

SENATE AMENDMENTS TO SENATE BILL 928

By COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES

April 15

- 1 On page 1 of the printed bill, line 8, after “469.097,” insert “469.100.”
- 2 In line 9, after “469.300,” insert “469.310.”
- 3 In line 10, after “469.450,” insert “469.470, 469.501.”
- 4 In line 23, after “701.532,” insert “757.230.”
- 5 In line 24, after “2007,” delete the rest of the line.
- 6 In line 25, delete “Oregon Laws 2007.”
- 7 In line 26, delete “184.425, 184.427, 184.429, 184.431, 184.433, 184.435.”
- 8 On page 2, line 1, after “468A.260,” insert “469.010.”
- 9 In line 6, after “701.119” insert “and sections 8a and 8b, chapter 739, Oregon Laws 2007”.
- 10 Delete line 14 and insert “469.010 to 469.155.”
- 11 Delete lines 21 through 24 and insert:
- 12 “(3) It is the goal of Oregon to promote the efficient use of energy resources, to develop low-
- 13 carbon technologies, resources and services to enhance this state’s economic competitiveness and
- 14 to assist Oregon industries and households with the equitable transition to an affordable and reliable
- 15 energy system and a mix of energy resources that can achieve the state’s greenhouse gas emissions
- 16 reduction goals.”.
- 17 In line 29, after “conservation” insert “, energy efficiency”.
- 18 Delete lines 40 and 41 and insert:
- 19 “(f) That the state pursue opportunities to conserve energy, to increase energy efficiency, to
- 20 enhance resilience to the impacts of climate change and to reduce emissions associated with the
- 21 built environment.”.
- 22 On page 3, line 2, after “that” insert “promote innovation and”.
- 23 In line 21, delete “clean”.
- 24 Delete line 22 and insert “energy conservation, energy efficiency and energy safety.”.
- 25 In line 23, after “cooperate” insert “as requested”.
- 26 In line 24, delete “any proceedings and all”.
- 27 In line 27, after “Governor” insert “and the Legislative Assembly”.
- 28 In line 29, delete “problems” and insert “challenges”.
- 29 In line 37, after “192.355,” insert “192.690,”.
- 30 In line 38, after “469.563,” insert “469.579,”.
- 31 In line 42, delete “clean”.
- 32 In line 43, delete “clean”.
- 33 On page 4, line 5, delete “clean”.
- 34 In line 6, delete “ORS 469.010” and insert “section 2 of this 2019 Act”.
- 35 On page 5, line 1, delete “and”.

- 1 In line 2, delete the period and insert “;
- 2 “(g) The Director of Agriculture or the designee of the director;
- 3 “(h) The Director of the Department of Environmental Quality or the director’s designee;
- 4 “(i) A member of the Public Utility Commission or the designee of the chairperson of the com-
- 5 mission;
- 6 “(j) The Director of Transportation or the director’s designee;
- 7 “(k) The Director of the Housing and Community Services Department or the director’s
- 8 designee;
- 9 “(L) The Water Resources Director or the director’s designee; and
- 10 “(m) The Director of the Oregon Health Authority or the director’s designee.”.

11 Delete lines 36 through 41 and insert:

12 **“SECTION 7. Notwithstanding the term of office specified by section 6 of this 2019 Act,**

13 **of the members first appointed by the Governor to the Oregon Climate Board:**

14 **“(1) Two shall serve for terms ending July 1, 2020.**

15 **“(2) Two shall serve for terms ending July 1, 2021.**

16 **“(3) Two shall serve for terms ending July 1, 2022.**

17 **“(4) Three shall serve for terms ending July 1, 2023.”.**

18 On page 6, line 1, after “development of the” insert “rules and”.

19 After line 16, insert:

20 **“SECTION 8a. (1) No later than September 15 of each year, the Oregon Climate Board**

21 **shall submit a report, in the manner provided in ORS 192.245, to the Legislative Assembly**

22 **on activities related to implementing the establishment of the Oregon Climate Authority.**

23 **“(2) The report shall include, but need not be limited to, information on:**

24 **“(a) The transfer of programs between the authority and other state agencies as provided**

25 **for by law; and**

26 **“(b) The development of capacity by the authority to implement, administer and enforce**

27 **the programs and activities of the authority.**

28 **“(3) The report may include recommendations for legislation.**

29 **“SECTION 8b. Section 8a of this 2019 Act is repealed on January 2, 2023.”.**

30 Delete lines 19 through 22 and insert:

31

32 **“(Amendments to statute, operative on effective date of Act)**

33

34 **“SECTION 8c. ORS 468A.280 is amended to read:**

35 **“468A.280. (1) [In addition to any registration and reporting that may be required under ORS**

36 **468A.050, the Environmental Quality Commission by rule may require registration and reporting by:]**

37 **As used in this section:**

38 **“(a) ‘Air contamination source’ has the meaning given that term in ORS 468A.005.**

39 **“(b) ‘Greenhouse gas’ includes, but is not limited to, carbon dioxide, methane, nitrous**

40 **oxide, hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride and nitrogen trifluoride.**

41 **“(2) The Environmental Quality Commission by rule may require registration and re-**

42 **porting of information necessary to determine greenhouse gas emissions by:**

43 **“(a) A person in control of an air contamination source of any class for which registra-**

44 **tion and reporting is required under ORS 468A.050.**

45 **“[(a)] (b) [Any] A person who imports, sells, allocates or distributes electricity for use in this**

1 state [*electricity, the generation of which emits greenhouse gases*].

2 “[*(b)*] (c) [*Any*] A person who imports, sells or distributes for use in this state fossil fuel that
3 generates greenhouse gases when combusted.

4 “(3) A person required to register and report under subsection (2) of this section shall
5 register with the Department of Environmental Quality and make reports containing infor-
6 mation that the commission by rule may require that is relevant to determining and verify-
7 ing greenhouse gas emissions. The commission may by rule require the person to provide an
8 audit by an independent and disinterested party to verify that the greenhouse gas emissions
9 information reported by the person is true and accurate.

10 “[*(2)*] (4) Rules adopted by the commission under this section for electricity that is imported,
11 sold, allocated or distributed for use in this state may require reporting of information necessary to
12 determine greenhouse gas emissions from generating facilities used to produce the electricity and
13 related electricity transmission line losses.

14 “[*(3)(a)*] (5)(a) The commission shall allow consumer-owned utilities, as defined in ORS 757.270,
15 to comply with reporting requirements imposed under this section by the submission of a report
16 prepared by a third party. A report submitted under this paragraph may include information for
17 more than one consumer-owned utility, but must include all information required by the commission
18 for each individual utility.

19 “(b) For the purpose of determining greenhouse gas emissions related to electricity purchased
20 from the Bonneville Power Administration by a consumer-owned utility, as defined in ORS 757.270,
21 the commission may require only that the utility report:

22 “(A) The number of megawatt-hours of electricity purchased by the utility from the Bonneville
23 Power Administration, segregated by the types of contracts entered into by the utility with the
24 Bonneville Power Administration; and

25 “(B) The percentage of each fuel or energy type used to produce electricity purchased under
26 each type of contract.

27 “[*(4)(a)*] (6)(a) Rules adopted by the commission pursuant to this section for electricity that is
28 purchased, imported, sold, allocated or distributed for use in this state by an electric company, as
29 defined in ORS 757.600, must be limited to the reporting of:

30 “(A) The generating facility fuel type and greenhouse gas emissions emitted from generating
31 facilities owned or operated by the electric company;

32 “(B) The megawatt-hours of electricity generated by the electric company for use in this
33 state;

34 “[*(B)*] (C) Greenhouse gas emissions emitted from transmission equipment owned or operated by
35 the electric company;

36 “[*(C)*] (D) The number of megawatt-hours of electricity purchased by the electric company for
37 use in this state, including information, if known, on:

38 “(i) The seller of the electricity to the electric company; and

39 “(ii) The original generating facility fuel type or types; and

40 “[*(D)*] (E) An estimate of the amount of greenhouse gas emissions[, *using default greenhouse gas*
41 *emissions factors established by the commission by rule,*] attributable to:

42 “(i) Electricity purchases made by a particular seller to the electric company;

43 “(ii) Electricity purchases from an unknown origin or from a seller who is unable to identify the
44 original generating facility fuel type or types;

45 “(iii) Electricity purchases for which a renewable energy certificate under ORS 469A.130 has

1 been issued but subsequently transferred or sold to a person other than the electric company;

2 “(iv) Electricity transmitted for others by the electric company; and

3 “(v) Total energy losses from electricity transmission and distribution equipment owned or op-
4 erated by the electric company.

5 “(b) Pursuant to paragraph (a) of this subsection, a multijurisdictional electric company may rely
6 upon a cost allocation methodology approved by the Public Utility Commission for reporting emis-
7 sions allocated in this state.

8 “[5] (7) Rules adopted by the commission under this section for [*fossil*] fuel that is imported,
9 sold or distributed for use in this state may require reporting of the type and quantity of the fuel
10 and any additional information necessary to determine the [*carbon content*] **greenhouse gas emis-**
11 **sions associated with the use or combustion** of the fuel. [*For the purpose of determining*
12 *greenhouse gas emissions related to liquefied petroleum gas, the commission shall allow reporting using*
13 *publications or submission of data by the American Petroleum Institute but may require reporting of*
14 *such other information necessary to achieve the purposes of the rules adopted by the commission under*
15 *this section.*]

16 “[6] (8) To an extent that is consistent with the purposes of the rules adopted by the commis-
17 sion under this section, the commission shall minimize the burden of the reporting required under
18 this section by:

19 “(a) Allowing concurrent reporting of information that is also reported to another state agency;

20 “(b) Allowing electronic reporting;

21 “(c) Allowing use of good engineering practice calculations in reports, or of emission factors
22 published by the United States Environmental Protection Agency;

23 “(d) Establishing thresholds for the amount of specific greenhouse gases that may be emitted or
24 generated without reporting;

25 “(e) Requiring reporting by the fewest number of persons in a fuel distribution system that will
26 allow the commission to acquire the information needed by the commission; or

27 “(f) Other appropriate means and procedures determined by the commission.

28 “[7] *As used in this section, ‘greenhouse gas’ has the meaning given that term in ORS*
29 *468A.210.*]

30 “(9) **The department may require a person for which registration and reporting is re-**
31 **quired under subsection (2) of this section to provide any pertinent records related to ver-**
32 **ification of greenhouse gas emissions in order to determine compliance with and to enforce**
33 **this section and rules adopted pursuant to this section.**

34 “(10) **If a person required to register and report under subsection (2) of this section fails**
35 **to submit a report under this section, the department may develop an assigned emissions**
36 **level for the person if necessary for the purpose of regulating persons under any program**
37 **for the regulation of greenhouse gas emissions adopted by the Legislative Assembly.**

38 “(11)(a) **By rule the commission may establish a schedule of fees for registration and**
39 **reporting under this section. Before establishing fees pursuant to this subsection, the com-**
40 **mission shall consider the total fees for each person subject to registration and reporting**
41 **under this section.**

42 “(b) **The commission shall limit the fees established under this subsection to the antic-**
43 **ipated cost of developing, implementing and analyzing data collected under greenhouse gas**
44 **emissions registration and reporting programs.**

1 “(Transfer from Department of Environmental Quality to
2 Oregon Climate Authority, operative January 1, 2022)”.

