

**PROPOSED AMENDMENTS TO  
A-ENGROSSED HOUSE BILL 2004**

1 On page 1 of the printed A-engrossed bill, line 2, after “amending” insert  
2 “ORS 456.587, 757.365 and 757.612 and”.

3 In line 8, delete “collect a combined total of” and insert “allocate”.

4 In line 10, after the period insert “The allocation described in this section  
5 shall be allocated from amounts collected under ORS 757.612 (2)(a) prior to  
6 making allocations described in ORS 757.612 (3)(a)(B).”.

7 On page 2, after line 11, insert:

8 **“SECTION 3.** ORS 757.612 is amended to read:

9 “757.612. (1) There is established an annual public purpose expenditure  
10 standard for electric companies and Oregon Community Power to fund new  
11 cost-effective local energy conservation, new market transformation efforts,  
12 the above-market costs of new renewable energy resources and new low-  
13 income weatherization. The public purpose expenditure standard shall be  
14 funded by the public purpose charge described in subsection (2) of this sec-  
15 tion.

16 “(2)(a) Beginning on the date an electric company or Oregon Community  
17 Power offers direct access to its retail electricity consumers, except resi-  
18 dential electricity consumers, the electric company or Oregon Community  
19 Power shall collect a public purpose charge from all of the retail electricity  
20 consumers located within its service area until January 1, 2026. Except as  
21 provided in paragraph (b) of this subsection, the public purpose charge shall  
22 be equal to three percent of the total revenues collected by the electric

1 company, Oregon Community Power or the electricity service supplier from  
2 its retail electricity consumers for electricity services, distribution, ancillary  
3 services, metering and billing, transition charges and other types of costs  
4 included in electric rates on July 23, 1999.

5 “(b) For an aluminum plant that averages more than 100 average mega-  
6 watts of electricity use per year, beginning on March 1, 2002, the electric  
7 company or Oregon Community Power whose territory abuts the greatest  
8 percentage of the site of the aluminum plant shall collect from the aluminum  
9 company a public purpose charge equal to one percent of the total revenue  
10 from the sale of electricity services to the aluminum plant from any source.

11 “(3)(a) The Public Utility Commission shall establish rules implementing  
12 the provisions of this section relating to electric companies and Oregon  
13 Community Power.

14 “(b) Subject to paragraph (e) of this subsection, funds collected by an  
15 electric company or Oregon Community Power through public purpose  
16 charges shall be allocated as follows:

17 “(A) **All amounts collected as described in this subsection, up to \$15**  
18 **million, shall be used for low-income assistance as required by sub-**  
19 **section (7) of this section; and**

20 “(B) **The remainder, if any, shall be allocated as follows:**

21 “[A] (i) Sixty-three percent for new cost-effective conservation, new  
22 market transformation.

23 “[B] (ii) Nineteen percent for the above-market costs of constructing and  
24 operating new renewable energy resources with a nominal electric generating  
25 capacity, as defined in ORS 469.300, of 20 megawatts or less.

26 “[C] (iii) Thirteen percent for new low-income weatherization.

27 “[D] (iv) Five percent shall be transferred to the Housing and Commu-  
28 nity Services Department Electricity Public Purpose Charge Fund estab-  
29 lished by ORS 456.587 (1) and used for the purpose of providing grants as  
30 described in ORS 458.625 (2).

1       “(c) The costs of administering subsections (1) to (6) of this section for  
2 an electric company or Oregon Community Power shall be paid out of the  
3 funds collected through public purpose charges. The commission may require  
4 that an electric company or Oregon Community Power direct funds collected  
5 through public purpose charges to the state agencies responsible for imple-  
6 menting subsections (1) to (6) of this section in order to pay the costs of  
7 administering such responsibilities.

8       “(d) The commission shall direct the manner in which public purpose  
9 charges are collected and spent by an electric company or Oregon Commu-  
10 nity Power and may require an electric company or Oregon Community  
11 Power to expend funds through competitive bids or other means designed to  
12 encourage competition, except that funds dedicated for low-income  
13 weatherization shall be directed to the Housing and Community Services  
14 Department as provided in subsection (7) of this section. The commission  
15 may also direct that funds collected by an electric company or Oregon  
16 Community Power through public purpose charges be paid to a nongovern-  
17 mental entity for investment in public purposes described in subsection (1)  
18 of this section. Notwithstanding any other provision of this subsection:

19       “(A) At least 80 percent of the funds allocated for conservation shall be  
20 spent within the service area of the electric company that collected the  
21 funds; or

22       “(B) If Oregon Community Power collected the funds, at least 80 percent  
23 of the funds allocated for conservation shall be spent within the service area  
24 of Oregon Community Power.

