

Senate Bill 424

Sponsored by Senator FERRIOLI (Pre-session 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**.

Expands definition of "green energy technology" for purposes of public improvement contracts. Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to allowable green energy technology in public improvement contracts; creating new pro-
3 visions; amending ORS 279C.527; and prescribing an effective date.

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

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 generate electricity;

9 [or]

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

14 **(iii) Electricity from hydropower, fuel cells or other hydrogen-based technology, ocean**
15 **wave energy or wind power; or**

16 **(iv) Electricity or heat from biomass.**

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

18 [*i*] uses water, groundwater or the ground as a heat source at temperatures less than 140 de-
19 grees Fahrenheit, or less than 128 degrees Fahrenheit if the system is used for a public school
20 building[; or]

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

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

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

26 (B) Used for conducting public business.

27 (2)(a) Except as otherwise provided in this section, a contracting agency that intends to enter
28 into a public improvement contract for constructing a public building or for reconstructing or per-
29 forming a major renovation of a public building, if the cost of the reconstruction or major renovation
30 exceeds 50 percent of the value of the public building, shall first make a determination under sub-
31 section (3) of this section as to whether green energy technology is appropriate for the public

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 building and, if the contracting agency determines that green energy technology is appropriate, shall
2 ensure that the public improvement contract provides an amount equal to at least 1.5 percent of the
3 total contract price for the purpose of including appropriate green energy technology as part of the
4 construction, reconstruction or major renovation of the public building.

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

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

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

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

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

22 (ii) Employs geothermal energy and for which construction was completed before January 1,
23 2013.

24 (c) In evaluating whether a contracting agency can construct green energy technology at a site
25 away from the site of the public building in accordance with paragraph (b)(A) of this subsection, the
26 contracting agency shall[:]

27 [(A)] compare the costs of constructing green energy technology [*that employs solar energy*] **that**
28 **employs a particular energy generation method** at the site of the public building only with the
29 corresponding costs of green energy technology that employs [*solar energy*] **the same particular**
30 **type of energy generation method** at a location away from the site of the public building[; *and*]

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

34 (3) In making a determination as to whether green energy technology is appropriate in con-
35 structing, reconstructing or performing a major renovation of a public building, a contracting
36 agency shall list in the determination the total contract price and specify the amount the agency
37 intends to expend on including green energy technology as part of the construction, reconstruction
38 or major renovation. The State Department of Energy shall develop a form that a contracting
39 agency may use to prepare the written determination described in this subsection.

40 (4)(a) If the contracting agency determines that green energy technology is not appropriate for
41 the public building, subsection (2) of this section does not apply to the public improvement contract.
42 A contracting agency's determination under this paragraph must consider whether constructing
43 green energy technology at the site of the public building is appropriate and whether constructing
44 green energy technology away from the site of the public building and in accordance with subsection
45 (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)(a) A contracting agency need not set aside the amount described in subsection (4)(b) in an account or otherwise reserve moneys for a future public building at the time the contracting agency makes the determination described in subsection (3) of this section, but the contracting agency shall report the amount described in subsection (4)(b) to the State Department of Energy as provided in ORS 279C.528 (2)(a).

(b) 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 constructing, reconstructing or performing a 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 2017 Act apply to a public contract that a contracting agency first advertises or otherwise solicits or, if the contracting agency does not advertise or solicit the public contract, to a public contract into which a contracting agency enters on or after the operative date specified in section 3 of this 2017 Act.

SECTION 3. (1) The amendments to ORS 279C.527 by section 1 of this 2017 Act become operative on January 1, 2018.

(2) The Director of the State Department of Energy may adopt rules and take any other action before the operative date specified in subsection (1) of this section that is necessary to enable the director, on and after the operative date specified in subsection (1) of this section, to exercise all of the duties, functions and powers conferred on the director by the amendments to ORS 279C.527 by section 1 of this 2017 Act.

SECTION 4. This 2017 Act takes effect on the 91st day after the date on which the 2017 regular session of the Seventy-ninth Legislative Assembly adjourns sine die.