improve energy  
21 efficiency, decrease fuel costs, increase use of alternative fuels and decrease emissions of air con-  
22 taminants.

23 (3) School districts may finance the projects described in subsection (1) of this section by:

24 (a) Paying directly for the projects;

25 (b) Receiving lower interest loans from the Clean Energy Deployment Fund or the Small Scale  
26 Local Energy Project Loan Fund, supported by:

27 (A) Grant moneys from the Jobs, Energy and Schools Fund;

28 [*B*] *Public purpose charges directed to a school district in areas served by investor-owned utilities*  
29 *under ORS 757.612;*]

30 [*C*] **(B)** Qualified Energy Conservation Bonds issued under the Energy Improvement and Ex-  
31 tension Act of 2008 or other federal loan programs; or

32 [*D*] **(C)** Revenues generated by the savings in energy costs resulting from the energy efficiency  
33 improvements;

34 (c) Issuing general obligation bonds, subject to the bond election requirements under ORS  
35 328.210; or

36 (d) Using any other source of moneys.

37 **SECTION 19.** ORS 757.365 is amended to read:

38 757.365. (1) The Public Utility Commission shall establish a pilot program for each electric  
39 company to demonstrate the use and effectiveness of volumetric incentive rates and payments for  
40 electricity or for the nonenergy attributes of electricity, or both, from solar photovoltaic energy  
41 systems that are permanently installed in this state by retail electricity consumers and that first  
42 become operational after the program begins. The cumulative nameplate capacity of the qualifying  
43 systems enrolled in all of the pilot programs may not exceed 25 megawatts of alternating current.  
44 Qualifying systems enrolled in the pilot program may not have nameplate generating capacity  
45 greater than 500 kilowatts.

1 (2) The commission by rule shall adopt requirements for the pilot programs described in sub-  
2 section (1) of this section. Each electric company shall file for commission approval tariff schedules  
3 for the pilot programs that conform to the requirements.

4 (3) The commission may establish incentive rates for the pilot programs to enable the develop-  
5 ment of the most efficient solar photovoltaic energy systems.

6 (4) A retail electricity consumer participating in a pilot program may receive payments based  
7 on electricity generated from solar photovoltaic energy system output for 15 years from the  
8 consumer's date of enrollment in the program, at rates or through a rate formula in a tariff schedule  
9 established at the time of enrollment, or at rates otherwise established at the time of enrollment.  
10 The consumer thereafter may receive payments based upon electricity generated from the qualifying  
11 system at a rate equal to the resource value.

12 (5) The commission may adjust the tariff schedule as needed for new pilot program participants  
13 for the purpose of meeting the goal established in subsection (1) of this section. Once a retail elec-  
14 tricity consumer is enrolled in a program, the rates or rate formula for determining payments to the  
15 consumer may not be modified.

16 (6) The commission shall establish pilot programs designed to attain a goal of 75 percent of the  
17 capacity under each program to be deployed by residential qualifying systems and small commercial  
18 qualifying systems. The commission by rule may adjust the percentage goal for capacity deployed  
19 by residential and small commercial qualifying systems based upon the costs of the energy gener-  
20 ated, the feasibility of attaining the goal and other factors.

21 (7) The commission may establish total generator nameplate capacity limits for an electric  
22 company so that the rate impact of the pilot program for any customer class does not exceed 0.25  
23 percent of the electric company's revenue requirement for the class in any year.

24 (8) Ownership of renewable energy certificates established under ORS 469A.130 that are asso-  
25 ciated with renewable energy generation under the pilot programs must be transferred to the elec-  
26 tric company and may be used to comply with the renewable portfolio standard described in ORS  
27 469A.052 or 469A.055.

28 (9) To the extent that rates paid under a pilot program exceed the resource value, qualifying  
29 systems participating in the pilot programs are not eligible for [*expenditures under ORS 757.612*  
30 *(3)(b)(B) or*] tax credits under ORS 469B.100 to 469B.118 or 469B.130 to 469B.169.

31 (10) All prudently incurred costs associated with compliance with this section are recoverable  
32 in the rates of an electric company.

