

A-Engrossed
House Bill 3169

Ordered by the House April 23
Including House Amendments dated April 23

Sponsored by Representative HOLVEY

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.

Revises requirement that contracting agency dedicate certain amount of contract price toward including green energy technology in public building.

Provides that contracting agency may use energy from green energy technology located away from site of public building if green energy technology meets certain qualifications.

Requires contracting agency to collect and maintain certain information and to report information [*each quarter*] to State Department of Energy. Requires department to deliver report annually to Legislative Assembly.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to green energy technology in public buildings; creating new provisions; amending ORS
3 279C.527 and 279C.528; and declaring an emergency.

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

5 **SECTION 1.** ORS 279C.527, as amended by section 1, chapter 83, Oregon Laws 2012, is amended
6 to read:

7 279C.527. (1) As used in this section and in ORS 279C.528:

8 (a)(A) "Green energy technology" means [*technology or*] a system that employs:

9 [(A)] (i) **Solar or** geothermal [*electricity generation or direct use of geothermal*] energy **directly**
10 for space or water heating **or to generate electricity; or**

11 **(ii) Building design** that [*reduces*] **uses solar energy passively to reduce** energy use from
12 other sources by at least 20 percent from a level **required under ORS 276.900 to 276.915 or**
13 **achieved in buildings constructed according to state building code standards that the De-**
14 **partment of Consumer and Business Services approves under ORS 455.496.** [*otherwise specified*
15 *by law:*]

16 [(i) *At the site of a public building; or*]

17 [(ii) *Away from the site of a public building if the geothermal source is within this state and is in*
18 *the same county as the public building or an adjacent county, if using energy from a geothermal source*
19 *that is away from the site of the public building is more cost-effective than using geothermal energy*
20 *from a source at the site of the public building, if generating or using geothermal energy at the site*
21 *of the public building is not feasible and if in addition to geothermal energy the public building in-*
22 *cludes additional new capacity for renewable electricity generation.*]

23 [(B) *Solar electricity generation, solar thermal generation or passive solar energy generation, if the*
24 *system that employs passive solar energy generation reduces energy use from other sources by at least*
25 *20 percent from a level otherwise specified by law:*]

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 *[(i) At the site of a public building; or]*

2 *[(ii) Away from the site of a public building if the solar energy source is within this state and is*
3 *in the same county as the public building or an adjacent county, if using energy from a solar energy*
4 *source that is away from the site of the public building is more cost-effective than using solar energy*
5 *from a source at the site of the public building, if generating or using solar energy at the site of the*
6 *public building is not feasible and if in addition to solar energy the public building includes additional*
7 *new capacity for renewable electricity generation.]*

8 **(B) “Green energy technology” does not include a system that:**

9 **(i) Uses water, groundwater or the ground as a heat source at temperatures less than**
10 **140 degrees Fahrenheit; or**

11 **(ii) Incorporates solar energy indirectly into other methods for generating energy, such**
12 **as from the action of waves on water, from hydroelectric facilities or from wind-powered**
13 **turbines.**

14 (b) “Public building” means a building that a public body, as defined in ORS 174.109, owns or
15 controls, and that is:

16 (A) Used or occupied by employees of the public body; or

17 (B) Used for conducting public business.

18 (2)(a) Except as otherwise provided in this section, a public improvement contract for the con-
19 struction of a public building or for the reconstruction or major renovation of a public building, if
20 the cost of the reconstruction or major renovation exceeds 50 percent of the value of the public
21 building, shall contain **and reserve** an amount equal to at least 1.5 percent of the total contract
22 price for the *[inclusion of]* **purpose of including** appropriate green energy technology *[in]* **as part**
23 **of the construction, reconstruction or major renovation of** the public building.