25       “(e)(A) The first 10 percent of the funds collected annually by an electric  
26 company or Oregon Community Power under subsection (2) of this section  
27 shall be distributed to school districts that are located in the service terri-  
28 tory of the electric company or Oregon Community Power. The funds shall  
29 be distributed to individual school districts according to the weighted aver-  
30 age daily membership (ADMw) of each school district for the prior fiscal

1 year as calculated under ORS 327.013. The commission shall establish by rule  
2 a methodology for distributing a proportionate share of funds under this  
3 paragraph to school districts that are only partially located in the service  
4 territory of the electric company or Oregon Community Power.

5 “(B) A school district that receives funds under this paragraph shall use  
6 the funds first to pay for energy audits for schools located within the school  
7 district. A school district may not expend additional funds received under  
8 this paragraph on a school facility until an energy audit has been completed  
9 for that school facility. To the extent practicable, a school district shall co-  
10 ordinate with the State Department of Energy and incorporate federal fund-  
11 ing in complying with this paragraph. Following completion of an energy  
12 audit for an individual school, the school district may expend funds received  
13 under this paragraph to implement the energy audit. Once an energy audit  
14 has been conducted and completely implemented for each school within the  
15 school district, the school district may expend funds received under this  
16 paragraph for any of the following purposes:

17 “(i) Conducting energy audits. A school district shall conduct an energy  
18 audit prior to expending funds on any other purpose authorized under this  
19 paragraph unless the school district has performed an energy audit within  
20 the three years immediately prior to receiving the funds.

21 “(ii) Weatherization and upgrading the energy efficiency of school district  
22 facilities.

23 “(iii) Energy conservation education programs.

24 “(iv) Purchasing electricity from environmentally focused sources and in-  
25 vesting in renewable energy resources.

26 “(f) The commission may not establish a different public purpose charge  
27 than the public purpose charge described in subsection (2) of this section.

28 “(g) If the commission directs funds collected through public purpose  
29 charges to a nongovernmental entity, the entity shall:

30 “(A) Include on the entity’s board of directors an ex officio member des-

1 ignated by the commission, who shall also serve on the entity's nominating  
2 committee for filling board vacancies.

3 “(B) Require the entity's officers and directors to provide an annual dis-  
4 closure of economic interest to be filed with the commission on or prior to  
5 April 15 of each calendar year for public review in a form similar to the  
6 statement of economic interest required for public officials under ORS  
7 244.060.

8 “(C) Require the entity's officers and directors to declare actual and po-  
9 tential conflicts of interest at regular meetings of the entity's governing body  
10 when such conflicts arise, and require an officer or director to abstain from  
11 participating in any discussion or vote on any item where that officer or  
12 director has an actual conflict of interest. For the purposes of this subpara-  
13 graph, ‘actual conflict of interest’ and ‘potential conflict of interest’ have the  
14 meanings given those terms in ORS 244.020.

15 “(D) Arrange for an independent auditor to audit the entity's financial  
16 statements annually, and direct the auditor to file an audit opinion with the  
17 commission for public review.

18 “(E) File with the commission annually the entity's budget, action plan  
19 and quarterly and annual reports for public review.

20 “(F) At least once every five years, contract for an independent manage-  
21 ment evaluation to review the entity's operations, efficiency and effective-  
22 ness, and direct the independent reviewer to file a report with the  
23 commission for public review.

24 “(h) The commission may remove from the board of directors of a non-  
25 governmental entity an officer or director who fails to provide an annual  
26 disclosure of economic interest or declare actual or potential conflict of in-  
27 terest, as described in paragraph (g)(B) and (C) of this subsection, in con-  
28 nection with the allocation or expenditure of funds collected through public  
29 purpose charges and directed to the entity.

30 “(4)(a) An electric company that satisfies its obligations under this sec-

1 tion shall have no further obligation to invest in conservation, new market  
2 transformation or new low-income weatherization or to provide a commercial  
3 energy conservation services program and is not subject to ORS 469.631 to  
4 469.645 and 469.860 to 469.900.

