

SB 784-4
(LC 3309)
4/5/21 (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 On page 2, line 6, delete “, at a minimum” and insert “provide for one or
3 more of the following”.

4 In line 7, delete “or” and insert “, a facility eligible for assistance under
5 44 C.F.R. 206.220 et. seq. or a”.

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

7 Delete lines 18 through 28 and insert:

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

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

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

15 Delete lines 36 through 39 and insert:

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

20 “(d) A public utility may propose different business models associated
21 with the operating expenses and capital costs including joint ownership and

1 leasing.

2 “(e) If the commission authorizes a public utility to recover costs from
3 customers for investments in resiliency measures, the resiliency measures
4 must, regardless of ownership of the resiliency measure and pursuant to
5 agreement with the customer, allow the utility to manage the measure for
6 grid and emergency services.

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

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

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

12 Delete lines 37 through 45 and delete page 4 .

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

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

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

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

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

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

29 “(A) The government attests that the coordination required under para-
30 graph (b) of this subsection occurred and the electric company includes the

1 attestation in the filing for a program of rates or charges;

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

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

13 “(I) Community stability;

14 “(II) Community reinvestment;

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

17 “(IV) Ownership by the government;

18 “(V) Disaster resiliency;

19 “(VI) Water savings;

20 “(VII) Species protection;

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

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

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

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

28 “(i) All eligible retail electricity consumers served within the boundaries
29 of the government are placed on the rate schedule by the electric company,
30 upon commission approval, but have an opportunity to decline to be served

1 by the rate option; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15 On page 6, delete lines 32 through 45.

16 On page 7, delete lines 1 through 23.

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

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

19 On page 9, delete lines 33 through 45.

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

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

22 **“(a) ‘Large-scale project’ means a renewable energy generation or**
23 **storage facility with a capacity rating greater than 10 megawatts.**

24 **“(b) ‘Repower’ means replacement of enough of the original gener-**
25 **ation equipment or components to make an original energy generation**
26 **facility equivalent to a new facility, such that at least 80 percent of**
27 **the fair market value of the facility derives from new generation**
28 **equipment or components installed as part of the replacement project.**

29 **“(2)(a) A person who constructs or repowers a large-scale project**
30 **sited in Oregon shall, at the time of contract finalization for develop-**

1 **ment of the project or delivery of energy from that project, attest or**
2 **declare, under penalty of perjury as described in ORCP 1 E, that dur-**
3 **ing all periods of construction, the person:**

4 **“(A) Will pay employees the prevailing rate of wage for an hour’s**
5 **work in the same trade or occupation in the locality, as defined in ORS**
6 **279C.800, where the labor is performed;**

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

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

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

17 **“(E) Has demonstrated a history of material compliance with the**
18 **rules and other requirements of state agencies with oversight regard-**
19 **ing workers’ compensation, building codes and occupational safety and**
20 **health;**

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

23 **“(G) Has policies in place that are designed to limit or prevent**
24 **workplace harassment and discrimination and that promote workplace**
25 **diversity, equity and inclusion of communities who have been tradi-**
26 **tionally underrepresented in the renewable energy sector including,**
27 **but not limited to, women, veterans and Black, Indigenous and People**
28 **of Color, with an aspirational goal of having at least 15 percent of the**
29 **total work hours performed by individuals from those communities.**

30 **“(b) In addition to the requirements described in paragraph (a) of**

1 this subsection, the person shall attest or declare, under penalty of
2 perjury as described in ORCP 1 E, to:

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

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

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

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

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

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

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

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

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

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

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

- 1 In line 43, delete “11” and insert “10”.
- 2 On page 11, line 38, delete “12” and insert “11”.
- 3 On page 12, line 23, delete “13” and insert “12”.
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