

House Bill 4146

Sponsored by Representative BAILEY (Presession filed.)

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**.

Requires Housing and Community Services Department to cease activities that are related to moneys collected for new low-income weatherization and low-income electric bill payment assistance. Establishes regulatory framework for electric companies and Oregon Community Power to use such moneys to provide services similar to those currently provided by department. Abolishes Housing and Community Services Department Low-Income Electric Bill Payment Assistance Fund.

A BILL FOR AN ACT

Relating to moneys collected for energy-related purposes; creating new provisions; and amending ORS 456.587, 458.515 and 757.612 and section 3, chapter 566, Oregon Laws 2011.

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

CESSATION OF CURRENT LOW-INCOME WEATHERIZATION AND ELECTRIC BILL PAYMENT ASSISTANCE PROGRAMS

SECTION 1. On the effective date of this 2014 Act, the duties, functions and powers of the Housing and Community Services Department under ORS 757.612 (7) and with respect to funds dedicated for new low-income weatherization under ORS 757.612 (3)(b)(C) cease.

SECTION 2. ORS 757.612 is amended to read:

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

(2)(a) Beginning on the date an electric company or Oregon Community Power offers direct access to its retail electricity consumers, except residential electricity consumers, the electric company or Oregon Community Power shall collect a public purpose charge from all of the retail electricity consumers located within its service area until January 1, 2026. Except as provided in paragraph (b) of this subsection, the public purpose charge shall be equal to three percent of the total revenues collected by the electric company, Oregon Community Power or the electricity service supplier from its retail electricity consumers for electricity services, distribution, ancillary services, metering and billing, transition charges and other types of costs included in electric rates on July 23, 1999.

(b) For an aluminum plant that averages more than 100 average megawatts of electricity use per year, beginning on March 1, 2002, the electric company or Oregon Community Power whose territory abuts the greatest percentage of the site of the aluminum plant shall collect from the aluminum company a public purpose charge equal to one percent of the total revenue from the sale of

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 electricity services to the aluminum plant from any source.

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

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

6 (A) Sixty-three percent for new cost-effective **energy** conservation, new market transformation.

7 (B) Nineteen percent for the above-market costs of constructing and operating new renewable
8 energy resources with a nominal electric generating capacity, as defined in ORS 469.300, of 20
9 megawatts or less.

10 (C) Thirteen percent for new low-income weatherization.

11 (D) Five percent shall be transferred to the Housing and Community Services Department
12 Electricity Public Purpose Charge Fund established by ORS 456.587 [(1)] and used for the purpose
13 of providing grants as described in ORS 458.625 (2).

14 (c) The costs of administering subsections (1) to (6) of this section for an electric company or
15 Oregon Community Power [*shall*] **may** be paid out of the funds collected through public purpose
16 charges. The commission may require that an electric company or Oregon Community Power direct
17 funds collected through public purpose charges to [*the state agencies responsible for implementing*
18 *subsections (1) to (6) of*] **state agencies with responsibilities specified in** this section in order to
19 pay the costs of administering such responsibilities.

20 (d) The commission shall direct the manner in which public purpose charges are collected and
21 spent by an electric company or Oregon Community Power and may require an electric company
22 or Oregon Community Power to expend funds through competitive bids, **grants** or other means de-
23 signed to encourage competition[, *except that funds dedicated for low-income weatherization shall be*
24 *directed to the Housing and Community Services Department as provided in subsection (7) of this sec-*
25 *tion*] **and efficiency of implementation**. The commission may also direct that funds collected by
26 an electric company or Oregon Community Power through public purpose charges be paid to a
27 nongovernmental entity for investment in public purposes described in subsection (1) of this
28 section, **except for funds described in subsection (3)(b)(C) of this section, which shall by ad-**
29 **ministered by the electric company that collected the funds or, if Oregon Community Power**
30 **collected the funds, Oregon Community Power**. Notwithstanding any other provision of this
31 subsection:

32 (A) At least 80 percent of the funds allocated for **new cost-effective energy** conservation shall
33 be spent within the service area of the electric company that collected the funds; or

34 (B) If Oregon Community Power collected the funds, at least 80 percent of the funds allocated
35 for **new cost-effective energy** conservation shall be spent within the service area of Oregon Com-
36 munity Power.

