

Requested by Representative WILDE

**PROPOSED AMENDMENTS TO
HOUSE BILL 3141**

1 On page 1 of the printed bill, line 2, delete the second “and” and insert
2 a comma.

3 In line 3, before the period insert “and 757.612”.

4 On page 5, after line 31, insert:

5 **“SECTION 15.** ORS 757.612 is amended to read:

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

12 “(2)(a) Beginning on the date an electric company or Oregon Community
13 Power offers direct access to retail electricity consumers, except residential
14 electricity consumers, the electric company or Oregon Community Power
15 shall collect a public purpose charge from all of the retail electricity con-
16 sumers located within the electric company’s or Oregon Community Power’s
17 service area until January 1, 2026. Except as provided in paragraph (b) of
18 this subsection, the public purpose charge shall be equal to three percent of
19 the total revenues collected by the electric company, Oregon Community
20 Power or the electricity service supplier from retail electricity consumers for
21 electricity services, distribution services, ancillary services, metering and

1 billing, transition charges and other types of costs included in electric rates
2 on July 23, 1999.

3 “(b) For an aluminum plant that averages more than 100 average mega-
4 watts of electricity use per year, the electric company or Oregon Community
5 Power, whichever serves territory that abuts the greatest percentage of the
6 site of the aluminum plant, shall collect from the aluminum company a
7 public purpose charge equal to one percent of the total revenue from the sale
8 of electricity services to the aluminum plant from any source.

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

12 “(b) Except as provided in paragraph (e) of this subsection, funds collected
13 through public purpose charges under subsection (2) of this section shall be
14 allocated as follows:

15 “(A) Sixty-three percent for new cost-effective energy conservation and
16 new market transformation efforts.

17 “(B) Nineteen percent for the above-market costs of constructing and op-
18 erating new renewable energy resources with a nominal electric generating
19 capacity, as defined in ORS 469.300, of 20 megawatts or less.

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

21 “(D) Five percent for deposit in the Housing and Community Services
22 Department Electricity Public Purpose Charge Fund established by ORS
23 456.587 (1) for the purpose of providing grants as described in ORS 458.625
24 (2).

25 “(c) The costs of administering subsections (1) to (6) of this section for
26 an electric company or Oregon Community Power shall be paid out of the
27 funds collected through public purpose charges. The commission may require
28 an electric company or Oregon Community Power to direct funds collected
29 through public purpose charges to state agencies responsible for implement-
30 ing subsections (1) to (6) of this section in order to pay the costs of admin-

1 istering subsections (1) to (6) of this section.

2 “(d) The commission shall direct the manner in which public purpose
3 charges are collected and spent by an electric company or Oregon Commu-
4 nity Power and may require an electric company or Oregon Community
5 Power to expend funds through competitive bids or other means designed to
6 encourage competition, except that funds dedicated for new low-income
7 weatherization shall be directed to the Housing and Community Services
8 Department for purposes related to new low-income weatherization. The
9 commission may also require funds collected through public purpose charges
10 to be paid to a nongovernmental entity for investment in public purposes
11 described in subsection (1) of this section. Notwithstanding any other pro-
12 vision of this subsection:

13 “(A) If an electric company collected the funds, at least 80 percent of the
14 funds allocated for new cost-effective energy conservation shall be spent
15 within the service area of the electric company; or

16 “(B) If Oregon Community Power collected the funds, at least 80 percent
17 of the funds allocated for new cost-effective energy conservation shall be
18 spent within the service area of Oregon Community Power.

19 “(e)(A) The first 10 percent of funds collected each year by an electric
20 company or Oregon Community Power under subsection (2) of this section
21 shall be distributed to school districts that are located in the service terri-
22 tory of the electric company or Oregon Community Power. The funds shall
23 be distributed to individual school districts according to the weighted aver-
24 age daily membership (ADMw) of each school district for the prior fiscal
25 year as calculated under ORS 327.013. The commission shall establish by rule
26 a methodology for distributing a proportionate share of funds under this
27 paragraph to school districts that are only partially located in the service
28 territory of the electric company or Oregon Community Power.

