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HB 2807-1
(LC 2197)
4/5/13 (MBM/)

**PROPOSED AMENDMENTS TO
HOUSE BILL 2807**

1 On line 2 of the printed bill, after the semicolon insert “

2 Delete lines 4 through 14 and insert:

3
4 **ANNUAL ENERGY RESOURCE SUPPLIER ASSESSMENT**

5
6 **SECTION 1.** ORS 469.421 is amended to read:

7 469.421. (1) Subject to the provisions of ORS 469.441, any person submit-
8 ting a notice of intent, a request for exemption under ORS 469.320, a request
9 for an expedited review under ORS 469.370, a request for an expedited review
10 under ORS 469.373, a request for the State Department of Energy to approve
11 a pipeline under ORS 469.405 (3), an application for a site certificate or a
12 request to amend a site certificate shall pay all expenses incurred by the
13 Energy Facility Siting Council[*the State Department of Energy and the*
14 *Oregon Department of Administrative Services*] **and the department** related
15 to the review and decision of the council. These expenses may include legal
16 expenses, expenses incurred in processing and evaluating the application,
17 issuing a final order or site certificate, commissioning an independent study
18 by a contractor, state agency or local government under ORS 469.360, and
19 changes to the rules of the council that are specifically required and related
20 to the particular site certificate.

21 (2) Every person submitting a notice of intent to file for a site certificate,
22 a request for exemption or a request for expedited review shall submit the

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

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

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

29 (5) Subject to the provisions of ORS 469.441, each holder of a certificate
30 shall pay an annual fee, due every July 1 following issuance of a site cer-

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1 tificate. For each fiscal year, upon approval of the [*State Department of*
2 *Energy's*] **department's** budget authorization by an odd-numbered year reg-
3 ular session of the Legislative Assembly or as revised by the Emergency
4 Board meeting in an interim period or by the Legislative Assembly meeting
5 in special session or in an even-numbered year regular session, the Director
6 of the State Department of Energy promptly shall enter an order establishing
7 an annual fee based on the amount of revenues that the director estimates
8 is needed to fund the cost of ensuring that the facility is being operated
9 consistently with the terms and conditions of the site certificate, any order
10 issued by the department under ORS 469.405 (3) and any applicable health
11 or safety standards. In determining this cost, the director shall include both
12 the actual direct cost to be incurred by the council[, *the State Department*
13 *of Energy and the Oregon Department of Administrative Services*] **and the**
14 **department** to ensure that the facility is being operated consistently with
15 the terms and conditions of the site certificate, any order issued by the
16 [*State*] department [*of Energy*] under ORS 469.405 (3) and any applicable
17 health or safety standards, and the general costs to be incurred by the
18 council[, *the State Department of Energy and the Oregon Department of Ad-*
19 *ministrative Services*] **and the department** to ensure that all certificated
20 facilities are being operated consistently with the terms and conditions of
21 the site certificates, any orders issued by the [*State*] department [*of Energy*]
22 under ORS 469.405 (3) and any applicable health or safety standards that
23 cannot be allocated to an individual, licensed facility. Not more than 35
24 percent of the annual fee charged each facility shall be for the recovery of
25 these general costs. The fees for direct costs shall reflect the size and com-
26 plexity of the facility and its certificate conditions.

27 (6) Each holder of a site certificate executed after July 1 of any fiscal
28 year shall pay a fee for the remaining portion of the year. The amount of the
29 fee shall be set at the cost of regulating the facility during the remaining
30 portion of the year determined in the same manner as the annual fee.

