

Enrolled House Bill 2093

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of Governor Kate Brown for Oregon Department of Administrative Services)

CHAPTER

AN ACT

Relating to procurements for facilities that deliver electricity to the public for electric motor vehicles; creating new provisions; amending ORS 276.255; and prescribing an effective date.

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

SECTION 1. ORS 276.255, as amended by section 1, chapter 90, Oregon Laws 2018, is amended to read:

276.255. (1)(a) A state agency may locate, on premises the state agency owns or controls, devices or facilities that the state agency installs, or has installed, specifically to deliver electricity to the public for electric motor vehicles.

(b) A state agency may contract with a vendor that will distribute, dispense or otherwise make available electricity from devices or facilities described in paragraph (a) of this subsection.

(2)(a) The Oregon Department of Administrative Services may install or have installed devices or facilities described in subsection (1)(a) of this section in as many locations as are sufficient to meet demand for the devices or facilities.

(b) The department by rule shall establish criteria by means of which a state agency shall determine an appropriate number of locations at which the state agency may install or have installed devices or facilities described in subsection (1)(a) of this section.

(c) Notwithstanding paragraph (b) of this subsection, a state agency may install or have installed devices or facilities described in subsection (1)(a) of this section at more than the number of locations determined in accordance with the department's rule if the state agency obtains a grant to support the installations at each additional location.

(3)(a) The department may contract or otherwise agree with another entity to acquire, install, maintain or operate devices or facilities described in subsection (1)(a) of this section. The department may also participate in, sponsor, conduct or administer cooperative procurements in accordance with ORS 279A.200 to 279A.225 under which public bodies, as defined in ORS 174.109, and other purchasers the department authorizes by rule may acquire, install, maintain or operate devices or facilities to deliver electricity to the public for electric motor vehicles.

(b) Solely for the purpose of a contracting agency's participating in, sponsoring, conducting or administering a cooperative procurement under paragraph (a) of this subsection and notwithstanding the definition of "public improvement" in ORS 279A.010, a device or facility for delivering electricity to the public for electric motor vehicles is not a public improvement.

[3] (4) A state agency that contracts with a vendor under subsection (1)(b) **or (3)(a)** of this section shall require in the contract that the vendor:

(a) Indemnify the state agency against any claim related to or arising out of the vendor's operations on premises that the state agency owns or controls; *[and]*

(b) Obtain a policy of liability insurance in an amount sufficient to pay foreseeable claims that relate to or arise out of the vendor's operations, name the state agency as an insured party in the policy and maintain coverage under the policy during the term of the contract and for two years after the contract term expires[.]; **and**

(c) Pay workers that the vendor employs for any work related to installing a device or facility the prevailing rate of wage, as defined in ORS 279C.800.

[4] (5) A state agency may by order establish and adjust prices for using devices or facilities described in subsection (1)(a) of this section that are located on premises the state agency owns or controls. The state agency shall **endeavor to** set the price for using the devices or facilities at a level that:

(a) Recovers to the maximum extent practicable the cost of operating and administering the devices or facilities described in subsection (1)(a) of this section; and

(b) Does not exceed 110 percent of the average market price for delivering electricity to the public for the purpose described in subsection (1)(a) of this section in the county in which the device or facility is located.

[5] (6) Subject to subsection [4] (5) of this section, a state agency shall set *[a uniform]* **the** price for delivering electricity at devices and facilities located on premises that the state agency owns or controls. The state agency shall use criteria and a methodology that the department specifies for calculating the *[uniform]* price.

[6] (7) The department shall report to the Legislative Assembly in the manner provided by ORS 192.245 not later than February 1, 2019, February 1, 2021, and February 1, 2023, concerning state agency implementation of the authority granted in **subsections (1), (2), (4), (5) and (6)** of this section. Each report must, as of the date of the report:

(a) List the number of devices or facilities for delivering electricity to the public for electric motor vehicles that state agencies installed or had installed in the previous two years and the total number of installations that have occurred since June 2, 2018;

(b) List the number of devices or facilities that state agencies have planned for installation in the next two years;

(c) List the cost to the state agency of each installation and calculate:

(A) An average cost for installations that state agencies have completed or had completed; and

(B) An overall trend line for costs that state agencies have incurred;

(d) Specify the current *[uniform]* price that each state agency charges under subsection [5] (6) of this section and any changes in the *[uniform]* price that occurred in the previous two years;

(e) Specify for each state agency an average rate of utilization for all of the devices or facilities located on premises that the state agency owns or controls, calculated as the ratio of the time each day during which a person is actually using the devices or facilities and the time each day in which the devices and facilities are available for use; and

(f) Specify whether and to what extent using electric motor vehicles and devices or facilities located on premises that state agencies own or control to provide electricity for state agency electric motor vehicles results in a cost savings to the state agency in comparison to using motor vehicles that do not use electricity for propulsion.

SECTION 2. (1) The amendments to ORS 276.255 by section 1 of this 2019 Act become operative on January 1, 2020.

(2) The Oregon Department of Administrative Services or a contracting agency that adopts rules under ORS 279A.065 or 279A.070 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 department or the contracting agency, 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 department or the contracting agency by the amendments to ORS 276.255 by section 1 of this 2019 Act.

SECTION 3. This 2019 Act takes effect on the 91st day after the date on which the 2019 regular session of the Eightieth Legislative Assembly adjourns sine die.

Passed by House April 2, 2019

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Timothy G. Sekerak, Chief Clerk of House

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Tina Kotek, Speaker of House

Passed by Senate May 2, 2019

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Peter Courtney, President of Senate

Received by Governor:

.....M.,....., 2019

Approved:

.....M.,....., 2019

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Kate Brown, Governor

Filed in Office of Secretary of State:

.....M.,....., 2019

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Bev Clarno, Secretary of State