5 “(b) Oregon Community Power, for any period during which Oregon  
6 Community Power collects a public purpose charge under subsection (2) of  
7 this section:

8 “(A) Shall have no other obligation to invest in conservation, new market  
9 transformation or new low-income weatherization or to provide a commercial  
10 energy conservation services program; and

11 “(B) Is not subject to ORS 469.631 to 469.645 and 469.860 to 469.900.

12 “(5)(a) A retail electricity consumer that uses more than one average  
13 megawatt of electricity at any site in the prior year shall receive a credit  
14 against public purpose charges billed by an electric company or Oregon  
15 Community Power for that site. The amount of the credit shall be equal to  
16 the total amount of qualifying expenditures for new energy conservation, not  
17 to exceed 68 percent of the annual public purpose charges, and the above-  
18 market costs of purchases of new renewable energy resources incurred by the  
19 retail electricity consumer, not to exceed 19 percent of the annual public  
20 purpose charges, less administration costs incurred under this subsection.  
21 The credit may not exceed, on an annual basis, the lesser of:

22 “(A) The amount of the retail electricity consumer’s qualifying expendi-  
23 tures; or

24 “(B) The portion of the public purpose charge billed to the retail elec-  
25 tricity consumer that is dedicated to new energy conservation, new market  
26 transformation or the above-market costs of new renewable energy resources.

27 “(b) To obtain a credit under this subsection, a retail electricity consumer  
28 shall file with the State Department of Energy a description of the proposed  
29 conservation project or new renewable energy resource and a declaration  
30 that the retail electricity consumer plans to incur the qualifying expenditure.

1 The State Department of Energy shall issue a notice of precertification  
2 within 30 days of receipt of the filing, if such filing is consistent with this  
3 subsection. The credit may be taken after a retail electricity consumer pro-  
4 vides a letter from a certified public accountant to the State Department of  
5 Energy verifying that the precertified qualifying expenditure has been made.

6 “(c) Credits earned by a retail electricity consumer as a result of quali-  
7 fying expenditures that are not used in one year may be carried forward for  
8 use in subsequent years.

9 “(d)(A) A retail electricity consumer that uses more than one average  
10 megawatt of electricity at any site in the prior year may request that the  
11 State Department of Energy hire an independent auditor to assess the po-  
12 tential for conservation investments at the site. If the independent auditor  
13 determines there is no available conservation measure at the site that would  
14 have a simple payback of one to 10 years, the retail electricity consumer  
15 shall be relieved of 54 percent of its payment obligation for public purpose  
16 charges related to the site. If the independent auditor determines that there  
17 are potential conservation measures available at the site, the retail elec-  
18 tricity consumer shall be entitled to a credit against public purpose charges  
19 related to the site equal to 54 percent of the public purpose charges less the  
20 estimated cost of available conservation measures.

21 “(B) A retail electricity consumer shall be entitled each year to the credit  
22 described in this subsection unless a subsequent independent audit deter-  
23 mines that new conservation investment opportunities are available. The  
24 State Department of Energy may require that a new independent audit be  
25 performed on the site to determine whether new conservation measures are  
26 available, provided that the independent audits shall occur no more than  
27 once every two years.

28 “(C) The retail electricity consumer shall pay the cost of the independent  
29 audits described in this subsection.

30 “(6) Electric utilities and retail electricity consumers shall receive a fair

1 and reasonable credit for the public purpose expenditures of their energy  
2 suppliers. The State Department of Energy shall adopt rules to determine  
3 eligible expenditures and the methodology by which such credits are ac-  
4 counted for and used. The rules also shall adopt methods to account for el-  
5 igible public purpose expenditures made through consortia or collaborative  
6 projects.

7 “(7)(a) [*In addition to*] **As part of** the public purpose charge provided  
8 under subsection (2) of this section, an electric company or Oregon Commu-  
9 nity Power shall collect funds for low-income electric bill payment assistance  
10 in an amount determined under paragraph (b) of this subsection.

11 “(b) The commission shall establish the amount to be collected by each  
12 electric company in calendar year 2008 from retail electricity consumers  
13 served by the company, and the rates to be charged to retail electricity  
14 consumers served by the company, so that the total anticipated collection for  
15 low-income electric bill payment assistance by all electric companies in cal-  
16 endar year 2008 is \$15 million. In calendar year 2009 and subsequent calendar  
17 years, the commission may not change the rates established for retail elec-  
18 tricity consumers, but the total amount collected in a calendar year for  
19 low-income electric bill payment assistance may vary based on electricity  
20 usage by retail electricity consumers and changes in the number of retail  
21 electricity consumers in this state. In no event shall a retail electricity  
22 consumer be required to pay more than \$500 per month per site for low-  
23 income electric bill payment assistance.