3
4 On page 8, delete lines 11 through 45 and delete page 9.

5 On page 10, delete lines 1 through 22 and insert:

6 “**SECTION 16.** ORS 468A.280, as amended by section 8c of this 2019 Act is amended to read:

7 “468A.280. (1) As used in this section:

8 “(a) ‘Air contamination source’ has the meaning given that term in ORS 468A.005.

9 “(b) ‘Greenhouse gas’ includes, but is not limited to, carbon dioxide, methane, nitrous oxide,
10 hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride and nitrogen trifluoride.

11 “(2) The [*Environmental Quality Commission*] **Director of the Oregon Climate Authority** by
12 rule may require registration and reporting of information necessary to determine greenhouse gas
13 emissions by:

14 “(a) A person in control of an air contamination source of any class for which registration and
15 reporting is required under ORS 468A.050.

16 “(b) A person who imports, sells, allocates or distributes electricity for use in this state.

17 “(c) A person who imports, sells or distributes for use in this state fossil fuel that generates
18 greenhouse gases when combusted.

19 “(3) A person required to register and report under subsection (2) of this section shall register
20 with the [*Department of Environmental Quality*] **Oregon Climate Authority** and make reports con-
21 taining information that the [*commission*] **director** by rule may require that is relevant to deter-
22 mining and verifying greenhouse gas emissions. The [*commission*] **director** may by rule require the
23 person to provide an audit by an independent and disinterested party to verify that the greenhouse
24 gas emissions information reported by the person is true and accurate.

25 “(4) Rules adopted by the [*commission*] **director** under this section for electricity that is im-
26 ported, sold, allocated or distributed for use in this state may require reporting of information nec-
27 essary to determine greenhouse gas emissions from generating facilities used to produce the
28 electricity and related electricity transmission line losses.

29 “(5)(a) The [*commission*] **director** shall allow consumer-owned utilities, as defined in ORS
30 757.270, to comply with reporting requirements imposed under this section by the submission of a
31 report prepared by a third party. A report submitted under this paragraph may include information
32 for more than one consumer-owned utility, but must include all information required by the [*com-*
33 *mission*] **director** for each individual utility.

34 “(b) For the purpose of determining greenhouse gas emissions related to electricity purchased
35 from the Bonneville Power Administration by a consumer-owned utility, as defined in ORS 757.270,
36 the [*commission*] **director** may require only that the utility report:

37 “(A) The number of megawatt-hours of electricity purchased by the utility from the Bonneville
38 Power Administration, segregated by the types of contracts entered into by the utility with the
39 Bonneville Power Administration; and

40 “(B) The percentage of each fuel or energy type used to produce electricity purchased under
41 each type of contract.

42 “(6)(a) Rules adopted by the [*commission*] **director** pursuant to this section for electricity that
43 is purchased, imported, sold, allocated or distributed for use in this state by an electric company,
44 as defined in ORS 757.600, must be limited to the reporting of:

45 “(A) The generating facility fuel type and greenhouse gas emissions emitted from generating

1 facilities owned or operated by the electric company;

2 “(B) The megawatt-hours of electricity generated by the electric company for use in this state;

3 “(C) Greenhouse gas emissions emitted from transmission equipment owned or operated by the
4 electric company;

5 “(D) The number of megawatt-hours of electricity purchased by the electric company for use in
6 this state, including information, if known, on:

7 “(i) The seller of the electricity to the electric company; and
8 “(ii) The original generating facility fuel type or types; and
9 “(E) An estimate of the amount of greenhouse gas emissions attributable to:

10 “(i) Electricity purchases made by a particular seller to the electric company;
11 “(ii) Electricity purchases from an unknown origin or from a seller who is unable to identify the
12 original generating facility fuel type or types;

13 “(iii) Electricity purchases for which a renewable energy certificate under ORS 469A.130 has
14 been issued but subsequently transferred or sold to a person other than the electric company;

15 “(iv) Electricity transmitted for others by the electric company; and
16 “(v) Total energy losses from electricity transmission and distribution equipment owned or op-
17 erated by the electric company.

18 “(b) Pursuant to paragraph (a) of this subsection, a multijurisdictional electric company may rely
19 upon a cost allocation methodology approved by the Public Utility Commission for reporting emis-
20 sions allocated in this state.

21 “(7) Rules adopted by the [commission] **director** under this section for fuel that is imported, sold
22 or distributed for use in this state may require reporting of the type and quantity of the fuel and
23 any additional information necessary to determine the greenhouse gas emissions associated with the
24 use or combustion of the fuel.

25 “(8) To an extent that is consistent with the purposes of the rules adopted by the [commission]
26 **director** under this section, the [commission] **director** shall minimize the burden of the reporting
27 required under this section by:

28 “(a) Allowing concurrent reporting of information that is also reported to another state agency;
29 “(b) Allowing electronic reporting;
30 “(c) Allowing use of good engineering practice calculations in reports, or of emission factors
31 published by the United States Environmental Protection Agency;
32 “(d) Establishing thresholds for the amount of specific greenhouse gases that may be emitted or
33 generated without reporting;
34 “(e) Requiring reporting by the fewest number of persons in a fuel distribution system that will
35 allow the [commission] **director** to acquire the information needed by the [commission] **director**; or
36 “(f) Other appropriate means and procedures determined by the [commission] **director**.

37 “(9) The [department] **authority** may require a person for which registration and reporting is
38 required under subsection (2) of this section to provide any pertinent records related to verification
39 of greenhouse gas emissions in order to determine compliance with and to enforce this section and
40 rules adopted pursuant to this section.

41 “(10) If a person required to register and report under subsection (2) of this section fails to
42 submit a report under this section, the [department] **authority** may develop an assigned emissions
43 level for the person if necessary for the purpose of regulating persons under any program for the
44 regulation of greenhouse gas emissions adopted by the Legislative Assembly.

45 “(11)(a) By rule the [commission] **director** may establish a schedule of fees for registration and

1 reporting under this section. Before establishing fees pursuant to this subsection, the [*commission*]
2 **director** shall consider the total fees for each person subject to registration and reporting under
3 this section.

4 “(b) The [*commission*] **director** shall limit the fees established under this subsection to the an-
5 ticipated cost of developing, implementing and analyzing data collected under greenhouse gas emis-
6 sions registration and reporting programs.”.

7 In line 32, after “192.355,” insert “192.690,”.

8 In line 36, after “469.563,” insert “469.566 to 469.583, 469.584, 469.585, 469.586, 469.587,”.

9 In line 42, delete “sections 8a and”.

10 In line 43, delete “8b (2), chapter 739, Oregon Laws 2007,”.

11 On page 13, delete lines 32 through 45 and delete pages 14 through 19.

12 On page 20, delete lines 1 through 32 and insert:

13
14 **“(Provisions Related to the Energy Supplier Assessment,**
15 **operative July 1, 2020)**

16
17 **“SECTION 26.** ORS 469.120 is amended to read:

18 “469.120. (1) The [*State Department of Energy*] **Oregon Climate Authority** Account is estab-
19 lished.

20 “(2) The account shall consist of all funds received by the [*State Department of Energy*] **Oregon**
21 **Climate Authority** pursuant to law. All moneys in the account are continuously appropriated to the
22 [*State Department of Energy*] **Oregon Climate Authority** for payment of expenses of the
23 [*department*] **authority** and of the Energy Facility Siting Council.

24 “(3) Moneys collected under ORS 469.421 (8) may be expended only for the purposes of programs
25 and activities that the council and the department are charged with administering and authorized
26 to conduct under the laws of this state, including those enumerated in ORS 469.030.

27 “(4) The Director of the [*State Department of Energy*] **Oregon Climate Authority** shall keep a
28 record of all moneys deposited in the account. The record shall indicate by special cumulative ac-
29 counts the source from which moneys are derived and the individual activity or program, including
30 any activities described in ORS 469.424, against which each withdrawal is charged. On or after Oc-
31 tober 1 of each year, the director shall make available, upon request, the record for the prior fiscal
32 year to any energy resource supplier that has paid the assessment imposed under ORS 469.421 (8).
33 The director shall make the record available within 30 days of receiving the request.

34 **“SECTION 27.** ORS 469.421 is amended to read:

35 “469.421. (1) Subject to the provisions of ORS 469.441, any person submitting a notice of intent,
36 a request for exemption under ORS 469.320, a request for an expedited review under ORS 469.370,
37 a request for an expedited review under ORS 469.373, a request for the [*State Department of*
38 *Energy*] **Oregon Climate Authority** to approve a pipeline under ORS 469.405 (3), an application for
39 a site certificate or a request to amend a site certificate shall pay all expenses incurred by the
40 Energy Facility Siting Council and the [*department*] **authority** related to the review and decision
41 of the council. Expenses under this subsection may include:

42 “(a) Legal expenses;

43 “(b) Expenses incurred in processing and evaluating the application;

44 “(c) Expenses incurred in issuing a final order or site certificate;

45 “(d) Expenses incurred in commissioning an independent study under ORS 469.360;

1 “(e) Compensation paid to a state agency, a tribe or a local government pursuant to a written
2 contract or agreement relating to compensation as provided for in ORS 469.360; or

3 “(f) Expenses incurred by the council in making rule changes that are specifically required and
4 related to the particular site certificate.

5 “(2) Every person submitting a notice of intent to file for a site certificate, a request for ex-
6 emption or a request for expedited review shall pay the fee required under the fee schedule estab-
7 lished under ORS 469.441 to the [department] **authority** prior to submitting the notice or request to
8 the council. To the extent possible, the full cost of the evaluation shall be paid from the fee paid
9 under this subsection. However, if costs of the evaluation exceed the fee, the person submitting the
10 notice or request shall pay any excess costs shown in an itemized statement prepared by the council.
11 In no event shall the council incur evaluation expenses in excess of 110 percent of the fee initially
12 paid unless the council provides prior notification to the applicant and a detailed projected budget
13 the council believes necessary to complete the project. If costs are less than the fee paid, the excess
14 shall be refunded to the person submitting the notice or request.

