

**PROPOSED AMENDMENTS TO
SENATE BILL 1578**

1 On page 1 of the printed bill, line 2, after the second semicolon delete the
2 rest of the line and delete line 3 and insert “amending ORS 279C.527; and
3 declaring an emergency.”.

4 Delete lines 5 through 24 and delete pages 2 through 9 and insert:

5 **“SECTION 1.** ORS 279C.527 is amended to read:

6 “279C.527. (1) As used in this section and in ORS 279C.528:

7 “(a)(A) ‘Green energy technology’ means a system that employs:

8 “(i) Solar or geothermal energy directly for space or water heating or to
9 generate electricity; [*or*]

10 “(ii) Building design that uses solar energy passively to reduce energy use
11 from other sources by at least 20 percent from a level required under ORS
12 276.900 to 276.915 or achieved in buildings constructed according to state
13 building code standards that the Department of Consumer and Business
14 Services approves under ORS 455.496[.];

15 **“(iii) Woody biomass as a fuel for space or water heating or to
16 generate electricity; or**

17 **“(iv) Other renewable energy technologies that the State Depart-
18 ment of Energy identifies by rule.**

19 “(B) ‘Green energy technology’ does not include a system that:

20 “(i) Uses water, groundwater or the ground as a heat source at temper-
21 atures less than 140 degrees Fahrenheit; or

22 “(ii) Incorporates solar energy indirectly into other methods for generat-

1 ing energy, such as from the action of waves on water, from hydroelectric
2 facilities or from wind-powered turbines.

3 “(b) ‘Public building’ means a building that a public body, as defined in
4 ORS 174.109, owns or controls, and that is:

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

6 “(B) Used for conducting public business.

7 “(2)(a) Except as otherwise provided in this section, a public improvement
8 contract for the construction of a public building or for the reconstruction
9 or major renovation of a public building, if the cost of the reconstruction
10 or major renovation exceeds 50 percent of the value of the public building,
11 shall contain and reserve an amount equal to at least 1.5 percent of the total
12 contract price for the purpose of including appropriate green energy tech-
13 nology as part of the construction, reconstruction or major renovation of the
14 public building.

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

18 “(A) Constructing green energy technology away from the site of the
19 public building and using the energy from the green energy technology at the
20 site of the public building is more cost-effective, taking into account addi-
21 tional costs associated with transmitting generated energy to the site of the
22 public building, than is constructing and using green energy technology at
23 the site of the public building;

24 “(B) The green energy technology that is located away from the site of
25 the public building is located within this state and in the same county as,
26 or in a county adjacent to, the site of the public building; and

27 “(C) The public improvement contract provides that all of the moneys for
28 constructing green energy technology away from the site of the public
29 building must fund new energy generating capacity that does not replace or
30 constitute a purchase and use of energy generated from green energy tech-

1 nology that:

2 “(i) Employs solar energy and that existed on the date that the original
3 building permit for the public building was issued; [*or*]

4 “(ii) Employs geothermal energy and for which construction was com-
5 pleted before January 1, 2013[.];

6 “(iii) **Employs woody biomass as a fuel for space or water heating**
7 **or to generate electricity and that existed on the date the original**
8 **building permit for the public building was issued; or**

9 “(iv) **Employs another renewable energy technology identified by**
10 **the State Department of Energy by rule and that existed on the date**
11 **the original building permit for the public building was issued.**

12 “(c) In making the determination required under paragraph (b)(A) of this
13 subsection, a contracting agency shall[:]

14 “[A)] compare the costs of constructing green energy technology that
15 employs [*solar energy*] **a particular technology** at the site of the public
16 building only with the corresponding costs of green energy technology that
17 employs [*solar energy*] **the same technology** at a location away from the
18 site of the public building.[; *and*]

19 “[B) *Compare the costs of green energy technology that employs geothermal*
20 *energy at the site of the public building only with the corresponding costs of*
21 *green energy technology that employs geothermal energy at a location away*
22 *from the site of the public building.*]

23 “(3) Before entering into a public improvement contract described in
24 subsection (2) of this section, a contracting agency shall prepare a written
25 determination of whether including green energy technology as part of the
26 construction, reconstruction or major renovation of the public building is
27 appropriate. The contracting agency shall list in the determination the total
28 contract price and specify the amount the agency intends to expend on in-
29 cluding green energy technology as part of the construction, reconstruction
30 or major renovation. The State Department of Energy shall develop a form

1 that a contracting agency may use to prepare the written determination de-
2 scribed in this subsection.

