

# Senate Bill 91

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## 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**.

Requires at least 50 percent of public purpose charge funds paid to nongovernmental entity to be invested in providing incentives to retail electricity customers for accelerating transportation electrification. Specifies that accelerating transportation electrification qualifies as new market transformation effort for purposes of public purpose charge expenditure standard.

## A BILL FOR AN ACT

1  
2 Relating to public purpose expenditure standards; amending ORS 757.612.

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

4 **SECTION 1.** ORS 757.612 is amended to read:

5 757.612. (1) There is established an annual public purpose expenditure standard for electric  
6 companies and Oregon Community Power to fund new cost-effective energy conservation, new mar-  
7 ket transformation efforts, the above-market costs of new renewable energy resources and new  
8 low-income weatherization. The public purpose expenditure standard shall be funded by the public  
9 purpose charge described in subsection (2) of this section.

10 (2)(a) Beginning on the date an electric company or Oregon Community Power offers direct ac-  
11 cess to retail electricity consumers, except residential electricity consumers, the electric company  
12 or Oregon Community Power shall collect a public purpose charge from all of the retail electricity  
13 consumers located within the electric company's or Oregon Community Power's service area until  
14 January 1, 2026. Except as provided in paragraph (b) of this subsection, the public purpose charge  
15 shall be equal to three percent of the total revenues collected by the electric company, Oregon  
16 Community Power or the electricity service supplier from retail electricity consumers for electricity  
17 services, distribution services, ancillary services, metering and billing, transition charges and other  
18 types of costs included in electric rates on July 23, 1999.

19 (b) For an aluminum plant that averages more than 100 average megawatts of electricity use  
20 per year, the electric company or Oregon Community Power, whichever serves territory that abuts  
21 the greatest percentage of the site of the aluminum plant, shall collect from the aluminum company  
22 a public purpose charge equal to one percent of the total revenue from the sale of electricity ser-  
23 vices to the aluminum plant from any source.

24 (3)(a) The Public Utility Commission shall establish rules implementing the provisions of this  
25 section relating to electric companies and Oregon Community Power.

26 (b) Except as provided in paragraph (e) of this subsection, funds collected through public pur-  
27 pose charges under subsection (2) of this section shall be allocated as follows:

28 (A) Sixty-three percent for new cost-effective energy conservation and new market transforma-  
29 tion efforts.

**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 (B) Nineteen percent for the above-market costs of constructing and operating new renewable  
 2 energy resources with a nominal electric generating capacity, as defined in ORS 469.300, of 20  
 3 megawatts or less.

4 (C) Thirteen percent for new low-income weatherization.

5 (D) Five percent for deposit in the Housing and Community Services Department Electricity  
 6 Public Purpose Charge Fund established by ORS 456.587 (1) for the purpose of providing grants as  
 7 described in ORS 458.625 (2).

8 (c) The costs of administering subsections (1) to (6) of this section for an electric company or  
 9 Oregon Community Power shall be paid out of the funds collected through public purpose charges.  
 10 The commission may require an electric company or Oregon Community Power to direct funds col-  
 11 lected through public purpose charges to state agencies responsible for implementing subsections (1)  
 12 to (6) of this section in order to pay the costs of administering subsections (1) to (6) of this section.

13 (d)(A) The commission shall direct the manner in which public purpose charges are collected  
 14 and spent by an electric company or Oregon Community Power and may require an electric company  
 15 or Oregon Community Power to expend funds through competitive bids or other means designed to  
 16 encourage competition, except that funds dedicated for new low-income weatherization shall be di-  
 17 rected to the Housing and Community Services Department for purposes related to new low-income  
 18 weatherization.

19 (B) The commission may also require funds collected through public purpose charges to be paid  
 20 to a nongovernmental entity for investment in public purposes described in subsection (1) of this  
 21 section.