15 “(3) Before submitting a site certificate application, the applicant shall request from the [de-
16 partment] **authority** an estimate of the costs expected to be incurred in processing the application.
17 The [department] **authority** shall inform the applicant of that amount and require the applicant to
18 make periodic payments of the costs pursuant to a cost reimbursement agreement. The cost re-
19 imbursement agreement shall provide for payment of 25 percent of the estimated costs when the
20 applicant submits the application. If costs of the evaluation exceed the estimate, the applicant shall
21 pay any excess costs shown in an itemized statement prepared by the council. In no event shall the
22 council incur evaluation expenses in excess of 110 percent of the fee initially estimated unless the
23 council provided prior notification to the applicant and a detailed projected budget the council be-
24 lieves is necessary to complete the project. If costs are less than the fee paid, the council shall re-
25 fund the excess to the applicant.

26 “(4) Any person who is delinquent in the payment of fees under subsections (1) to (3) of this
27 section shall be subject to the provisions of subsection (11) of this section.

28 “(5) Subject to the provisions of ORS 469.441, each holder of a certificate shall pay an annual
29 fee, due every July 1 following issuance of a site certificate. For each fiscal year, upon approval of
30 the [department’s] **authority’s** budget authorization by an odd-numbered year regular session of the
31 Legislative Assembly or as revised by the Emergency Board meeting in an interim period or by the
32 Legislative Assembly meeting in special session or in an even-numbered year regular session, the
33 Director of the [State Department of Energy] **Oregon Climate Authority** promptly shall enter an
34 order establishing an annual fee based on the amount of revenues that the director estimates is
35 needed to fund the cost of ensuring that the facility is being operated consistently with the terms
36 and conditions of the site certificate, any order issued by the [department] **authority** under ORS
37 469.405 (3) and any applicable health or safety standards. In determining this cost, the director shall
38 include both the actual direct cost to be incurred by the council and the [department] **authority** to
39 ensure that the facility is being operated consistently with the terms and conditions of the site
40 certificate, any order issued by the [department] **authority** under ORS 469.405 (3) and any applicable
41 health or safety standards, and the general costs to be incurred by the council and the
42 [department] **authority** to ensure that all certificated facilities are being operated consistently with
43 the terms and conditions of the site certificates, any orders issued by the [department] **authority**
44 under ORS 469.405 (3) and any applicable health or safety standards that cannot be allocated to an
45 individual, licensed facility. Not more than 35 percent of the annual fee charged each facility shall

1 be for the recovery of these general costs. The fees for direct costs shall reflect the size and com-
2 plexity of the facility, the anticipated costs of ensuring compliance with site certificate conditions,
3 the anticipated costs of conducting site inspections and compliance reviews as described in ORS
4 469.430, and the anticipated costs of compensating state agencies and local governments for partic-
5 ipating in site inspection and compliance enforcement activities at the request of the council.

6 “(6) Each holder of a site certificate executed after July 1 of any fiscal year shall pay a fee for
7 the remaining portion of the year. The amount of the fee shall be set at the cost of regulating the
8 facility during the remaining portion of the year determined in the same manner as the annual fee.

9 “(7) When the actual costs of regulation incurred by the council and the *[department]* **authority**
10 for the year, including that portion of the general regulation costs that have been allocated to a
11 particular facility, are less than the annual fees for that facility, the unexpended balance shall be
12 refunded to the site certificate holder. When the actual regulation costs incurred by the council and
13 the *[department]* **authority** for the year, including that portion of the general regulation costs that
14 have been allocated to a particular facility, are projected to exceed the annual fee for that facility,
15 the director may issue an order revising the annual fee.

16 “(8)(a) In addition to any other fees required by law, each energy resource supplier shall pay to
17 the *[department]* **authority** annually its share of an assessment to fund the programs and activities
18 of the council and the *[department]* **authority**.

19 “(b) Prior to filing an agency request budget under ORS 291.208 for purposes related to the
20 compilation and preparation of the Governor’s budget under ORS 291.216, the director shall deter-
21 mine the projected aggregate amount of revenue to be collected from energy resource suppliers un-
22 der this subsection that will be necessary to fund the programs and activities of the council and the
23 *[department]* **authority** for each fiscal year of the upcoming biennium. After making that determi-
24 nation, the director shall convene a public meeting with representatives of energy resource suppliers
25 and other interested parties for the purpose of providing energy resource suppliers with a full ac-
26 counting of:

27 “(A) The projected revenue needed to fund each *[department]* program or activity **of the au-**
28 **thority**; and

29 “(B) The projected allocation of moneys derived from the assessment imposed under this sub-
30 section to each *[department]* program or activity **of the authority**.

31 “(c) Upon approval of the budget authorization of the council and the *[department]* **authority**
32 by an odd-numbered year regular session of the Legislative Assembly, the director shall promptly
33 enter an order establishing the amount of revenues required to be derived from an assessment pur-
34 suant to this subsection in order to fund programs and activities that the council and the *[depart-*
35 *ment]* **authority** are charged with administering and authorized to conduct under the laws of this
36 state, including those enumerated in ORS 469.030, for the first fiscal year of the forthcoming
37 biennium. On or before June 1 of each even-numbered year, the director shall enter an order es-
38 tablishing the amount of revenues required to be derived from an assessment pursuant to this sub-
39 section in order to fund the programs and activities that the council and the *[department]* **authority**
40 are charged with administering and authorized to conduct under the laws of this state, including
41 those enumerated in ORS 469.030, for the second fiscal year of the biennium. The order shall take
42 into account any revisions to the biennial budget of the council and the *[department]* **authority**
43 made by the Emergency Board meeting in an interim period or by the Legislative Assembly meeting
44 in special session or in an even-numbered year regular session.

45 “(d) Each order issued by the director pursuant to paragraph (c) of this subsection shall allocate

1 the aggregate assessment set forth in the order to energy resource suppliers in accordance with
2 paragraph (e) of this subsection.

3 “(e) The amount assessed to an energy resource supplier shall be based on the ratio which that
4 supplier’s annual gross operating revenue derived within this state in the preceding calendar year
5 bears to the total gross operating revenue derived within this state during that year by all energy
6 resource suppliers. The assessment against an energy resource supplier shall not exceed 0.375 per-
7 cent of the supplier’s gross operating revenue derived within this state in the preceding calendar
8 year. The director shall exempt from payment of an assessment any individual energy resource
9 supplier whose calculated share of the annual assessment is less than \$250.

10 “(f) The director shall send each energy resource supplier subject to assessment pursuant to this
11 subsection a copy of each order issued by registered or certified mail or through use of an electronic
12 medium with electronic receipt verification. The amount assessed to the energy resource supplier
13 pursuant to the order shall be considered to the extent otherwise permitted by law a government-
14 imposed cost and recoverable by the energy resource supplier as a cost included within the price
15 of the service or product supplied.

16 “(g) The amounts assessed to individual energy resource suppliers pursuant to paragraph (e) of
17 this subsection shall be paid to the [*department*] **authority** as follows:

18 “(A) Amounts assessed for the first fiscal year of a biennium shall be paid not later than 90 days
19 following adjournment sine die of the odd-numbered year regular session of the Legislative Assem-
20 bly; and

21 “(B) Amounts assessed for the second fiscal year of a biennium shall be paid not later than July
22 1 of each even-numbered year or 90 days following adjournment sine die of the even-numbered year
23 regular session of the Legislative Assembly, whichever is later.

24 “(h) An energy resource supplier shall provide the director, on or before May 1 of each year,
25 a verified statement showing its gross operating revenues derived within the state for the calendar
26 or fiscal year that was used by the energy resource supplier for the purpose of reporting federal
27 income taxes for the preceding calendar or fiscal year. The statement must be in the form prescribed
28 by the director and is subject to audit by the director. The statement must include an entry showing
29 the total operating revenue derived by petroleum suppliers from fuels sold that are subject to the
30 requirements of Article IX, section 3a, of the Oregon Constitution, and ORS 319.020 with reference
31 to aircraft fuel and motor vehicle fuel, and ORS 319.530. The director may grant an extension of not
32 more than 15 days for the requirements of this subsection if:

33 “(A) The energy supplier makes a showing of hardship caused by the deadline;

34 “(B) The energy supplier provides reasonable assurance that the energy supplier can comply
35 with the revised deadline; and

36 “(C) The extension of time does not prevent the council or the [*department*] **authority** from
37 fulfilling its statutory responsibilities.

38 “(i) As used in this section:

39 “(A) ‘Energy resource supplier’ means an electric utility, natural gas utility or petroleum sup-
40 plier supplying, generating, transmitting or distributing electricity, natural gas or petroleum pro-
41 ducts in Oregon.

42 “(B) ‘Gross operating revenue’ means gross receipts from sales or service made or provided
43 within this state during the regular course of the energy supplier’s business, but does not include
44 either revenue derived from interutility sales within the state or revenue received by a petroleum
45 supplier from the sale of fuels that are subject to the requirements of Article IX, section 3a, of the

1 Oregon Constitution, or ORS 319.020 or 319.530.

2 “(C) ‘Petroleum supplier’ has the meaning given that term in ORS 469.020.

3 “(j) In determining the amount of revenues that must be derived from any class of energy re-
4 source suppliers by assessment pursuant to this subsection, the director shall take into account all
5 other known or readily ascertainable sources of revenue to the council and [department]
6 **authority**, including, but not limited to, fees imposed under this section and federal funds, and may
7 take into account any funds previously assessed pursuant to ORS 469.420 (1979 Replacement Part)
8 or section 7, chapter 792, Oregon Laws 1981.

9 “(k) Orders issued by the director pursuant to this section shall be subject to judicial review
10 under ORS 183.484. The taking of judicial review shall not operate to stay the obligation of an en-
11 ergy resource supplier to pay amounts assessed to it on or before the statutory deadline.

12 “(9)(a) In addition to any other fees required by law, each operator of a nuclear fueled thermal
13 power plant or nuclear installation within this state shall pay to the [department] **authority** annu-
14 ally on July 1 an assessment in an amount determined by the director to be necessary to fund the
15 activities of the state and the counties associated with emergency preparedness for a nuclear fueled
16 thermal power plant or nuclear installation. The assessment shall not exceed \$461,250 per year.
17 Moneys collected as assessments under this subsection are continuously appropriated to the [de-
18 partment] **authority** for this purpose.

19 “(b) The [department] **authority** shall maintain and cause other state agencies and counties to
20 maintain time and billing records for the expenditure of any fees collected from an operator of a
21 nuclear fueled thermal power plant under paragraph (a) of this subsection.

22 “(10) Reactors operated by a college, university or graduate center for research purposes and
23 electric utilities not connected to the Northwest Power Grid are exempt from the fee requirements
24 of subsections (5), (8) and (9) of this section.

25 “(11)(a) All fees assessed by the [director] **authority** against holders of site certificates for fa-
26 cilities that have an installed capacity of 500 megawatts or greater may be paid in several install-
27 ments, the schedule for which shall be negotiated between the [director] **authority** and the site
28 certificate holder.