37 (e)(A) The first 10 percent of the funds collected annually by an electric company or Oregon
38 Community Power under subsection (2) of this section shall be distributed to school districts that
39 are located in the service territory of the electric company or Oregon Community Power. The funds
40 shall be distributed to individual school districts according to the weighted average daily member-
41 ship (ADMw) of each school district for the prior fiscal year as calculated under ORS 327.013. The
42 commission shall establish by rule a methodology for distributing a proportionate share of funds
43 under this paragraph to school districts that are only partially located in the service territory of the
44 electric company or Oregon Community Power.

45 (B) A school district that receives funds under this paragraph shall use the funds first to pay

1 for energy audits for schools located within the school district. A school district may not expend
2 additional funds received under this paragraph on a school facility until an energy audit has been
3 completed for that school facility. To the extent practicable, a school district shall coordinate with
4 the State Department of Energy and incorporate federal funding in complying with this paragraph.
5 Following completion of an energy audit for an individual school, the school district may expend
6 funds received under this paragraph to implement the energy audit. Once an energy audit has been
7 conducted and completely implemented for each school within the school district, the school district
8 may expend funds received under this paragraph for any of the following purposes:

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

12 (ii) Weatherization and upgrading the energy efficiency of school district facilities.

13 (iii) Energy conservation education programs.

14 (iv) Purchasing electricity from environmentally focused sources and investing in renewable
15 energy resources.

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

18 (g) If the commission directs funds collected through public purpose charges to a nongovern-
19 mental entity, the entity shall:

20 (A) Include on the entity's board of directors an ex officio member designated by the commis-
21 sion, who shall also serve on the entity's nominating committee for filling board vacancies.

22 (B) Require the entity's officers and directors to provide an annual disclosure of economic in-
23 terest to be filed with the commission on or prior to April 15 of each calendar year for public review
24 in a form similar to the statement of economic interest required for public officials under ORS
25 244.060.

26 (C) Require the entity's officers and directors to declare actual and potential conflicts of interest
27 at regular meetings of the entity's governing body when such conflicts arise, and require an officer
28 or director to abstain from participating in any discussion or vote on any item where that officer
29 or director has an actual conflict of interest. For the purposes of this subparagraph, "actual conflict
30 of interest" and "potential conflict of interest" have the meanings given those terms in ORS 244.020.

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

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

35 (F) At least once every five years, contract for an independent management evaluation to review
36 the entity's operations, efficiency and effectiveness, and direct the independent reviewer to file a
37 report with the commission for public review.

38 (h) The commission may remove from the board of directors of a nongovernmental entity an of-
39 ficer or director who fails to provide an annual disclosure of economic interest or declare actual
40 or potential conflict of interest, as described in paragraph (g)(B) and (C) of this subsection, in con-
41 nection with the allocation or expenditure of funds collected through public purpose charges and
42 directed to the entity.

43 (4)(a) An electric company that satisfies its obligations under this section shall have no further
44 obligation to invest in **new cost-effective energy** conservation, new market transformation or new
45 low-income weatherization or to provide a commercial energy conservation services program and is

1 not subject to ORS 469.631 to 469.645 and 469.860 to 469.900.

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

4 (A) Shall have no other obligation to invest in **new cost-effective energy** conservation, new
5 market transformation or new low-income weatherization or to provide a commercial energy con-
6 servation services program; and

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

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

16 (A) The amount of the retail electricity consumer's qualifying expenditures; or

17 (B) The portion of the public purpose charge billed to the retail electricity consumer that is
18 dedicated to new **cost-effective** energy conservation, new market transformation or the above-
19 market costs of new renewable energy resources.

