

**Enrolled**  
**House Bill 3329**

Sponsored by Representative WHITSETT; Representative MCLANE

CHAPTER .....

AN ACT

Relating to geothermal standard for green energy technology in public improvement contracts for public school buildings; creating new provisions; amending ORS 279C.527; and prescribing an effective date.

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

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

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

(a)(A) "Green energy technology" means a system that employs:

(i) Solar or geothermal energy directly for space or water heating or to generate electricity; or

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

(B) "Green energy technology" does not include a system that:

(i) Uses water, groundwater or the ground as a heat source at temperatures less than 140 degrees Fahrenheit, **or less than 128 degrees Fahrenheit if the system is used for a public school building;** or

(ii) Incorporates solar energy indirectly into other methods for generating energy, such as from the action of waves on water, from hydroelectric facilities or from wind-powered turbines.

(b) "Public building" means a building that a public body, as defined in ORS 174.109, owns or controls, and that is:

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

(B) Used for conducting public business.

(2)(a) Except as otherwise provided in this section, a public improvement contract for the construction of a public building or for the reconstruction or major renovation of a public building, if the cost of the reconstruction or major renovation exceeds 50 percent of the value of the public building, shall contain and reserve an amount equal to at least 1.5 percent of the total contract price for the purpose of including appropriate green energy technology as part of the construction, reconstruction or major renovation of the public building.

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

(A) Constructing green energy technology away from the site of the public building and using the energy from the green energy technology at the site of the public building is more cost-effective, taking into account additional costs associated with transmitting generated energy to the site of the

public building, than is constructing and using green energy technology at the site of the public building;

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

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

(i) Employs solar energy and that existed on the date that the original building permit for the public building was issued; or

(ii) Employs geothermal energy and for which construction was completed before January 1, 2013.

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

(A) Compare the costs of constructing green energy technology that employs solar energy at the site of the public building only with the corresponding costs of green energy technology that employs solar energy at a location away from the site of the public building; and

(B) Compare the costs of green energy technology that employs geothermal energy at the site of the public building only with the corresponding costs of green energy technology that employs geothermal energy at a location away from the site of the public building.

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

(4)(a) If the contracting agency determines that green energy technology is not appropriate for the public building, subsection (2) of this section does not apply to the public improvement contract. A contracting agency's determination under this paragraph must consider whether constructing green energy technology at the site of the public building is appropriate and whether constructing green energy technology away from the site of the public building and in accordance with subsection (2)(b) and (c) of this section is appropriate.

(b) If subsection (2) of this section does not apply to the public improvement contract:

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

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

(5) Subsection (4)(b) of this section does not apply to a public improvement contract for which state funds are not directly or indirectly used.

(6)(a) This section does not exempt an authorized state agency, as defined in ORS 276.905, from complying with ORS 276.900 to 276.915, except that an authorized state agency, without complying with ORS 276.900 to 276.915, may determine that green energy technology is appropriate to include as part of the construction, reconstruction or major renovation of a public building.

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

(7) Notwithstanding the provisions of ORS 174.108 (3), this section applies to intergovernmental entities described in ORS 174.108 (3).

**SECTION 2. The amendments to ORS 279C.527 by section 1 of this 2015 Act apply only to public improvement contracts first advertised, or if not advertised first entered into, on or after the effective date of this 2015 Act.**

**SECTION 3. This 2015 Act takes effect on the 91st day after the date on which the 2015 regular session of the Seventy-eighth Legislative Assembly adjourns sine die.**

**Passed by House April 23, 2015**

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Timothy G. Sekerak, Chief Clerk of House

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Tina Kotek, Speaker of House

**Passed by Senate May 27, 2015**

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Peter Courtney, President of Senate

**Received by Governor:**

.....M.,....., 2015

**Approved:**

.....M.,....., 2015

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Kate Brown, Governor

**Filed in Office of Secretary of State:**

.....M.,....., 2015

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Jeanne P. Atkins, Secretary of State