

**A-Engrossed**  
**Senate Bill 634**

Ordered by the House June 28  
Including House Amendments dated June 28

Sponsored by Senators KNOPP, THOMSEN, Representative WHISNANT; Senators FERRIOLI, GIROD, THATCHER, Representatives JOHNSON, RESCHKE (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.

*[Adds woody biomass to list of types of energy generating technology that are green energy technology that must be included in constructing, reconstructing or renovating public buildings, and for which contracting agency must set aside 1.5 percent of contract price.]*

**Permits contracting agency to include woody biomass energy technology, as alternative to green energy technology, in construction, reconstruction or major renovation of public building for which contracting agency must set aside 1.5 percent of contract price. Defines "woody biomass energy technology."**

Takes effect on 91st day following adjournment sine die.

**A BILL FOR AN ACT**

1  
2 Relating to using woody biomass as a green energy technology; creating new provisions; amending  
3 ORS 279C.527 and 279C.528; and prescribing an effective date.

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

5 **SECTION 1.** ORS 279C.527 is amended to read:

6 279C.527. (1) As used in this section and *[in]* ORS 279C.528:

7 (a)(A) "Green energy technology" means a system that employs:

8 (i) Solar or geothermal energy directly for space or water heating or to generate electricity; or

9 (ii) Building design that uses solar energy passively to reduce energy use from other sources  
10 by at least 20 percent from a level required under ORS 276.900 to 276.915 or achieved in buildings  
11 constructed according to state building code standards that the Department of Consumer and Busi-  
12 ness Services approves under ORS 455.496.

13 (B) "Green energy technology" does not include a system that:

14 (i) Uses water, groundwater or the ground as a heat source at temperatures less than 140 de-  
15 grees Fahrenheit, or less than 128 degrees Fahrenheit if the system is used for a public school  
16 building; or

17 (ii) Incorporates solar energy indirectly into other methods for generating energy, such as from  
18 the action of waves on water, from hydroelectric facilities or from wind-powered turbines.

19 (b) "Public building" means a building that a public body, as defined in ORS 174.109, owns or  
20 controls, and that is:

21 (A) Used or occupied by employees of the public body; or

22 (B) Used for conducting public business.

23 (c)(A) **"Woody biomass energy technology" means a system that, for space or water**  
24 **heating or as a combined heat and power system, uses a boiler with a lower heating value**

**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 **combustion efficiency of at least 80 percent and that uses as fuel material from trees and**  
2 **woody plants, such as limbs, tops, needles, leaves and other woody parts, that:**

3 (i) **Grows in a forest, a woodland, a farm, a rangeland or a wildland that borders on an**  
4 **urban area; and**

5 (ii) **Is a by-product of forest management, agriculture, ecosystem restoration or fire**  
6 **prevention or related activities.**

7 (B) **“Woody biomass energy technology” does not include a system that uses for fuel:**

8 (i) **Wood pieces that have been treated with creosote, pentachlorophenol, chromated**  
9 **copper arsenate or other chemical preservatives; or**

10 (ii) **Municipal solid waste.**

11 (2)(a) Except as otherwise provided in this section, a contracting agency that intends to enter  
12 into a public improvement contract for constructing a public building or for reconstructing or per-  
13 forming a major renovation of a public building, if the cost of the reconstruction or major renovation  
14 exceeds 50 percent of the value of the public building, shall first make a determination under sub-  
15 section (3) of this section as to whether green energy technology is appropriate for the public  
16 building and, if the contracting agency determines that green energy technology is appropriate, shall  
17 ensure that the public improvement contract provides an amount equal to at least 1.5 percent of the  
18 total contract price for the purpose of including appropriate green energy technology as part of the  
19 construction, reconstruction or major renovation of the public building.

20 (b) A public improvement contract to construct, reconstruct or renovate a public building may  
21 provide for constructing green energy technology at a site that is located away from the site of the  
22 public building if:

23 (A) Constructing green energy technology away from the site of the public building and using  
24 the energy from the green energy technology at the site of the public building is more cost-effective,  
25 taking into account additional costs associated with transmitting generated energy to the site of the  
26 public building, than is constructing and using green energy technology at the site of the public  
27 building;

28 (B) The green energy technology that is located away from the site of the public building is lo-  
29 cated within this state and in the same county as, or in a county adjacent to, the site of the public  
30 building; and

31 (C) The public improvement contract provides that all of the moneys for constructing green en-  
32 ergy technology away from the site of the public building must fund new energy generating capacity  
33 that does not replace or constitute a purchase and use of energy generated from green energy  
34 technology that:

35 (i) Employs solar energy and that existed on the date that the original building permit for the  
36 public building was issued; or

37 (ii) Employs geothermal energy and for which construction was completed before January 1,  
38 2013.

