

# House Bill 3579

Sponsored by Representative LEVY E

## 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 Oregon Department of Administrative Services to adopt rules to govern procurements of clean energy technology. Directs department to cooperate with state agencies with expertise in energy production and conservation and in reducing or mitigating environmental impacts. Specifies required contents of rules. Directs other state agencies to cooperate with department in adopting and implementing rules.

Establishes Task Force on Attracting and Supporting Regional Manufacturing of Clean Energy Technology. Specifies task force membership and requires task force to study and recommend methods to attract and foster manufacturing firms and operations to this state, with emphasis on using public procurements of clean energy technology to create market and to give incentives to prospective contractors to create and retain high-skill jobs.

Creates income and corporate excise tax credit for advanced manufacturing production, calculated as percentage of corresponding federal income tax credit.

Applies to tax years beginning on or after January 1, 2024, and before January 1, 2030.

Takes effect on 91st day following adjournment sine die.

## A BILL FOR AN ACT

1  
2 Relating to energy technology; creating new provisions; amending ORS 314.772 and 318.031; and  
3 prescribing an effective date.

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

5 **SECTION 1. (1) As used in this section, "clean energy technology" means a facility, piece**  
6 **of equipment or other property that:**

7 (a) **Produces energy from the sun, water, wind, geothermal deposits or other renewable**  
8 **resources, including fuel cells, microturbines or energy storage systems and components;**

9 (b) **Enables energy conservation in heating, cooling or ventilating residential or com-**  
10 **mmercial buildings;**

11 (c) **Facilitates or assists in manufacturing or expanding infrastructure to support electric**  
12 **vehicles, particularly medium-duty or heavy-duty electric vehicles; or**

13 (d) **Is otherwise capable, in the judgment of the Director of the Oregon Department of**  
14 **Administrative Services, of conserving energy or producing energy from renewable and low-**  
15 **emission sources.**

16 (2)(a) **The Oregon Department of Administrative Services shall adopt rules under ORS**  
17 **279A.070 to govern procurements of clean energy technology that the department conducts**  
18 **on behalf of state agencies under ORS 279A.140.**

19 (b) **In adopting rules as provided in paragraph (a) of this subsection, the department shall**  
20 **solicit input from and cooperate with other state agencies with expertise in energy pro-**  
21 **duction and conservation and in reducing or mitigating environmental impacts.**

22 (c) **The department's rules must permit prospective contractors to submit in response**  
23 **to clean energy technology procurements proposals that include:**

24 (A) **A local employment plan under which the prospective contractor specifies how the**

**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 prospective contractor will create and retain high-skilled manufacturing jobs in areas in this  
 2 state in which the prospective contractor operates, or the area in this state in which the  
 3 clean energy technology will be used, by recruiting disadvantaged workers and investing in  
 4 preapprenticeship, apprenticeship and other training opportunities; or

5 (B) An employment plan under which the prospective contractor specifies how the pro-  
 6 spective contractor will create and retain high-skilled manufacturing jobs throughout the  
 7 United States by recruiting disadvantaged workers and investing in preapprenticeship, ap-  
 8 prenticeship and other training opportunities, if federal moneys fund all or a portion of the  
 9 procurement.

10 (d) The department's rules may provide for giving a preference to a prospective con-  
 11 tractor that under paragraph (c) of this subsection submits as part of the prospective  
 12 contractor's proposal a credible employment plan.

13 (3) The department may enter into cooperative procurements and intergovernmental  
 14 agreements under which the department procures clean energy technology in combination  
 15 with other governmental bodies within this state, the State of Washington and the Province  
 16 of British Columbia, Canada, as a market incentive for clean energy technology manufac-  
 17 turers and suppliers to create and retain high-skilled manufacturing jobs within this state,  
 18 the State of Washington and the Province of British Columbia. The cooperative procure-  
 19 ments and intergovernmental agreements may require prospective contractors to submit in  
 20 response to requests for proposals plans to recruit disadvantaged workers and invest in  
 21 preapprenticeship, apprenticeship and other training opportunities.

22 (4) All state agencies that are subject to ORS 279A.140 shall cooperate with the depart-  
 23 ment in adopting and implementing the rules described in subsection (2) of this section.

24 **SECTION 2.** (1) The Task Force on Attracting and Supporting Regional Manufacturing  
 25 of Clean Energy Technology is established.

26 (2) The task force consists of seven members appointed by the Director of the Oregon  
 27 Department of Administrative Services as follows:

- 28 (a) The state chief procurement officer;
- 29 (b) A representative from the Department of Transportation;
- 30 (c) A representative from a large regional manufacturing firm;
- 31 (d) A representative from a labor organization that represents regional manufacturing  
 32 industry workers;
- 33 (e) A representative from a labor organization that represents workers in building trades  
 34 or construction;
- 35 (f) A representative of a firm that installs energy technology; and
- 36 (g) A representative from an organization with an interest in combatting or reducing the  
 37 effects of climate change.