24 **(b) A public improvement contract to construct, reconstruct or renovate a public building**
25 **may provide for constructing green energy technology at a site that is located away from the**
26 **site of the public building if:**

27 **(A) Constructing green energy technology away from the site of the public building and**
28 **using the energy from the green energy technology at the site of the public building is more**
29 **cost-effective, taking into account additional costs associated with transmitting generated**
30 **energy to the site of the public building, than is constructing and using green energy tech-**
31 **nology at the site of the public building;**

32 **(B) The green energy technology that is located away from the site of the public building**
33 **is located within this state and in the same county as, or in a county adjacent to, the site**
34 **of the public building; and**

35 **(C) The public improvement contract provides that all of the moneys for constructing**
36 **green energy technology away from the site of the public building must fund new energy**
37 **generating capacity that does not replace or constitute a purchase and use of energy gener-**
38 **ated from green energy technology that:**

39 **(i) Employs solar energy and that existed on the date that the original building permit**
40 **for the public building was issued; or**

41 **(ii) Employs geothermal energy and for which construction was completed before Janu-**
42 **ary 1, 2013.**

43 **(c) In making the determination required under paragraph (b)(A) of this subsection, a**
44 **contracting agency shall:**

45 **(A) Compare the costs of constructing green energy technology that employs solar en-**

1 **ergy at the site of the public building only with the corresponding costs of green energy**
 2 **technology that employs solar energy at a location away from the site of the public building;**
 3 **and**

4 **(B) Compare the costs of green energy technology that employs geothermal energy at the**
 5 **site of the public building only with the corresponding costs of green energy technology that**
 6 **employs geothermal energy at a location away from the site of the public building.**

7 (3) Before entering into a public improvement contract described in subsection (2) of this sec-
 8 tion, a contracting agency shall prepare a written determination of whether [*the inclusion of*] **in-**
 9 **cluding** green energy technology [*in*] **as part of** the construction, reconstruction or major
 10 renovation of the public building is appropriate. The contracting agency shall [*include*] **list** in the
 11 determination the total contract price and **specify** the amount the agency intends to expend on [*the*
 12 *inclusion of*] **including** green energy technology [*in the public building*] **as part of the con-**
 13 **struction, reconstruction or major renovation.** The State Department of Energy shall develop a
 14 form **that** a contracting agency may use to prepare the written determination described in this
 15 subsection.

16 (4)(a) If the contracting agency determines that [*including green energy technology in the con-*
 17 *struction, reconstruction or major renovation of the public building*] **green energy technology** is not
 18 appropriate **for the public building**, subsection (2) of this section does not apply to the public im-
 19 provement contract. [*However:*] **A contracting agency's determination under this paragraph**
 20 **must consider whether constructing green energy technology at the site of the public build-**
 21 **ing is appropriate and whether constructing green energy technology away from the site of**
 22 **the public building and in accordance with subsection (2)(b) and (c) of this section is appro-**
 23 **priate.**

24 **(b) If subsection (2) of this section does not apply to the public improvement contract:**

25 [(a)] **(A)** The contracting agency shall spend an amount equal to at least 1.5 percent of the total
 26 contract price [*on the inclusion of*] **to include** appropriate green energy technology [*in*] **as part of**
 27 a future public building project; and

28 [(b)] **(B)** The amount the contracting agency spends on the future public building project [*pur-*
 29 *suant to paragraph (a) of this subsection*] **in accordance with subparagraph (A) of this paragraph**
 30 is in addition to any amount required under subsection (2) of this section for [*the inclusion of*] **in-**
 31 **cluding** appropriate green energy technology [*in*] **as part of** the future public building project.

32 (5) Subsection (4)(b) of this section does not apply to a public improvement contract for which
 33 state funds are not directly or indirectly used.

34 (6)(a) This section does not exempt an authorized state agency, as defined in ORS 276.905, from
 35 complying with ORS 276.900 to 276.915, except that an authorized state agency, without complying
 36 with ORS 276.900 to 276.915, may determine that green energy technology is appropriate to include
 37 [*in*] **as part of** the construction, reconstruction or major renovation of a public building.

