

SB 784-5  
(LC 3309)  
4/9/21 (DJ/cpa/ps)

Requested by SENATE COMMITTEE ON ENERGY AND ENVIRONMENT

**PROPOSED AMENDMENTS TO  
SENATE BILL 784**

1 On page 1 of the printed bill, line 3, delete “757.607,”.

2 In line 8, delete “Section 2 of this 2021 Act is” and insert “Sections 2 and  
3 2a of this 2021 Act are”.

4 After line 14, insert:

5 “(b) ‘Natural gas consumer’ means any end user served by a public  
6 utility’s natural gas distribution system, regardless of whether the end user  
7 purchases natural gas from the public utility.”.

8 In line 15, delete “(b)” and insert “(c)”.

9 In line 20, after “of” insert “natural gas or”.

10 On page 2, line 2, delete “(c)” and insert “(d)”.

11 In line 4, after “consumers” insert “or natural gas consumers”.

12 In line 6, delete “, at a minimum” and insert “provide for one or more of  
13 the following”.

14 In line 7, delete “or” and insert “, a facility eligible for assistance under  
15 44 C.F.R. 206.220 et. seq. or a”.

16 In line 10, after “electricity” insert “or natural gas”.

17 In line 17, after the semicolon insert “and”.

18 Delete lines 18 through 28 and insert:

19 “(d) Seek to address the needs of potentially affected communities, in-  
20 cluding low-income customers, or investments that incorporate social equity  
21 and energy burden concerns.

1 “(3) For purposes of implementing this section:

2 “(a) A resiliency measure provides utility service to customers of a public  
3 utility for purposes of ORS 757.355 if the resiliency measure is capable of  
4 providing the service for which it was designed during an emergency.”.

5 In line 35, after “grid” insert “or natural gas system”.

6 Delete lines 36 through 39 and insert:

7 “(c) A public utility seeking rate recovery for resiliency measures shall,  
8 to the extent applicable, utilize information gained from any processes con-  
9 ducted by the commission that relate to emergency and resiliency planning  
10 and investment in making a filing under this section.

11 “(d) A public utility may propose different business models associated  
12 with the operating expenses and capital costs including joint ownership and  
13 leasing.

14 “(e) If the commission authorizes a public utility to recover costs from  
15 customers for investments in resiliency measures, the resiliency measures  
16 must, regardless of ownership of the resiliency measure and pursuant to  
17 agreement with the customer, allow the utility to manage the measure for  
18 grid and emergency services.

19 “(f) The commission may authorize cost recovery for one or more  
20 resiliency measures from retail electricity customers of a public utility based  
21 on the benefits received by those customers from the resiliency measures.

22

23 **“VOLUNTARY EMISSION REDUCTION PROGRAM**

24

25 **“SECTION 2a. (1) As used in this section, ‘emission’ means any**  
26 **anthropogenic gas, such as carbon dioxide, methane, nitrous oxide,**  
27 **hydrofluorocarbons, perfluorocarbons and sulfur hexafluoride.**

28 **“(2) The Public Utility Commission shall establish a voluntary**  
29 **emission reduction program for the purposes of incentivizing public**  
30 **utilities that furnish natural gas to invest in projects that reduce**

1 emissions and providing benefits to customers of public utilities that  
2 furnish natural gas.

3 “(3) As part of the emission reduction program, the commission  
4 shall establish eligibility criteria for projects. The eligibility criteria  
5 must include:

6 “(a) That the public utility requesting the project be a public utility  
7 that furnishes natural gas and that the project involve the provision  
8 of natural gas;

9 “(b) That the project directly or indirectly reduces emissions;

10 “(c) That the project benefit customers of the public utility as  
11 identified by the commission by rule or order;

12 “(d) That the public utility, without the emission reduction pro-  
13 gram, would not invest in the project in the ordinary course of busi-  
14 ness;

15 “(e) That the public utility, prior to filing an application under  
16 subsection (4) of this section, involve stakeholders as required by the  
17 commission by rule or order; and

18 “(f) That the rate impact of the aggregate of all projects undertaken  
19 by a public utility under this section not exceed an amount established  
20 by the commission by rule or order.