38 (3) The task force shall study and recommend methods to attract and foster manufac-  
 39 turing firms and operations to this state, with an emphasis on using public procurements  
 40 of clean energy technology to create a market and to give incentives to prospective con-  
 41 tractors to create and retain high-skill jobs by, at a minimum, recruiting disadvantaged  
 42 workers and investing in preapprenticeship, apprenticeship and other training methods.

43 (4) The task force may:

- 44 (a) Cooperate with or join other task forces in the State of Washington or the Province  
 45 of British Columbia, Canada, with a similar mission to form a regional strategy for attracting

1 and fostering clean energy manufacturing within the region.

2 (b) Appoint other members to the task force by majority vote.

3 (5) A majority of the members of the task force constitutes a quorum for the transaction  
4 of business.

5 (6) Official action by the task force requires the approval of a majority of the members  
6 of the task force.

7 (7) The task force shall elect one of its members to serve as chairperson.

8 (8) If there is a vacancy for any cause, the appointing authority shall make an appoint-  
9 ment to become immediately effective.

10 (9) The task force shall meet at times and places specified by the call of the chairperson  
11 or of a majority of the members of the task force.

12 (10) The task force may adopt rules necessary for the operation of the task force.

13 (11) The task force shall submit a report in the manner provided in ORS 192.245, and may  
14 include recommendations for legislation, to an interim committee of the Legislative Assem-  
15 bly related to energy technology, with copies to the Director of the Oregon Department of  
16 Administrative Services and the Director of Transportation, no later than September 15,  
17 2024.

18 (12) The Oregon Department of Administrative Services shall provide staff support to the  
19 task force.

20 (13) Members of the task force are not entitled to compensation or reimbursement for  
21 expenses and serve as volunteers on the task force.

22 (14) All agencies of state government, as defined in ORS 174.111, are directed to assist  
23 the task force in the performance of the duties of the task force and, to the extent permitted  
24 by laws relating to confidentiality, to furnish information and advice the members of the task  
25 force consider necessary to perform their duties.

26 SECTION 3. Section 2 of this 2023 Act is repealed on December 31, 2024.

27 SECTION 4. Section 5 of this 2023 Act is added to and made a part of ORS chapter 315.

28 SECTION 5. (1) A credit against taxes that are otherwise due under ORS chapter 316 or,  
29 if the taxpayer is a corporation, under ORS chapter 317 or 318, is allowed to a taxpayer that  
30 is eligible for, and claims, an advanced manufacturing production tax credit under section  
31 45X of the Internal Revenue Code. The credit shall be allowed in an amount equal to 10 per-  
32 cent of the tax credit as allowed to the taxpayer for the same tax year under section 45X  
33 of the Internal Revenue Code and properly claimed on the taxpayer's federal income tax re-  
34 turn.

35 (2) Prior to claiming the credit allowed under this section, a taxpayer must:

36 (a) Obtain written certification of eligibility from the State Department of Energy;

37 (b) Provide copies of any information or registration the federal Secretary of the Treas-  
38 ury required from the taxpayer under 26 U.S.C. 45X(a)(3)(B)(ii).

39 (c) Demonstrate with appropriate attestation and supporting documentation that, to the  
40 extent required for manufacturing, supplying, constructing or installing an advanced energy  
41 project under the terms and conditions of a public contract, the taxpayer has complied with  
42 ORS 279C.533 and 279C.800 to 279C.870.

43 (3) The credit allowed under this section may not exceed the tax liability of the taxpayer  
44 for the tax year.

45 (4) Any tax credit otherwise allowable under this section that is not used by the taxpayer

1 in a particular tax year may be carried forward and offset against the taxpayer's tax liability  
2 for the next succeeding tax year. Any credit remaining unused in the next succeeding tax  
3 year may be carried forward and used in the second succeeding tax year, and likewise any  
4 credit not used in that second succeeding tax year may be carried forward and used in the  
5 third succeeding tax year but may not be carried forward for any tax year thereafter.

6 (5) If a change in the tax year of the taxpayer occurs as described in ORS 314.085, or if  
7 the Department of Revenue terminates the taxpayer's tax year under ORS 314.440, the credit  
8 allowed under this section shall be prorated or computed in a manner consistent with ORS  
9 314.085.

10 (6) The State Department of Energy shall adopt rules for the purposes of this section,  
11 including policies and procedures for verifying taxpayer eligibility for the credit allowed un-  
12 der this section.

13 (7) The State Department of Energy shall provide information to the Department of Re-  
14 venue about all taxpayers that are eligible for a tax credit under this section, if required as  
15 provided in ORS 315.058.

