

**PROPOSED AMENDMENTS TO  
SENATE BILL 606**

1 On page 1 of the printed bill, line 2, delete “274.990,”.

2 Delete lines 5 through 27 and delete pages 2 and 3 and insert:

3 **“SECTION 1.** ORS 274.867 is amended to read:

4 “274.867. (1) In accordance with applicable provisions of ORS chapter 183,  
5 the Director of the Department of State Lands may adopt rules for the au-  
6 thorization of wave energy facilities or devices.

7 “(2) [*Unless exempted under rules adopted by the director under this sec-*  
8 *tion,*] An owner or operator of a facility or device sited within Oregon’s  
9 territorial sea, as defined in ORS 196.405, that converts the kinetic energy  
10 of waves into electricity shall maintain cost estimates of the amount of fi-  
11 nancial assurance that is necessary, and demonstrate evidence of financial  
12 assurance, for:

13 “[*(a) The costs of closure and post-closure maintenance, excluding the re-*  
14 *moval of anchors that lie beneath submerged lands in Oregon’s territorial sea,*  
15 *of the facility or device; and*]

16 **“(a) The costs of closure and post-closure maintenance of the fa-**  
17 **cility or device, excluding the costs of removing anchors, cables or any**  
18 **other equipment that is not required to be removed from beneath the**  
19 **submerged lands in Oregon’s territorial sea under subsection (9) of this**  
20 **section; and**

21 **“(b) Any corrective action required to be taken at the site of the facility**  
22 **or device.**

1       **“(3) The cost estimates required by subsection (2) of this section**  
2 **must be prepared by a person qualified by experience and knowledge**  
3 **to prepare such cost estimates.**

4       “[(3)] (4) The financial assurance requirements established by subsection  
5 (2) of this section may be satisfied by any one or a combination of the fol-  
6 lowing:

7       “(a) Insurance;

8       “(b) Establishment of a trust fund;

9       “(c) A surety bond; **or**

10       “(d) A letter of credit[;].

11       “[(e) *Qualification as a self-insurer; or*]

12       “[(f) *Any other method set forth in rules adopted by the director.*]

13       “[(4)] (5) In adopting rules to implement the provisions of this section, the  
14 director may specify policy or other contractual terms, conditions or defenses  
15 necessary to establish evidence of financial assurance.

16       “[(5)(a) *The owner or operator of a facility or device described in subsection*  
17 *(2) of this section must provide the evidence of financial assurance required*  
18 *under this section for closure, post-closure maintenance and corrective action*  
19 *at the time operation of the facility or device is authorized.*]

20       **“(6)(a) Prior to the time that operation of a facility or device de-**  
21 **scribed in subsection (2) of this section is authorized, the owner or**  
22 **operator of the facility or device must provide the director with a plan**  
23 **for decommissioning the facility or device after the permanent cessa-**  
24 **tion of use of that facility or device for the conversion of the kinetic**  
25 **energy of waves into electricity. The plan for decommissioning the**  
26 **facility or device must include, but need not be limited to:**

27       **“(A) Information regarding the anticipated useful life of the facility**  
28 **or device;**

29       **“(B) The cost estimates required by subsection (2) of this section;**

30       **“(C) The evidence of financial assurance required by subsections (2)**

1 **and (4) of this section;**

2 **“(D) A description of the method and schedule for updating the**  
3 **costs of decommissioning the facility or device;**

4 **“(E) A description of the anticipated methods that will be used to**  
5 **close the facility or device, engage in post-closure maintenance and**  
6 **take any corrective action required at the site of the facility or device;**  
7 **and**

8 **“(F) Any other information required by the director by rule.**

9 **“(b) By January 31 of each subsequent calendar year, the owner or oper-**  
10 **ator of the facility or device must update the information required under this**  
11 **subsection with the Department of State Lands.**

12 **“[(6)] (7) [When financial assurance is required for corrective action at the**  
13 **site of a facility or device described in subsection (2) of this section, the] An**  
14 **owner or operator shall provide evidence of financial assurance before be-**  
15 **ginning corrective action at the site of a facility or device described in**  
16 **subsection (2) of this section.**

17 **“[(7)] (8) An owner or operator [required to provide financial assurance**  
18 **under this section] shall establish provisions satisfactory to the director for**  
19 **disposing of any excess moneys received or interest earned on moneys re-**  
20 **ceived for financial assurance.**

21 **“(9)(a) An owner or operator of a facility or device described in**  
22 **subsection (2) of this section must initiate removal of all equipment**  
23 **related to that facility or device, excluding anchors, cables and any**  
24 **other equipment that lies at least one meter beneath submerged lands**  
25 **in Oregon’s territorial sea, within 12 months after the permanent**  
26 **cessation of use of that facility or device for the conversion of the**  
27 **kinetic energy of waves into electricity.**