20 (b) To obtain a credit under this subsection, a retail electricity consumer shall file with the
21 State Department of Energy a description of the proposed conservation project or new renewable
22 energy resource and a declaration that the retail electricity consumer plans to incur the qualifying
23 expenditure. The State Department of Energy shall issue a notice of precertification within 30 days
24 of receipt of the filing, if such filing is consistent with this subsection. The credit may be taken after
25 a retail electricity consumer provides a letter from a certified public accountant to the State De-
26 partment of Energy verifying that the precertified qualifying expenditure has been made.

27 (c) Credits earned by a retail electricity consumer as a result of qualifying expenditures that
28 are not used in one year may be carried forward for use in subsequent years.

29 (d)(A) A retail electricity consumer that uses more than one average megawatt of electricity at
30 any site in the prior year may request that the State Department of Energy hire an independent
31 auditor to assess the potential for conservation investments at the site. If the independent auditor
32 determines there is no available conservation measure at the site that would have a simple payback
33 of one to 10 years, the retail electricity consumer shall be relieved of 54 percent of its payment
34 obligation for public purpose charges related to the site. If the independent auditor determines that
35 there are potential conservation measures available at the site, the retail electricity consumer shall
36 be entitled to a credit against public purpose charges related to the site equal to 54 percent of the
37 public purpose charges less the estimated cost of available conservation measures.

38 (B) A retail electricity consumer shall be entitled each year to the credit described in this sub-
39 section unless a subsequent independent audit determines that new conservation investment oppor-
40 tunities are available. The State Department of Energy may require that a new independent audit
41 be performed on the site to determine whether new conservation measures are available, provided
42 that the independent audits shall occur no more than once every two years.

43 (C) The retail electricity consumer shall pay the cost of the independent audits described in this
44 subsection.

45 (6) Electric utilities and retail electricity consumers shall receive a fair and reasonable credit

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

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

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

17 *[(c) Funds collected by the low-income electric bill payment assistance charge shall be paid into the*
18 *Housing and Community Services Department Low-Income Electric Bill Payment Assistance Fund es-*
19 *tablished by ORS 456.587 (2). Moneys deposited in the fund under this paragraph shall be used by the*
20 *Housing and Community Services Department for the purpose of funding low-income electric bill pay-*
21 *ment assistance. The department's cost of administering this subsection shall be paid out of funds col-*
22 *lected by the low-income electric bill payment assistance charge. Moneys deposited in the fund under*
23 *this paragraph shall be expended solely for low-income electric bill payment assistance. Funds collected*
24 *from an electric company or Oregon Community Power shall be expended in the service area of the*
25 *electric company or Oregon Community Power from which the funds are collected.]*

26 *[(d)(A) The Housing and Community Services Department, in consultation with the advisory com-*
27 *mittee on energy established by ORS 458.515, shall determine the manner in which funds collected*
28 *under this subsection will be allocated by the department to energy assistance program providers for*
29 *the purpose of providing low-income bill payment and crisis assistance.]*

30 *[(B) The department shall investigate and may implement alternative delivery models specified by*
31 *the advisory committee on energy, in consultation with electric companies, to effectively reduce service*
32 *disconnections and related costs to retail electricity consumers and electric utilities.]*

33 *[(C) Priority assistance shall be directed to low-income electricity consumers who are in danger of*
34 *having their electricity service disconnected.]*

35 *[(D) The department shall maintain records and provide those records upon request to an electric*
36 *company, Oregon Community Power and the Citizens' Utility Board established under ORS chapter*
37 *774 on a quarterly basis. Records maintained must include the numbers of low-income electricity con-*
38 *sumers served, the average amounts paid and the type of assistance provided. Electric companies and*
39 *Oregon Community Power shall, if requested, provide the department with aggregate data relating to*
40 *consumers served on a quarterly basis to support program development.]*

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

44 *[(f) Notwithstanding ORS 757.310, the commission may allow an electric company or Oregon*
45 *Community Power to provide reduced rates or other payment or crisis assistance or low-income pro-*

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

3 [(8)] (7) For purposes of this section, “retail electricity consumers” includes any direct service
 4 industrial consumer that purchases electricity without purchasing distribution services from the
 5 electric utility.

6 [(9)] (8) For purposes of this section, amounts collected by Oregon Community Power through
 7 public purpose charges are not considered moneys received from electric utility operations.