33 (11) The commission shall advise and assist the owners and operators of qualifying systems in  
34 identifying and using grants, incentive moneys, federal funding and other sources of noninvestment  
35 financial support for the construction and operation of qualifying systems.

36 (12) The pilot programs described in subsection (1) of this section close to new participants on  
37 the earlier of:

38 (a) March 31, 2015; or

39 (b) The date the cumulative nameplate capacity of solar photovoltaic energy systems that have  
40 been permanently installed by retail electricity consumers under the pilot programs equals 25  
41 megawatts of alternating current.

42 (13) The commission shall submit a report to the Legislative Assembly by January 1 of each  
43 odd-numbered year. The report must evaluate the effectiveness of the pilot programs described in  
44 subsection (1) of this section compared to the effectiveness of [*expenditures under ORS 757.612*  
45 *(3)(b)(B) or*] tax credits under ORS 469B.100 to 469B.118 or 469B.130 to 469B.169 for promoting the

1 use of solar photovoltaic energy systems and reducing system costs. The report must also evaluate  
 2 the estimated cost of the program to retail electricity consumers.

3 **SECTION 20.** ORS 757.649 is amended to read:

4 757.649. (1)(a) A person or other entity shall not act as an electricity service supplier unless the  
 5 person or entity is certified by the Public Utility Commission. The commission, by rule, shall es-  
 6 tablish standards for certification of persons or other entities as electricity service suppliers in this  
 7 state. The rules shall, at a minimum, address:

8 (A) The ability of the person or entity to meet the person's or entity's obligation to provide  
 9 electricity services pursuant to direct access; and

10 (B) The ability of the person or entity to comply with applicable consumer protection laws.

11 (b) The commission may require an electricity service supplier to provide a bond or other se-  
 12 curity.

13 (c) The commission may establish a fee, not to exceed \$500, for initial certification and annual  
 14 recertification of electricity service suppliers.

15 (d) The commission, at any time, may revoke an electricity service supplier's certification for  
 16 failure to comply with applicable statutes and rules.

17 *[(e) The commission may require an electricity service supplier to provide information necessary to*  
 18 *ensure compliance with ORS 757.612. The commission shall ensure the privacy of all information and*  
 19 *the protection of any proprietary information provided.]*

20 (2) Every electric utility shall maintain the integrity of its transmission facilities and distrib-  
 21 ution system and provide safe, reliable service to all retail electricity consumers. Nothing in ORS  
 22 757.600 to 757.667 or 757.669 to 757.687 shall reduce or diminish the statutory or contractual obli-  
 23 gations of electric utilities to maintain the safety and reliability of their transmission facilities and  
 24 distribution system and other infrastructure and equipment used to deliver electricity.

25 (3) The commission for electric companies, or the governing body for other electric utilities,  
 26 shall adopt rules, ordinances, policies and service quality standards designed to maintain a reliable,  
 27 safe and efficient distribution system. The commission shall regulate electrical safety regarding  
 28 generation, transmission, substation and distribution facilities for electric utilities and other elec-  
 29 trical system owners and operators as provided under ORS 757.035.

30 (4) Every bill to a direct access retail electricity consumer from an electricity service supplier  
 31 shall contain at least:

32 (a) The rate and amount due for each service or product that the retail electricity consumer is  
 33 purchasing and other price information necessary to facilitate direct access, as determined by the  
 34 commission;

35 (b) The rates and amounts of state and local taxes or fees, if any, imposed on the retail elec-  
 36 tricity consumer;

37 (c) The amount of any public purpose charge or credit;

38 (d) The amount of any transition charge or transition credit; and

39 (e) Power source and environmental impact information necessary to ensure that all consumers  
 40 have useful, reliable and necessary information to exercise informed choice, as determined by the  
 41 commission.

42 (5)(a) A retail electricity consumer of an electric company shall receive, upon request, a sepa-  
 43 rate bill from every individual electricity service supplier that provides products or services to the  
 44 retail electricity consumer. If a retail electricity consumer of an electric company does not request  
 45 separate bills, or a consolidated bill from an electricity service supplier as provided in paragraph

1 (c) of this subsection, the electric company shall consolidate the bills for all electricity services into  
 2 a single statement, and electricity service suppliers shall provide to the electric company the infor-  
 3 mation necessary to prepare a consolidated statement.