21 “(4) For each project that a public utility proposes under this sec-  
22 tion, the public utility must file with the commission an application.  
23 An application filed under this subsection must include:

24 “(a) A description of the project;

25 “(b) The projected amount of capital and operating costs necessary  
26 to complete and operate the project;

27 “(c) The projected amount of reduced emissions created by the  
28 project;

29 “(d) The potential of the project to reduce emissions not identified  
30 in paragraph (c) of this subsection;

1       “(e) The projected date on which the project will become opera-  
2       tional;

3       “(f) A requested method, as described in subsection (8) of this sec-  
4       tion, for recovery of costs incurred and investments made and for the  
5       receipt of additional incentives;

6       “(g) An explanation of why the public utility, without the emission  
7       reduction program, would not invest in the project in the ordinary  
8       course of business;

9       “(h) Proof of stakeholder involvement;

10       “(i) The projected rate impact of the project;

11       “(j) The projected aggregate rate impact of all projects proposed by  
12       the public utility under this section and approved by the commission  
13       for the public utility under this section;

14       “(k) An explanation of how the public utility will provide the com-  
15       mission with progress updates during the life of the project, including  
16       updates on costs and reduced emissions associated with the project;  
17       and

18       “(L) Any other information required by the commission by rule or  
19       order.

20       “(5)(a) The commission shall establish a two-tiered process for  
21       submitting a project proposal under the emission reduction program.  
22       For the purpose of establishing the tiers, the commission shall:

23       “(A) Establish a threshold for overall project cost; and

24       “(B) Establish a threshold for overall project cost per metric ton  
25       of reduced emissions.

26       “(b) If a proposed project meets both the threshold described in  
27       paragraph (a)(A) of this subsection and the threshold described in  
28       paragraph (a)(B) of this subsection, the project is a tier one project  
29       subject to the requirements of subsection (6) of this section. If a pro-  
30       posed project does not meet the threshold described in paragraph

1 (a)(A) of this subsection or the threshold described in paragraph (a)(B)  
2 of this subsection, the project is a tier two project subject to the re-  
3 quirements of subsection (7) of this section.

4 “(6) For tier one projects, the commission shall:

5 “(a) Provide interested parties with an opportunity to submit writ-  
6 ten comment in response to the proposed project;

7 “(b) Hold a public hearing to address all submitted written com-  
8 ments; and

9 “(c) Issue a final order on the proposed project within 90 days of  
10 receiving the application for the project, or at a later time as author-  
11 ized by the public utility.

12 “(7) For tier two projects, the commission shall:

13 “(a) By rule or order, provide interested parties with an opportunity  
14 to submit testimony in response to the proposed project and be heard;  
15 and

16 “(b) Issue a final order on the proposed project within 180 days of  
17 receiving the application for the project, or at a later time as author-  
18 ized by the public utility.

19 “(8) If a final order issued under subsection (6)(c) or (7)(b) of this  
20 section authorizes a project, the order shall specify:

21 “(a) The type of ratepayer from whom the public utility that sub-  
22 mitted the project proposal may recover costs incurred and invest-  
23 ments made and receive any allowed additional incentives. A public  
24 utility may recover costs incurred and investments made and receive  
25 any allowed additional incentives from a type of ratepayer under this  
26 paragraph only if the commission makes a finding that the type of  
27 ratepayer receives a benefit from the project. If the commission makes  
28 a finding that more than one type of ratepayer receives a benefit from  
29 the project, the commission shall allow recovery of costs incurred and  
30 investments made and receipt of any allowed additional incentives

1 from each type of ratepayer in an amount that is proportionate to the  
2 proportion of the benefit received, as determined by the commission,  
3 by the type of ratepayer.

4 “(b) The method by which the public utility that submitted the  
5 project proposal may recover costs incurred and investments made and  
6 receive any allowed additional incentives, and the amount that the  
7 public utility may recover and receive. Methods of recovery and re-  
8 ceipt include:

9 “(A) Payment per unit of reduced emissions;

10 “(B) Preapproval for inclusion in the public utility’s rates of costs  
11 prudently incurred and of investments prudently made;

12 “(C) Return of investment and return on investment; and

13 “(D) Any other method approved by the commission by rule or or-  
14 der.

15 “(9) For purposes related to the emission reduction program estab-  
16 lished under this section, the commission may consider the amount  
17 of reduced emissions created by a project or the value of reduced  
18 emissions created by a project.