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

13 (8) In addition to any other fees required by law, each energy resource
14 supplier shall pay to the [*State*] department [*of Energy*] annually its share
15 of an assessment to fund the activities of the [*Energy Facility Siting Council,*
16 *the Oregon Department of Administrative Services and the State Department*
17 *of Energy , determined by the director of the State Department of Energy in*
18 *the following manner:*] **council and the department. The director shall**
19 **determine each energy resource suppliers share in the following man-**
20 **ner:**

21 (a) **The director shall include with budget forms filed under ORS**
22 **291.208 information detailing the projected amount of moneys derived**
23 **from assessment revenues to be used to fund each activity of the**
24 **council and the department. The budget forms must include aggregate**
25 **figures that demonstrate a balanced relationship between the total**
26 **anticipated income from assessment revenues and the total proposed**
27 **expenditures of moneys derived from the assessment imposed under**
28 **this subsection.**

29 [(a)] (b) Upon approval of the budget authorization of the [*Energy Facility*
30 *Siting Council, the Oregon Department of Administrative Services and the*

1 *State Department of Energy*] **council and the department** by an odd-
2 numbered year regular session of the Legislative Assembly, the director [*of*
3 *the State Department of Energy*] shall promptly enter an order establishing
4 the amount of revenues required to be derived from an assessment pursuant
5 to this subsection in order to fund the activities of the [*Energy Facility Sit-*
6 *ing Council, the Oregon Department of Administrative Services and the State*
7 *Department of Energy*] **council and the department**, including those enu-
8 merated in [*ORS 469.030 and others authorized by law*] **section 3 of this 2013**
9 **Act**, for the first fiscal year of the forthcoming biennium. On or before June
10 1 of each even-numbered year, the director [*of the State Department of*
11 *Energy*] shall enter an order establishing the amount of revenues required
12 to be derived from an assessment pursuant to this subsection in order to fund
13 the activities of the [*Energy Facility Siting Council, the Oregon Department*
14 *of Administrative Services and the State Department of Energy*] **council and**
15 **the department**, including those enumerated in [*ORS 469.030 and others*
16 *authorized by law*] **section 3 of this 2013 Act**, for the second fiscal year of
17 the biennium. The order shall take into account any revisions to the biennial
18 budget of the [*Energy Facility Siting Council, the State Department of Energy*
19 *and the Oregon Department of Administrative Services*] **council and the de-**
20 **partment** made by the Emergency Board meeting in an interim period or
21 by the Legislative Assembly meeting in special session or in an even-
22 numbered year regular session. [*However, an assessment under this section*
23 *may not be used to derive revenue for funding State Department of Energy*
24 *activities related to the energy efficiency and sustainable technology loan pro-*
25 *gram described in ORS chapter 470.*]

26 [(b)] (c) Each order issued by the director pursuant to paragraph (a) of
27 this subsection shall allocate the aggregate assessment set forth [*therein*] **in**
28 **the order** to energy resource suppliers in accordance with paragraph (c) of
29 this subsection.

30 [(c)] (d) The amount assessed to an energy resource supplier shall be

1 based on the ratio which that supplier's annual gross operating revenue de-
2 rived within this state in the preceding calendar year bears to the total gross
3 operating revenue derived within this state during that year by all energy
4 resource suppliers. The assessment against an energy resource supplier shall
5 not exceed five-tenths of one percent of the supplier's gross operating reve-
6 nue derived within this state in the preceding calendar year. The director
7 shall exempt from payment of an assessment any individual energy resource
8 supplier whose calculated share of the annual assessment is less than \$250.

9 [(d)] (e) The director shall send each energy resource supplier subject to
10 assessment pursuant to this subsection a copy of each order issued[,] by
11 registered or certified mail **or through use of an electronic medium with**
12 **electronic receipt verification.** The amount assessed to the energy re-
13 source supplier pursuant to the order shall be considered to the extent oth-
14 erwise permitted by law a government-imposed cost and recoverable by the
15 energy resource supplier as a cost included within the price of the service
16 or product supplied.

17 [(e)] (f) The amounts assessed to individual energy resource suppliers
18 pursuant to paragraph (c) of this subsection shall be paid to the [State] de-
19 partment [of Energy] as follows:

20 (A) Amounts assessed for the first fiscal year of a biennium shall be paid
21 not later than 90 days following adjournment sine die of the odd-numbered
22 year regular session of the Legislative Assembly; and

23 (B) Amounts assessed for the second fiscal year of a biennium shall be
24 paid not later than July 1 of each even-numbered year or 90 days following
25 adjournment sine die of the even-numbered year regular session of the Leg-
26 islative Assembly, whichever is later.