4 (b) The requirement for bill consolidation by an electric company shall continue through De-  
 5 cember 31, 2001, after which time the commission may waive the requirement if the waiver results  
 6 in effective billing procedures for retail electricity consumers.

7 (c) Upon the request of a retail electricity consumer of an electric company, an electricity ser-  
 8 vice supplier shall consolidate the bills for all electricity services into a single statement, and  
 9 electric utilities and other electricity service suppliers shall provide to the billing electricity service  
 10 supplier any information necessary to prepare a consolidated statement.

11 (d) For retail electricity consumers of an electric company, the commission shall adopt by rule  
 12 provisions relating to the failure of a consumer to make full payment on a consolidated bill. The  
 13 rules shall address collection of payments, service disconnection and reconnection, and the allo-  
 14 cation of costs associated with collection, disconnection and reconnection. A distribution utility  
 15 shall be solely responsible for actual disconnection and reconnection.

16 **SECTION 21.** ORS 757.659 is amended to read:

17 757.659. According to the applicable provisions of ORS 756.060 and ORS chapter 183, the Public  
 18 Utility Commission shall adopt such rules as are necessary to implement ORS 757.600 to 757.667.  
 19 Rules adopted by the commission shall address at least the following:

20 (1) Requirements and methodologies for each electric company to provide unbundled rates and  
 21 services pursuant to ORS 757.642.

22 (2) Requirements for each electric company allowing aggregation of electricity loads pursuant  
 23 to ORS 757.627, which may include aggregation of demand for other services available under direct  
 24 access.

25 (3) Requirements for consumer protection. Consumer protection rules adopted by the commission  
 26 that relate to electricity service suppliers shall be applicable throughout this state and shall, at a  
 27 minimum, contain provisions for the disclosure of price, power source and environmental impact in  
 28 contract offers and marketing information.

29 (4) Market valuation methodologies for determining the amount and recovery of the costs of  
 30 uneconomic utility investment and the amount of and credit for economic utility investment.

31 (5) Requirements for each electric company to offer a portfolio of rate options under ORS  
 32 757.603.

33 (6) The method of determining a default supplier for those consumers who are not eligible to  
 34 participate in a portfolio program under ORS 757.603 in a manner that provides for viable competi-  
 35 tion among electricity service suppliers and among power generation companies. The commission  
 36 may condition the use of a default service option by requiring reasonable notice and commitment  
 37 from a consumer who intends to use the default service option in nonemergency situations.

38 (7) Requirements for market structure described in ORS 757.646.

39 [(8) Requirements for public purpose charges and credits under ORS 757.612.]

40 [(9)] (8) Requirements for meters, metering services, billing and collection services, and customer  
 41 response functions.

42 **SECTION 22.** ORS 757.679 is amended to read:

43 757.679. (1) Nothing in ORS 757.669 to 757.687 is intended to impair the rights or obligations of  
 44 any party to net billing agreements. Notwithstanding any other provision of ORS 757.600 to  
 45 757.667[,] **and** 757.676 [and 757.687], and in the event a participating utility is required to make

1 payments pursuant to a net billing agreement, the governing body of a participating utility may levy  
 2 a rate, fee or charge, including a nonbypassable distribution system access charge against retail  
 3 electricity consumers located within the utility's service territory, to meet its obligations.

4 (2) As used in this section:

5 (a) "EWEB" means the City of Eugene, Oregon, acting by and through the Eugene Water and  
 6 Electric Board.

7 (b) "Net billing agreements" means those certain agreements that provide for the payment,  
 8 through net billing of costs of certain nuclear power projects, including the payment of bonds, notes  
 9 or other evidences of indebtedness issued by EWEB and by the supply system, respectively, to pay  
 10 such project costs entered into prior to July 23, 1999:

11 (A) Between the administrator of the Bonneville Power Administration and EWEB;

12 (B) Among a participating utility, the administrator of the Bonneville Power Administration and  
 13 EWEB; or

14 (C) Among a participating utility, the administrator of the Bonneville Power Administration and  
 15 the supply system.

16 (c) "Participating utility" means a consumer-owned utility established by, or organized and ex-  
 17 isting under, the Oregon Constitution and laws of the State of Oregon, and that is a party to a net  
 18 billing agreement.

