House Bill 2816
Sponsored by Representative MARSH, Senator DEMBROW; Representative GAMBA (Presession filed.)

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 person who owns, operates or controls high energy use facility to ensure that greenhouse gas emissions associated with electricity used by high energy use facility are reduced to 60 percent below baseline emissions levels by 2027, 80 percent below baseline emissions levels by 2030, 90 percent below baseline emissions levels by 2035 and 100 percent below baseline emissions levels by 2040. Requires person to provide annual report to Department of Environmental Quality to demonstrate compliance. Imposes civil penalty of $12,000 per megawatt-hour in violation for each day of violation.

Excludes property that is or is part of high energy use facility from enterprise zone tax benefits unless amount of greenhouse gas emissions associated with electricity that high energy use facility uses complies with amount of greenhouse gas emissions associated with electricity permitted for high energy use facilities.

A BILL FOR AN ACT
Relating to high energy use facilities; creating new provisions; and amending ORS 285C.180 and 469.992.

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

SECTION 1. (1) As used in this section:
(a) “Baseline emissions level” means 0.428 metric tons of carbon dioxide equivalent per megawatt-hour of electricity used by a high energy use facility.
(b) “Consumer-owned utility,” “electric company” and “electricity service supplier” have the meanings given those terms in ORS 757.600.
(c) “Facility” means all buildings, equipment, structures and other stationary items that are located on a single site or on contiguous or adjacent sites and that are owned or operated by the same person or by any person who controls, is controlled by or is under common control with such person.
(d) “High energy use facility” means a facility that:
(A) Uses a base load of 10 or more megawatt-hours;
(B) Uses electricity that is not supplied by an electric company or electricity service supplier, that is subject to the requirements under ORS 469A.410; and
(C) Has a primary purpose of:
(i) Providing electronic data processing or hosting services; or
(ii) Producing or processing cryptocurrency or carrying out other operations related to cryptocurrency.
(2) A person who owns, operates or controls a high energy use facility shall ensure that the greenhouse gas emissions associated with the electricity that the high energy use facility uses is reduced by the following amounts:
(a) By 2027, 60 percent below baseline emissions level.
(b) By 2030, 80 percent below baseline emissions level.

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.

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(c) By 2035, 90 percent below baseline emissions level.
(d) By 2040, 100 percent below baseline emissions level.

(3) (a) A person who owns, operates or controls a high energy use facility shall provide
the Department of Environmental Quality an annual report for the purpose of demonstrating
compliance with the amounts set forth in subsection (2) of this section. The report must
include the following:

(A) An estimate of annual greenhouse gas emissions associated with the electricity used
by the high energy use facility;
(B) Annual goals set by the person who owns, operates or controls the high energy use
facility for reducing annual greenhouse gas emissions associated with the electricity used by
the high energy use facility that demonstrate continual progress towards meeting the
amounts set forth in subsection (2) of this section;
(C) A copy of any power purchase agreement or other contract for supplying electricity
to the high energy use facility; and
(D) Any other information necessary, as determined by the Environmental Quality
Commission by rule, to determine greenhouse gas emissions associated with the electricity
used by the high energy use facility, continual progress and compliance with the amounts
set forth in subsection (2) of this section.

(b) The department shall review and verify the information in each report provided under
this subsection and determine whether the person who owns, operates or controls a high
energy use facility has complied with subsection (2) of this section.

(4) A person who owns, operates or controls a high energy use facility is not required to
comply with subsection (2) of this section to the extent that compliance would require a
consumer-owned utility to reduce the consumer-owned utility's purchases of the lowest
priced electricity from the Bonneville Power Administration pursuant to section 5 of the
Pacific Northwest Electric Power Planning and Conservation Act of 1980, P.L. 96-501, as in
effect on June 6, 2007. The exemption provided by this subsection applies only to firm com-
mitments for BPA electricity that the Bonneville Power Administration has assured will be
available to a consumer-owned utility to meet agreed portions of the consumer-owned
utility's load requirements for a defined period of time.

(5) A person who violates subsection (2) of this section is subject to penalties under ORS
469.992.

(6) The Environmental Quality Commission may adopt rules to implement this section.

SECTION 2. ORS 469.992 is amended to read:

469.992. (1) The Director of the State Department of Energy or the Energy Facility Siting
Council may impose civil penalties for violation of ORS 469.300 to 469.619 and 469.930, for violations
of rules adopted under ORS 469.300 to 469.619 and 469.930, for violation of any site certificate or
amended site certificate issued under ORS 469.300 to 469.601 or for violation of a State Department
of Energy order issued pursuant to ORS 469.405 (3). A civil penalty in an amount of not more than
$25,000 per day for each day of violation may be assessed.

(2) Subject to ORS 153.022, violation of an order entered pursuant to ORS 469.550 is punishable
upon conviction by a fine of $50,000. Each day of violation constitutes a separate offense.