8 **SECTION 3. On the effective date of this 2014 Act, the Housing and Community Services**
 9 **Department Low-Income Electric Bill Payment Assistance Fund is abolished. Moneys re-**
 10 **maining in the Housing and Community Services Department Low-Income Electric Bill Pay-**
 11 **ment Assistance Fund on the effective date of this 2014 Act shall be transferred to the**
 12 **Housing and Community Services Department Electricity Public Purpose Charge Fund to be**
 13 **used for purposes specified in ORS 757.612 (3)(b)(D), except that the Housing and Community**
 14 **Services Department may use the transferred moneys for purposes specified in sections 13**
 15 **to 15 of this 2014 Act.**

16 **SECTION 4.** ORS 456.587 is amended to read:

17 456.587. [(1)] The Housing and Community Services Department Electricity Public Purpose
 18 Charge Fund is established in the State Treasury, separate and distinct from the General Fund. In-
 19 terest earned by the Housing and Community Services Department Electricity Public Purpose
 20 Charge Fund shall be credited to the fund. Moneys in the fund are continuously appropriated to the
 21 Housing and Community Services Department to be used for purposes specified in ORS 757.612
 22 (3)(b)(D).

23 [(2)] *The Housing and Community Services Department Low-Income Electric Bill Payment Assist-*
 24 *ance Fund is established in the State Treasury, separate and distinct from the General Fund. Interest*
 25 *earned by the Housing and Community Services Department Low-Income Electric Bill Payment As-*
 26 *istance Fund shall be credited to the fund. Moneys in the fund are continuously appropriated to the*
 27 *Housing and Community Services Department for purposes described in ORS 757.612 (7).]*

28 **SECTION 5.** ORS 458.515 is amended to read:

29 458.515. (1) The Director of the Housing and Community Services Department shall appoint an
 30 advisory committee on energy whose members:

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

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

35 (c) Shall have special qualifications with respect to solving the energy consumption problems
 36 of low income persons;

37 (d) Must include a representative from each electric company or Oregon Community Power
 38 [*whose ratepayers contribute funding to the Housing and Community Services Department Low-Income*
 39 *Electric Bill Payment Assistance Fund established in ORS 456.587]* **that collects moneys under**
 40 **section 7 of this 2014 Act;** and

41 (e) Must include a representative of the Citizens’ Utility Board established under ORS chapter
 42 774.

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

ESTABLISHMENT OF NEW LOW-INCOME WEATHERIZATION
AND ELECTRIC BILL PAYMENT ASSISTANCE PROGRAMS

SECTION 6. Section 7 of this 2014 Act is added to and made a part of ORS 757.600 to 757.689.

SECTION 7. (1) The Public Utility Commission shall direct electric companies and Oregon Community Power to collect and disburse moneys in the manner provided in this section for low-income electric bill payment assistance to households described in subsection (3) of this section.

(2)(a) Subject to paragraph (b) of this subsection, each electric company and Oregon Community Power shall file with the commission a schedule that includes the flat amount to be collected in each month from or the volumetric rate to be charged to retail electricity consumers served by the electric company or Oregon Community Power. Once the commission approves the schedule, an electric company, Oregon Community Power or the commission may not change the flat amount or the volumetric rate. However, the total amount collected from retail electricity consumers under this subsection may vary based on electricity usage by retail electricity consumers or the number of retail electricity consumers served by the electric company or Oregon Community Power.

(b) A retail electricity consumer may not be required to pay more than \$500 per month per site under this subsection.

(3) The commission shall require that moneys collected under this section, and the interest on the moneys collected under this section, be used to provide electric bill payment assistance to households that qualify for federal low-income energy assistance and that are located in the service territory of the electric company that collected the moneys or, if Oregon Community Power collected the moneys, that are in the service territory of Oregon Community Power. To the extent practicable, electric bill payment assistance provided under this section shall be coordinated with and complimentary to other available sources of providing electric bill payment assistance to such households.