3 “(4)(a) If the contracting agency determines that green energy technology
4 is not appropriate for the public building, subsection (2) of this section does
5 not apply to the public improvement contract. A contracting agency’s deter-
6 mination under this paragraph must consider whether constructing green
7 energy technology at the site of the public building is appropriate and
8 whether constructing green energy technology away from the site of the
9 public building and in accordance with subsection (2)(b) and (c) of this sec-
10 tion is appropriate.

11 “(b) If subsection (2) of this section does not apply to the public im-
12 provement contract **and subject to subsection (6) of this section:**

13 “(A) The contracting agency shall spend an amount equal to at least 1.5
14 percent of the total contract price to include appropriate green energy tech-
15 nology as part of a future public building project; and

16 “(B) The amount the contracting agency spends on the future public
17 building project in accordance with subparagraph (A) of this paragraph is in
18 addition to any amount required under subsection (2) of this section for in-
19 cluding appropriate green energy technology as part of the future public
20 building project.

21 “(5)(a) **A local contracting agency may submit a written request to**
22 **the State Department of Energy asking to waive the requirements set**
23 **forth in subsection (4)(b) of this section if the local contracting**
24 **agency:**

25 “(A) **Has, for five or more years after completing a project under a**
26 **public improvement contract described in subsection (2) of this sec-**
27 **tion, allocated and held moneys in reserve for the purpose of comply-**
28 **ing with the requirements of subsection (4)(b) of this section; and**

29 “(B) **Does not anticipate entering into a public improvement con-**
30 **tract described in subsection (2) of this section for five years after the**

1 **date the local contracting agency requests the waiver.**

2 **“(b) The department shall grant a waiver under paragraph (a) of**
3 **this subsection if the local contracting agency demonstrates to the**
4 **department compliance with both conditions set forth in paragraph (a)**
5 **of this subsection. If the department grants the waiver, the local**
6 **contracting agency may use for general governmental purposes mon-**
7 **eys the local contracting agency holds for the purpose of complying**
8 **with the requirements of subsection (4)(b) of this section.**

9 **“(c) If the department denies a waiver under paragraph (b) of this**
10 **subsection, the local contracting agency shall continue to hold the**
11 **moneys described under paragraph (a) of this subsection for five years**
12 **after the date of the denial. When the five-year period ends, if the lo-**
13 **cal contracting agency does not anticipate entering into a public im-**
14 **provement contract described in subsection (2) of this section in the**
15 **five years that follow the end of the period, the local contracting**
16 **agency may use for general governmental purposes moneys the local**
17 **contracting agency holds for the purpose of complying with the re-**
18 **quirements of subsection (4)(b) of this section.**

19 **“[(5)] (d) Subsection (4)(b) of this section does not apply to a public im-**
20 **provement contract for which state funds are not directly or indirectly used.**

21 **“(6)(a) This section does not exempt an authorized state agency, as de-**
22 **finied in ORS 276.905, from complying with ORS 276.900 to 276.915, except**
23 **that an authorized state agency, without complying with ORS 276.900 to**
24 **276.915, may determine that green energy technology is appropriate to in-**
25 **clude as part of the construction, reconstruction or major renovation of a**
26 **public building.**

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

1 “(7) Notwithstanding the provisions of ORS 174.108 (3), this section ap-
2 plies to intergovernmental entities described in ORS 174.108 (3).

3 **“SECTION 2. The amendments to ORS 279C.527 by section 1 of this**
4 **2014 Act apply only to public improvement contracts first advertised,**
5 **or if not advertised first entered into, on or after the effective date**
6 **of this 2014 Act.**

7 **“SECTION 3. (1) The amendments to ORS 279C.527 by section 1 of**
8 **this 2014 Act become operative on the 91st day after the date on which**
9 **the 2014 regular session of the Seventy-seventh Legislative Assembly**
10 **adjourns sine die.**

11 **“(2) The Director of the State Department of Energy may take any**
12 **action before the operative date specified in subsection (1) of this sec-**
13 **tion that is necessary to enable the director, on and after the operative**
14 **date specified in subsection (1) of this section, to exercise all of the**
15 **duties, functions and powers conferred on the director by the amend-**
16 **ments to ORS 279C.527 by section 1 of this 2014 Act.**

17 **“SECTION 4. This 2014 Act being necessary for the immediate**
18 **preservation of the public peace, health and safety, an emergency is**
19 **declared to exist, and this 2014 Act takes effect on its passage.”.**

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