22 (C) **If the commission requires public purpose charges to be paid as described in subpar-**  
 23 **agraph (B) of this paragraph, the commission shall require that at least 50 percent of the**  
 24 **funds paid to the nongovernmental entity be invested in providing incentives to retail elec-**  
 25 **tricity customers for accelerating transportation electrification. For purposes of this section,**  
 26 **accelerating transportation electrification is a new market transformation effort.**

27 (D) Notwithstanding any other provision of this subsection:

28 [(A)] (i) If an electric company collected the funds, at least 80 percent of the funds allocated for  
 29 new cost-effective energy conservation **and new market transformation efforts** shall be spent  
 30 within the service area of the electric company; or

31 [(B)] (ii) If Oregon Community Power collected the funds, at least 80 percent of the funds allo-  
 32 cated for new cost-effective energy conservation **and new market transformation efforts** shall be  
 33 spent within the service area of Oregon Community Power.

34 (e)(A) The first 10 percent of funds collected each year by an electric company or Oregon  
 35 Community Power under subsection (2) of this section shall be distributed to school districts that  
 36 are located in the service territory of the electric company or Oregon Community Power. The funds  
 37 shall be distributed to individual school districts according to the weighted average daily member-  
 38 ship (ADMw) of each school district for the prior fiscal year as calculated under ORS 327.013. The  
 39 commission shall establish by rule a methodology for distributing a proportionate share of funds  
 40 under this paragraph to school districts that are only partially located in the service territory of the  
 41 electric company or Oregon Community Power.

42 (B) A school district that receives funds under this paragraph shall use the funds first to pay  
 43 for energy audits for schools located within the school district. A school district may not expend  
 44 additional funds received under this paragraph on a school until an energy audit has been completed  
 45 for that school. To the extent practicable, a school district shall coordinate with the State De-

1 partment of Energy and incorporate federal funding in complying with this paragraph. Following  
2 completion of an energy audit for an individual school, the school district may expend funds received  
3 under this paragraph to implement the energy audit. Once an energy audit has been conducted and  
4 completely implemented for each school within the school district, the school district may expend  
5 funds received under this paragraph for any of the following purposes:

6 (i) Conducting additional energy audits. A school district shall conduct an energy audit prior to  
7 expending funds on any other purpose authorized under this paragraph unless the school district has  
8 performed an energy audit within the three years immediately prior to receiving the funds.

9 (ii) Weatherizing school district facilities and upgrading the energy efficiency of school district  
10 facilities.

11 (iii) Energy conservation education programs.

12 (iv) Purchasing electricity from environmentally focused sources.

13 (v) Investing in renewable energy resources.

14 (f) The commission may not establish a different public purpose charge than the public purpose  
15 charge described in subsection (2) of this section.

16 (g) If the commission requires funds collected through public purpose charges to be paid to a  
17 nongovernmental entity, the entity shall:

18 (A) Include on the entity's board of directors an ex officio member designated by the commis-  
19 sion, who shall also serve on the entity's nominating committee for filling board vacancies.

20 (B) Require the entity's officers and directors to provide an annual disclosure of economic in-  
21 terest to be filed with the commission on or prior to April 15 of each calendar year for public review  
22 in a form similar to the statement of economic interest required for public officials under ORS  
23 244.060.

24 (C) Require the entity's officers and directors to declare actual and potential conflicts of interest  
25 at regular meetings of the entity's governing body when such conflicts arise, and require an officer  
26 or director to abstain from participating in any discussion or voting on any item where that officer  
27 or director has an actual conflict of interest. For the purposes of this subparagraph, "actual conflict  
28 of interest" and "potential conflict of interest" have the meanings given those terms in ORS 244.020.

29 (D) Annually, arrange for an independent auditor to audit the entity's financial statements, and  
30 direct the auditor to file an audit opinion with the commission for public review.

31 (E) Annually file with the commission the entity's budget, action plan and quarterly and annual  
32 reports for public review.

33 (F) At least once every five years, contract for an independent management evaluation to review  
34 the entity's operations, efficiency and effectiveness, and direct the independent reviewer to file a  
35 report with the commission for public review.