(4) The commission may direct or allow electric companies or Oregon Community Power to investigate and implement alternative methods of providing low-income electric bill payment assistance under this section to reduce service disconnections and related costs to retail electricity consumers and electric companies or Oregon Community Power.

(5) Notwithstanding ORS 757.310, the commission may allow an electric company or Oregon Community Power to provide reduced rates or other payment or crisis or low-income program assistance to a low-income household eligible for assistance under the federal Low Income Home Energy Assistance Act of 1981, as amended and in effect on July 23, 1999.

(6) Electric companies and Oregon Community Power shall keep accounts and records of moneys collected and spent pursuant to this section in the manner provided in ORS 757.125 and make those accounts and records available upon request. Records kept under this subsection must include:

(a) The number of households that receive assistance under this section;

(b) The average amount paid to households that receive assistance under this section;
and

(c) The type of assistance provided to households that receive assistance under this section.

1 (7) An electric company's or Oregon Community Power's cost of administering this sec-
 2 tion may be paid out of moneys collected under this section.

3 **SECTION 8.** The schedule filed by electric companies or Oregon Community Power under
 4 section 7 of this 2014 Act must require electric companies to collect an amount from each
 5 retail electricity consumer that is the sum calculated pursuant to ORS 757.612 (7) as in effect
 6 on January 1, 2010, and a supplemental amount as calculated under section 3, chapter 566,
 7 Oregon Laws 2011, as amended by section 1, chapter 254, Oregon Laws 2013. Notwithstanding
 8 section 7 (2)(a) of this 2014 Act, on or after January 2, 2016, electric companies and Oregon
 9 Community Power shall file an amended schedule reflecting the expiration of the supple-
 10 mental amount.

11 **SECTION 9.** Section 8 of this 2014 Act is repealed on January 2, 2017.

12 **SECTION 10.** Section 3, chapter 566, Oregon Laws 2011, as amended by section 1, chapter 254,
 13 Oregon Laws 2013, is amended to read:

14 **Sec. 3.** *[Notwithstanding the \$15 million limitation described in ORS 757.612 (7)(b),]* The Public
 15 Utility Commission shall direct electric companies or Oregon Community Power to collect a com-
 16 bined total of an additional \$5 million per 12-month period from residential electricity consumers for
 17 the low-income electric bill payment assistance provided for in *[ORS 757.612 (7)(a) if the Housing*
 18 *and Community Services Department requests an increase]* **section 7 of this 2014 Act.**

19 **SECTION 11.** Section 12 of this 2014 Act is added to and made a part of ORS 757.600 to
 20 **757.689.**

21 **SECTION 12.** (1) The Public Utility Commission may appoint an advisory committee for
 22 the purposes of advising and coordinating between state agencies, electric companies and
 23 organizations involved in the collection and administration of low-income weatherization
 24 funds collected pursuant to ORS 757.612 (3)(b)(C) and low-income electric bill payment as-
 25 sistance moneys collected under section 7 of this 2014 Act.

26 (2) Members of a committee appointed under this section must include representatives
 27 from electric companies, the Citizens' Utility Board and the Community Action Partnership
 28 of Oregon. The members appointed to the committee must:

29 (a) Have demonstrated an interest in and knowledge of low income energy assistance
 30 programs;

31 (b) Broadly represent organizations, energy providers and consumer groups that repre-
 32 sent low income persons, particularly those low income persons who are elderly or have a
 33 disability; and

34 (c) Have special qualifications with respect to solving the energy consumption problems
 35 of low income persons.

36
 37 **TRANSITIONAL PROVISIONS**

38
 39 **SECTION 13.** On and after the effective date of this 2014 Act, the Director of the Housing
 40 and Community Services Department shall make available to electric companies or Oregon
 41 Community Power all records within the jurisdiction of the director that relate to the duties,
 42 functions and powers described in section 1 of this 2014 Act.

43 **SECTION 14.** The cessation of duties, functions and powers described in section 1 of this
 44 2014 Act do not affect any action, proceeding or prosecution involving or with respect to such
 45 duties, functions and powers begun before and pending on the effective date of this 2014 Act.

