

House Bill 2494

Sponsored by Representative HOLVEY; Representatives DOHERTY, POWER, WILDE (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**.

Extends operation of public purpose charges until January 1, 2036.

A BILL FOR AN ACT

Relating to public purpose charge; amending ORS 757.612 and 757.687.

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

SECTION 1. ORS 757.612 is amended to read:

757.612. (1) There is established an annual public purpose expenditure standard for electric companies and Oregon Community Power to fund new cost-effective energy conservation, new market transformation efforts, the above-market costs of new renewable energy resources and new low-income weatherization. The public purpose expenditure standard shall be funded by the public purpose charge described in subsection (2) of this section.

(2)(a) Beginning on the date an electric company or Oregon Community Power offers direct access to retail electricity consumers, except residential electricity consumers, the electric company or Oregon Community Power shall collect a public purpose charge from all of the retail electricity consumers located within the electric company's or Oregon Community Power's service area until January 1, [2026] **2036**. Except as provided in paragraph (b) of this subsection, the public purpose charge shall be equal to three percent of the total revenues collected by the electric company, Oregon Community Power or the electricity service supplier from retail electricity consumers for electricity services, distribution services, ancillary services, metering and billing, transition charges and other types of costs included in electric rates on July 23, 1999.

(b) For an aluminum plant that averages more than 100 average megawatts of electricity use per year, the electric company or Oregon Community Power, whichever serves territory that abuts the greatest percentage of the site of the aluminum plant, shall collect from the aluminum company a public purpose charge equal to one percent of the total revenue from the sale of electricity services to the aluminum plant from any source.

(3)(a) The Public Utility Commission shall establish rules implementing the provisions of this section relating to electric companies and Oregon Community Power.

(b) Except as provided in paragraph (e) of this subsection, funds collected through public purpose charges under subsection (2) of this section shall be allocated as follows:

(A) Sixty-three percent for new cost-effective energy conservation and new market transformation efforts.

(B) Nineteen percent for the above-market costs of constructing and operating new renewable energy resources with a nominal electric generating capacity, as defined in ORS 469.300, of 20 megawatts or less.

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) Thirteen percent for new low-income weatherization.

2 (D) Five percent for deposit in the Housing and Community Services Department Electricity
 3 Public Purpose Charge Fund established by ORS 456.587 (1) for the purpose of providing grants as
 4 described in ORS 458.625 (2).

5 (c) The costs of administering subsections (1) to (6) of this section for an electric company or
 6 Oregon Community Power shall be paid out of the funds collected through public purpose charges.
 7 The commission may require an electric company or Oregon Community Power to direct funds col-
 8 lected through public purpose charges to state agencies responsible for implementing subsections (1)
 9 to (6) of this section in order to pay the costs of administering subsections (1) to (6) of this section.

10 (d) The commission shall direct the manner in which public purpose charges are collected and
 11 spent by an electric company or Oregon Community Power and may require an electric company
 12 or Oregon Community Power to expend funds through competitive bids or other means designed to
 13 encourage competition, except that funds dedicated for new low-income weatherization shall be di-
 14 rected to the Housing and Community Services Department for purposes related to new low-income
 15 weatherization. The commission may also require funds collected through public purpose charges to
 16 be paid to a nongovernmental entity for investment in public purposes described in subsection (1)
 17 of this section. Notwithstanding any other provision of this subsection:

18 (A) If an electric company collected the funds, at least 80 percent of the funds allocated for new
 19 cost-effective energy conservation shall be spent within the service area of the electric company;
 20 or

21 (B) If Oregon Community Power collected the funds, at least 80 percent of the funds allocated
 22 for new cost-effective energy conservation shall be spent within the service area of Oregon Com-
 23 munity Power.

24 (e)(A) The first 10 percent of funds collected each year by an electric company or Oregon
 25 Community Power under subsection (2) of this section shall be distributed to school districts that
 26 are located in the service territory of the electric company or Oregon Community Power. The funds
 27 shall be distributed to individual school districts according to the weighted average daily member-
 28 ship (ADMw) of each school district for the prior fiscal year as calculated under ORS 327.013. The
 29 commission shall establish by rule a methodology for distributing a proportionate share of funds
 30 under this paragraph to school districts that are only partially located in the service territory of the
 31 electric company or Oregon Community Power.