(3) A civil penalty in an amount not less than $100 per day nor more than $1,000 per day may
be assessed by the director or the Energy Facility Siting Council for a willful failure to comply with
a subpoena served by the director pursuant to ORS 469.080 (2).
(4) A civil penalty in an amount of not more than $25,000 per day for each day in violation of any provision of ORS 469.603 to 469.619 may be assessed by the circuit court upon complaint of any person injured by the violation.

(5) In addition to any other liability or penalty provided by law, the director may impose a civil penalty on a person for violation of section 1 of this 2023 Act in an amount of $12,000 per megawatt-hour in violation for each day of violation of section 1 of this 2023 Act.

SECTION 3. ORS 469.992, as amended by section 17, chapter 653, Oregon Laws 1991, section 14, chapter 385, Oregon Laws 1999, section 310, chapter 1051, Oregon Laws 1999, and section 54, chapter 186, Oregon Laws 2003, is amended to read:

469.992. (1) The Director of the State Department of Energy or the Energy Facility Siting Council may impose civil penalties for violation of ORS 469.300 to 469.619 and 469.930, for violations of rules adopted under ORS 469.300 to 469.619 and 469.930, for violation of any site certificate or amended site certificate issued under ORS 469.300 to 469.601 or for violation of a State Department of Energy order issued pursuant to ORS 469.405 (3). A civil penalty in an amount of not more than $25,000 per day for each day of violation may be assessed.

(2) Subject to ORS 153.022, violation of an order entered pursuant to ORS 469.550 is punishable upon conviction by a fine of $50,000. Each day of violation constitutes a separate offense.

(3) A civil penalty in an amount not less than $100 per day nor more than $1,000 per day may be assessed by the director or the Energy Facility Siting Council for a willful failure to comply with a subpoena served by the director pursuant to ORS 469.080 (2).

(4) A civil penalty in an amount of not more than $25,000 per day for each day in violation of any provision of ORS 469.603 to 469.619 or section 14, chapter 653, Oregon Laws 1991, may be assessed by the circuit court upon complaint of any person injured by the violation.

(5) In addition to any other liability or penalty provided by law, the director may impose a civil penalty on a person for violation of section 1 of this 2023 Act in an amount of $12,000 per megawatt-hour in violation for each day of violation of section 1 of this 2023 Act.

SECTION 4. ORS 285C.180 is amended to read:

285C.180. (1) The following types of property are qualified for exemption under ORS 285C.175:

(a) A newly constructed building or structure.

(b) A new addition to or modification of an existing building or structure.

(c) Any real property machinery or equipment or personal property, whether new, used or reconditioned, that is installed on property that is owned or leased by an authorized business firm, and:

(A) Newly purchased or leased by the firm, unless the property is described in ORS 285C.175 (4)(a); or

(B) Newly transferred into the enterprise zone from outside the county within which the site of the firm is located and installed.

(2) Property described in subsection (1) of this section is qualified under this section only if:

(a) The property meets or exceeds the minimum cost requirements established under ORS 285C.185;

(b) The property satisfies applicable usage, lease or location requirements established under ORS 285C.185;

(c) The property was constructed, added, modified or installed to further the production of income;

(d) The property is owned or leased by an authorized business firm;
(e) The location of the property corresponds to the location as set forth in the application for authorization of the business firm and consists of a single site or multiple sites adjacent to or having comparable proximity to each other, within the boundaries of the enterprise zone;

(f) The property is the same general type of property as described in the application for authorization; and

(g) In the case of an eligible business firm described in ORS 285C.135 (5)(b), the actual investment at the facility of the firm is consistent with the description set forth in the application for authorization.

(3) Notwithstanding subsection (1) of this section, the following property is not qualified for exemption under ORS 285C.175:

(a) Land.

(b) Property that was not in use or occupancy for more than a 180-day period that ends during the preceding assessment year.

(c) Property that is or is part of a high energy use facility, as defined in section 1 of this 2023 Act, if the amount of greenhouse gas emissions associated with the electricity that the high energy use facility uses does not comply with the amounts set forth in section 1 of this 2023 Act.

(d) On-site developments that, consistent with ORS 307.010, are assessed as land.

(e) Noninventory supplies, including but not limited to lubricants.

(f) Any operator-driven item of machinery or equipment or any vehicle, if the item or vehicle moves by internal motorized power. An item or vehicle described in this paragraph includes but is not limited to an item or vehicle that moves within an enclosed space.

(g) Any device or rolling stock that is pulled, pushed or carried by a vehicle that is suitable as a mode of transportation beyond the enterprise zone boundary.

(4) Subsection (3)(b) of this section does not apply to the first assessment year for which the property is exempt under ORS 285C.175.

(5) For purposes of this section and ORS 285C.175, property includes any portion or incremental unit of property that is newly constructed or installed, or that is a new addition to or modification of an existing building or structure.