29 “(b) Energy resource suppliers or applicants or holders of a site certificate who fail to pay a fee
30 provided under subsections (1) to (9) of this section after it is due and payable shall pay, in addition
31 to that fee, a penalty of two percent of the fee a month for the period that the fee is past due. Any
32 payment made according to the terms of a schedule negotiated under paragraph (a) of this sub-
33 section shall not be considered past due. The director may bring an action to collect an unpaid fee
34 or penalty in the name of the State of Oregon in a court of competent jurisdiction. The court may
35 award reasonable attorney fees to the director if the director prevails in an action under this sub-
36 section. The court may award reasonable attorney fees to a defendant who prevails in an action
37 under this subsection if the court determines that the director had no objectively reasonable basis
38 for asserting the claim or no reasonable basis for appealing an adverse decision of the trial court.

39 “**SECTION 28.** ORS 469.426 is amended to read:

40 “469.426. (1) The Director of the [State Department of Energy] **Oregon Climate Authority** shall
41 convene an advisory work group composed of stakeholders representing energy resource suppliers,
42 the customers who ultimately pay for the energy supplier assessment imposed under ORS 469.421 (8)
43 through their energy bills and other groups that have an interest in the provision and regulation
44 of energy in this state.

45 “(2) The advisory work group shall review and make recommendations **to the director** on the

1 [State Department of Energy's] **Oregon Climate Authority's** proposals related to:

2 “(a) Planning, policy and technical analysis;

3 “(b) Legislative concepts; and

4 “(c) The department's requested budget.

5 “(3) The work group shall meet at least two times per year at the call of the director.

6
7 “(Provisions Related to the Energy Supplier Assessment,
8 **operative July 1, 2021)**

9
10 “**SECTION 28a.** ORS 469.120, as amended by section 26 of this 2019 Act, is amended to read:

11 “469.120. (1) The Oregon Climate Authority Account is established.

12 “(2) The account shall consist of all funds received by the Oregon Climate Authority pursuant
13 to law. All moneys in the account are continuously appropriated to the Oregon Climate Authority
14 for payment of expenses of the authority and of the Energy Facility Siting Council.

15 “(3) Moneys collected under ORS 469.421 (8) may be expended only for the purposes *[of programs*
16 *and activities that the council and the department are charged with administering and authorized to*
17 *conduct under the laws of this state, including those enumerated in ORS 469.030.]* **specified in ORS**
18 **469.421 (8)(a).**

19 “(4) The Director of the Oregon Climate Authority shall keep a record of all moneys deposited
20 in the account. The record shall indicate by special cumulative accounts the source from which
21 moneys are derived and the individual activity or program, including any activities described in ORS
22 469.424, against which each withdrawal is charged. On or after October 1 of each year, the director
23 shall make available, upon request, the record for the prior fiscal year to any energy resource sup-
24 plier that has paid the assessment imposed under ORS 469.421 (8). The director shall make the re-
25 cord available within 30 days of receiving the request.

26 “**SECTION 28b.** ORS 469.421, as amended by section 27 of this 2019 Act, is amended to read:

27 “469.421. (1) Subject to the provisions of ORS 469.441, any person submitting a notice of intent,
28 a request for exemption under ORS 469.320, a request for an expedited review under ORS 469.370,
29 a request for an expedited review under ORS 469.373, a request for the Oregon Climate Authority
30 to approve a pipeline under ORS 469.405 (3), an application for a site certificate or a request to
31 amend a site certificate shall pay all expenses incurred by the Energy Facility Siting Council and
32 the authority related to the review and decision of the council. Expenses under this subsection may
33 include:

34 “(a) Legal expenses;

35 “(b) Expenses incurred in processing and evaluating the application;

36 “(c) Expenses incurred in issuing a final order or site certificate;

37 “(d) Expenses incurred in commissioning an independent study under ORS 469.360;

38 “(e) Compensation paid to a state agency, a tribe or a local government pursuant to a written
39 contract or agreement relating to compensation as provided for in ORS 469.360; or

40 “(f) Expenses incurred by the council in making rule changes that are specifically required and
41 related to the particular site certificate.

42 “(2) Every person submitting a notice of intent to file for a site certificate, a request for ex-
43 emption or a request for expedited review shall pay the fee required under the fee schedule estab-
44 lished under ORS 469.441 to the authority prior to submitting the notice or request to the council.
45 To the extent possible, the full cost of the evaluation shall be paid from the fee paid under this

1 subsection. However, if costs of the evaluation exceed the fee, the person submitting the notice or
2 request shall pay any excess costs shown in an itemized statement prepared by the council. In no
3 event shall the council incur evaluation expenses in excess of 110 percent of the fee initially paid
4 unless the council provides prior notification to the applicant and a detailed projected budget the
5 council believes necessary to complete the project. If costs are less than the fee paid, the excess
6 shall be refunded to the person submitting the notice or request.

7 “(3) Before submitting a site certificate application, the applicant shall request from the au-
8 thority an estimate of the costs expected to be incurred in processing the application. The authority
9 shall inform the applicant of that amount and require the applicant to make periodic payments of
10 the costs pursuant to a cost reimbursement agreement. The cost reimbursement agreement shall
11 provide for payment of 25 percent of the estimated costs when the applicant submits the application.
12 If costs of the evaluation exceed the estimate, the applicant shall pay any excess costs shown in an
13 itemized statement prepared by the council. In no event shall the council incur evaluation expenses
14 in excess of 110 percent of the fee initially estimated unless the council provided prior notification
15 to the applicant and a detailed projected budget the council believes is necessary to complete the
16 project. If costs are less than the fee paid, the council shall refund the excess to the applicant.

17 “(4) Any person who is delinquent in the payment of fees under subsections (1) to (3) of this
18 section shall be subject to the provisions of subsection (11) of this section.

19 “(5) Subject to the provisions of ORS 469.441, each holder of a certificate shall pay an annual
20 fee, due every July 1 following issuance of a site certificate. For each fiscal year, upon approval of
21 the authority’s budget authorization by an odd-numbered year regular session of the Legislative
22 Assembly or as revised by the Emergency Board meeting in an interim period or by the Legislative
23 Assembly meeting in special session or in an even-numbered year regular session, the Director of
24 the Oregon Climate Authority promptly shall enter an order establishing an annual fee based on the
25 amount of revenues that the director estimates is needed to fund the cost of ensuring that the fa-
26 cility is being operated consistently with the terms and conditions of the site certificate, any order
27 issued by the authority under ORS 469.405 (3) and any applicable health or safety standards. In de-
28 termining this cost, the director shall include both the actual direct cost to be incurred by the
29 council and the authority to ensure that the facility is being operated consistently with the terms
30 and conditions of the site certificate, any order issued by the authority under ORS 469.405 (3) and
31 any applicable health or safety standards, and the general costs to be incurred by the council and
32 the authority to ensure that all certificated facilities are being operated consistently with the terms
33 and conditions of the site certificates, any orders issued by the authority under ORS 469.405 (3) and
34 any applicable health or safety standards that cannot be allocated to an individual, licensed facility.
35 Not more than 35 percent of the annual fee charged each facility shall be for the recovery of these
36 general costs. The fees for direct costs shall reflect the size and complexity of the facility, the an-
37 ticipated costs of ensuring compliance with site certificate conditions, the anticipated costs of con-
38 ducting site inspections and compliance reviews as described in ORS 469.430, and the anticipated
39 costs of compensating state agencies and local governments for participating in site inspection and
40 compliance enforcement activities at the request of the council.

41 “(6) Each holder of a site certificate executed after July 1 of any fiscal year shall pay a fee for
42 the remaining portion of the year. The amount of the fee shall be set at the cost of regulating the
43 facility during the remaining portion of the year determined in the same manner as the annual fee.

44 “(7) When the actual costs of regulation incurred by the council and the authority for the year,
45 including that portion of the general regulation costs that have been allocated to a particular fa-

1 cility, are less than the annual fees for that facility, the unexpended balance shall be refunded to
2 the site certificate holder. When the actual regulation costs incurred by the council and the au-
3 thority for the year, including that portion of the general regulation costs that have been allocated
4 to a particular facility, are projected to exceed the annual fee for that facility, the director may is-
5 sue an order revising the annual fee.

6 “(8)(a) In addition to any other fees required by law, each energy resource supplier shall pay to
7 the authority annually its share of an assessment to fund:

8 “(A) The programs and activities of the council [*and the authority.*];

9 “(B) **The energy services programs of the authority; and**

10 “(C) **The administrative overhead and shared services costs of the authority that are**
11 **attributable to the programs and activities described in subparagraphs (A) and (B) of this**
12 **paragraph, unless the administrative overhead or shared services costs are funded by ex-**
13 **penses or fees paid pursuant to subsection (1), (5) or (6) of this section.**

14 “(b) Prior to filing an agency request budget under ORS 291.208 for purposes related to the
15 compilation and preparation of the Governor’s budget under ORS 291.216, the director shall deter-
16 mine the projected aggregate amount of revenue to be collected from energy resource suppliers un-
17 der this subsection that will be necessary to fund the programs and activities of the council and the
18 authority **described in paragraph (a) of this subsection** for each fiscal year of the upcoming
19 biennium. After making that determination, the director shall convene a public meeting with repre-
20 sentatives of energy resource suppliers and other interested parties for the purpose of providing
21 energy resource suppliers with a full accounting of:

22 “(A) The projected revenue needed to fund each [*program or activity*] **energy services program**
23 of the authority; and

24 “(B) The projected allocation of moneys derived from the assessment imposed under this sub-
25 section to each [*program or activity*] **energy services program** of the authority.

26 “(c) Upon approval of the budget authorization of the council and the authority by an odd-
27 numbered year regular session of the Legislative Assembly, the director shall promptly enter an
28 order establishing the amount of revenues required to be derived from an assessment pursuant to
29 this subsection in order to fund programs and activities **described in paragraph (a) of this sub-**
30 **section** that the council and the authority are charged with administering and authorized to con-
31 duct under the laws of this state[, *including those enumerated in ORS 469.030,*] for the first fiscal
32 year of the forthcoming biennium. On or before June 1 of each even-numbered year, the director
33 shall enter an order establishing the amount of revenues required to be derived from an assessment
34 pursuant to this subsection in order to fund the programs and activities **described in paragraph**
35 **(a) of this subsection** that the council and the authority are charged with administering and au-
36 thorized to conduct under the laws of this state[, *including those enumerated in ORS 469.030,*] for the
37 second fiscal year of the biennium. The order shall take into account any revisions to the biennial
38 budget of the council and the authority made by the Emergency Board meeting in an interim period
39 or by the Legislative Assembly meeting in special session or in an even-numbered year regular ses-
40 sion.

