

Enrolled
House Bill 2739

Sponsored by Representative GOMBERG; Representatives MEEK, NOSSE, REYNOLDS, SANCHEZ, WILDE (Pre-session filed.)

CHAPTER

AN ACT

Relating to utility ratepayer assistance; creating new provisions; and amending ORS 456.587 and 757.612 and section 15, chapter __, Oregon Laws 2021 (Enrolled House Bill 3141).

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

SECTION 1. Sections 2 and 3 of this 2021 Act are added to and made a part of ORS chapter 757.

SECTION 2. (1) An electric company, as defined in ORS 757.600, or Oregon Community Power shall collect funds for low-income electric bill payment and crisis assistance in an amount determined by the Public Utility Commission. The commission shall:

(a) Establish the amount to be collected and rates to be charged by each electric company from its customers, including customers receiving electricity from other sources, such that the forecasted collection by all electric companies in a calendar year is at least \$20 million.

(b) Adjust the rates if forecasted collections or actual collections are less than \$20 million in any calendar year but shall not otherwise adjust the rates once set.

(c) Ensure that no customer pays more than \$500 per month per customer site for low-income electric bill payment and crisis assistance.

(2) Funds collected by an electric company or Oregon Community Power under this section must be:

(a) Paid into the Housing and Community Services Department Low-Income Electric Bill Payment Assistance Fund established by ORS 456.587 (2);

(b) Used by the Housing and Community Services Department solely for purposes related to low-income electric bill payment and crisis assistance and for the Housing and Community Services Department's cost of administering this section; and

(c) Expended in the service area of the electric company or Oregon Community Power from which the funds are collected.

(3) The Housing and Community Services Department shall determine the manner in which funds collected under this section are allocated by the department to energy assistance program providers for the purpose of providing low-income electric bill payment and crisis assistance. However, the department shall:

(a) In consultation with electric companies, investigate and may implement alternative delivery models to effectively reduce service disconnections and related costs to customers and electric companies; and

(b) Direct priority assistance to low-income customers who are in danger of having their electricity service disconnected.

(4) The department shall maintain records and provide those records upon request to an electric company, Oregon Community Power and the Citizens' Utility Board established under ORS chapter 774 on a quarterly basis. Records maintained must include the numbers of low-income customers served, the average amounts paid and the type of assistance provided. Electric companies and Oregon Community Power shall, if requested, provide the department with aggregate data relating to low-income customers served on a quarterly basis to support program development.

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

(6) Notwithstanding ORS 757.310, the commission may allow an electric company or Oregon Community Power to provide reduced rates or other bill payment or crisis assistance or low-income program assistance to a low-income household eligible for assistance under the federal Low Income Home Energy Assistance Act of 1981, as amended and in effect on July 23, 1999.

SECTION 2a. Section 15, chapter ____, Oregon Laws 2021 (Enrolled House Bill 3141), is amended to read:

Sec. 15. (1) An electric company, as defined in ORS 757.600, or Oregon Community Power shall collect funds for low-income electric bill payment and crisis assistance in an amount determined by the Public Utility Commission. The commission shall:

(a) Establish the amount to be collected and rates to be charged by each electric company from its customers, including customers receiving electricity from other sources, such that the forecasted collection by all electric companies in a calendar year is at least \$20 million.

(b) Adjust the rates if forecasted collections or actual collections are less than \$20 million in any calendar year but shall not otherwise adjust the rates once set.

(c) Ensure that no customer pays more than \$500 per month per customer site for low-income electric bill payment and crisis assistance.

(2) Funds collected by an electric company or Oregon Community Power under this section [*shall*] **must** be:

(a) Paid into the Housing and Community Services Department Low-Income Electric Bill Payment Assistance Fund established by ORS 456.587 (2);

(b) Used by the Housing and Community Services Department solely for purposes related to low-income electric bill payment and crisis assistance and for the Housing and Community Services Department's cost of administering this section; and

(c) Expended in the service area of the electric company or Oregon Community Power from which the funds are collected.

(3) The Housing and Community Services Department shall determine the manner in which funds collected under this [*subsection*] **section** are allocated by the department to energy assistance program providers for the purpose of providing low-income electric bill payment and crisis assistance. However, the department shall:

(a) In consultation with electric companies, investigate and may implement alternative delivery models to effectively reduce service disconnections and related costs to customers and electric companies; and

(b) Direct priority assistance to low-income customers who are in danger of having their electricity service disconnected.

(4) The department shall maintain records and provide those records upon request to an electric company, Oregon Community Power and the Citizens' Utility Board established under ORS chapter 774 on a quarterly basis. Records maintained must include the numbers of low-income customers served, the average amounts paid and the type of assistance provided. Electric companies and

Oregon Community Power shall, if requested, provide the department with aggregate data relating to low-income customers served on a quarterly basis to support program development.

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

(6) Notwithstanding ORS 757.310, the commission may allow an electric company or Oregon Community Power to provide reduced rates or other bill payment or crisis assistance or low-income program assistance to a low-income household eligible for assistance under the federal Low Income Home Energy Assistance Act of 1981, as amended and in effect on July 23, 1999.

SECTION 3. (1) In addition to the funds collected pursuant to section 2 (1) of this 2021 Act and subject to the limitation set forth in section 2 (1)(c) of this 2021 Act, the Public Utility Commission shall provide for, through rates charged to all customers of electric companies, as defined in ORS 757.600, collection of \$10 million per calendar year for low-income electric bill payment and crisis assistance.