16 **SECTION 6.** ORS 314.772, as amended by section 11, chapter 34, Oregon Laws 2022, and section  
17 15, chapter 115, Oregon Laws 2022, is amended to read:

18 314.772. (1) Except as provided in ORS 314.766 (5)(b), the tax credits allowed or allowable to a  
19 C corporation for purposes of ORS chapter 317 or 318 shall not be allowed to an S corporation. The  
20 business tax credits allowed or allowable for purposes of ORS chapter 316 shall be allowed or are  
21 allowable to the shareholders of the S corporation.

22 (2) In determining the tax imposed under ORS chapter 316, as provided under ORS 314.763, on  
23 income of the shareholder of an S corporation, there shall be taken into account the shareholder's  
24 pro rata share of business tax credit (or item thereof) that would be allowed to the corporation (but  
25 for subsection (1) of this section) or recapture or recovery thereof. The credit (or item thereof), re-  
26 capture or recovery shall be passed through to shareholders in pro rata shares as determined in the  
27 manner prescribed under section 1377(a) of the Internal Revenue Code.

28 (3) The character of any item included in a shareholder's pro rata share under subsection (2)  
29 of this section shall be determined as if such item were realized directly from the source from which  
30 realized by the corporation, or incurred in the same manner as incurred by the corporation.

31 (4) If the shareholder is a nonresident and there is a requirement applicable for the business tax  
32 credit that in the case of a nonresident the credit be allowed in the proportion provided in ORS  
33 316.117, then that provision shall apply to the nonresident shareholder.

34 (5) As used in this section, "business tax credit" means the following credits: ORS 315.104  
35 (forestation and reforestation), ORS 315.138 (fish screening, by-pass devices, fishways), ORS 315.141  
36 (biomass production for biofuel), ORS 315.156 (crop gleaning), ORS 315.164 and 315.169 (agriculture  
37 workforce housing), ORS 315.176 (bovine manure), ORS 315.204 (dependent care assistance), ORS  
38 315.208 (dependent care facilities), ORS 315.213 (contributions for child care), ORS 315.237 (employee  
39 and dependent scholarships), ORS 315.271 (individual development accounts), ORS 315.304 (pollution  
40 control facility), ORS 315.326 (renewable energy development contributions), ORS 315.331 (energy  
41 conservation projects), ORS 315.336 (transportation projects), ORS 315.341 (renewable energy re-  
42 source equipment manufacturing facilities), ORS 315.354 and 469B.151 (energy conservation facili-  
43 ties), ORS 315.506 (tribal taxes on reservation enterprise zones and reservation partnership zones),  
44 ORS 315.507 (electronic commerce), ORS 315.514 (film production development contributions), ORS  
45 315.523 (employee training programs), ORS 315.533 (low income community jobs initiative), ORS

1 315.593 (short line railroads), ORS 315.640 (university venture development funds), ORS 315.643  
 2 (Opportunity Grant Fund contributions), ORS 315.675 (Trust for Cultural Development Account  
 3 contributions), ORS 317.097 (loans for affordable housing), ORS 317.124 (long term enterprise zone  
 4 facilities), ORS 317.147 (loans for agriculture workforce housing), ORS 317.152 (qualified research  
 5 expenses) and ORS 317.154 (alternative qualified research expenses) and section 9, chapter 774,  
 6 Oregon Laws 2013 (alternative fuel vehicle contributions), section 2, chapter 34, Oregon Laws 2022  
 7 (small forest option), [and] section 8, chapter 115, Oregon Laws 2022 (agricultural overtime pay),  
 8 **and section 5 of this 2023 Act (advanced manufacturing production).**

9 **SECTION 7.** ORS 318.031, as amended by section 12, chapter 34, Oregon Laws 2022, and section  
 10 16, chapter 115, Oregon Laws 2022, is amended to read:

11 318.031. It being the intention of the Legislative Assembly that this chapter and ORS chapter  
 12 317 shall be administered as uniformly as possible (allowance being made for the difference in im-  
 13 position of the taxes), ORS 305.140 and 305.150, ORS chapter 314 and the following sections are in-  
 14 corporated into and made a part of this chapter: ORS 315.104, 315.141, 315.156, 315.176, 315.204,  
 15 315.208, 315.213, 315.304, 315.326, 315.331, 315.336, 315.506, 315.507, 315.523, 315.533, 315.593 and  
 16 315.643 and section 2, chapter 34, Oregon Laws 2022, [and] section 8, chapter 115, Oregon Laws  
 17 2022, **and section 5 of this 2023 Act** (all only to the extent applicable to a corporation) and ORS  
 18 chapter 317.

19 **SECTION 8.** **Section 5 of this 2023 Act applies to tax years beginning on or after January**  
 20 **1, 2024, and before January 1, 2030.**

21 **SECTION 9.** **This 2023 Act takes effect on the 91st day after the date on which the 2023**  
 22 **regular session of the Eighty-second Legislative Assembly adjourns sine die.**

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