

SB 634-6
(LC 851)
6/14/17 (TSB/ps)

Requested by Representative HOLVEY

**PROPOSED AMENDMENTS TO
SENATE BILL 634**

1 On page 1 of the printed bill, line 3, after “279C.527” insert “and
2 279C.528”.

3 Delete lines 5 through 30 and delete pages 2 and 3 and insert:

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

5 “279C.527. (1) As used in this section and [*in*] ORS 279C.528:

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

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

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

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

15 “(i) Uses water, groundwater or the ground as a heat source at temper-
16 atures less than 140 degrees Fahrenheit, or less than 128 degrees Fahrenheit
17 if the system is used for a public school building; or

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

21 “(b) ‘Public building’ means a building that a public body, as defined in

1 ORS 174.109, owns or controls, and that is:

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

3 “(B) Used for conducting public business.

4 “(c)(A) **‘Woody biomass energy technology’ means a system that,**
5 **for space or water heating or as a combined heat and power system,**
6 **uses a boiler with a lower heating value combustion efficiency of at**
7 **least 80 percent and that uses as fuel material from trees and woody**
8 **plants, such as limbs, tops, needles, leaves and other woody parts,**
9 **that:**

10 “(i) **Grows in a forest, a woodland, a farm, a rangeland or a**
11 **wildland that borders on an urban area; and**

12 “(ii) **Is a by-product of forest management, agriculture, ecosystem**
13 **restoration or fire prevention or related activities.**

14 “(B) **‘Woody biomass energy technology’ does not include a system**
15 **that uses for fuel:**

16 “(i) **Wood pieces that have been treated with creosote,**
17 **pentachlorophenol, chromated copper arsenate or other chemical**
18 **preservatives; or**

19 “(ii) **Municipal solid waste.**

20 “(2)(a) Except as otherwise provided in this section, a contracting agency
21 that intends to enter into a public improvement contract for constructing a
22 public building or for reconstructing or performing a major renovation of a
23 public building, if the cost of the reconstruction or major renovation exceeds
24 50 percent of the value of the public building, shall first make a determi-
25 nation under subsection (3) of this section as to whether green energy tech-
26 nology is appropriate for the public building and, if the contracting agency
27 determines that green energy technology is appropriate, shall ensure that the
28 public improvement contract provides an amount equal to at least 1.5 percent
29 of the total contract price for the purpose of including appropriate green
30 energy technology as part of the construction, reconstruction or major ren-

1 ovation of the public building.

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

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

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

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

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

21 “(ii) Employs geothermal energy and for which construction was com-
22 pleted before January 1, 2013.

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

27 “[A)] compare the costs of constructing green energy technology that
28 employs [*solar energy*] **a particular fuel source or method of energy**
29 **generation** at the site of the public building only with the corresponding
30 costs of green energy technology that employs [*solar energy*] **the same fuel**

1 **source or method of energy generation** at a location away from the site
2 of the public building.[; and]

3 *“(B) Compare the costs of green energy technology that employs geothermal*
4 *energy at the site of the public building only with the corresponding costs of*
5 *green energy technology that employs geothermal energy at a location away*
6 *from the site of the public building.]*

7 **“(d)(A) As an alternative to including appropriate green energy**
8 **technology as part of the construction, reconstruction or major reno-**
9 **vation of a public building, a contracting agency may include woody**
10 **biomass energy technology as part of constructing, reconstructing or**
11 **performing a major renovation on the public building if the woody**
12 **biomass energy technology creates new energy generation capacity**
13 **that did not exist on the date on which the original building permit**
14 **for the public building was issued, the contracting agency has consid-**
15 **ered the potential costs of the woody biomass energy technology and:**

16 **“(i) The facility that uses woody biomass energy technology is lo-**
17 **cated in an area of the state that complies with standards that the**
18 **Department of Environmental Quality has adopted for emissions of**
19 **particulate matter; or**

20 **“(ii) The contracting agency demonstrates to the Department of**
21 **Environmental Quality, if the facility that uses woody biomass energy**
22 **technology is located in an area that does not comply with standards**
23 **the department has adopted for emissions of particulate matter, that**
24 **one of the following two conditions applies:**

25 **“(I) The fuel that the woody biomass energy technology uses is**
26 **pelletized; or**

27 **“(II) The woody biomass energy technology produces particulate**
28 **matter emissions at the same level as, or a lower level than, a func-**
29 **tionally equivalent system that is capable of producing the same en-**
30 **ergy output and that uses fuel that is pelletized.**

1 **“(B) Notwithstanding a contracting agency’s demonstrations in ac-**
2 **cordance with subparagraph (A)(ii) of this paragraph, the Department**
3 **of Environmental Quality may require additional emissions control**
4 **technologies or specifications before the contracting agency may in-**
5 **clude woody biomass energy technology in the construction, recon-**
6 **struction or major renovation of a public building.**

7 “(3) In making a determination as to whether green energy technology is
8 appropriate, **or whether woody biomass energy technology is a suitable**
9 **alternative to green energy technology**, in constructing, reconstructing
10 or performing a major renovation of a public building, a contracting agency
11 shall list in the determination the total contract price and specify the
12 amount the agency intends to expend on including green energy technology
13 **or woody biomass energy technology** as part of the construction, recon-
14 struction or major renovation. The State Department of Energy shall develop
15 a form that a contracting agency may use to prepare the written determi-
16 nation described in this subsection.