32 (B) A school district that receives funds under this paragraph shall use the funds first to pay
 33 for energy audits for schools located within the school district. A school district may not expend
 34 additional funds received under this paragraph on a school until an energy audit has been completed
 35 for that school. To the extent practicable, a school district shall coordinate with the State De-
 36 partment of Energy and incorporate federal funding in complying with this paragraph. Following
 37 completion of an energy audit for an individual school, the school district may expend funds received
 38 under this paragraph to implement the energy audit. Once an energy audit has been conducted and
 39 completely implemented for each school within the school district, the school district may expend
 40 funds received under this paragraph for any of the following purposes:

41 (i) Conducting additional energy audits. A school district shall conduct an energy audit prior to
 42 expending funds on any other purpose authorized under this paragraph unless the school district has
 43 performed an energy audit within the three years immediately prior to receiving the funds.

44 (ii) Weatherizing school district facilities and upgrading the energy efficiency of school district
 45 facilities.

1 (iii) Energy conservation education programs.

2 (iv) Purchasing electricity from environmentally focused sources.

3 (v) Investing in renewable energy resources.

4 (f) The commission may not establish a different public purpose charge than the public purpose
5 charge described in subsection (2) of this section.

6 (g) If the commission requires funds collected through public purpose charges to be paid to a
7 nongovernmental entity, the entity shall:

8 (A) Include on the entity's board of directors an ex officio member designated by the commis-
9 sion, who shall also serve on the entity's nominating committee for filling board vacancies.

10 (B) Require the entity's officers and directors to provide an annual disclosure of economic in-
11 terest to be filed with the commission on or prior to April 15 of each calendar year for public review
12 in a form similar to the statement of economic interest required for public officials under ORS
13 244.060.

14 (C) Require the entity's officers and directors to declare actual and potential conflicts of interest
15 at regular meetings of the entity's governing body when such conflicts arise, and require an officer
16 or director to abstain from participating in any discussion or voting on any item where that officer
17 or director has an actual conflict of interest. For the purposes of this subparagraph, "actual conflict
18 of interest" and "potential conflict of interest" have the meanings given those terms in ORS 244.020.

19 (D) Annually, arrange for an independent auditor to audit the entity's financial statements, and
20 direct the auditor to file an audit opinion with the commission for public review.

21 (E) Annually file with the commission the entity's budget, action plan and quarterly and annual
22 reports for public review.

23 (F) At least once every five years, contract for an independent management evaluation to review
24 the entity's operations, efficiency and effectiveness, and direct the independent reviewer to file a
25 report with the commission for public review.

26 (h) The commission may remove from the board of directors of a nongovernmental entity an of-
27 ficer or director who fails to provide an annual disclosure of economic interest, or who fails to de-
28 clare an actual or potential conflict of interest, as described in paragraph (g)(B) and (C) of this
29 subsection, if the failure is connected to the allocation or expenditure of funds collected through
30 public purpose charges and paid to the entity.

31 (4)(a) An electric company that satisfies its obligations under this section:

32 (A) Has no further obligation to invest in new cost-effective energy conservation, new market
33 transformation or new low-income weatherization, or to provide a commercial energy conservation
34 services program; and

35 (B) Is not subject to ORS 469.631 to 469.645 and 469.860 to 469.900.

36 (b) Oregon Community Power, for any period during which Oregon Community Power collects
37 a public purpose charge under subsection (2) of this section:

38 (A) Has no further obligation to invest in new cost-effective energy conservation, new market
39 transformation or new low-income weatherization, or to provide a commercial energy conservation
40 services program; and

41 (B) Is not subject to ORS 469.631 to 469.645 and 469.860 to 469.900.

42 (5)(a) A retail electricity consumer that uses more than one average megawatt of electricity at
43 any site in the prior year shall receive a credit against public purpose charges billed by an electric
44 company or Oregon Community Power for that site. The amount of the credit shall be equal to the
45 total amount of qualifying expenditures for new cost-effective energy conservation, not to exceed 68

1 percent of the annual public purpose charges, and the above-market costs of new renewable energy
2 resources incurred by the retail electricity consumer, not to exceed 19 percent of the annual public
3 purpose charges, less administration costs incurred under this paragraph and paragraphs (b) and (c)
4 of this subsection. The credit may not exceed, on an annual basis, the lesser of:

5 (A) The amount of the retail electricity consumer's qualifying expenditures; or

6 (B) The portion of the public purpose charge billed to the retail electricity consumer that is
7 dedicated to new cost-effective energy conservation, new market transformation or the above-market
8 costs of new renewable energy resources.