19 “(10) The commission shall establish a rate cap for each public  
20 utility for which a project is authorized under this section. The rate  
21 cap must limit the cost of the public utility’s projects authorized under  
22 this section to an amount that does not exceed a percentage of the  
23 public utility’s revenue requirement as identified by the commission  
24 by rule or order. A voluntary emission reduction program described  
25 under subsection (11) of this section shall not count towards the rate  
26 cap.

27 “(11) A voluntary emission reduction program developed in coordi-  
28 nation with a local government to reduce emissions on behalf of cus-  
29 tomers within the boundaries of the local government is subject to the  
30 tier one process set forth in subsection (6) of this section and is ex-

1 **empted from the thresholds described in subsection (5)(a) of this sec-**  
2 **tion.**

3 **“(12) The commission shall biennially conduct a study on whether**  
4 **federal law or regulation or other state laws or rules provide adequate**  
5 **incentives for public utilities that furnish natural gas to invest in**  
6 **projects that reduce emissions in the ordinary course of business. The**  
7 **commission shall report the results of a study conducted under this**  
8 **subsection, and may make recommendations for legislation, to the**  
9 **Legislative Assembly in the manner described in ORS 192.245 not later**  
10 **than February 1 of each odd-numbered year.”.**

11 On page 3, line 30, delete “and risks” and insert “, risks and benefits”.

12 In line 31, delete “where” and insert “and that”.

13 Delete lines 37 through 45 and delete page 4 .

14 On page 5, delete lines 1 through 25 and insert:

15 “(5)(a) As used in this subsection, ‘government’ means a city, county, ir-  
16 rigation district, ditch improvement district, water control district or gov-  
17 ernment of a federally recognized Indian tribe in this state.

18 “(b) An electric company may file, as part of the portfolio of rate options  
19 required by subsection (3) of this section and if agreed to in coordination  
20 with one or more governments to meet adopted renewable and nonemitting  
21 energy goals, a program of rates or charges that reflect the cost of an elec-  
22 tric company program to serve retail electricity consumers within the  
23 boundaries of those governments with electricity:

24 “(A) Derived from new or existing renewable energy resources or none-  
25 mitting energy resources, including supply and demand-side resources; or

26 “(B) Paired with unbundled renewable energy certificates, as defined in  
27 ORS 469A.005, from new or existing renewable energy resources.

28 “(c) The commission may approve a rate or charge under this subsection  
29 if:

30 “(A) The government attests that the coordination required under para-

1 graph (b) of this subsection occurred and the electric company includes the  
2 attestation in the filing for a program of rates or charges;

3 “(B) The government enacts or adopts an ordinance, charter provision,  
4 resolution or other regulation requiring that retail electricity consumers  
5 within the boundaries of the government must, as determined during the  
6 coordination required by paragraph (b) of this subsection and conducted in  
7 accordance with this paragraph, be served with renewable energy resources  
8 or nonemitting energy resources, including, at the option of the government,  
9 resources such as:

10 “(i) Energy from community-based resources, including but not limited to,  
11 solar photovoltaic, storage, microgrids, irrigation district-owned projects,  
12 in-pipe hydroelectric or micro-hydroelectric, that provide community energy  
13 cobenefits, such as:

14 “(I) Community stability;

15 “(II) Community reinvestment;

16 “(III) Ownership by a nonprofit organization or renewable energy coop-  
17 erative that represents an environmental justice community;

18 “(IV) Ownership by the government;

19 “(V) Disaster resiliency;

20 “(VI) Water savings;

21 “(VII) Species protection;

22 “(VIII) Direct cost savings to customers; or

23 “(IX) Local economic development and jobs; and

24 “(ii) Renewable and non-emitting energy resources acquired through  
25 government-specified procurement criteria which may include goals for local  
26 or diverse ownership;

27 “(C) The ordinance, charter provision, resolution or other regulation  
28 specifies that:

29 “(i) All eligible retail electricity consumers served within the boundaries  
30 of the government are placed on the rate schedule by the electric company,



1 upon commission approval, but have an opportunity to decline to be served  
2 by the rate option; and

3 “(ii) Retail electricity consumers within the boundaries of the government  
4 that are connected to the distribution system and whose electricity demand  
5 at any point of delivery is greater than 30 kilowatts may choose to opt in  
6 and be placed on the rate schedule, if the electric company determines that  
7 electricity demand at the consumer’s point of delivery is greater than 30  
8 kilowatts because of additional demand resulting from electrification of  
9 transportation or other services, including electric vehicle charging stations,  
10 after the effective date of this 2021 Act;

