



To: Senate Committee on Environment and Natural Resources

From: Todd R. Cornett, Assistant Director
Oregon Department of Energy

Date: March 30, 2015

Subject: SB 259 -1 Amendments

Following the February 9th public hearing on Senate Bill 259, the Oregon Department of Energy met with representatives of investor owned utilities several times to discuss aspects of the proposed bill language. The following describes the changes proposed by the Oregon Department of Energy from the original bill language as a result of the input we received.

Section 1 – ORS 469.360

- Revised Subsection (1) - “notice of intent” and “or request for expedited review” are added to clarify that the Council evaluates these as well as a “site certificate application” which is already included. Subsequent language lists all three so the intent is to create consistency.
- Revised Subsection (2) – Tribal reference for the purpose of eligibility for reimbursement is relocated to a new Subsection (4). State agencies and local governments are requested to review and comment during the review process based on ordinances, rules and statutes that they implement. Tribes are requested to review and comment during the review process based on their knowledge and expertise related to cultural, historic and archeological resources. The change reflects a variation in reimbursement opportunities based on their somewhat different roles.
- Revised Subsection (2)(c) – If a state agency or local government were to participate as a party in a contested case, the legal expenses incurred by the state agency or local government as a result of that participation would not be eligible for reimbursement. State agencies and local governments review project information and provide comments at numerous times during the review process. The intent of these review and comment opportunities is to ensure any issues or concerns they have are addressed prior to the contested case. If a state agency or local government were to participate as a party in a contested case it would most likely be in opposition to the action recommended in the proposed order. There are no known instances where a state agency or local government has participated as a party in a contested case.

The original language in Subsection 2(c) related to the performance of specific studies was removed because it duplicates what is now Subsection (5) which allows the Council to



commission an independent study by a contractor, a local government, a state agency or any other person.

- Revised Subsection (3) – An estimate which includes all costs of pre-notice of intent consultation is being added to provide more cost certainty for applicants. The applicant would have to agree to these costs before any work was conducted and the costs could not be exceeded without revising the cost estimate which would also have to be agreed to by the applicant.

Section 2 – ORS 469.421 - Page 3 of SB 259-1 Lines 9 – 12.

- Revised Subsection (1) – The full tribal reference is removed for consistency with prior amendments. The change to reference an agreement is because only state agencies, local governments and tribes who have entered into a reimbursement agreement with the Oregon Department of Energy are eligible to request reimbursement for expenses incurred.