27 [(f)] (g) An energy resource supplier shall provide the director, on or be-
28 fore May 1 of each year, a verified statement showing its gross operating
29 revenues derived within the state for the [preceding calendar year.] **most**
30 **recently completed fiscal year** so long as the gross operating revenues in-

1 cluded in the statement were collected no more than 18 months from the date
2 that the director issued the energy resource supplier the order under para-
3 graph (e) of this subsection. The statement [shall] **must** be in the form pre-
4 scribed by the director and is subject to audit by the director. The statement
5 [shall] **must** include an entry showing the total operating revenue derived
6 by petroleum suppliers from fuels sold that are subject to the requirements
7 of section 3a, Article IX of the Oregon Constitution, and ORS 319.020 with
8 reference to aircraft fuel and motor vehicle fuel, and ORS 319.530. The di-
9 rector may grant an extension of not more than 15 days for the requirements
10 of this subsection if:

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

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

15 (C) The extension of time does not prevent the [*Energy Facility Siting*
16 *Council, the Oregon Department of Administrative Services or the State De-*
17 *partment of Energy*] **council or the department** from fulfilling their statu-
18 tory responsibilities.

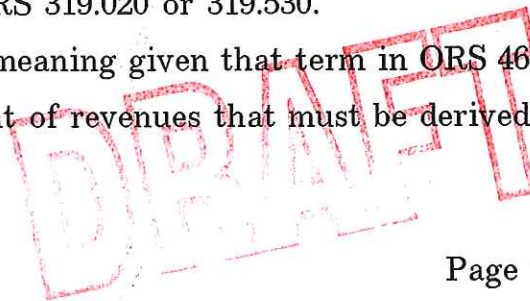
19 [(g)] (h) As used in this section:

20 (A) "Energy resource supplier" means an electric utility, natural gas
21 utility or petroleum supplier supplying, generating, transmitting or distrib-
22 uting electricity, natural gas or petroleum products in Oregon.

23 (B) "Gross operating revenue" means gross receipts from sales or service
24 made or provided within this state during the regular course of the energy
25 supplier's business, but does not include either revenue derived from interu-
26 tility sales within the state or revenue received by a petroleum supplier from
27 the sale of fuels that are subject to the requirements of section 3a, Article
28 IX of the Oregon Constitution, or ORS 319.020 or 319.530.

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

30 [(h)] (i) In determining the amount of revenues that must be derived from



1 any class of energy resource suppliers by assessment pursuant to this sub-
2 section, the director shall take into account all other known or readily
3 ascertainable sources of revenue to the [*Energy Facility Siting Council, the*
4 *Oregon Department of Administrative Services and the State Department of*
5 *Energy*] **council and department**, including, but not limited to, fees imposed
6 under this section and federal funds, and may take into account any funds
7 previously assessed pursuant to ORS 469.420 (1979 Replacement Part) or
8 section 7, chapter 792, Oregon Laws 1981.

9 [(i)] (j) Orders issued by the director pursuant to this section shall be
10 subject to judicial review under ORS 183.484. The taking of judicial review
11 shall not operate to stay the obligation of an energy resource supplier to pay
12 amounts assessed to it on or before the statutory deadline.

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

22 (b) The [*State*] department [*of Energy*] shall maintain and [*shall*] cause
23 other state agencies and counties to maintain time and billing records for
24 the expenditure of any fees collected from an operator of a nuclear fueled
25 thermal power plant under paragraph (a) of this subsection.

26 (10) Reactors operated by a college, university or graduate center for re-
27 search purposes and electric utilities not connected to the Northwest Power
28 Grid are exempt from the fee requirements of subsections (5), (8) and (9) of
29 this section.

30 (11)(a) All fees assessed by the director against holders of site certificates

1 for facilities that have an installed capacity of 500 megawatts or greater may
2 be paid in several installments, the schedule for which shall be negotiated
3 between the director and the site certificate holder.