41 “(d) Each order issued by the director pursuant to paragraph (c) of this subsection shall allocate
42 the aggregate assessment set forth in the order to energy resource suppliers in accordance with
43 paragraph (e) of this subsection.

44 “(e) The amount assessed to an energy resource supplier shall be based on the ratio which that
45 supplier’s annual gross operating revenue derived within this state in the preceding calendar year

1 bears to the total gross operating revenue derived within this state during that year by all energy
2 resource suppliers. The assessment against an energy resource supplier shall not exceed [0.375] **0.25**
3 percent of the supplier's gross operating revenue derived within this state in the preceding calendar
4 year. The director shall exempt from payment of an assessment any individual energy resource
5 supplier whose calculated share of the annual assessment is less than \$250.

6 “(f) The director shall send each energy resource supplier subject to assessment pursuant to this
7 subsection a copy of each order issued by registered or certified mail or through use of an electronic
8 medium with electronic receipt verification. The amount assessed to the energy resource supplier
9 pursuant to the order shall be considered to the extent otherwise permitted by law a government-
10 imposed cost and recoverable by the energy resource supplier as a cost included within the price
11 of the service or product supplied.

12 “(g) The amounts assessed to individual energy resource suppliers pursuant to paragraph (e) of
13 this subsection shall be paid to the authority as follows:

14 “(A) Amounts assessed for the first fiscal year of a biennium shall be paid not later than 90 days
15 following adjournment sine die of the odd-numbered year regular session of the Legislative Assem-
16 bly; and

17 “(B) Amounts assessed for the second fiscal year of a biennium shall be paid not later than July
18 1 of each even-numbered year or 90 days following adjournment sine die of the even-numbered year
19 regular session of the Legislative Assembly, whichever is later.

20 “(h) An energy resource supplier shall provide the director, on or before May 1 of each year,
21 a verified statement showing its gross operating revenues derived within the state for the calendar
22 or fiscal year that was used by the energy resource supplier for the purpose of reporting federal
23 income taxes for the preceding calendar or fiscal year. The statement must be in the form prescribed
24 by the director and is subject to audit by the director. The statement must include an entry showing
25 the total operating revenue derived by petroleum suppliers from fuels sold that are subject to the
26 requirements of Article IX, section 3a, of the Oregon Constitution, and ORS 319.020 with reference
27 to aircraft fuel and motor vehicle fuel, and ORS 319.530. The director may grant an extension of not
28 more than 15 days for the requirements of this subsection if:

29 “(A) The energy supplier makes a showing of hardship caused by the deadline;

30 “(B) The energy supplier provides reasonable assurance that the energy supplier can comply
31 with the revised deadline; and

32 “(C) The extension of time does not prevent the council or the authority from fulfilling its
33 statutory responsibilities.

34 “(i) As used in this section:

35 “(A) ‘Energy resource supplier’ means an electric utility, natural gas utility or petroleum sup-
36 plier supplying, generating, transmitting or distributing electricity, natural gas or petroleum pro-
37 ducts in Oregon.

38 “(B)(i) ‘Energy services program’ means a program or activity undertaken pursuant to
39 the duties, functions and powers of the authority that:

40 “(I) Provides expertise or technical or research support related to the administration of
41 state energy policies and programs;

42 “(II) Provides energy data, analysis and tools; or

43 “(III) Supports energy conservation, energy efficiency, energy system planning, reliability
44 and safety, energy storage, renewable energy resources, or alternative energy resources or
45 fuels.

1 “(ii) **‘Energy services program’ does not mean any program adopted by the Legislative**
2 **Assembly and administered by the authority to place a cap on anthropogenic greenhouse gas**
3 **emissions and to provide for a market-based mechanism for covered entities to demonstrate**
4 **compliance with the program.**

5 “[(B)] (C) ‘Gross operating revenue’ means gross receipts from sales or service made or provided
6 within this state during the regular course of the energy supplier’s business, but does not include
7 either revenue derived from interutility sales within the state or revenue received by a petroleum
8 supplier from the sale of fuels that are subject to the requirements of Article IX, section 3a, of the
9 Oregon Constitution, or ORS 319.020 or 319.530.

10 “[(C)] (D) ‘Petroleum supplier’ has the meaning given that term in ORS 469.020.

11 “(j) In determining the amount of revenues that must be derived from any class of energy re-
12 source suppliers by assessment pursuant to this subsection, the director shall take into account all
13 other known or readily ascertainable sources of revenue to the council and authority, including, but
14 not limited to, fees imposed under this section and federal funds, and may take into account any
15 funds previously assessed pursuant to ORS 469.420 (1979 Replacement Part) or section 7, chapter
16 792, Oregon Laws 1981.

17 “(k) Orders issued by the director pursuant to this section shall be subject to judicial review
18 under ORS 183.484. The taking of judicial review shall not operate to stay the obligation of an en-
19 ergy resource supplier to pay amounts assessed to it on or before the statutory deadline.

20 “(L) **No later than September 15 of each even-numbered year, the Secretary of State shall**
21 **conduct an audit to determine whether the assessment and uses of the energy resource**
22 **supplier assessment by the authority during the previous biennium complied with the pro-**
23 **visions of this subsection. The secretary shall provide a copy of the audit report issued for**
24 **an audit under this section to the director and to the Oregon Climate Board.**

25 “(9)(a) In addition to any other fees required by law, each operator of a nuclear fueled thermal
26 power plant or nuclear installation within this state shall pay to the authority annually on July 1
27 an assessment in an amount determined by the director to be necessary to fund the activities of the
28 state and the counties associated with emergency preparedness for a nuclear fueled thermal power
29 plant or nuclear installation. The assessment shall not exceed \$461,250 per year. Moneys collected
30 as assessments under this subsection are continuously appropriated to the authority for this purpose.

31 “(b) The authority shall maintain and cause other state agencies and counties to maintain time
32 and billing records for the expenditure of any fees collected from an operator of a nuclear fueled
33 thermal power plant under paragraph (a) of this subsection.

34 “(10) Reactors operated by a college, university or graduate center for research purposes and
35 electric utilities not connected to the Northwest Power Grid are exempt from the fee requirements
36 of subsections (5), (8) and (9) of this section.

37 “(11)(a) All fees assessed by the authority against holders of site certificates for facilities that
38 have an installed capacity of 500 megawatts or greater may be paid in several installments, the
39 schedule for which shall be negotiated between the authority and the site certificate holder.

40 “(b) Energy resource suppliers or applicants or holders of a site certificate who fail to pay a fee
41 provided under subsections (1) to (9) of this section after it is due and payable shall pay, in addition
42 to that fee, a penalty of two percent of the fee a month for the period that the fee is past due. Any
43 payment made according to the terms of a schedule negotiated under paragraph (a) of this sub-
44 section shall not be considered past due. The director may bring an action to collect an unpaid fee
45 or penalty in the name of the State of Oregon in a court of competent jurisdiction. The court may

1 award reasonable attorney fees to the director if the director prevails in an action under this sub-
2 section. The court may award reasonable attorney fees to a defendant who prevails in an action
3 under this subsection if the court determines that the director had no objectively reasonable basis
4 for asserting the claim or no reasonable basis for appealing an adverse decision of the trial court.

5 “**SECTION 28c.** ORS 469.426, as amended by section 28 of this 2019 Act, is amended to read:

6 “469.426. (1) The Director of the Oregon Climate Authority shall convene an advisory work
7 group composed of stakeholders representing energy resource suppliers, the customers who ulti-
8 mately pay for the energy supplier assessment imposed under ORS 469.421 (8) through their energy
9 bills and other groups that have an interest in the provision and regulation of energy in this state.

10 “(2) The advisory work group shall review and make recommendations to the director on the
11 Oregon Climate Authority’s proposals related to:

12 “[*(a) Planning, policy and technical analysis;*]

13 “[*(b) Legislative concepts; and*]

14 “[*(c) The department’s requested budget.*]

15 “(a) **Planning, policy and technical analysis as it pertains to the provision of energy in**
16 **this state;**

17 “(b) **The programs of the Oregon Climate Authority that are energy services programs,**
18 **as defined in ORS 469.421; and**

19 “(c) **The portion of the authority’s requested biennial budget that is eligible for funding**
20 **through the energy supplier assessment pursuant to ORS 469.421 (8)(a).**

21 “(3) The work group shall meet at least two times per year at the call of the director.

22
23 “(Provisions Related to the Energy Supplier Assessment,
24 operative January 1, 2022)
25

26 “**SECTION 28d.** ORS 469.421, as amended by sections 27 and 28b of this 2019 Act, is amended
27 to read:

28 “469.421. (1) Subject to the provisions of ORS 469.441, any person submitting a notice of intent,
29 a request for exemption under ORS 469.320, a request for an expedited review under ORS 469.370,
30 a request for an expedited review under ORS 469.373, a request for the Oregon Climate Authority
31 to approve a pipeline under ORS 469.405 (3), an application for a site certificate or a request to
32 amend a site certificate shall pay all expenses incurred by the Energy Facility Siting Council and
33 the authority related to the review and decision of the council. Expenses under this subsection may
34 include:

35 “(a) Legal expenses;

36 “(b) Expenses incurred in processing and evaluating the application;

37 “(c) Expenses incurred in issuing a final order or site certificate;

38 “(d) Expenses incurred in commissioning an independent study under ORS 469.360;

39 “(e) Compensation paid to a state agency, a tribe or a local government pursuant to a written
40 contract or agreement relating to compensation as provided for in ORS 469.360; or

41 “(f) Expenses incurred by the council in making rule changes that are specifically required and
42 related to the particular site certificate.

43 “(2) Every person submitting a notice of intent to file for a site certificate, a request for ex-
44 emption or a request for expedited review shall pay the fee required under the fee schedule estab-
45 lished under ORS 469.441 to the authority prior to submitting the notice or request to the council.

1 To the extent possible, the full cost of the evaluation shall be paid from the fee paid under this
2 subsection. However, if costs of the evaluation exceed the fee, the person submitting the notice or
3 request shall pay any excess costs shown in an itemized statement prepared by the council. In no
4 event shall the council incur evaluation expenses in excess of 110 percent of the fee initially paid
5 unless the council provides prior notification to the applicant and a detailed projected budget the
6 council believes necessary to complete the project. If costs are less than the fee paid, the excess
7 shall be refunded to the person submitting the notice or request.

8 “(3) Before submitting a site certificate application, the applicant shall request from the au-
9 thority an estimate of the costs expected to be incurred in processing the application. The authority
10 shall inform the applicant of that amount and require the applicant to make periodic payments of
11 the costs pursuant to a cost reimbursement agreement. The cost reimbursement agreement shall
12 provide for payment of 25 percent of the estimated costs when the applicant submits the application.
13 If costs of the evaluation exceed the estimate, the applicant shall pay any excess costs shown in an
14 itemized statement prepared by the council. In no event shall the council incur evaluation expenses
15 in excess of 110 percent of the fee initially estimated unless the council provided prior notification
16 to the applicant and a detailed projected budget the council believes is necessary to complete the
17 project. If costs are less than the fee paid, the council shall refund the excess to the applicant.