38 **(b) A contracting agency may not use an amount described in subsection (4)(b) of this**
 39 **section to comply with requirements set forth in ORS 276.900 to 276.915 or with a state**
 40 **building code standard that the Department of Consumer and Business Services approves**
 41 **under ORS 455.496.**

42 (7) Notwithstanding the provisions of ORS 174.108 (3), this section applies to intergovernmental
 43 entities described in ORS 174.108 (3).

44 **SECTION 2.** ORS 279C.528, as amended by section 2, chapter 83, Oregon Laws 2012, is amended
 45 to read:

1 279C.528. (1) *[Public improvement contracts subject to ORS 279C.527 are also]* **Each contracting**
2 **agency, in soliciting, awarding and administering public improvement contracts that are**
3 **subject to ORS 279C.527, is** subject to rules the State Department of Energy adopts that include,
4 but are not limited to, requirements and specifications for:

5 [1] (a) Using particular green energy technologies in public improvements;

6 [2] (b) Determining the cost-effectiveness of green energy technologies;

7 [3] (c) *[Reporting the use of green energy technologies in public improvements or]* Submitting
8 documents **required under ORS 279C.527** to the department for review[, *as appropriate*]; and

9 [4] (d) Determining whether a structure is a public building subject to the requirements of ORS
10 279C.527.

11 **(2)(a) Each contracting agency shall collect and maintain information concerning the**
12 **contracting agency's compliance with ORS 279C.527, which must include, at a minimum:**

13 **(A) Records that show how the contracting agency disposed of moneys the contracting**
14 **agency reserved for including appropriate green energy technology as part of constructing,**
15 **reconstructing or renovating a public building;**

16 **(B) An identification of each public improvement contract for which the contracting**
17 **agency spent moneys reserved for including appropriate green technology as part of con-**
18 **structing, reconstructing or renovating a public building;**

19 **(C) An identification of each public improvement contract for which the contracting**
20 **agency determined that including green technology as part of constructing, reconstructing**
21 **or renovating a public building was not appropriate;**

22 **(D) An identification of the account or fund into which the contracting agency deposited**
23 **moneys the contracting agency reserved for, but did not spend on, including appropriate**
24 **green technology as part of constructing, reconstructing or renovating a public building; and**

25 **(E) An identification of each public improvement contract that uses moneys the con-**
26 **tracting agency did not spend in a previous public improvement contract for including ap-**
27 **propriate green energy technology as part of constructing, reconstructing or renovating a**
28 **public building.**

29 **(b) Each contracting agency shall compile the information the contracting agency col-**
30 **lected under paragraph (a) of this subsection and report the information to the department**
31 **at times and in a manner the department specifies by rule.**

32 **(c) The department shall:**

33 **(A) Compile and summarize the information the department receives under paragraph (b)**
34 **of this subsection and, in the department's compilation and summary, specifically:**

35 **(i) Identify contracting agencies that have not complied with the requirements of ORS**
36 **279C.527;**

37 **(ii) Identify public improvement contracts for which contracting agencies have deter-**
38 **mined that including green energy technology as part of constructing, reconstructing or**
39 **renovating a public building was not appropriate; and**

40 **(iii) Identify public improvement contracts that use moneys a contracting agency did not**
41 **spend in a previous public improvement contract on including appropriate green energy**
42 **technology as part of constructing, reconstructing or renovating a public building.**

43 **(B) Deliver annually to the Legislative Assembly, on or before the date on which each**
44 **regular session of the Legislative Assembly begins, a report concerning contracting agency**
45 **compliance with ORS 279C.527 that includes the compilation and summary the department**

1 prepared under subparagraph (A) of this paragraph.

2 **SECTION 3.** The amendments to ORS 279C.527 and 279C.528 by sections 1 and 2 of this
3 2013 Act apply to a contract for the construction, reconstruction or major renovation of a
4 public building that a contracting agency first advertises or otherwise solicits or, if the
5 contracting agency does not advertise or solicit the contract, to a contract into which the
6 contracting agency first enters on or after the effective date of this 2013 Act.

7 **SECTION 4.** This 2013 Act being necessary for the immediate preservation of the public
8 peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect
9 on its passage.

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