4 (b) Energy resource suppliers or applicants or holders of a site certificate
5 who fail to pay a fee provided under subsections (1) to (9) of this section or
6 the fees required under ORS 469.360 after it is due and payable shall pay, in
7 addition to that fee, a penalty of two percent of the fee a month for the pe-
8 riod that the fee is past due. Any payment made according to the terms of
9 a schedule negotiated under paragraph (a) of this subsection shall not be
10 considered past due. The director may bring an action to collect an unpaid
11 fee [*or penalty*] in the name of the State of Oregon in a court of competent
12 jurisdiction. The court may award reasonable attorney fees to the director
13 if the director prevails in an action under this subsection. The court may
14 award reasonable attorney fees to a defendant who prevails in an action
15 under this subsection if the court determines that the director had no ob-
16 jectively reasonable basis for asserting the claim or no reasonable basis for
17 appealing an adverse decision of the trial court.

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

20 **Sec. 47a.** Notwithstanding ORS 469.441, in addition to any assessment fee
21 imposed under ORS 469.421 (8), the State Department of Energy may impose
22 a special assessment on energy resource suppliers that are subject to the
23 assessment described in ORS 469.421 (8). The special assessment authorized
24 under this section may not exceed \$300,000. The department shall calculate
25 the share of the special assessment to be paid by an energy resource supplier
26 based on the most recent gross operating revenue ratio determined for that
27 supplier under ORS 469.421 [(8)(c)] **(8)(d)** as of the special assessment date.
28 The department may not impose the special assessment authorized under this
29 section more than once and may not impose the special assessment after July
30 1, 2010. Moneys received by the department from the special assessment

1 must be deposited to the Energy Project Supplemental Fund and used to pay
2 costs incurred by the department or the Director of the State Department
3 of Energy in implementing or administering loan programs for small scale
4 local energy projects.

5 **SECTION 3. The State Department of Energy may use moneys de-**
6 **rived from assessment revenues collected under ORS 469.421 (8) to**
7 **fund:**

8 **(1) Activities listed in ORS 469.030;**

9 **(2) Activities related to traditional energy resources, such as na-**
10 **tural gas, propane, oil and wood, including energy facility siting and**
11 **regulation as provided in ORS 469.300 to 469.563, 469.590 to 469.930 and**
12 **469.992 and fuel oil dealer regulation under ORS 469.673 to 469.683;**

13 **(3) Emergency preparedness for energy facilities;**

14 **(4) Activities related to protecting Oregonians from the radioactive**
15 **waste at the Hanford Nuclear Reservation;**

16 **(5) Radioactive waste disposal and transportation;**

17 **(6) Activities related to renewable energy resources, including ad-**
18 **ministration of ORS 469B.250 to 469B.265;**

19 **(7) Activities related to energy conservation and efficiency, includ-**
20 **ing administration of the energy efficiency and sustainable technology**
21 **loan program described in ORS 470.500 to 470.710;**

22 **(8) Administration of the small scale local energy project loan pro-**
23 **gram established under Article XI-J of the Oregon Constitution and**
24 **ORS chapter 470;**

25 **(9) Administration of tax credit programs under ORS 315.331,**
26 **315.336, 315.465, 316.116, 317.117, 469B.100 to 469B.118, 469B.130 to**
27 **469B.169, 469B.171, 469B.270 to 469B.306, 469B.320 to 469B.347, 469B.400,**
28 **469B.403 and 469B.118 and any other tax credit program that the de-**
29 **partment has the duty to administrate under the laws of this state;**

30 **(10) Administration of other incentive programs related to use of**

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1 energy resources or energy efficiency and conservation;

2 (11) Research and analysis of information that is consistent with
3 the findings and declaration of ORS 469.010;

4 (12) Other activities authorized by law that are related to the use
5 of energy resources or energy efficiency and conservation; and

6 (13) Any administrative activity necessary to carry out an activity
7 described in subsections (1) to (12) of this section.