18 “(4) Any person who is delinquent in the payment of fees under subsections (1) to (3) of this
19 section shall be subject to the provisions of subsection (11) of this section.

20 “(5) Subject to the provisions of ORS 469.441, each holder of a certificate shall pay an annual
21 fee, due every July 1 following issuance of a site certificate. For each fiscal year, upon approval of
22 the authority’s budget authorization by an odd-numbered year regular session of the Legislative
23 Assembly or as revised by the Emergency Board meeting in an interim period or by the Legislative
24 Assembly meeting in special session or in an even-numbered year regular session, the Director of
25 the Oregon Climate Authority promptly shall enter an order establishing an annual fee based on the
26 amount of revenues that the director estimates is needed to fund the cost of ensuring that the fa-
27 cility is being operated consistently with the terms and conditions of the site certificate, any order
28 issued by the authority under ORS 469.405 (3) and any applicable health or safety standards. In de-
29 termining this cost, the director shall include both the actual direct cost to be incurred by the
30 council and the authority to ensure that the facility is being operated consistently with the terms
31 and conditions of the site certificate, any order issued by the authority under ORS 469.405 (3) and
32 any applicable health or safety standards, and the general costs to be incurred by the council and
33 the authority to ensure that all certificated facilities are being operated consistently with the terms
34 and conditions of the site certificates, any orders issued by the authority under ORS 469.405 (3) and
35 any applicable health or safety standards that cannot be allocated to an individual, licensed facility.
36 Not more than 35 percent of the annual fee charged each facility shall be for the recovery of these
37 general costs. The fees for direct costs shall reflect the size and complexity of the facility, the an-
38 ticipated costs of ensuring compliance with site certificate conditions, the anticipated costs of con-
39 ducting site inspections and compliance reviews as described in ORS 469.430, and the anticipated
40 costs of compensating state agencies and local governments for participating in site inspection and
41 compliance enforcement activities at the request of the council.

42 “(6) Each holder of a site certificate executed after July 1 of any fiscal year shall pay a fee for
43 the remaining portion of the year. The amount of the fee shall be set at the cost of regulating the
44 facility during the remaining portion of the year determined in the same manner as the annual fee.

45 “(7) When the actual costs of regulation incurred by the council and the authority for the year,

1 including that portion of the general regulation costs that have been allocated to a particular fa-
2 cility, are less than the annual fees for that facility, the unexpended balance shall be refunded to
3 the site certificate holder. When the actual regulation costs incurred by the council and the au-
4 thority for the year, including that portion of the general regulation costs that have been allocated
5 to a particular facility, are projected to exceed the annual fee for that facility, the director may is-
6 sue an order revising the annual fee.

7 “(8)(a) In addition to any other fees required by law, each energy resource supplier shall pay to
8 the authority annually its share of an assessment to fund:

9 “(A) The programs and activities of the council;

10 “(B) The energy services programs of the authority; and

11 “(C) The administrative overhead and shared services costs of the authority that are attribut-
12 able to the programs and activities described in subparagraphs (A) and (B) of this paragraph, unless
13 the administrative overhead or shared services costs are funded by fees pursuant to subsections (1),
14 (5) or (6) of this section.

15 “(b) Prior to filing an agency request budget under ORS 291.208 for purposes related to the
16 compilation and preparation of the Governor’s budget under ORS 291.216, the director shall deter-
17 mine the projected aggregate amount of revenue to be collected from energy resource suppliers un-
18 der this subsection that will be necessary to fund the programs and activities of the council and the
19 authority described in paragraph (a) of this subsection for each fiscal year of the upcoming
20 biennium. After making that determination, the director shall convene a public meeting with repre-
21 sentatives of energy resource suppliers and other interested parties for the purpose of providing
22 energy resource suppliers with a full accounting of:

23 “(A) The projected revenue needed to fund each energy services program of the authority; and

24 “(B) The projected allocation of moneys derived from the assessment imposed under this sub-
25 section to each energy services program of the authority.

26 “(c) Upon approval of the budget authorization of the council and the authority by an odd-
27 numbered year regular session of the Legislative Assembly, the director shall promptly enter an
28 order establishing the amount of revenues required to be derived from an assessment pursuant to
29 this subsection in order to fund programs and activities described in paragraph (a) of this subsection
30 that the council and the authority are charged with administering and authorized to conduct under
31 the laws of this state for the first fiscal year of the forthcoming biennium. On or before June 1 of
32 each even-numbered year, the director shall enter an order establishing the amount of revenues re-
33 quired to be derived from an assessment pursuant to this subsection in order to fund the programs
34 and activities described in paragraph (a) of this subsection that the council and the authority are
35 charged with administering and authorized to conduct under the laws of this state for the second
36 fiscal year of the biennium. The order shall take into account any revisions to the biennial budget
37 of the council and the authority made by the Emergency Board meeting in an interim period or by
38 the Legislative Assembly meeting in special session or in an even-numbered year regular session.

39 “(d) Each order issued by the director pursuant to paragraph (c) of this subsection shall allocate
40 the aggregate assessment set forth in the order to energy resource suppliers in accordance with
41 paragraph (e) of this subsection.

42 “(e) The amount assessed to an energy resource supplier shall be based on the ratio which that
43 supplier’s annual gross operating revenue derived within this state in the preceding calendar year
44 bears to the total gross operating revenue derived within this state during that year by all energy
45 resource suppliers. The assessment against an energy resource supplier shall not exceed 0.25 percent

1 of the supplier's gross operating revenue derived within this state in the preceding calendar year.
2 The director shall exempt from payment of an assessment any individual energy resource supplier
3 whose calculated share of the annual assessment is less than \$250.

4 "(f) The director shall send each energy resource supplier subject to assessment pursuant to this
5 subsection a copy of each order issued by registered or certified mail or through use of an electronic
6 medium with electronic receipt verification. The amount assessed to the energy resource supplier
7 pursuant to the order shall be considered to the extent otherwise permitted by law a government-
8 imposed cost and recoverable by the energy resource supplier as a cost included within the price
9 of the service or product supplied.

10 "(g) The amounts assessed to individual energy resource suppliers pursuant to paragraph (e) of
11 this subsection shall be paid to the authority as follows:

12 "(A) Amounts assessed for the first fiscal year of a biennium shall be paid not later than 90 days
13 following adjournment sine die of the odd-numbered year regular session of the Legislative Assem-
14 bly; and

15 "(B) Amounts assessed for the second fiscal year of a biennium shall be paid not later than July
16 1 of each even-numbered year or 90 days following adjournment sine die of the even-numbered year
17 regular session of the Legislative Assembly, whichever is later.

18 "(h) An energy resource supplier shall provide the director, on or before May 1 of each year,
19 a verified statement showing its gross operating revenues derived within the state for the calendar
20 or fiscal year that was used by the energy resource supplier for the purpose of reporting federal
21 income taxes for the preceding calendar or fiscal year. The statement must be in the form prescribed
22 by the director and is subject to audit by the director. The statement must include an entry showing
23 the total operating revenue derived by petroleum suppliers from fuels sold that are subject to the
24 requirements of Article IX, section 3a, of the Oregon Constitution, and ORS 319.020 with reference
25 to aircraft fuel and motor vehicle fuel, and ORS 319.530. The director may grant an extension of not
26 more than 15 days for the requirements of this subsection if:

27 "(A) The energy supplier makes a showing of hardship caused by the deadline;

28 "(B) The energy supplier provides reasonable assurance that the energy supplier can comply
29 with the revised deadline; and

30 "(C) The extension of time does not prevent the council or the authority from fulfilling its
31 statutory responsibilities.

32 "(i) As used in this section:

33 "(A) 'Energy resource supplier' means an electric utility, natural gas utility or petroleum sup-
34 plier supplying, generating, transmitting or distributing electricity, natural gas or petroleum pro-
35 ducts in Oregon.

36 "(B)(i) 'Energy services program' means a program or activity undertaken pursuant to the du-
37 ties, functions and powers of the authority that:

38 "(I) Provides expertise, technical or research support related to the administration of state en-
39 ergy policies and programs;

40 "(II) Provides energy data, analysis and tools; or

41 "(III) Supports energy conservation, energy efficiency, energy system planning, reliability and
42 safety, energy storage, renewable energy resources, or alternative energy resources or fuels.

43 "(ii) 'Energy services program' does not mean **the greenhouse gas reporting program under**
44 **ORS 468A.280 and rules adopted pursuant to ORS 468A.280** or any program adopted by the
45 Legislative Assembly and administered by the authority to place a cap on anthropogenic greenhouse

1 gas emissions and to provide for a market-based mechanism for covered entities to demonstrate
2 compliance with the program.

3 “(C) ‘Gross operating revenue’ means gross receipts from sales or service made or provided
4 within this state during the regular course of the energy supplier’s business, but does not include
5 either revenue derived from interutility sales within the state or revenue received by a petroleum
6 supplier from the sale of fuels that are subject to the requirements of Article IX, section 3a, of the
7 Oregon Constitution, or ORS 319.020 or 319.530.

8 “(D) ‘Petroleum supplier’ has the meaning given that term in ORS 469.020.

9 “(j) In determining the amount of revenues that must be derived from any class of energy re-
10 source suppliers by assessment pursuant to this subsection, the director shall take into account all
11 other known or readily ascertainable sources of revenue to the council and authority, including, but
12 not limited to, fees imposed under this section and federal funds, and may take into account any
13 funds previously assessed pursuant to ORS 469.420 (1979 Replacement Part) or section 7, chapter
14 792, Oregon Laws 1981.

15 “(k) Orders issued by the director pursuant to this section shall be subject to judicial review
16 under ORS 183.484. The taking of judicial review shall not operate to stay the obligation of an en-
17 ergy resource supplier to pay amounts assessed to it on or before the statutory deadline.

18 “(L) No later than September 15 of each even-numbered year, the Secretary of State shall con-
19 duct an audit to determine whether the assessment and uses of the energy resource supplier as-
20 sessment by the authority during the previous biennium complied with the provisions of this
21 subsection. The secretary shall provide a copy of the audit report issued for an audit under this
22 section to the director and to the Oregon Climate Board.

23 “(9)(a) In addition to any other fees required by law, each operator of a nuclear fueled thermal
24 power plant or nuclear installation within this state shall pay to the authority annually on July 1
25 an assessment in an amount determined by the director to be necessary to fund the activities of the
26 state and the counties associated with emergency preparedness for a nuclear fueled thermal power
27 plant or nuclear installation. The assessment shall not exceed \$461,250 per year. Moneys collected
28 as assessments under this subsection are continuously appropriated to the authority for this purpose.