24 “(c) Funds collected by the low-income electric bill payment assistance  
25 charge shall be paid into the Housing and Community Services Department  
26 Low-Income Electric Bill Payment Assistance Fund established by ORS  
27 456.587 (2). Moneys deposited in the fund under this paragraph shall be used  
28 by the Housing and Community Services Department for the purpose of  
29 funding low-income electric bill payment assistance. The department’s cost  
30 of administering this subsection shall be paid out of funds collected by the

1 low-income electric bill payment assistance charge. Moneys deposited in the  
2 fund under this paragraph shall be expended solely for low-income electric  
3 bill payment assistance. Funds collected from an electric company or Oregon  
4 Community Power shall be expended in the service area of the electric  
5 company or Oregon Community Power from which the funds are collected.

6 “(d)(A) The Housing and Community Services Department, in consultation  
7 with the advisory committee on energy established by ORS 458.515, shall  
8 determine the manner in which funds collected under this subsection will be  
9 allocated by the department to energy assistance program providers for the  
10 purpose of providing low-income bill payment and crisis assistance.

11 “(B) The department shall investigate and may implement alternative de-  
12 livery models specified by the advisory committee on energy, in consultation  
13 with electric companies, to effectively reduce service disconnections and re-  
14 lated costs to retail electricity consumers and electric utilities.

15 “(C) Priority assistance shall be directed to low-income electricity con-  
16 sumers who are in danger of having their electricity service disconnected.

17 “(D) The department shall maintain records and provide those records  
18 upon request to an electric company, Oregon Community Power and the  
19 Citizens’ Utility Board established under ORS chapter 774 on a quarterly  
20 basis. Records maintained must include the numbers of low-income electricity  
21 consumers served, the average amounts paid and the type of assistance pro-  
22 vided. Electric companies and Oregon Community Power shall, if requested,  
23 provide the department with aggregate data relating to consumers served on  
24 a quarterly basis to support program development.

25 “(e) Interest on moneys deposited in the Housing and Community Services  
26 Department Low-Income Electric Bill Payment Assistance Fund established  
27 by ORS 456.587 (2) may be used to provide bill payment and crisis assistance  
28 to electricity consumers whose primary source of heat is not electricity.

29 “(f) Notwithstanding ORS 757.310, the commission may allow an electric  
30 company or Oregon Community Power to provide reduced rates or other

1 payment or crisis assistance or low-income program assistance to a low-  
2 income household eligible for assistance under the federal Low Income Home  
3 Energy Assistance Act of 1981, as amended and in effect on July 23, 1999.

4 “(8) For purposes of this section, ‘retail electricity consumers’ includes  
5 any direct service industrial consumer that purchases electricity without  
6 purchasing distribution services from the electric utility.

7 “(9) For purposes of this section, amounts collected by Oregon Community  
8 Power through public purpose charges are not considered moneys received  
9 from electric utility operations.

10 **“SECTION 4.** ORS 456.587 is amended to read:

11 “456.587. (1) The Housing and Community Services Department Electricity  
12 Public Purpose Charge Fund is established in the State Treasury, separate  
13 and distinct from the General Fund. Interest earned by the Housing and  
14 Community Services Department Electricity Public Purpose Charge Fund  
15 shall be credited to the fund. Moneys in the fund are continuously appro-  
16 priated to the Housing and Community Services Department to be used for  
17 purposes specified in ORS 757.612 [(3)(b)(D)] **(3)(b)(B)(iv)**.

18 “(2) The Housing and Community Services Department Low-Income Elec-  
19 tric Bill Payment Assistance Fund is established in the State Treasury, sep-  
20 arate and distinct from the General Fund. Interest earned by the Housing  
21 and Community Services Department Low-Income Electric Bill Payment As-  
22 sistance Fund shall be credited to the fund. Moneys in the fund are contin-  
23 uously appropriated to the Housing and Community Services Department for  
24 purposes described in ORS 757.612 (7).