36 (h) The commission may remove from the board of directors of a nongovernmental entity an of-  
37 ficer or director who fails to provide an annual disclosure of economic interest, or who fails to de-  
38 clare an actual or potential conflict of interest, as described in paragraph (g)(B) and (C) of this  
39 subsection, if the failure is connected to the allocation or expenditure of funds collected through  
40 public purpose charges and paid to the entity.

41 (4)(a) An electric company that satisfies its obligations under this section:

42 (A) Has no further obligation to invest in new cost-effective energy conservation, new market  
43 transformation or new low-income weatherization, or to provide a commercial energy conservation  
44 services program; and

45 (B) Is not subject to ORS 469.631 to 469.645 and 469.860 to 469.900.

1 (b) Oregon Community Power, for any period during which Oregon Community Power collects  
 2 a public purpose charge under subsection (2) of this section:

3 (A) Has no further obligation to invest in new cost-effective energy conservation, new market  
 4 transformation or new low-income weatherization, or to provide a commercial energy conservation  
 5 services program; and

6 (B) Is not subject to ORS 469.631 to 469.645 and 469.860 to 469.900.

7 (5)(a) A retail electricity consumer that uses more than one average megawatt of electricity at  
 8 any site in the prior year shall receive a credit against public purpose charges billed by an electric  
 9 company or Oregon Community Power for that site. The amount of the credit shall be equal to the  
 10 total amount of qualifying expenditures for new cost-effective energy conservation, not to exceed 68  
 11 percent of the annual public purpose charges, and the above-market costs of new renewable energy  
 12 resources incurred by the retail electricity consumer, not to exceed 19 percent of the annual public  
 13 purpose charges, less administration costs incurred under this paragraph and paragraphs (b) and (c)  
 14 of this subsection. The credit may not exceed, on an annual basis, the lesser of:

15 (A) The amount of the retail electricity consumer's qualifying expenditures; or

16 (B) The portion of the public purpose charge billed to the retail electricity consumer that is  
 17 dedicated to new cost-effective energy conservation, new market transformation or the above-market  
 18 costs of new renewable energy resources.

19 (b) To obtain a credit under paragraph (a) of this subsection, a retail electricity consumer shall  
 20 file with the State Department of Energy a description of the proposed conservation project or new  
 21 renewable energy resource and a declaration that the retail electricity consumer plans to incur the  
 22 qualifying expenditure. The State Department of Energy shall issue a notice of precertification  
 23 within 30 days of receipt of the filing, if such filing is consistent with paragraph (a) of this sub-  
 24 section. The credit may be taken after a retail electricity consumer provides a letter from a certified  
 25 public accountant to the State Department of Energy verifying that the precertified qualifying ex-  
 26 penditure has been made.

27 (c) Credits earned by a retail electricity consumer as a result of qualifying expenditures that  
 28 are not used in one year may be carried forward for use in subsequent years.

29 (d)(A) A retail electricity consumer that uses more than one average megawatt of electricity at  
 30 any site in the prior year may request that the State Department of Energy hire an independent  
 31 auditor to assess the potential for conservation investments at the site. If the independent auditor  
 32 determines there is no available conservation measure at the site that would have a simple payback  
 33 of one to 10 years, the retail electricity consumer shall be relieved of 54 percent of its payment  
 34 obligation for public purpose charges related to the site. If the independent auditor determines that  
 35 there are potential conservation measures available at the site, the retail electricity consumer shall  
 36 be entitled to a credit against public purpose charges related to the site equal to 54 percent of the  
 37 public purpose charges less the estimated cost of available conservation measures.

38 (B) A retail electricity consumer shall be entitled each year to the credit described in this par-  
 39 agraph unless a subsequent independent audit determines that new conservation investment oppor-  
 40 tunities are available. The State Department of Energy may require that a new independent audit  
 41 be performed on the site to determine whether new conservation measures are available, provided  
 42 that the independent audits occur no more than once every two years.

43 (C) The retail electricity consumer shall pay the cost of the independent audits described in this  
 44 paragraph.