9 (b) To obtain a credit under paragraph (a) of this subsection, a retail electricity consumer shall
10 file with the State Department of Energy a description of the proposed conservation project or new
11 renewable energy resource and a declaration that the retail electricity consumer plans to incur the
12 qualifying expenditure. The State Department of Energy shall issue a notice of precertification
13 within 30 days of receipt of the filing, if such filing is consistent with paragraph (a) of this sub-
14 section. The credit may be taken after a retail electricity consumer provides a letter from a certified
15 public accountant to the State Department of Energy verifying that the precertified qualifying ex-
16 penditure has been made.

17 (c) Credits earned by a retail electricity consumer as a result of qualifying expenditures that
18 are not used in one year may be carried forward for use in subsequent years.

19 (d)(A) A retail electricity consumer that uses more than one average megawatt of electricity at
20 any site in the prior year may request that the State Department of Energy hire an independent
21 auditor to assess the potential for conservation investments at the site. If the independent auditor
22 determines there is no available conservation measure at the site that would have a simple payback
23 of one to 10 years, the retail electricity consumer shall be relieved of 54 percent of its payment
24 obligation for public purpose charges related to the site. If the independent auditor determines that
25 there are potential conservation measures available at the site, the retail electricity consumer shall
26 be entitled to a credit against public purpose charges related to the site equal to 54 percent of the
27 public purpose charges less the estimated cost of available conservation measures.

28 (B) A retail electricity consumer shall be entitled each year to the credit described in this par-
29 agraph unless a subsequent independent audit determines that new conservation investment oppor-
30 tunities are available. The State Department of Energy may require that a new independent audit
31 be performed on the site to determine whether new conservation measures are available, provided
32 that the independent audits occur no more than once every two years.

33 (C) The retail electricity consumer shall pay the cost of the independent audits described in this
34 paragraph.

35 (6) Electric utilities and retail electricity consumers shall receive a fair and reasonable credit
36 for the public purpose expenditures of their energy suppliers. The State Department of Energy shall
37 adopt rules to determine eligible expenditures and the method by which such credits are accounted
38 for and used. The State Department of Energy also shall adopt methods to account for eligible public
39 purpose expenditures made through consortia or collaborative projects.

40 (7)(a) In addition to the public purpose charge provided under subsection (2) of this section, an
41 electric company or Oregon Community Power shall collect funds for low-income electric bill pay-
42 ment assistance in an amount determined under paragraph (b) of this subsection.

43 (b) The commission shall establish the amount to be collected by each electric company from
44 retail electricity consumers, and the rates to be charged by each electric company to retail elec-
45 tricity consumers, so that the forecasted collection by all electric companies in calendar year 2018

1 is \$20 million. In subsequent calendar years, the commission may not decrease the rates below those
2 established for calendar year 2018. The commission may temporarily adjust the rates if forecasted
3 collections or actual collections are less than \$20 million in any calendar year. A retail electricity
4 consumer may not be required to pay more than \$500 per month per site for low-income electric bill
5 payment assistance.

6 (c) Funds collected through the low-income electric bill payment assistance charge shall be paid
7 into the Housing and Community Services Department Low-Income Electric Bill Payment Assistance
8 Fund established by ORS 456.587 (2). Moneys deposited in the fund under this paragraph shall be
9 used by the Housing and Community Services Department solely for purposes related to low-income
10 electric bill payment assistance and for the Housing and Community Services Department's cost of
11 administering this subsection. Funds collected by an electric company or Oregon Community Power
12 under this subsection shall be expended in the service area of the electric company or Oregon
13 Community Power from which the funds are collected.

14 (d)(A) The Housing and Community Services Department shall determine the manner in which
15 funds collected under this subsection will be allocated by the Housing and Community Services
16 Department to energy assistance program providers for the purpose of providing low-income bill
17 payment and crisis assistance.

18 (B) The Housing and Community Services Department, in consultation with electric companies,
19 shall investigate and may implement alternative delivery models to effectively reduce service dis-
20 connections and related costs to retail electricity consumers and electric utilities.

21 (C) Priority assistance shall be directed to low-income electricity consumers who are in danger
22 of having their electricity service disconnected.