28 **“(b) Notwithstanding paragraph (a) of this subsection, an owner or**  
29 **operator of a facility or device described in subsection (2) of this sec-**  
30 **tion may be required to remove anchors, cables or any other equip-**

1 **ment that lies at least one meter beneath submerged lands in Oregon’s**  
2 **territorial sea if removal is deemed necessary by the director, in con-**  
3 **sultation with the owner or operator, and is permitted by the applica-**  
4 **ble requirements of federal regulatory agencies.**

5 **“(c) All equipment required to be removed under this subsection**  
6 **must be removed within two years after the permanent cessation of**  
7 **use of the facility or device for the conversion of the kinetic energy**  
8 **of waves into electricity.**

9 **“(d) The director may extend the deadlines under this subsection if**  
10 **the owner or operator of the facility or device can show good cause**  
11 **and has undertaken a good faith effort to remove the equipment as**  
12 **required by this subsection.**

13 **“SECTION 2.** ORS 274.992 is amended to read:

14 **“274.992. (1) Any person who violates any provision of ORS 274.040 or**  
15 **274.867, [or] any rule, order or lease adopted or issued under ORS 274.040**  
16 **or any rule adopted under ORS 274.867 shall be subject to a civil penalty**  
17 **in an amount to be determined by the Director of the Department of State**  
18 **Lands of not more than \$1,000 per day of violation.**

19 **“(2) Civil penalties under this section shall be imposed in the manner**  
20 **provided in ORS 183.745.**

21 **“(3) The provisions of this section are in addition to and not in lieu of**  
22 **any other penalty or sanction provided by law.**

23 **“(4) Any civil penalty recovered under this section for violation of ORS**  
24 **274.040 or 274.867, or any rule, order or lease adopted or issued under**  
25 **ORS 274.040 or 274.867 shall be deposited in the Common School Fund for**  
26 **use by the Department of State Lands in administration of ORS 274.040 or**  
27 **274.867 and as otherwise required by law.**

28 **“SECTION 3.** ORS 274.994 is amended to read:

29 **“274.994. (1) The Director of the Department of State Lands shall adopt**  
30 **by rule the amount of civil penalty that may be imposed for a particular vi-**

1 violation of ORS 274.040 **or 274.867.**

2 “(2) In imposing a penalty under the schedule adopted under subsection  
3 (1) of this section, the director shall consider the following factors:

4 “(a) The past history of the person incurring a penalty in taking all fea-  
5 sible steps or procedures necessary or appropriate to correct any violation.

6 “(b) Any prior violations of statutes, rules, orders and leases pertaining  
7 to submerged and submersible lands.

8 “(c) The impact of the violation on public interests in fishery, navigation  
9 and recreation.

10 “(d) Any other factors determined by the director to be relevant and  
11 consistent with the policy of ORS 274.040 **or 274.867.**

12 “(3) The penalty imposed under this section may be remitted or mitigated  
13 upon such terms and conditions as the director determines to be proper and  
14 consistent with the policy of ORS 274.040 **or 274.867.** Upon the request of the  
15 person incurring the penalty, the director shall consider evidence of the  
16 economic and financial condition of the person in determining whether a  
17 penalty shall be remitted or mitigated.

18 **“SECTION 4. (1) The State Department of Energy shall study issues**  
19 **related to the transmission of electricity from wave energy facilities**  
20 **and devices.**

21 **“(2) The scope of issues to be studied may include, but is not limited**  
22 **to:**

23 **“(a) Opportunities for the ownership and financing of structures for**  
24 **the transmission of electricity from wave energy facilities or devices;**

25 **“(b) Barriers to the development of structures for the transmission**  
26 **of electricity from wave energy facilities and devices;**

27 **“(c) Construction and maintenance of structures for the trans-**  
28 **mission of electricity from wave energy facilities and devices;**

29 **“(d) The costs and benefits of establishing consolidated trans-**  
30 **mission capacity for multiple wave energy projects; and**

1       “(e) Risk management and decommissioning issues related to wave  
2 energy facilities and devices and to transmission capacity.

3       “(3) The department shall seek public input regarding the scope of  
4 issues to be studied.

5       “(4) The department shall report the results of the study required  
6 by this section to the interim committees of the Legislative Assembly  
7 related to environment and natural resources on or before November  
8 1, 2014.

9       “SECTION 5. Section 4 of this 2013 Act is repealed on January 2,  
10 2015.

11       “SECTION 6. The amendments to ORS 274.867 by section 1 of this  
12 2013 Act apply to all authorizations for wave energy facilities and de-  
13 vices issued on or after the effective date of this 2013 Act.

14       “SECTION 7. This 2013 Act being necessary for the immediate  
15 preservation of the public peace, health and safety, an emergency is  
16 declared to exist, and this 2013 Act takes effect on its passage.”.

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