11 “(D) The ordinance, charter provision, resolution or other regulation in-  
12 cludes protections, such as subsidies or bill payment assistance, for low-  
13 income retail electricity consumers affected by the rates or charges and  
14 provides that these protections are paid for solely by retail electricity con-  
15 sumers within the boundaries of the government;

16 “(E) The electric company has included in the program provisions to  
17 minimize the shifting of costs from retail electricity consumers to other  
18 customers who do not participate;

19 “(F) The ordinance, charter provision, resolution or other regulation sets  
20 forth the duration of the program; and

21 “(G) The electric company utilizes commission-approved procurement  
22 processes, to the extent those processes apply, and the procurement criteria  
23 agreed to with the government in subparagraph (B)(ii) of this paragraph.

24 “(d) After the electric company receives approval to serve retail electric-  
25 ity consumers within the boundaries of the government according to the  
26 program of rates or charges adopted pursuant to this subsection, the electric  
27 company must:

28 “(A) Prior to commencing the program, receive acknowledgement from the  
29 government to proceed with the program as approved by the commission and,  
30 if the government declines, shall file to suspend the rates and charges under

1 the program;

2 “(B) Include information on its monthly bills to participating retail elec-  
3 tricity consumers identifying the program’s cost;

4 “(C) Provide notice to participating retail electricity consumers of any  
5 change in rate for participation in the program; and

6 “(D) Provide an annual report to the commission and participating gov-  
7 ernments summarizing the program activities in the prior calendar year.

8 “(e) The commission shall allow the electric company, for purposes of the  
9 new or existing renewable energy resources or nonemitting energy resources  
10 that serve the program of rates or charges adopted pursuant to this sub-  
11 section:

12 “(A) To own the facilities or use power purchase agreements.

13 “(B) To recover part or all of the costs associated with the resources that  
14 serve the program, including costs associated with resources described in  
15 subparagraph (A) of this paragraph, from all retail electricity consumers not  
16 served by an electricity service supplier, if:

17 “(i) The electric company can demonstrate that above-market or incre-  
18 mental costs of those resources have been paid for by program participants;

19 “(ii) An integrated resource plan conducted by the electric company  
20 shows an energy or capacity need and the electric company demonstrates  
21 that those resources are capable of meeting that need, in whole or in part;

22 “(iii) The electric company will use the resources to meet a renewable  
23 portfolio standard imposed by ORS 469A.052; or

24 “(iv) All customers will otherwise benefit from inclusion of the costs in  
25 rates collected from all customers.

26 “(C) To collect moneys from participating retail electricity consumers in  
27 excess of the cost of service and defer revenues or costs associated with the  
28 program for the purposes of making future investments in resources or  
29 renewable energy certificates to serve program participants and for the pur-  
30 poses of protecting nonparticipating retail electricity consumers should the

1 government end its participation in the program.

2 “(D) To recover the costs associated with the resources that serve the  
3 program, including costs associated with resources described in subparagraph  
4 (A) of this paragraph, from retail electricity consumers within the bounda-  
5 ries of the government other than those served by electricity service suppli-  
6 ers, if the government ends its participation in the program and the costs  
7 are not otherwise recoverable under subparagraph (B) of this paragraph.

8 “(6) Nothing in subsection (3) of this section prohibits an electric com-  
9 pany from providing retail electricity consumers that are connected to its  
10 distribution system and whose electricity demand at any point of delivery is  
11 greater than 30 kilowatts a portfolio of rate options.

12 “(7) Notwithstanding the exemption to ORS 757.600 to 757.691 provided  
13 by ORS 757.601 (3), an electric company serving fewer than 25,000 customers  
14 in this state may propose a program for approval by the commission if the  
15 program meets the criteria specified in this subsection.”.