25 **“SECTION 5.** ORS 757.365 is amended to read:

26 “757.365. (1) The Public Utility Commission shall establish a pilot pro-  
27 gram for each electric company to demonstrate the use and effectiveness of  
28 volumetric incentive rates and payments for electricity or for the nonenergy  
29 attributes of electricity, or both, from solar photovoltaic energy systems that  
30 are permanently installed in this state by retail electricity consumers and

1 that first become operational after the program begins. The cumulative  
2 nameplate capacity of the qualifying systems enrolled in all of the pilot  
3 programs may not exceed 25 megawatts of alternating current. Qualifying  
4 systems enrolled in the pilot program may not have nameplate generating  
5 capacity greater than 500 kilowatts.

6 “(2) The commission by rule shall adopt requirements for the pilot pro-  
7 grams described in subsection (1) of this section. Each electric company shall  
8 file for commission approval tariff schedules for the pilot programs that  
9 conform to the requirements.

10 “(3) The commission may establish incentive rates for the pilot programs  
11 to enable the development of the most efficient solar photovoltaic energy  
12 systems.

13 “(4) A retail electricity consumer participating in a pilot program may  
14 receive payments based on electricity generated from solar photovoltaic en-  
15 ergy system output for 15 years from the consumer’s date of enrollment in  
16 the program, at rates or through a rate formula in a tariff schedule estab-  
17 lished at the time of enrollment, or at rates otherwise established at the time  
18 of enrollment. The consumer thereafter may receive payments based upon  
19 electricity generated from the qualifying system at a rate equal to the re-  
20 source value.

21 “(5) The commission may adjust the tariff schedule as needed for new pi-  
22 lot program participants for the purpose of meeting the goal established in  
23 subsection (1) of this section. Once a retail electricity consumer is enrolled  
24 in a program, the rates or rate formula for determining payments to the  
25 consumer may not be modified.

26 “(6) The commission shall establish pilot programs designed to attain a  
27 goal of 75 percent of the capacity under each program to be deployed by  
28 residential qualifying systems and small commercial qualifying systems. The  
29 commission by rule may adjust the percentage goal for capacity deployed by  
30 residential and small commercial qualifying systems based upon the costs of

1 the energy generated, the feasibility of attaining the goal and other factors.

2 “(7) The commission may establish total generator nameplate capacity  
3 limits for an electric company so that the rate impact of the pilot program  
4 for any customer class does not exceed 0.25 percent of the electric company’s  
5 revenue requirement for the class in any year.

6 “(8) Ownership of renewable energy certificates established under ORS  
7 469A.130 that are associated with renewable energy generation under the  
8 pilot programs must be transferred to the electric company and may be used  
9 to comply with the renewable portfolio standard described in ORS 469A.052  
10 or 469A.055.

11 “(9) To the extent that rates paid under a pilot program exceed the re-  
12 source value, qualifying systems participating in the pilot programs are not  
13 eligible for expenditures under ORS 757.612 (3)(b)(B)(ii) or tax credits under  
14 ORS 469B.100 to 469B.118 or 469B.130 to 469B.169.

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

17 “(11) The commission shall advise and assist the owners and operators of  
18 qualifying systems in identifying and using grants, incentive moneys, federal  
19 funding and other sources of noninvestment financial support for the con-  
20 struction and operation of qualifying systems.

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

23 “(a) March 31, 2015; or

24 “(b) The date the cumulative nameplate capacity of solar photovoltaic  
25 energy systems that have been permanently installed by retail electricity  
26 consumers under the pilot programs equals 25 megawatts of alternating cur-  
27 rent.

28 “(13) The commission shall submit a report to the Legislative Assembly  
29 by January 1 of each odd-numbered year. The report must evaluate the ef-  
30 fectiveness of the pilot programs described in subsection (1) of this section

1 compared to the effectiveness of expenditures under ORS 757.612 (3)(b)(B)(ii)  
2 or tax credits under ORS 469B.100 to 469B.118 or 469B.130 to 469B.169 for  
3 promoting the use of solar photovoltaic energy systems and reducing system  
4 costs. The report must also evaluate the estimated cost of the program to  
5 retail electricity consumers.

6 **SECTION 6. The amendments to ORS 456.587, 757.365 and 757.612**  
7 **by sections 3 to 5 of this 2013 Act apply to amounts collected under the**  
8 **public purpose charge expenditure standard on and after the effective**  
9 **date of this 2013 Act.”.**

10 In line 12, delete “3” and insert “7”.

11 In line 45, delete “4” and insert “8” and delete “3” and insert “7”.

12 On page 3, line 2, delete “5” and insert “9”.

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