23 (D) The Housing and Community Services Department shall maintain records and provide those
24 records upon request to an electric company, Oregon Community Power and the Citizens' Utility
25 Board established under ORS chapter 774 on a quarterly basis. Records maintained must include
26 the numbers of low-income electricity consumers served, the average amounts paid to low-income
27 electricity consumers and the type of assistance provided to low-income electricity consumers.
28 Electric companies and Oregon Community Power shall, if requested, provide the Housing and
29 Community Services Department with aggregate data relating to low-income electricity consumers
30 served on a quarterly basis to support program development.

31 (e) Interest on moneys deposited in the Housing and Community Services Department Low-
32 Income Electric Bill Payment Assistance Fund established by ORS 456.587 (2) may be used to pro-
33 vide bill payment and crisis assistance to electricity consumers whose primary source of heat is not
34 electricity.

35 (f) Notwithstanding ORS 757.310, the commission may allow an electric company or Oregon
36 Community Power to provide reduced rates or other bill payment or crisis assistance or low-income
37 program assistance to a low-income household eligible for assistance under the federal Low Income
38 Home Energy Assistance Act of 1981, as amended and in effect on July 23, 1999.

39 (8) For purposes of this section, "retail electricity consumers" includes any direct service in-
40 dustrial consumer that purchases electricity without purchasing distribution services from the elec-
41 tric utility.

42 (9) For purposes of this section, funds collected by Oregon Community Power through public
43 purpose charges are not considered moneys received from electric utility operations.

44 **SECTION 2.** ORS 757.687 is amended to read:

45 757.687. (1) Beginning on the date a consumer-owned utility provides direct access to any class

1 of retail electric consumers, the consumer-owned utility shall collect from that consumer class a
2 nonbypassable public purpose charge until January 1, [2026] **2036**. Except as provided in subsection
3 (8) of this section, the amount of the public purpose charge shall be sufficient to produce revenue
4 of not less than three percent of the total revenue collected by the consumer-owned utility from its
5 retail electricity consumers for electricity services, distribution, ancillary services, metering and
6 billing, transition charges and any other costs included in rates as of July 23, 1999, except that the
7 consumer-owned utility may exclude from the calculation of such costs any cost related to the public
8 purposes described in subsection (5) of this section. If a consumer-owned utility has fewer than 17
9 consumers per mile of distribution line, the amount of the public purpose charge shall be sufficient
10 to produce revenue not less than three percent of the total revenue from the sale of electricity
11 services in the utility's service area to the consumer class that is provided direct access, or the
12 utility's consumer class percentage share of state total electricity sales multiplied by three percent
13 of total statewide retail electric revenue, whichever is less.

14 (2) Except as provided in subsection (9) of this section, the governing body of a consumer-owned
15 utility shall determine the manner of collecting and expending funds for public purposes required
16 by law to be assessed against and paid by the retail electric consumers of the utility. A determi-
17 nation by the governing body shall include:

- 18 (a) The manner for collecting public purpose charges;
- 19 (b) Public purpose programs upon which revenue from the charges may be expended; and
- 20 (c) The allocation of expenditures for each program.

21 (3) Beginning on the same date two years after July 23, 1999, a consumer-owned utility shall
22 report annually to the State Department of Energy created under ORS 469.030 on the public purpose
23 charges paid to the utility by its retail electric consumers and the public purposes on which the
24 revenue was expended.

25 (4) A consumer-owned utility may comply with the public purpose requirements of this section
26 by participating in collaborative efforts with other consumer-owned utilities located in this state.

27 (5) Funds assessed and paid by, and credits or other financial assistance issued or extended to,
28 retail electric consumers for purposes of this section may, in the discretion of the governing body
29 of the consumer-owned utility, be expended to fund programs for energy conservation, renewable
30 resources or low-income energy services otherwise required by the laws of this state, adopted by the
31 governing body pursuant to the National Energy Conservation Policy Act (Public Law 95-619, as
32 amended November 10, 1981), or conducted by the utility pursuant to agreement with the Bonneville
33 Power Administration under the Pacific Northwest Electric Power Planning and Conservation Act
34 (Public Law 96-501). All such funds expended, credits issued and incremental costs incurred in con-
35 nection with the performance of a consumer-owned utility's obligations under this section shall be
36 credited toward the utility's public purpose funding obligation under this section.