29 “(B) A school district that receives funds under this paragraph shall use
30 the funds first to pay for energy **or fleet** audits for schools located within

1 the school district. A school district may not expend additional funds re-
2 ceived under this paragraph [on] **for** a school until an [energy] audit has been
3 completed for that school. To the extent practicable, a school district shall
4 coordinate with the State Department of Energy and incorporate federal
5 funding in complying with this paragraph. Following completion of an [en-
6 ergy] audit for an individual school, the school district may expend funds
7 received under this paragraph [to implement the energy audit] **for the**
8 **school**. Once an [energy] audit has been conducted [and completely imple-
9 mented] for each school within the school district, the school district may
10 expend funds received under this paragraph for any of the following pur-
11 poses:

12 “(i) Conducting additional energy **or fleet** audits. A school district shall
13 conduct an energy audit prior to expending funds on any other purpose au-
14 thorized under this paragraph unless the school district has:

15 “**(I)** Performed an energy audit within the three years immediately prior
16 to receiving the funds[.]; **or**

17 “**(II)** **Performed a fleet audit at any time prior to receiving the**
18 **funds and determined that the previous fleet audit is up to date.**

19 “(ii) Weatherizing school district facilities and upgrading the energy ef-
20 ficiency of school district facilities.

21 “(iii) Energy conservation education programs.

22 “(iv) Purchasing electricity from environmentally focused sources.

23 “(v) Investing in renewable energy resources.

24 “**(vi) Purchasing or leasing zero-emission vehicles, including buses.**

25 “**(vii) Purchasing or installing electric vehicle charging stations.**

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

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

30 “(A) Include on the entity’s board of directors an ex officio member des-

1 ignated by the commission, who shall also serve on the entity's nominating
2 committee for filling board vacancies.

3 “(B) Require the entity's officers and directors to provide an annual dis-
4 closure of economic interest to be filed with the commission on or prior to
5 April 15 of each calendar year for public review in a form similar to the
6 statement of economic interest required for public officials under ORS
7 244.060.

8 “(C) Require the entity's officers and directors to declare actual and po-
9 tential conflicts of interest at regular meetings of the entity's governing body
10 when such conflicts arise, and require an officer or director to abstain from
11 participating in any discussion or voting on any item where that officer or
12 director has an actual conflict of interest. For the purposes of this subpara-
13 graph, ‘actual conflict of interest’ and ‘potential conflict of interest’ have the
14 meanings given those terms in ORS 244.020.

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

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

20 “(F) At least once every five years, contract for an independent manage-
21 ment evaluation to review the entity's operations, efficiency and effective-
22 ness, and direct the independent reviewer to file a report with the
23 commission for public review.

24 “(h) The commission may remove from the board of directors of a non-
25 governmental entity an officer or director who fails to provide an annual
26 disclosure of economic interest, or who fails to declare an actual or potential
27 conflict of interest, as described in paragraph (g)(B) and (C) of this sub-
28 section, if the failure is connected to the allocation or expenditure of funds
29 collected through public purpose charges and paid to the entity.

30 “(4)(a) An electric company that satisfies its obligations under this sec-

1 tion:

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

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

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

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

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

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

24 “(A) The amount of the retail electricity consumer’s qualifying expendi-
25 tures; or

26 “(B) The portion of the public purpose charge billed to the retail elec-
27 tricity consumer that is dedicated to new cost-effective energy conservation,
28 new market transformation or the above-market costs of new renewable en-
29 ergy resources.

30 “(b) To obtain a credit under paragraph (a) of this subsection, a retail

1 electricity consumer shall file with the State Department of Energy a de-
2 scription of the proposed conservation project or new renewable energy re-
3 source and a declaration that the retail electricity consumer plans to incur
4 the qualifying expenditure. The State Department of Energy shall issue a
5 notice of precertification within 30 days of receipt of the filing, if such filing
6 is consistent with paragraph (a) of this subsection. The credit may be taken
7 after a retail electricity consumer provides a letter from a certified public
8 accountant to the State Department of Energy verifying that the precertified
9 qualifying expenditure has been made.

