

Senate Bill 634

Sponsored by Senator KNOPP; Senator FERRIOLI (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**.

Adds woody biomass to list of types of energy generating technology that are green energy technology that must be included in constructing, reconstructing or renovating public buildings, and for which contracting agency must set aside 1.5 percent of contract price.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to using woody biomass as a green energy technology; creating new provisions; amending
3 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[.]; **or**

14 **(iii) Woody biomass as a fuel for space heating or water heating or as a fuel for a com-
15 bined heat and power system.**

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

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

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

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

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

25 (B) Used for conducting public business.

26 (2)(a) Except as otherwise provided in this section, a contracting agency that intends to enter
27 into a public improvement contract for constructing a public building or for reconstructing or per-
28 forming a major renovation of a public building, if the cost of the reconstruction or major renovation
29 exceeds 50 percent of the value of the public building, shall first make a determination under sub-
30 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[.]; **or**

24 **(iii) Employs woody biomass as a fuel for space heating or water heating or as fuel for**
 25 **a combined heat and power system, and that existed on the date on which the original**
 26 **building permit for the public building was issued.**

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

30 *[(A)] compare the costs of constructing green energy technology that employs [solar energy] a*
 31 **particular fuel source or method of energy generation** at the site of the public building only
 32 with the corresponding costs of green energy technology that employs *[solar energy]* **the same fuel**
 33 **source or method of energy generation** at a location away from the site of the public building.[:
 34 *and]*

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

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

44 (4)(a) If the contracting agency determines that green energy technology is not appropriate for
 45 the public building, subsection (2) of this section does not apply to the public improvement contract.

1 A contracting agency's determination under this paragraph must consider whether constructing
 2 green energy technology at the site of the public building is appropriate and whether constructing
 3 green energy technology away from the site of the public building and in accordance with subsection
 4 (2)(b) and (c) of this section is appropriate.

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

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

9 (B) The amount the contracting agency spends on the future public building project in accord-
 10 ance with subparagraph (A) of this paragraph is in addition to any amount required under sub-
 11 section (2) of this section for including appropriate green energy technology as part of the future
 12 public building project.

13 (5)(a) A contracting agency need not set aside the amount described in subsection (4)(b) in an
 14 account or otherwise reserve moneys for a future public building at the time the contracting agency
 15 makes the determination described in subsection (3) of this section, but the contracting agency shall
 16 report the amount described in subsection (4)(b) to the State Department of Energy as provided in
 17 ORS 279C.528 (2)(a).

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

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

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

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

29 **SECTION 2. The amendments to ORS 279C.527 by section 1 of this 2017 Act apply to**
 30 **public improvement contracts that a contracting agency first advertises or otherwise solicits**
 31 **or, if the contracting agency does not advertise or solicit the public improvement contract,**
 32 **to public improvement contracts into which the contracting agency first enters on or after**
 33 **the effective date of this 2017 Act.**

34 **SECTION 3. This 2017 Act takes effect on the 91st day after the date on which the 2017**
 35 **regular session of the Seventy-ninth Legislative Assembly adjourns sine die.**