39 (c) In evaluating whether a contracting agency can construct green energy technology at a site  
40 away from the site of the public building in accordance with paragraph (b)(A) of this subsection, the  
41 contracting agency shall[:]

42 [(A)] compare the costs of constructing green energy technology that employs [*solar energy*] a  
43 **particular fuel source or method of energy generation** at the site of the public building only  
44 with the corresponding costs of green energy technology that employs [*solar energy*] **the same fuel**  
45 **source or method of energy generation** at a location away from the site of the public building.[:]

1 *and]*

2 *[(B) Compare the costs of green energy technology that employs geothermal energy at the site of the*  
 3 *public building only with the corresponding costs of green energy technology that employs geothermal*  
 4 *energy at a location away from the site of the public building.]*

5 **(d)(A) As an alternative to including appropriate green energy technology as part of the**  
 6 **construction, reconstruction or major renovation of a public building, a contracting agency**  
 7 **may include woody biomass energy technology as part of constructing, reconstructing or**  
 8 **performing a major renovation on the public building if the woody biomass energy technology**  
 9 **creates new energy generation capacity that did not exist on the date on which the original**  
 10 **building permit for the public building was issued, the contracting agency has considered the**  
 11 **potential costs of the woody biomass energy technology and:**

12 **(i) The facility that uses woody biomass energy technology is located in an area of the**  
 13 **state that complies with standards that the Department of Environmental Quality has**  
 14 **adopted for emissions of particulate matter; or**

15 **(ii) The contracting agency demonstrates to the Department of Environmental Quality,**  
 16 **if the facility that uses woody biomass energy technology is located in an area that does not**  
 17 **comply with standards the department has adopted for emissions of particulate matter, that**  
 18 **one of the following two conditions applies:**

19 **(I) The fuel that the woody biomass energy technology uses is pelletized; or**

20 **(II) The woody biomass energy technology produces particulate matter emissions at the**  
 21 **same level as, or a lower level than, a functionally equivalent system that is capable of**  
 22 **producing the same energy output and that uses fuel that is pelletized.**

23 **(B) Notwithstanding a contracting agency's demonstrations in accordance with subpara-**  
 24 **graph (A)(ii) of this paragraph, the Department of Environmental Quality may require addi-**  
 25 **tional emissions control technologies or specifications before the contracting agency may**  
 26 **include woody biomass energy technology in the construction, reconstruction or major ren-**  
 27 **ovation of a public building.**

28 **(3) In making a determination as to whether green energy technology is appropriate, or**  
 29 **whether woody biomass energy technology is a suitable alternative to green energy technol-**  
 30 **ogy, in constructing, reconstructing or performing a major renovation of a public building, a con-**  
 31 **tracting agency shall list in the determination the total contract price and specify the amount the**  
 32 **agency intends to expend on including green energy technology or woody biomass energy tech-**  
 33 **nology as part of the construction, reconstruction or major renovation. The State Department of**  
 34 **Energy shall develop a form that a contracting agency may use to prepare the written determination**  
 35 **described in this subsection.**

36 **(4)(a) If the contracting agency determines that green energy technology is not appropriate for**  
 37 **the public building, subsection (2) of this section does not apply to the public improvement**  
 38 **contract, except that if the contracting agency determines that woody biomass energy tech-**  
 39 **nology is a suitable alternative, the contracting agency will make the determination specified**  
 40 **in subsection (3) of this section for the woody biomass energy technology. A contracting**  
 41 **agency's determination under this paragraph must consider whether constructing green energy**  
 42 **technology or woody biomass energy technology at the site of the public building is appropriate**  
 43 **and whether constructing green energy technology or woody biomass energy technology away**  
 44 **from the site of the public building and in accordance with subsection (2)(b) and (c) of this section,**  
 45 **or with subsection (2)(d) of this section, as applicable, is appropriate.**

1 (b) If subsection (2) of this section does not apply to the public improvement contract:

2 (A) The contracting agency shall spend an amount equal to at least 1.5 percent of the total  
3 contract price to include appropriate green energy technology **or woody biomass energy tech-**  
4 **nology** as part of a future public building project; and

5 (B) The amount the contracting agency spends on the future public building project in accord-  
6 ance with subparagraph (A) of this paragraph is in addition to any amount required under sub-  
7 section (2) of this section for including appropriate green energy technology **or woody biomass**  
8 **energy technology** as part of the future public building project.

9 (5)(a) A contracting agency need not set aside the amount described in subsection (4)(b) **of this**  
10 **section** in an account or otherwise reserve moneys for a future public building at the time the  
11 contracting agency makes the determination described in subsection (3) of this section, but the  
12 contracting agency shall report the amount described in subsection (4)(b) **of this section** to the  
13 State Department of Energy as provided in ORS 279C.528 [(2)(a)] (2).