29 “(b) The authority shall maintain and cause other state agencies and counties to maintain time
30 and billing records for the expenditure of any fees collected from an operator of a nuclear fueled
31 thermal power plant under paragraph (a) of this subsection.

32 “(10) Reactors operated by a college, university or graduate center for research purposes and
33 electric utilities not connected to the Northwest Power Grid are exempt from the fee requirements
34 of subsections (5), (8) and (9) of this section.

35 “(11)(a) All fees assessed by the authority against holders of site certificates for facilities that
36 have an installed capacity of 500 megawatts or greater may be paid in several installments, the
37 schedule for which shall be negotiated between the authority and the site certificate holder.

38 “(b) Energy resource suppliers or applicants or holders of a site certificate who fail to pay a fee
39 provided under subsections (1) to (9) of this section after it is due and payable shall pay, in addition
40 to that fee, a penalty of two percent of the fee a month for the period that the fee is past due. Any
41 payment made according to the terms of a schedule negotiated under paragraph (a) of this sub-
42 section shall not be considered past due. The director may bring an action to collect an unpaid fee
43 or penalty in the name of the State of Oregon in a court of competent jurisdiction. The court may
44 award reasonable attorney fees to the director if the director prevails in an action under this sub-
45 section. The court may award reasonable attorney fees to a defendant who prevails in an action

1 under this subsection if the court determines that the director had no objectively reasonable basis
2 for asserting the claim or no reasonable basis for appealing an adverse decision of the trial court.

3
4 **“(Energy Program Review Task Force)”**

5
6 **“SECTION 29. (1) The Energy Program Review Task Force is established.**

7 **“(2) The task force consists of:**

8 **“(a) Five members appointed as follows:**

9 **“(A) The President of the Senate shall appoint one member from among the members**
10 **of the Senate who also serves as a member of a committee of the Legislative Assembly re-**
11 **lated to climate;**

12 **“(B) The Speaker of the House of Representatives shall appoint one member from among**
13 **the members of the House of Representatives who also serves as a member of a committee**
14 **of the Legislative Assembly related to climate; and**

15 **“(C) The Governor shall appoint three members who represent the interests of key**
16 **stakeholders of the Oregon Climate Authority; and**

17 **“(b) The following six ex officio, voting members:**

18 **“(A) The chairperson of the Oregon Climate Board;**

19 **“(B) The Director of the Oregon Climate Authority;**

20 **“(C) The Director of the Oregon Department of Administrative Services or a designee of**
21 **the director;**

22 **“(D) One member of the Public Utility Commission or a designee of the chairperson of**
23 **the commission;**

24 **“(E) The Director of the Department of Environmental Quality or a designee of the di-**
25 **rector; and**

26 **“(F) The Director of the Department of Land Conservation and Development or a**
27 **designee of the director.**

28 **“(3) The task force shall:**

29 **“(a) Review and provide recommendations to the Governor and to the Legislative As-**
30 **sembly, which may include recommendations for legislation, regarding the most appropriate**
31 **state agency to provide for administration of the duties of the Energy Facility Siting Council**
32 **established under ORS 469.450;**

33 **“(b) If the task force determines that duties related to the Energy Facility Siting Council**
34 **should be transferred to another state agency, provide recommendations to the Governor**
35 **and to the Legislative Assembly, which may include recommendations for legislation, for a**
36 **proposal for accomplishing the transfer no later than July 1, 2021;**

37 **“(c) Review all the duties, functions and powers of the Oregon Climate Authority to as-**
38 **sess whether the programs and activities carried out pursuant to those duties, functions and**
39 **powers properly align with the policy stated in section 2 of this 2019 Act and the duties of**
40 **the authority provided for in section 3 of this 2019 Act; and**

41 **“(d) Provide recommendations to the Governor and to the Legislative Assembly, which**
42 **may include recommendations for legislation, on duties, functions and powers of the State**
43 **Department of Energy that will be transferred to the Oregon Climate Authority on the op-**
44 **erative date specified in section 261 (1) of this 2019 Act that should be abolished, amended**
45 **or transferred to other agencies of state government in order to ensure that the programs**

1 and activities of the Oregon Climate Authority properly align with the policy stated in sec-
2 tion 2 of this 2019 Act and the duties of the authority provided for in section 3 of this 2019
3 Act.

4 “(4) In conducting the duties provided for in subsection (3) of this section, the task force
5 shall take into consideration:

6 “(a) Alignment of the duties, functions and powers of the Oregon Climate Authority with
7 the policy stated in section 2 of this 2019 Act and the duties of the authority provided for in
8 section 3 of this 2019 Act, and otherwise with the mission of the authority;

9 “(b) The core staffing and expertise of the authority;

10 “(c) The administrative capacities of the authority and other agencies of state govern-
11 ment relative to administering specific duties, functions or powers of the authority; and

12 “(d) The efficiencies that may be gained or lost by abolishing, amending or transferring
13 certain duties, functions or powers of the authority.

14 “(5) A majority of the voting members of the task force constitutes a quorum for the
15 transaction of business.

16 “(6) Official action by the task force requires the approval of a majority of the voting
17 members of the task force.

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

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

21 “(9) The task force shall meet at times and places specified by the call of the chairperson
22 or of a majority of the voting members of the task force.

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

24 “(11) In the manner provided by ORS 192.245, the task force:

25 “(a) Shall submit an initial report, which may include recommendations for legislation,
26 to the Governor and an interim committee of the Legislative Assembly related to climate
27 no later than November 30, 2019; and

28 “(b) May submit an additional report, which may include recommendations for legis-
29 lation, to the Governor and an interim committee of the Legislative Assembly related to
30 climate no later than September 15, 2020.

31 “(12) The Oregon Climate Authority shall provide staff support to the task force.

32 “(13) Members of the Legislative Assembly appointed to the task force are nonvoting
33 members of the task force and may act in an advisory capacity only.

34 “(14) Members of the task force who are not members of the Legislative Assembly are
35 not entitled to compensation or reimbursement for expenses and serve as volunteers on the
36 task force.

37 “(15) All agencies of state government, as defined in ORS 174.111, are directed to assist
38 the task force in the performance of the duties of the task force and, to the extent permitted
39 by laws relating to confidentiality, to furnish information and advice the members of the task
40 force consider necessary to perform their duties.

41 “SECTION 30. Section 29 of this 2019 Act is repealed on December 31, 2020.”.

42 On page 74, delete line 11 and insert “in section 2 of this 2019 Act and ORS 469.310.”.

43 In line 24, delete “ORS 469.010 and” and insert “section 2 of this 2019 Act and ORS”.

44 In line 28, after “in” delete the rest of the line and insert “section 2 of this 2019 Act and ORS
45 469.310.”.

1 On page 75, line 7, restore “192.690,”.

2 In line 26, restore “192.690,”.

3 On page 76, after line 16, insert:

4 “**SECTION 90a.** ORS 469.100 is amended to read:

5 “469.100. (1) All agencies shall consider the policy stated in [*ORS 469.010*] **section 2 of this**
6 **2019 Act** in adopting or modifying their rules and policies.

7 “(2) All agencies shall review their rules and policies to determine their consistency with the
8 policy stated in [*ORS 469.010*] **section 2 of this 2019 Act.**”.

9 In line 18, delete “(1)”.

10 Delete lines 25 through 27.

11 On page 83, after line 33, insert:

12 “**SECTION 98a.** ORS 469.310 is amended to read:

13 “469.310. In the interests of the public health and the welfare of the people of this state, it is
14 the declared public policy of this state that the siting, construction and operation of energy facilities
15 shall be accomplished in a manner consistent with protection of the public health and safety and in
16 compliance with the energy policy and air, water, solid waste, land use and other environmental
17 protection policies of this state. It is, therefore, the purpose of ORS 469.300 to 469.563, 469.590 to
18 469.619, 469.930 and 469.992 to exercise the jurisdiction of the State of Oregon to the maximum ex-
19 tent permitted by the United States Constitution and to establish in cooperation with the federal
20 government a comprehensive system for the siting, monitoring and regulating of the location, con-
21 struction and operation of all energy facilities in this state. It is furthermore the policy of this state,
22 notwithstanding [*ORS 469.010 (2)(f)*] **section 2 (4)(j) of this 2019 Act** and the definition of cost-
23 effective in ORS 469.020, that the need for new generating facilities, as defined in ORS 469.503, is
24 sufficiently addressed by reliance on competition in the market rather than by consideration of
25 cost-effectiveness and shall not be a matter requiring determination by the Energy Facility Siting
26 Council in the siting of a generating facility, as defined in ORS 469.503.”.

27 On page 97, after line 29, insert:

28 “**SECTION 112a.** ORS 469.470 is amended to read:

29 “469.470. The Energy Facility Siting Council shall:

30 “(1) Conduct and prepare, independently or in cooperation with others, studies, investigations,
31 research and programs relating to all aspects of site selection.

32 “(2) In accordance with the applicable provisions of ORS chapter 183, and subject to the pro-
33 visions of ORS 469.501 (3), adopt standards and rules to perform the functions vested by law in the
34 council including the adoption of standards and rules for the siting of energy facilities pursuant to
35 ORS 469.501, and implementation of the energy policy of the State of Oregon set forth in [*ORS*
36 *469.010 and 469.310*] **section 2 of this 2019 Act and ORS 469.310.**

37 “(3) Encourage voluntary cooperation by the people, municipalities, counties, industries, agri-
38 culture, and other pursuits, in performing the functions vested by law in the council.

39 “(4) Advise, consult, and cooperate with other agencies of the state, political subdivisions, in-
40 dustries, other states, the federal government and affected groups, in furtherance of the purposes
41 of ORS 469.300 to 469.563, 469.590 to 469.619, 469.930 and 469.992.

42 “(5) Consult with the Water Resources Commission on the need for power and other areas
43 within the expertise of the council when the Water Resources Commission is determining whether
44 to allocate water for hydroelectric development.

45 “(6) Perform such other and further acts as may be necessary, proper or desirable to carry out

1 effectively the duties, powers and responsibilities of the council described in ORS 469.300 to 469.563,
2 469.590 to 469.619, 469.930 and 469.992.

3 **“SECTION 112b.** ORS 469.501 is amended to read:

4 “469.501. (1) The Energy Facility Siting Council shall adopt standards for the siting, con-
5 struction, operation and retirement of facilities. The standards may address but need not be limited
6 to the following subjects:

7 “(a) The organizational, managerial and technical expertise of the applicant to construct and
8 operate the proposed facility.

9 “(b) Seismic hazards.

10 “(c) Areas designated for protection by the state or federal government, including but not lim-
11 ited to monuments, wilderness areas, wildlife refuges, scenic waterways and similar areas.

12 “(d) The financial ability and qualifications of the applicant.