16 On page 6, delete lines 32 through 45.

17 On page 7, delete lines 1 through 23.

18 In line 27, delete “6” and insert “5”.

19 On page 8, line 11, delete “7” and insert “6”.

20 On page 9, delete lines 33 through 45.

21 On page 10, delete lines 1 through 22 and insert:

22 **“SECTION 7. (1) For purposes of this section:**

23 **“(a) ‘Large-scale project’ means:**

24 **“(A) A renewable energy generation or storage facility with a ca-**  
25 **capacity rating greater than 10 megawatts.**

26 **“(B) A facility that processes renewable natural gas, as defined in**  
27 **ORS 757.392, where the total capital costs are \$1 million or more.**

28 **“(b) ‘Repower’ means replacement of enough of the original gener-**  
29 **ation equipment or components to make an original energy generation**  
30 **facility equivalent to a new facility, such that at least 80 percent of**

1 the fair market value of the facility derives from new generation  
2 equipment or components installed as part of the replacement project.

3 “(2)(a) A person who constructs or repowers a large-scale project  
4 sited in Oregon shall, at the time of contract finalization for develop-  
5 ment of the project or delivery of energy from that project, attest or  
6 declare, under penalty of perjury as described in ORCP 1 E, that dur-  
7 ing all periods of construction, the person:

8 “(A) Will pay employees the prevailing rate of wage for an hour’s  
9 work in the same trade or occupation in the locality, as defined in ORS  
10 279C.800, where the labor is performed;

11 “(B) Will offer employer-paid health care and retirement benefits  
12 to the employees performing the labor on the construction project;

13 “(C) Will participate in an apprenticeship program registered with  
14 the State Apprenticeship and Training Council in a manner consistent  
15 with the respective apprenticeship training programs, such that 15  
16 percent of the total work hours on a given large-scale project is per-  
17 formed by workers in apprenticeable occupations;

18 “(D) Is licensed and in good standing to perform the work, and is  
19 not ineligible to receive a contract or subcontract for public works  
20 under ORS 279C.860;

21 “(E) Has demonstrated a history of material compliance with the  
22 rules and other requirements of state agencies with oversight regard-  
23 ing workers’ compensation, building codes and occupational safety and  
24 health;

25 “(F) Has demonstrated a history of material compliance with fed-  
26 eral and state wage and hour laws; and

27 “(G) Has policies in place that are designed to limit or prevent  
28 workplace harassment and discrimination and that promote workplace  
29 diversity, equity and inclusion of communities who have been tradi-  
30 tionally underrepresented in the renewable energy sector including,

1 but not limited to, women, veterans and Black, Indigenous and People  
2 of Color, with an aspirational goal of having at least 15 percent of the  
3 total work hours performed by individuals from those communities.

4 “(b) In addition to the requirements described in paragraph (a) of  
5 this subsection, the person shall attest or declare, under penalty of  
6 perjury as described in ORCP 1 E, to:

7 “(A) The megawatt capacity and acreage footprint of the project;

8 “(B) The geographical location of the project;

9 “(C) The estimated workforce requirements of the project; and

10 “(D) A description of any policies for ensuring the person meets the  
11 requirements in this section.

12 “(3)(a) The person constructing or repowering the large-scale  
13 project shall provide the attestation or declaration to the State De-  
14 partment of Energy and provide notice of such delivery to the pur-  
15 chaser of the project or of the energy from the project.

16 “(b) In lieu of an attestation or declaration to the requirements  
17 described in subsection (2)(a) of this section, a person may provide a  
18 copy of a project labor agreement that contains the requirements de-  
19 scribed in subsection (2)(a) of this section.

20 “(4)(a) The department shall retain an attestation or declaration  
21 filed with the department in a manner consistent with the  
22 department’s record retention policies.

23 “(b) Notwithstanding any provisions of ORS 192.345 or 192.355 to the  
24 contrary, an attestation or declaration filed under this section is sub-  
25 ject to public record disclosure and the department shall provide a  
26 copy of the attestation or declaration upon request.

27 “(c) An attestation or declaration filed under this section is for re-  
28 porting purposes only and the department may not use an attestation  
29 or declaration to investigate, regulate or enforce matters addressed in  
30 the attestation or declaration.

1       **“SECTION 8. The obligation to provide an attestation or declaration**  
2 **pursuant to section 7 of this 2021 Act applies to large-scale projects**  
3 **contracted for after the effective date of this 2021 Act.”.**

4       In line 26, delete “10” and insert “9”.

5       In line 43, delete “11” and insert “10”.

6       On page 11, line 38, delete “12” and insert “11”.

7       On page 12, line 23, delete “13” and insert “12”.

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