8 **SECTION 4.** (1) Before filing the financial information described in
9 ORS 469.421 (8)(a), the Director of the State Department of Energy
10 shall convene an advisory workgroup comprised of stakeholders from
11 each of the following groups representing energy resource suppliers,
12 the customers who ultimately pay for the energy supplier assessment
13 imposed under ORS 469.421 (8) through their energy bills and other
14 groups that have an interest in the provision and regulation of energy
15 in this state:

16 (a) Investor owned electric utilities;

17 (b) Investor owned natural gas utilities;

18 (c) Consumer owned utilities;

19 (d) Petroleum suppliers;

20 (e) Propane suppliers;

21 (f) Independent energy suppliers;

22 (g) Residential customers of utilities, including at least one repre-
23 sentative from the Citizen's Utility Board created under ORS 774.030;

24 (h) Industrial customers of utilities;

25 (i) Small business customers of utilities;

26 (j) Environmental organizations;

27 (k) Schools; and

28 (L) Local governments.

29 (2) The advisory workgroup shall review and make recommen-
30 dations on the following:

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- 1 (a) The director's work plan for the State Department of Energy;
- 2 (b) The amount of moneys derived from assessment revenues col-
- 3 lected under ORS 469.421 (8) that may be spent on each activity of the
- 4 Energy Facility Siting Council and the department;
- 5 (c) Proposed improvements to the collection of the energy supplier
- 6 assessment under ORS 469.421 (8); and
- 7 (d) The department's proposed policy work and legislative concepts..
- 8 (3) The committee shall meet at the call of the director.
- 9 (4) The director may adopt rules necessary for the operation of the
- 10 committee.
- 11 (5) The term of office of each member of the committee is two
- 12 years, but a member serves at the pleasure of the director. Before the
- 13 expiration of the term of a member, the director shall appoint a suc-
- 14 cessor whose term begins January 1 next following. A member is eli-
- 15 gible for reappointment. If there is a vacancy for any cause, the
- 16 director shall make an appointment to become immediately effective
- 17 for the unexpired term.

18

19 **PLACEMENT OF ENERGY FACILITY SITING COUNCIL**

20

21 **SECTION 5.** The duties, functions and powers of the Oregon De-

22 partment of Administrative Services relating to the Energy Facility

23 Siting Council are imposed upon, transferred to and vested in the

24 State Department of Energy.

25 **SECTION 6.** ORS 469.450 is amended to read:

26 469.450. (1) There is established in the State Department of Energy an

27 Energy Facility Siting Council, [*to be located within the Oregon Department*

28 *of Administrative Services and*] consisting of seven public members, who

29 shall be appointed by the Governor, subject to confirmation by the Senate

30 in the manner prescribed in ORS 171.562 and 171.565.

1 (2) The term of office of each member is four years, but a member serves
2 at the pleasure of the Governor. Before the expiration of the term of a
3 member, the Governor shall appoint a successor whose term begins on July
4 1 next following. A member is eligible for reappointment, but no member
5 shall serve more than two full terms. If there is a vacancy for any cause, the
6 Governor shall make an appointment to become immediately effective for the
7 unexpired term.

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

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

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

16 (4) No member shall for two years after the expiration of the term of the
17 member accept employment with [any] **an** owner or operator of [any] **an** en-
18 ergy facility that is subject to ORS 469.300 to 469.563, 469.590 to 469.619,
19 469.930 and 469.992.

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

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

27 **SECTION 7.** ORS 184.345 is amended to read:

28 184.345. [(1)] The Oregon Department of Administrative Services shall
29 provide on a reimbursable basis administrative and other services, as agreed
30 to, to:

- 1 [(a)] (1) The Department of Corrections;
2 [(b)] (2) The Department of Human Services;
3 [(c)] (3) The Oregon Health Authority; and
4 [(d)] (4) The State Board of Education.

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

8 **SECTION 8.** (1) The Director of the Oregon Department of Admin-
9 istrative Services shall:

10 (a) Deliver to the State Department of Energy all records and
11 property within the jurisdiction of the director that relate to the du-
12 ties, functions and powers transferred by section 5 of this 2013 Act; and

13 (b) Transfer to the State Department of Energy those employees
14 engaged primarily in the exercise of the duties, functions and powers
15 transferred by section 5 of this 2013 Act.

16 (2) The Director of the State Department of Energy shall take pos-
17 session of the records and property, and shall take charge of the em-
18 ployees and employ them in the exercise of the duties, functions and
19 powers transferred by section 5 of this 2013 Act, without reduction of
20 compensation but subject to change or termination of employment or
21 compensation as provided by law.

