

# House Bill 2816

Sponsored by Representative MARSH, Senator DEMBROW; Representative GAMBA (Pre-session 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

1  
2 Relating to high energy use facilities; creating new provisions; and amending ORS 285C.180 and  
3 469.992.

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

5 **SECTION 1. (1) As used in this section:**

6 (a) **“Baseline emissions level” means 0.428 metric tons of carbon dioxide equivalent per**  
7 **megawatt-hour of electricity used by a high energy use facility.**

8 (b) **“Consumer-owned utility,” “electric company” and “electricity service supplier” have**  
9 **the meanings given those terms in ORS 757.600.**

10 (c) **“Facility” means all buildings, equipment, structures and other stationary items that**  
11 **are located on a single site or on contiguous or adjacent sites and that are owned or operated**  
12 **by the same person or by any person who controls, is controlled by or is under common**  
13 **control with such person.**

14 (d) **“High energy use facility” means a facility that:**

15 (A) **Uses a base load of 10 or more megawatt-hours;**

16 (B) **Uses electricity that is not supplied by an electric company or electricity service**  
17 **supplier, that is subject to the requirements under ORS 469A.410; and**

18 (C) **Has a primary purpose of:**

19 (i) **Providing electronic data processing or hosting services; or**

20 (ii) **Producing or processing cryptocurrency or carrying out other operations related to**  
21 **cryptocurrency.**

22 (2) **A person who owns, operates or controls a high energy use facility shall ensure that**  
23 **the greenhouse gas emissions associated with the electricity that the high energy use facility**  
24 **uses is reduced by the following amounts:**

25 (a) **By 2027, 60 percent below baseline emissions level.**

26 (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.

1 (c) By 2035, 90 percent below baseline emissions level.

2 (d) By 2040, 100 percent below baseline emissions level.

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

7 (A) An estimate of annual greenhouse gas emissions associated with the electricity used  
8 by the high energy use facility;

9 (B) Annual goals set by the person who owns, operates or controls the high energy use  
10 facility for reducing annual greenhouse gas emissions associated with the electricity used by  
11 the high energy use facility that demonstrate continual progress towards meeting the  
12 amounts set forth in subsection (2) of this section;

13 (C) A copy of any power purchase agreement or other contract for supplying electricity  
14 to the high energy use facility; and

15 (D) Any other information necessary, as determined by the Environmental Quality  
16 Commission by rule, to determine greenhouse gas emissions associated with the electricity  
17 used by the high energy use facility, continual progress and compliance with the amounts  
18 set forth in subsection (2) of this section.

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

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

31 (5) A person who violates subsection (2) of this section is subject to penalties under ORS  
32 469.992.

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

34 **SECTION 2.** ORS 469.992 is amended to read:

35 469.992. (1) The Director of the State Department of Energy or the Energy Facility Siting  
36 Council may impose civil penalties for violation of ORS 469.300 to 469.619 and 469.930, for violations  
37 of rules adopted under ORS 469.300 to 469.619 and 469.930, for violation of any site certificate or  
38 amended site certificate issued under ORS 469.300 to 469.601 or for violation of a State Department  
39 of Energy order issued pursuant to ORS 469.405 (3). A civil penalty in an amount of not more than  
40 \$25,000 per day for each day of violation may be assessed.

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

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

1 (4) A civil penalty in an amount of not more than \$25,000 per day for each day in violation of  
 2 any provision of ORS 469.603 to 469.619 may be assessed by the circuit court upon complaint of any  
 3 person injured by the violation.

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

7 **SECTION 3.** ORS 469.992, as amended by section 17, chapter 653, Oregon Laws 1991, section  
 8 14, chapter 385, Oregon Laws 1999, section 310, chapter 1051, Oregon Laws 1999, and section 54,  
 9 chapter 186, Oregon Laws 2003, is amended to read:

10 469.992. (1) The Director of the State Department of Energy or the Energy Facility Siting  
 11 Council may impose civil penalties for violation of ORS 469.300 to 469.619 and 469.930, for violations  
 12 of rules adopted under ORS 469.300 to 469.619 and 469.930, for violation of any site certificate or  
 13 amended site certificate issued under ORS 469.300 to 469.601 or for violation of a State Department  
 14 of Energy order issued pursuant to ORS 469.405 (3). A civil penalty in an amount of not more than  
 15 \$25,000 per day for each day of violation may be assessed.

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

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

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

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

28 285C.180. (1) The following types of property are qualified for exemption under ORS 285C.175:

29 (a) A newly constructed building or structure.

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

31 (c) Any real property machinery or equipment or personal property, whether new, used or re-  
 32 conditioned, that is installed on property that is owned or leased by an authorized business firm,  
 33 and:

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

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

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

39 (a) The property meets or exceeds the minimum cost requirements established under ORS  
 40 285C.185;

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

43 (c) The property was constructed, added, modified or installed to further the production of in-  
 44 come;

45 (d) The property is owned or leased by an authorized business firm;

1 (e) The location of the property corresponds to the location as set forth in the application for  
2 authorization of the business firm and consists of a single site or multiple sites adjacent to or having  
3 comparable proximity to each other, within the boundaries of the enterprise zone;

4 (f) The property is the same general type of property as described in the application for au-  
5 thorization; and

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

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

11 (a) Land.

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

14 (c) **Property that is or is part of a high energy use facility, as defined in section 1 of this**  
15 **2023 Act, if the amount of greenhouse gas emissions associated with the electricity that the**  
16 **high energy use facility uses does not comply with the amounts set forth in section 1 of this**  
17 **2023 Act.**

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

19 [(d)] (e) Noninventory supplies, including but not limited to lubricants.

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

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

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

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

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