45 (6) Electric utilities and retail electricity consumers shall receive a fair and reasonable credit

1 for the public purpose expenditures of their energy suppliers. The State Department of Energy shall  
2 adopt rules to determine eligible expenditures and the method by which such credits are accounted  
3 for and used. The State Department of Energy also shall adopt methods to account for eligible public  
4 purpose expenditures made through consortia or collaborative projects.

5 (7)(a) In addition to the public purpose charge provided under subsection (2) of this section, an  
6 electric company or Oregon Community Power shall collect funds for low-income electric bill pay-  
7 ment assistance in an amount determined under paragraph (b) of this subsection.

8 (b) The commission shall establish the amount to be collected by each electric company from  
9 retail electricity consumers, and the rates to be charged by each electric company to retail elec-  
10 tricity consumers, so that the forecasted collection by all electric companies in calendar year 2018  
11 is \$20 million. In subsequent calendar years, the commission may not decrease the rates below those  
12 established for calendar year 2018. The commission may temporarily adjust the rates if forecasted  
13 collections or actual collections are less than \$20 million in any calendar year. A retail electricity  
14 consumer may not be required to pay more than \$500 per month per site for low-income electric bill  
15 payment assistance.

16 (c) Funds collected through the low-income electric bill payment assistance charge shall be paid  
17 into the Housing and Community Services Department Low-Income Electric Bill Payment Assistance  
18 Fund established by ORS 456.587 (2). Moneys deposited in the fund under this paragraph shall be  
19 used by the Housing and Community Services Department solely for purposes related to low-income  
20 electric bill payment assistance and for the Housing and Community Services Department's cost of  
21 administering this subsection. Funds collected by an electric company or Oregon Community Power  
22 under this subsection shall be expended in the service area of the electric company or Oregon  
23 Community Power from which the funds are collected.

24 (d)(A) The Housing and Community Services Department shall determine the manner in which  
25 funds collected under this subsection will be allocated by the Housing and Community Services  
26 Department to energy assistance program providers for the purpose of providing low-income bill  
27 payment and crisis assistance.

28 (B) The Housing and Community Services Department, in consultation with electric companies,  
29 shall investigate and may implement alternative delivery models to effectively reduce service dis-  
30 connections and related costs to retail electricity consumers and electric utilities.

31 (C) Priority assistance shall be directed to low-income electricity consumers who are in danger  
32 of having their electricity service disconnected.

33 (D) The Housing and Community Services Department shall maintain records and provide those  
34 records upon request to an electric company, Oregon Community Power and the Citizens' Utility  
35 Board established under ORS chapter 774 on a quarterly basis. Records maintained must include  
36 the numbers of low-income electricity consumers served, the average amounts paid to low-income  
37 electricity consumers and the type of assistance provided to low-income electricity consumers.  
38 Electric companies and Oregon Community Power shall, if requested, provide the Housing and  
39 Community Services Department with aggregate data relating to low-income electricity consumers  
40 served on a quarterly basis to support program development.

41 (e) Interest on moneys deposited in the Housing and Community Services Department Low-  
42 Income Electric Bill Payment Assistance Fund established by ORS 456.587 (2) may be used to pro-  
43 vide bill payment and crisis assistance to electricity consumers whose primary source of heat is not  
44 electricity.

45 (f) Notwithstanding ORS 757.310, the commission may allow an electric company or Oregon

1 Community Power to provide reduced rates or other bill payment or crisis assistance or low-income  
2 program assistance to a low-income household eligible for assistance under the federal Low Income  
3 Home Energy Assistance Act of 1981, as amended and in effect on July 23, 1999.

4 (8) For purposes of this section, "retail electricity consumers" includes any direct service in-  
5 dustrial consumer that purchases electricity without purchasing distribution services from the elec-  
6 tric utility.

7 (9) For purposes of this section, funds collected by Oregon Community Power through public  
8 purpose charges are not considered moneys received from electric utility operations.

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