19 (d) "Supply system" means the Washington Public Power Supply System, a municipal corporation  
 20 or joint power agency organized and existing under and pursuant to the laws of the State of  
 21 Washington.

22 **SECTION 23.** ORS 757.689 is amended to read:

23 757.689. (1) *[In addition to the public purpose charge established by ORS 757.612,]* The Public  
 24 Utility Commission may authorize an electric company to include in its rates the costs of funding  
 25 or implementing cost-effective energy conservation measures implemented on or after June 6, 2007.  
 26 The costs may include amounts for weatherization programs that conserve energy.

27 (2) The commission shall ensure that a retail electricity consumer with a load greater than one  
 28 average megawatt:

29 (a) Is not required to pay an amount that is more than three percent of the consumer's total cost  
 30 of electricity service for *[the public purpose charge under ORS 757.612 and]* any amounts included  
 31 in rates under this section; and

32 (b) Does not receive any direct benefit from energy conservation measures if the costs of the  
 33 measures are included in rates under this section.

34 **SECTION 24.** ORS 757.872 is amended to read:

35 757.872. (1) Any equity of the incumbent utility, any electric utility assets of the incumbent  
 36 utility or any combination of equity and assets of the incumbent utility that Oregon Community  
 37 Power acquires under ORS 757.812 to 757.950 shall be held in trust by Oregon Community Power,  
 38 acting as a trustee, for the exclusive purpose of carrying out the powers, rights and privileges of  
 39 Oregon Community Power under ORS 757.812 to 757.950 for the benefit of the retail electricity  
 40 consumers of Oregon Community Power. Notwithstanding any other provision of law, retail elec-  
 41 tricity consumers of Oregon Community Power may not pursue any judicial remedy in any court of  
 42 this state for any action of Oregon Community Power, except as provided in ORS 757.812 to 757.950.

43 (2) The State of Oregon declares that it has no proprietary interest in Oregon Community Power  
 44 or in any tangible or intangible property of any form owned or acquired by Oregon Community  
 45 Power. The state disclaims any right to reclaim any contributions made to Oregon Community

1 Power under ORS 757.812 to 757.950.

2 (3) Except as provided in ORS 757.812 to 757.950, Oregon Community Power may not receive  
3 any moneys from the State of Oregon other than:

4 (a) Electric utility operational revenues;

5 [(b) *Public purpose charge revenues under ORS 757.612;*]

6 [(c)] (b) Nonrecourse bond proceeds or proceeds from any other nonrecourse borrowing; or

7 [(d)] (c) Loans, grants, payments or other assistance that any local government as defined in  
8 ORS 174.116 would be eligible to receive.

9 **SECTION 25.** Section 45, chapter 753, Oregon Laws 2009, is amended to read:

10 **Sec. 45.** A contractor may construct small scale local energy projects financed under a pilot  
11 program described in sections 42 to 44 [*of this 2009 Act*], **chapter 753, Oregon Laws 2009**, without  
12 being certified under [*section 51 of this 2009 Act*] **ORS 701.119** if:

13 (1) No certified contractor is available to construct the project;

14 (2) The [*Public Purpose Fund Administrator*] **Director of the State Department of Energy,**  
15 **for pilot programs initiated under section 43, chapter 753, Oregon Laws 2009**, or the **appro-**  
16 **priate** sustainable energy project manager has approved allowing the contractor to implement  
17 projects financed under the energy efficiency and sustainable technology loan program; and

18 (3) The contractor pays wages to employees used for energy efficiency and sustainable technol-  
19 ogy loan program projects at a rate equal to at least 180 percent of the state minimum wage or, if  
20 the project is for a commercial structure or is subject to prevailing wage laws, the prevailing wage  
21 for each trade or occupation employed. As used in this subsection, “commercial structure” means  
22 a structure other than a residential structure as defined in ORS 701.005.

23

24

**UNIT CAPTIONS**

25

26 **SECTION 26.** **The unit captions used in this 2013 Act are provided only for the conven-**  
27 **ience of the reader and do not become part of the statutory law of this state or express any**  
28 **legislative intent in the enactment of this 2013 Act.**

29