22 (3) The Governor shall resolve any dispute between the Oregon De-
23 partment of Administrative Services and the State Department of
24 Energy relating to transfers of records, property and employees under
25 this section, and the Governor's decision is final.

26 **SECTION 9.** (1) The unexpended balances of amounts authorized to
27 be expended by the Oregon Department of Administrative Services for
28 the biennium beginning July 1, 2013, from revenues dedicated, contin-
29 uously appropriated, appropriated or otherwise made available for the
30 purpose of administering and enforcing the duties, functions and

1 powers transferred by section 5 of this 2013 Act are transferred to and
2 are available for expenditure by the State Department of Energy for
3 the biennium beginning July 1, 2013, for the purpose of administering
4 and enforcing the duties, functions and powers transferred by section
5 5 of this 2013 Act.

6 (2) The expenditure classifications, if any, established by Acts au-
7 thorizing or limiting expenditures by the Oregon Department of Ad-
8 ministrative Services remain applicable to expenditures by the State
9 Department of Energy under this section.

10 SECTION 10. The transfer of duties, functions and powers to the
11 State Department of Energy by section 5 of this 2013 Act does not af-
12 fect any action, proceeding or prosecution involving or with respect
13 to such duties, functions and powers begun before and pending at the
14 time of the transfer, except that the State Department of Energy is
15 substituted for the Oregon Department of Administrative Services in
16 the action, proceeding or prosecution.

17 SECTION 11. (1) Nothing in sections 5 or 8 to 13 of this 2013 Act or
18 the amendments to ORS 184.345, 469.421 or 469.450 by sections 1, 6 and
19 7 of this 2013 Act relieves a person of a liability, duty or obligation
20 accruing under or with respect to the duties, functions and powers
21 transferred by section 5 of this 2013 Act. The State Department of
22 Energy may undertake the collection or enforcement of any such li-
23 ability, duty or obligation.

24 (2) The rights and obligations of the Oregon Department of Ad-
25 ministrative Services legally incurred under contracts, leases and
26 business transactions executed, entered into or begun before the op-
27 erative date of section 5 of this 2013 Act accruing under or with respect
28 to the duties, functions and powers transferred by section 5 of this 2013
29 Act are transferred to the State Department of Energy. For the pur-
30 pose of succession to these rights and obligations, the State Depart-

1 ment of Energy is a continuation of the Oregon Department of
2 Administrative Services and not a new authority.

3 **SECTION 12.** Notwithstanding the transfer of duties, functions and
4 powers by section 5 of this 2013 Act, the rules of the Oregon Depart-
5 ment of Administrative Services with respect to such duties, functions
6 or powers that are in effect on the operative date of section 5 of this
7 2013 Act continue in effect until superseded or repealed by rules of the
8 State Department of Energy. References in such rules of the Oregon
9 Department of Administrative Services to the Oregon Department of
10 Administrative Services or an officer or employee of the Oregon De-
11 partment of Administrative Services are considered to be references
12 to the State Department of Energy or an officer or employee of the
13 State Department of Energy.

14 **SECTION 13.** Whenever, in any uncodified law or resolution of the
15 Legislative Assembly or in any rule, document, record or proceeding
16 authorized by the Legislative Assembly, in the context of the duties,
17 functions and powers transferred by section 5 of this 2013 Act, refer-
18 ence is made to the Oregon Department of Administrative Services,
19 or an officer or employee of the Oregon Department of Administrative
20 Services, whose duties, functions or powers are transferred by section
21 5 of this 2013 Act, the reference is considered to be a reference to the
22 State Department of Energy or an officer or employee of the State
23 Department of Energy who by this 2013 Act is charged with carrying
24 out such duties, functions and powers.

25
26 **APPLICABILITY**
27

28 **SECTION 14.** The amendments to ORS 469.421 by section 1 of this
29 2013 Act apply to the establishment of the amount required to fund the
30 activities of the Energy Facility Siting Council and the State Depart-

1 ment of Energy for the 2015-2017 biennium and subsequent biennia.

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