10 “(c) Credits earned by a retail electricity consumer as a result of quali-
11 fying expenditures that are not used in one year may be carried forward for
12 use in subsequent years.

13 “(d)(A) A retail electricity consumer that uses more than one average
14 megawatt of electricity at any site in the prior year may request that the
15 State Department of Energy hire an independent auditor to assess the po-
16 tential for conservation investments at the site. If the independent auditor
17 determines there is no available conservation measure at the site that would
18 have a simple payback of one to 10 years, the retail electricity consumer
19 shall be relieved of 54 percent of its payment obligation for public purpose
20 charges related to the site. If the independent auditor determines that there
21 are potential conservation measures available at the site, the retail elec-
22 tricity consumer shall be entitled to a credit against public purpose charges
23 related to the site equal to 54 percent of the public purpose charges less the
24 estimated cost of available conservation measures.

25 “(B) A retail electricity consumer shall be entitled each year to the credit
26 described in this paragraph unless a subsequent independent audit deter-
27 mines that new conservation investment opportunities are available. The
28 State Department of Energy may require that a new independent audit be
29 performed on the site to determine whether new conservation measures are
30 available, provided that the independent audits occur no more than once

1 every two years.

2 “(C) The retail electricity consumer shall pay the cost of the independent
3 audits described in this paragraph.

4 “(6) Electric utilities and retail electricity consumers shall receive a fair
5 and reasonable credit for the public purpose expenditures of their energy
6 suppliers. The State Department of Energy shall adopt rules to determine
7 eligible expenditures and the method by which such credits are accounted for
8 and used. The State Department of Energy also shall adopt methods to ac-
9 count for eligible public purpose expenditures made through consortia or
10 collaborative projects.

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

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

25 “(c) Funds collected through the low-income electric bill payment assist-
26 ance charge shall be paid into the Housing and Community Services De-
27 partment Low-Income Electric Bill Payment Assistance Fund established by
28 ORS 456.587 (2). Moneys deposited in the fund under this paragraph shall be
29 used by the Housing and Community Services Department solely for purposes
30 related to low-income electric bill payment assistance and for the Housing

1 and Community Services Department's cost of administering this subsection.
2 Funds collected by an electric company or Oregon Community Power under
3 this subsection shall be expended in the service area of the electric company
4 or Oregon Community Power from which the funds are collected.

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

10 “(B) The Housing and Community Services Department, in consultation
11 with electric companies, shall investigate and may implement alternative
12 delivery models to effectively reduce service disconnections and related costs
13 to retail electricity consumers and electric utilities.

14 “(C) Priority assistance shall be directed to low-income electricity con-
15 sumers who are in danger of having their electricity service disconnected.

16 “(D) The Housing and Community Services Department shall maintain
17 records and provide those records upon request to an electric company,
18 Oregon Community Power and the Citizens' Utility Board established under
19 ORS chapter 774 on a quarterly basis. Records maintained must include the
20 numbers of low-income electricity consumers served, the average amounts
21 paid to low-income electricity consumers and the type of assistance provided
22 to low-income electricity consumers. Electric companies and Oregon Com-
23 munity Power shall, if requested, provide the Housing and Community Ser-
24 vices Department with aggregate data relating to low-income electricity
25 consumers served on a quarterly basis to support program development.

26 “(e) Interest on moneys deposited in the Housing and Community Services
27 Department Low-Income Electric Bill Payment Assistance Fund established
28 by ORS 456.587 (2) may be used to provide bill payment and crisis assistance
29 to electricity consumers whose primary source of heat is not electricity.

30 “(f) Notwithstanding ORS 757.310, the commission may allow an electric

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

5 “(8) For purposes of this section, ‘retail electricity consumers’ includes
6 any direct service industrial consumer that purchases electricity without
7 purchasing distribution services from the electric utility.

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

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