37 (6) A consumer-owned utility also may credit toward its funding obligations under this section
38 any incremental costs incurred by the utility for capital expenditures made to reduce its distribution
39 system energy losses, existing biomass gas and waste to energy systems, existing hydroelectric
40 generation projects using fish attraction water, for new energy conservation and renewable resource
41 funding costs included in its wholesale power supplier's charges and for electric power generated
42 by renewable or cogeneration resources pursuant to requirements of the Public Utilities Regulatory
43 Policy Act of 1978 (Public Law 95-617), to the extent that such costs exceed the average cost of the
44 utility's other electric power resources.

45 (7) A consumer-owned utility also may credit toward its public purpose funding obligations under

1 this section any costs incurred in complying with ORS 469.649 to 469.659.

2 (8) Beginning on March 1, 2002, a consumer-owned utility whose territory abuts the greatest
 3 percentage of the site of an aluminum plant that averages more than 100 megawatts of electricity
 4 use per year shall collect from the aluminum company a public purpose charge equal to one percent
 5 of the total revenue from the sale of electricity services to the aluminum plant from any source.

6 (9)(a) A retail electricity consumer that uses more than one average megawatt of electricity at
 7 any site in the prior year shall receive a credit against public purpose charges billed by a
 8 consumer-owned utility for that site. The amount of the credit shall be equal to the total amount
 9 of qualifying expenditures for new energy conservation, not to exceed 68 percent of the annual
 10 public purpose charges, and the above-market costs of purchases of new renewable energy resources
 11 incurred by the retail electricity consumer, less administration costs incurred under this subsection.
 12 The credit shall not exceed, on an annual basis, the lesser of:

13 (A) The amount of the retail electricity consumer's qualifying expenditures; or

14 (B) The portion of the public purpose charge billed to the retail electricity consumer that is
 15 dedicated to new energy conservation, new market transformation or the above-market costs of new
 16 renewable resources.

17 (b) To obtain a credit under this subsection, a retail electricity consumer shall file with the
 18 department a description of the proposed conservation project, new market transformation or new
 19 renewable energy resource and a declaration that the retail electricity consumer plans to incur the
 20 qualifying expenditure. The department shall issue a notice of precertification within 30 days of
 21 receipt of the filing, if such filing is consistent with this subsection. Notice shall be issued to the
 22 retail electricity consumer and the appropriate consumer-owned utility. The credit may be taken
 23 after a retail electricity consumer provides a letter from a certified public accountant to the de-
 24 partment verifying that the precertified qualifying expenditure has been made.

25 (c) Credits earned by a retail electricity consumer as a result of qualifying expenditures that
 26 are not used in one year may be carried forward for use in subsequent years.

27 (d)(A) A retail electricity consumer that uses more than one average megawatt of electricity at
 28 any site in the prior year may request that the department hire an independent auditor to assess
 29 the potential for conservation measures at the site. If the independent auditor determines there is
 30 no available conservation measure at the site that would have a simple payback of one to 10 years,
 31 the retail electricity consumer shall be relieved of 54 percent of its payment obligation for public
 32 purpose charges related to the site. If the auditor determines that there are potential conservation
 33 measures available at the site, the retail electricity consumer shall be entitled to a credit against
 34 public purpose charges related to the site equal to 54 percent of the public purpose charges less the
 35 estimated cost of available conservation measures.

36 (B) A retail electricity consumer shall be entitled each year to the credit described in this par-
 37 agraph unless a subsequent audit determines that new conservation investment opportunities are
 38 available. The department may require that a new audit be performed on the site to determine
 39 whether new conservation measures are available, provided that the audits occur no more than once
 40 every two years.

41 (C) The retail electricity consumer shall pay the cost of the audits described in this subsection.

42 (10) A retail electricity consumer with a load greater than one average megawatt shall not be
 43 required to pay a public purpose charge in excess of three percent of the consumer's total cost of
 44 electricity services unless the charge is established in an agreement between the consumer and the
 45 consumer-owned utility.

1 (11) Beginning on March 1, 2002, a consumer-owned utility shall have in operation a bill assist-
2 ance program for households that qualify for federal low-income energy assistance in the
3 consumer-owned utility's service area. A consumer-owned utility shall report annually to the Hous-
4 ing and Community Services Department detailing the utility's program and program expenditures.

5 (12) A consumer-owned utility may require an electricity service supplier to provide information
6 necessary to ensure compliance with this section. The consumer-owned utility shall ensure the pri-
7 vacy and protection of any proprietary information provided.

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