13 “(e) Effects of the facility, taking into account mitigation, on fish and wildlife, including
14 threatened and endangered fish, wildlife or plant species.

15 “(f) Impacts of the facility on historic, cultural or archaeological resources listed on, or deter-
16 mined by the State Historic Preservation Officer to be eligible for listing on, the National Register
17 of Historic Places or the Oregon State Register of Historic Properties.

18 “(g) Protection of public health and safety, including necessary safety devices and procedures.

19 “(h) The accumulation, storage, disposal and transportation of nuclear waste.

20 “(i) Impacts of the facility on recreation, scenic and aesthetic values.

21 “(j) Reduction of solid waste and wastewater generation to the extent reasonably practicable.

22 “(k) Ability of the communities in the affected area to provide sewers and sewage treatment,
23 water, storm water drainage, solid waste management, housing, traffic safety, police and fire pro-
24 tection, health care and schools.

25 “(L) The need for proposed nongenerating facilities as defined in ORS 469.503, consistent with
26 the state energy policy set forth in [ORS 469.010 and 469.310] **section 2 of this 2019 Act and ORS**
27 **469.310.** The council may consider least-cost plans when adopting a need standard or in determining
28 whether an applicable need standard has been met. The council shall not adopt a standard requiring
29 a showing of need or cost-effectiveness for generating facilities as defined in ORS 469.503.

30 “(m) Compliance with the statewide planning goals adopted by the Land Conservation and De-
31 velopment Commission as specified by ORS 469.503.

32 “(n) Soil protection.

33 “(o) For energy facilities that emit carbon dioxide, the impacts of those emissions on climate
34 change. For fossil-fueled power plants, as defined in ORS 469.503, the council shall apply a standard
35 as provided for by ORS 469.503 (2).

36 “(2) The council may adopt exemptions from any need standard adopted under subsection (1)(L)
37 of this section if the exemption is consistent with the state’s energy policy set forth in [ORS 469.010
38 and 469.310] **section 2 of this 2019 Act and ORS 469.310.**

39 “(3)(a) The council may issue a site certificate for a facility that does not meet one or more of
40 the applicable standards adopted under subsection (1) of this section if the council determines that
41 the overall public benefits of the facility outweigh any adverse effects on a resource or interest
42 protected by the applicable standards the facility does not meet.

43 “(b) The council by rule shall specify the criteria by which the council makes the determination
44 described in paragraph (a) of this subsection.

45 “(4) Notwithstanding subsection (1) of this section, the council may not impose any standard

1 developed under subsection (1)(b), (f), (j) or (k) of this section to approve or deny an application for
2 an energy facility producing power from wind, solar or geothermal energy. However, the council
3 may, to the extent it determines appropriate, apply any standards adopted under subsection (1)(b),
4 (f), (j) or (k) of this section to impose conditions on any site certificate issued for any energy
5 facility.”.

6 On page 105, line 16, delete “ORS”.

7 Delete line 17 and insert “section 2 of this 2019 Act and ORS 469.310.”.

8 On page 150, delete lines 43 through 45.

9 On page 151, delete lines 1 through 14 and insert:

10 “**NOTE:** Section 208 was deleted by amendment. Subsequent sections were not renumbered.”.

11 On page 170, after line 40, insert:

12 “**SECTION 243a.** ORS 757.230 is amended to read:

13 “757.230. (1) The Public Utility Commission shall provide for a comprehensive classification of
14 service for each public utility, and such classification may take into account the quantity used, the
15 time when used, the purpose for which used, the existence of price competition or a service alter-
16 native, the services being provided, the conditions of service and any other reasonable consider-
17 ation. Based on such considerations the commission may authorize classifications or schedules of
18 rates applicable to individual customers or groups of customers. The service classifications and
19 schedule forms shall be designed consistently with the requirements of [*ORS 469.010*] **section 2 of**
20 **this 2019 Act**. Each public utility is required to conform its schedules of rates to such classification.
21 If the commission determines that a tariff filing under ORS 757.205 results in a rate classification
22 primarily related to price competition or a service alternative, the commission, at a minimum, shall
23 consider the following:

24 “(a) Whether the rate generates revenues at least sufficient to cover relevant short and long run
25 costs of the utility during the term of the rates;

26 “(b) Whether the rate generates revenues sufficient to insure that just and reasonable rates are
27 established for remaining customers of the utility;

28 “(c) For electric and natural gas utilities:

29 “(A) Whether it is appropriate to incorporate interruption of service in the utility’s rate agree-
30 ment with the customer; and

31 “(B) Whether the rate agreement requires the utility to acquire new resources to serve the load;
32 and

33 “(d) For electric utilities, for service to load not previously served, the effect of the rate on the
34 utility’s average system cost through the residential exchange provision of the Pacific Northwest
35 Electric Power Planning and Conservation Act of 1980, Public Law 96-501, as amended.

36 “(2) The commission may prescribe such changes in the form in which the schedules are issued
37 by any public utility as may be found to be expedient. The commission shall adopt rules which allow
38 any person who requests notice of tariff filings described under subsection (1) of this section to re-
39 ceive such notice.”.

40 On page 181, delete lines 8 through 21 and insert:

41 “**SECTION 251.** ORS 757.617 is amended to read:

42 “757.617. (1)(a) The Public Utility Commission and the [*State Department of Energy*] **Oregon**
43 **Climate Authority** jointly shall select an independent nongovernmental entity to prepare a biennial
44 report to the Legislative Assembly describing program spending and results for public purpose re-
45 quirements undertaken pursuant to ORS 757.612. [*The first report shall be due on January 1, 2003.*]

1 **The report may include:**

2 **“(a) Proposed modifications to public purpose requirements undertaken pursuant to ORS**
3 **757.612; and**

4 **“(b) Recommendations regarding the public purpose funding requirements under ORS**
5 **757.612.**

6 *“(b) The commission and the department jointly shall select an independent nongovernmental en-*
7 *tity to prepare a report to the Legislative Assembly describing proposed modifications to public purpose*
8 *requirements undertaken pursuant to ORS 757.612. The report shall be due on January 1, 2007.]*

9 *“(c) The commission and the department jointly shall select an independent nongovernmental entity*
10 *to prepare a report to the Legislative Assembly recommending whether the public purpose funding re-*
11 *quirements under ORS 757.612 should be renewed. The report shall be due on January 1, 2011.]*

12 **“(2) The Housing and Community Services Department shall prepare a biennial report to the**
13 **Legislative Assembly describing program spending and needs for low-income bill assistance. [*The***
14 ***first report shall be due on January 1, 2003.*].”**

15 On page 184, delete lines 17 through 34 and insert:

16 **“SECTION 255. (1) The following funds are abolished on the operative date specified in**
17 **section 261 (1) of this 2019 Act:**

18 **“(a) The Energy Project Supplemental Fund;**

19 **“(b) The Energy Project Bond Loan Fund;**

20 **“(c) The Jobs, Energy and Schools Fund; and**

21 **“(d) The Energy Revenue Bond Repayment Fund.**

22 **“(2) Any moneys remaining in the funds specified in subsection (1)(a) and (b) of this**
23 **section on the operative date specified in section 261 (1) of this 2019 Act that are unexpended,**
24 **unobligated and not subject to any conditions shall be transferred to the Small Scale Local**
25 **Energy Project Administration and Bond Sinking Fund created under ORS 470.300.**

26 **“(3) Any moneys remaining in the funds specified in subsection (1)(c) and (d) of this**
27 **section on the operative date specified in section 261 (1) of this 2019 Act that are unexpended,**
28 **unobligated and not subject to any conditions shall be transferred to the Clean Energy De-**
29 **ployment Fund established under ORS 470.800.”**

30 On page 185, line 8, delete “2020” and insert “2021”.

31 In line 9, delete “2020” and insert “2021”.

32 In line 13, delete “184.425, 184.427, 184.429, 184.431, 184.433, 184.435.”.

33 In line 14, after “468A.260,” insert “469.010.”.

34 In line 19, after “701.119” insert “and sections 8a and 8b, chapter 739, Oregon Laws 2007.”.

35 Delete lines 23 through 44 and insert:

36 **“SECTION 261. (1)(a) Sections 17 to 25 and 255 to 259 of this 2019 Act, the amendments**
37 **to statutes and session law by sections 26 to 28 and 31 to 254 of this 2019 Act and the repeal**
38 **of statutes by section 260 of this 2019 Act become operative on July 1, 2020.**

39 **“(b) The Director of the Oregon Climate Authority, the Oregon Climate Authority, the**
40 **Director of the State Department of Energy, the State Department of Energy, the Director**
41 **of the Oregon Business Development Department, the Oregon Business Development De-**
42 **partment and the Governor may adopt rules and take any action before the operative date**
43 **specified in paragraph (a) of this subsection that is necessary to enable the directors, the**
44 **departments and the authority to exercise, on and after the operative date specified in par-**
45 **agraph (a) of this subsection, the duties, functions and powers of the directors, the depart-**

1 **ments and the authority pursuant to sections 17 to 25 and 255 to 259 of this 2019 Act, the**
2 **amendments to statutes and session law by sections 26 to 28 and 31 to 254 of this 2019 Act**
3 **and the repeal of statutes by section 260 of this 2019 Act.**

4 **“(c) Any rules adopted pursuant to paragraph (b) of this subsection may not become op-**
5 **erative before the operative date specified in paragraph (a) of this subsection.**

6 **“(2)(a) The amendments to statutes by sections 28a, 28b and 28c of this 2019 Act become**
7 **operative July 1, 2021.**

8 **“(b) The Director of the Oregon Climate Authority and the Oregon Climate Authority**
9 **may take any action before the operative date specified in paragraph (a) of this subsection**
10 **that is necessary to enable the director and the authority, on and after the operative date**
11 **specified in paragraph (a) of this subsection, to carry out the duties, function and powers of**
12 **the director and the authority pursuant to the amendments to statutes by sections 28a, 28b**
13 **and 28c of this 2019 Act.**

14 **“(3)(a) Sections 9 to 15 of this 2019 Act and the amendments to statutes by sections 16**
15 **and 28d of this 2019 Act become operative on January 1, 2022.**

16 **“(b) The Director of the Oregon Climate Authority, the Oregon Climate Authority, the**
17 **Director of the Department of Environmental Quality, the Department of Environmental**
18 **Quality and the Environmental Quality Commission may take any action before the operative**
19 **date specified in paragraph (a) of this subsection that is necessary to enable the directors,**
20 **the department, the commission and the authority, on and after the operative date specified**
21 **in paragraph (a) of this subsection, to carry out the duties, function and powers of the di-**
22 **rectors, the department, the commission and the authority pursuant to sections 9 to 15 of**
23 **this 2019 Act and the amendments to statutes by sections 16 and 28d of this 2019 Act.”.**

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