17 “(4)(a) If the contracting agency determines that green energy technology
18 is not appropriate for the public building, subsection (2) of this section does
19 not apply to the public improvement contract, **except that if the con-**
20 **tracting agency determines that woody biomass energy technology is**
21 **a suitable alternative, the contracting agency will make the determi-**
22 **nation specified in subsection (3) of this section for the woody biomass**
23 **energy technology.** A contracting agency’s determination under this para-
24 graph must consider whether constructing green energy technology **or**
25 **woody biomass energy technology** at the site of the public building is
26 appropriate and whether constructing green energy technology **or woody**
27 **biomass energy technology** away from the site of the public building and
28 in accordance with subsection (2)(b) and (c) **of this section, or with sub-**
29 **section (2)(d) of this section, as applicable**, is appropriate.

30 “(b) If subsection (2) of this section does not apply to the public im-

1 improvement contract:

2 “(A) The contracting agency shall spend an amount equal to at least 1.5
3 percent of the total contract price to include appropriate green energy tech-
4 nology **or woody biomass energy technology** as part of a future public
5 building project; and

6 “(B) The amount the contracting agency spends on the future public
7 building project in accordance with subparagraph (A) of this paragraph is in
8 addition to any amount required under subsection (2) of this section for in-
9 cluding appropriate green energy technology **or woody biomass energy**
10 **technology** as part of the future public building project.

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

17 “(b) Subsection (4)(b) of this section does not apply to a public improve-
18 ment contract for which state funds are not directly or indirectly used.

19 “(6)(a) This section does not exempt an authorized state agency, as de-
20 fined in ORS 276.905, from complying with ORS 276.900 to 276.915, except
21 that an authorized state agency, without complying with ORS 276.900 to
22 276.915, may determine that green energy technology **or woody biomass**
23 **energy technology** is appropriate to include as part of constructing, recon-
24 structing or performing a major renovation of a public building.

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

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

1 **“SECTION 2.** ORS 279C.528 is amended to read:

2 “279C.528. (1) Each contracting agency, in soliciting, awarding and ad-
3 ministering public improvement contracts that are subject to ORS 279C.527,
4 is subject to rules the State Department of Energy adopts that include, but
5 are not limited to, requirements and specifications for:

6 “(a) Using particular green energy technologies in public improvements;

7 “(b) Determining the cost-effectiveness of green energy technologies;

8 “(c) Submitting documents required under ORS 279C.527 to the depart-
9 ment for review; and

10 “(d) Determining whether a structure is a public building subject to the
11 requirements of ORS 279C.527.

12 “(2)(a) Each contracting agency shall collect and maintain information
13 concerning the contracting agency’s compliance with ORS 279C.527, which
14 must include, at a minimum:

15 “(A) Records that show how the contracting agency spent moneys the
16 contracting agency used in including appropriate green energy technology
17 **or woody biomass energy technology** as part of constructing, recon-
18 structing or performing a major renovation of a public building;

19 “(B) An identification of each public improvement contract for which the
20 contracting agency spent moneys to include appropriate green **energy** tech-
21 nology **or woody biomass energy technology** as part of constructing, re-
22 constructing or performing a major renovation of a public building;

23 “(C) An identification of each public improvement contract for which the
24 contracting agency determined that including green **energy** technology **or**
25 **woody biomass energy technology** as part of constructing, reconstructing
26 or performing a major renovation of a public building was not appropriate;

27 “(D) The total amount the contracting agency would have spent on each
28 public improvement contract identified in subparagraph (C) of this paragraph
29 and the total aggregated amount that the contracting agency must spend to
30 include green energy technology **or woody biomass energy technology** as

1 part of constructing, reconstructing or performing a major renovation of a
2 future public building; and

3 “(E) An identification of each public improvement contract that uses
4 moneys the contracting agency did not spend in a previous public improve-
5 ment contract for including appropriate green energy technology **or woody**
6 **biomass energy technology** as part of constructing, reconstructing or per-
7 forming a major renovation of a public building.

8 “(b) Each contracting agency shall compile the information the contract-
9 ing agency collected under paragraph (a) of this subsection and report the
10 information to the department at times, in a manner and on forms that the
11 department specifies by rule.

12 “(c) The department shall:

13 “(A) Compile and summarize the information the department receives
14 under paragraph (b) of this subsection and, in the department’s compilation
15 and summary, specifically:

16 “(i) Identify contracting agencies that have not complied with the re-
17 quirements of ORS 279C.527 or the reporting requirements set forth in [*this*
18 *section*] **paragraph (b) of this subsection**;

19 “(ii) Identify public improvement contracts for which contracting agencies
20 have determined that including green energy technology **or woody biomass**
21 **energy technology** as part of constructing, reconstructing or performing a
22 major renovation of a public building was not appropriate; and

23 “(iii) Identify public improvement contracts that use moneys a contracting
24 agency did not spend in a previous public improvement contract on including
25 appropriate green energy technology **or woody biomass energy technology**
26 as part of constructing, reconstructing or performing a major renovation of
27 a public building.

28 “(B) Deliver annually to the Legislative Assembly, on or before the date
29 on which each regular session of the Legislative Assembly begins, a report
30 concerning contracting agency compliance with this section and ORS

1 279C.527 that includes the compilation and summary the department prepared
2 under subparagraph (A) of this paragraph.

3 **“SECTION 3. The amendments to ORS 279C.527 and 279C.528 by**
4 **sections 1 and 2 of this 2017 Act apply to public improvement contracts**
5 **that a contracting agency first advertises or otherwise solicits or, if**
6 **the contracting agency does not advertise or solicit the public im-**
7 **provement contract, to public improvement contracts into which the**
8 **contracting agency first enters on or after the effective date of this**
9 **2017 Act.**

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

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