14 (b) Subsection (4)(b) of this section does not apply to a public improvement contract for which  
15 state funds are not directly or indirectly used.

16 (6)(a) This section does not exempt an authorized state agency, as defined in ORS 276.905, from  
17 complying with ORS 276.900 to 276.915, except that an authorized state agency, without complying  
18 with ORS 276.900 to 276.915, may determine that green energy technology **or woody biomass en-**  
19 **ergy technology** is appropriate to include as part of constructing, reconstructing or performing a  
20 major renovation of a public building.

21 (b) A contracting agency may not use an amount described in subsection (4)(b) of this section  
22 to comply with requirements set forth in ORS 276.900 to 276.915 or with a state building code  
23 standard that the Department of Consumer and Business Services approves under ORS 455.496.

24 (7) Notwithstanding the provisions of ORS 174.108 (3), this section applies to intergovernmental  
25 entities described in ORS 174.108 (3).

26 **SECTION 2.** ORS 279C.528 is amended to read:

27 279C.528. (1) Each contracting agency, in soliciting, awarding and administering public im-  
28 provement contracts that are subject to ORS 279C.527, is subject to rules the State Department of  
29 Energy adopts that include, but are not limited to, requirements and specifications for:

30 (a) Using particular green energy technologies in public improvements;

31 (b) Determining the cost-effectiveness of green energy technologies;

32 (c) Submitting documents required under ORS 279C.527 to the department for review; and

33 (d) Determining whether a structure is a public building subject to the requirements of ORS  
34 279C.527.

35 (2)(a) Each contracting agency shall collect and maintain information concerning the contract-  
36 ing agency's compliance with ORS 279C.527, which must include, at a minimum:

37 (A) Records that show how the contracting agency spent moneys the contracting agency used  
38 in including appropriate green energy technology **or woody biomass energy technology** as part  
39 of constructing, reconstructing or performing a major renovation of a public building;

40 (B) An identification of each public improvement contract for which the contracting agency  
41 spent moneys to include appropriate green **energy technology or woody biomass energy technol-**  
42 **ogy** as part of constructing, reconstructing or performing a major renovation of a public building;

43 (C) An identification of each public improvement contract for which the contracting agency de-  
44 termined that including green **energy technology or woody biomass energy technology** as part  
45 of constructing, reconstructing or performing a major renovation of a public building was not ap-

1 appropriate;

2 (D) The total amount the contracting agency would have spent on each public improvement  
3 contract identified in subparagraph (C) of this paragraph and the total aggregated amount that the  
4 contracting agency must spend to include green energy technology **or woody biomass energy**  
5 **technology** as part of constructing, reconstructing or performing a major renovation of a future  
6 public building; and

7 (E) An identification of each public improvement contract that uses moneys the contracting  
8 agency did not spend in a previous public improvement contract for including appropriate green  
9 energy technology **or woody biomass energy technology** as part of constructing, reconstructing  
10 or performing a major renovation of a public building.

11 (b) Each contracting agency shall compile the information the contracting agency collected un-  
12 der paragraph (a) of this subsection and report the information to the department at times, in a  
13 manner and on forms that the department specifies by rule.

14 (c) The department shall:

15 (A) Compile and summarize the information the department receives under paragraph (b) of this  
16 subsection and, in the department's compilation and summary, specifically:

17 (i) Identify contracting agencies that have not complied with the requirements of ORS 279C.527  
18 or the reporting requirements set forth in *[this section]* **paragraph (b) of this subsection;**

19 (ii) Identify public improvement contracts for which contracting agencies have determined that  
20 including green energy technology **or woody biomass energy technology** as part of constructing,  
21 reconstructing or performing a major renovation of a public building was not appropriate; and

22 (iii) Identify public improvement contracts that use moneys a contracting agency did not spend  
23 in a previous public improvement contract on including appropriate green energy technology **or**  
24 **woody biomass energy technology** as part of constructing, reconstructing or performing a major  
25 renovation of a public building.

26 (B) Deliver annually to the Legislative Assembly, on or before the date on which each regular  
27 session of the Legislative Assembly begins, a report concerning contracting agency compliance with  
28 this section and ORS 279C.527 that includes the compilation and summary the department prepared  
29 under subparagraph (A) of this paragraph.

30 **SECTION 3. The amendments to ORS 279C.527 and 279C.528 by sections 1 and 2 of this**  
31 **2017 Act apply to public improvement contracts that a contracting agency first advertises**  
32 **or otherwise solicits or, if the contracting agency does not advertise or solicit the public**  
33 **improvement contract, to public improvement contracts into which the contracting agency**  
34 **first enters on or after the effective date of this 2017 Act.**

35 **SECTION 4. This 2017 Act takes effect on the 91st day after the date on which the 2017**  
36 **regular session of the Seventy-ninth Legislative Assembly adjourns sine die.**

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