(2) Notwithstanding section 2 (1) of this 2021 Act, the rates established by the commission for low-income electric bill payment and crisis assistance may not be less than the rates in effect on the effective date of this 2021 Act.

(3) Notwithstanding section 2 (3) of this 2021 Act, for purposes of the additional amounts collected pursuant to this section, the Housing and Community Services Department shall:

(a) Ensure that the additional amounts collected respond to and are delivered to customers of electric companies who have lost income due to circumstances arising from the disease caused by the severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2); and

(b) Design delivery of the additional amounts in alignment with existing energy assistance programs but broaden income eligibility and benefit levels such that:

(A) Income eligibility is expanded to households at or below 80 percent of area median income;

(B) Standard household benefit levels may be increased to account for utility arrearages directly related to employment, income or health effects of SARS-CoV-2; and

(C) Persons already enrolled in or receiving state-administered, low-income assistance from programs determined by the department, including but not limited to through the federal Low Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621 et seq.), are automatically eligible for low-income electric bill payment and crisis assistance.

SECTION 4. Section 3 of this 2021 Act is repealed on January 2, 2024.

SECTION 5. ORS 757.612 is amended to read:

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

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

(b) For an aluminum plant that averages more than 100 average megawatts of electricity use per year, the electric company or Oregon Community Power, whichever serves territory that abuts the greatest percentage of the site of the aluminum plant, shall collect from the aluminum company

a public purpose charge equal to one percent of the total revenue from the sale of electricity services to the aluminum plant from any source.

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

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

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

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

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

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

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

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

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

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

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

(B) A school district that receives funds under this paragraph shall use the funds first to pay for energy audits for schools located within the school district or for a fleet audit for the school district. To the extent practicable, a school district shall coordinate with the State Department of Energy and incorporate federal funding in complying with this paragraph. Following completion of an audit, the school district may expend funds received under this paragraph to implement the audit.

(C) Once an energy audit has been conducted and completely implemented for each school within the school district, the school district may expend funds received under this paragraph for any of the following purposes:

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

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

(iii) Energy conservation education programs.

(iv) Purchasing electricity from environmentally focused sources.

(v) Investing in renewable energy resources.

(D) Once a fleet audit has been conducted for the school district, the school district may expend funds received under this paragraph for any of the following purposes:

(i) Purchasing or leasing zero-emission vehicles, as defined in ORS 283.398, including buses.

(ii) Purchasing or installing electric vehicle charging stations to provide electricity to zero-emission vehicles.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

[(b) The commission shall establish the amount to be collected by each electric company from retail electricity consumers, and the rates to be charged by each electric company to retail electricity consumers, so that the forecasted collection by all electric companies in calendar year 2018 is \$20 million. In subsequent calendar years, the commission may not decrease the rates below those established for calendar year 2018. The commission may temporarily adjust the rates if forecasted collections or actual

collections are less than \$20 million in any calendar year. A retail electricity consumer may not be required to pay more than \$500 per month per site for low-income electric bill payment assistance.]

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

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

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

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

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

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

[(f) Notwithstanding ORS 757.310, the commission may allow an electric company or Oregon Community Power to provide reduced rates or other bill payment or crisis assistance or low-income program assistance to a low-income household eligible for assistance under the federal Low Income Home Energy Assistance Act of 1981, as amended and in effect on July 23, 1999.]

[(8)] (7) For purposes of this section, "retail electricity consumers" includes any direct service industrial consumer that purchases electricity without purchasing distribution services from the electric utility.

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

SECTION 6. ORS 456.587 is amended to read:

456.587. (1) The Housing and Community Services Department Electricity Public Purpose Charge Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the Housing and Community Services Department Electricity Public Purpose Charge Fund shall be credited to the fund. Moneys in the fund are continuously appropriated to the Housing and Community Services Department to be used for purposes specified in ORS 757.612 (3)(b)(D).

(2) The Housing and Community Services Department Low-Income Electric Bill Payment Assistance Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the Housing and Community Services Department Low-Income Electric Bill Payment Assistance Fund shall be credited to the fund. Moneys in the fund are continuously appropriated to the Housing and Community Services Department for purposes described in [ORS 757.612 (7)] **section 2 of this 2021 Act.**

SECTION 7. Notwithstanding any other law limiting expenditures, the amount established by section 2, chapter __, Oregon Laws 2021 (Enrolled House Bill 5011), for the biennium beginning July 1, 2021, as the maximum limit for payment of expenses for operations, from fees, moneys or other revenues, including Miscellaneous Receipts and federal funds from the United States Department of Housing and Urban Development for contract services, but excluding lottery funds and federal funds not described in section 2, chapter __, Oregon Laws 2021 (Enrolled House Bill 5011), collected or received by the Housing and Community Services Department, is increased by \$15,000,000 for administration of additional utility assistance payments.

Passed by House June 25, 2021

Received by Governor:

Repassed by House June 26, 2021

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Approved:

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Timothy G. Sekerak, Chief Clerk of House

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Tina Kotek, Speaker of House

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Kate Brown, Governor

Passed by Senate June 26, 2021

Filed in Office of Secretary of State:

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Peter Courtney, President of Senate

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Shemia Fagan, Secretary of State