

**Enrolled**  
**House Bill 4037**

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Energy and Environment)

CHAPTER .....

AN ACT

Relating to solar energy; and declaring an emergency.

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

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

(a) "Investor-owned utility" means an investor-owned utility, as defined in ORS 469.631, that distributes electricity.

(b) "Nameplate capacity" means the maximum rated output of a generator, inverter or other electric power production equipment measured in alternating current under specific conditions designated by the manufacturer of the equipment.

(c) "Publicly owned utility" has the meaning given that term in ORS 469.649.

(d) "Solar photovoltaic energy system" means equipment and devices that have the primary purpose of collecting solar energy and generating electricity by photovoltaic effect.

(2) The Oregon Business Development Department shall establish a program to incentivize the generation of electricity derived from solar energy. In establishing the program, the department shall:

(a) Prescribe the form and manner by which the owner or operator of a solar photovoltaic energy system may apply to participate in the program;

(b) Require an owner or operator of a solar photovoltaic energy system applying to participate in the program to submit a plan to complete construction of the solar photovoltaic energy system and begin to generate electricity within one year after being enrolled in the program;

(c) Enroll in the program applicants that own or operate solar photovoltaic energy systems qualified to be included in the program;

(d) Limit the cumulative nameplate capacity of solar photovoltaic energy systems included in the program that are owned or operated by a single program enrollee, and any business affiliated with the program enrollee, to 35 megawatts; and

(e) Close the program to new applicants on the earlier of the following dates:

(A) The date on which all solar photovoltaic energy systems included in the program have a cumulative nameplate capacity of 150 megawatts; or

(B) January 2, 2017.

(3)(a) To participate in the program, an owner or operator of a solar photovoltaic energy system must demonstrate to the satisfaction of the department that the solar photovoltaic energy system is qualified to be included in the program. A solar photovoltaic energy system is qualified to be included in the program if the solar photovoltaic energy system:

- (A) Is located in this state;
- (B) Has a nameplate capacity of at least two megawatts;
- (C) Has a nameplate capacity of no more than 10 megawatts;
- (D) Has a commercial operations date, as specified in a power purchase agreement, of January 1, 2016, or later;

(E) Is either directly connected to the electrical system of an investor-owned utility or publicly owned utility, or is indirectly connected to the electrical system of an investor-owned utility or publicly owned utility in a manner that the department determines is acceptable for program enrollees;

(F) Has a meter or other device that monitors and measures the quantity of energy generated by the solar photovoltaic energy system; and

(G) Meets any other siting, design, interconnection, installation and electric output standards required by the laws of this state.

(b) An investor-owned utility or a publicly owned utility that owns a qualified solar photovoltaic energy system is eligible to participate in the program.

(4)(a) Subject to paragraphs (b) and (c) of this subsection, for the purpose of incentivizing the generation of electricity derived from solar energy, the department shall make a monthly payment to a program enrollee for a solar photovoltaic energy system that generates electricity for an amount that equals one-half cent per kilowatt hour of electricity generated by the solar photovoltaic energy system during the preceding month. Payments shall continue for five years after the date on which the department makes the initial payment to the program enrollee for energy generated by the solar photovoltaic energy system.

(b) Beginning one year after a program enrollee is enrolled in the program, for each month that the program enrollee's solar photovoltaic energy system does not generate electricity, the department shall reduce by one month the number of monthly payments otherwise required to be paid to the program enrollee under paragraph (a) of this subsection for that solar photovoltaic energy system.

(c) If by two years after a program enrollee is enrolled in the program the program enrollee's solar photovoltaic energy system has not generated electricity, the department shall remove the solar photovoltaic energy system from the program established under this section and the program enrollee may not receive any payments otherwise required to be paid to the program enrollee under paragraph (a) of this subsection for that solar photovoltaic energy system.

(5) Before enrolling an applicant as described in subsection (2)(c) of this section, the Oregon Business Development Department shall:

(a) Consult with the State Department of Energy to ensure that:

(A) A proposed solar photovoltaic energy system is qualified as described in subsection (3) of this section; and

(B) The solar photovoltaic energy system, if not generating electricity on the date of application, is likely to begin generating electricity no later than one year after the date on which the owner or operator of the solar photovoltaic energy system applies to be included in the program; and

(b) If applicable, consult with the Public Utility Commission to ensure that the costs associated with a solar photovoltaic energy system will be recoverable pursuant to a schedule submitted to and approved by the commission in accordance with ORS 757.205 and 757.210 or pursuant to other applicable provisions of law providing for the recovery of costs borne by investor-owned utilities.

(6) The owner of a solar photovoltaic energy system included in the program established under this section:

(a) Also owns all renewable energy certificates established under ORS 469A.130 that are associated with the generation of electricity by the solar photovoltaic energy system; and

(b) Is not eligible to receive funds under ORS 757.612 (3)(b)(B) unless the funds are received pursuant to an agreement entered into before the effective date of this 2016 Act.

(7) The Oregon Business Development Department may adopt rules to implement this section.

(8) The department shall submit a report on implementing this section in the manner provided by ORS 192.245 to an interim committee of the Legislative Assembly related to energy no later than September 15 of each odd-numbered year.

**SECTION 2.** (1) There is established the Solar Incentivization Fund, separate and distinct from the General Fund. Interest earned by the Solar Incentivization Fund shall be credited to the fund.

(2) Moneys in the fund are continuously appropriated to the Oregon Business Development Department for the purposes of the program described in section 1 of this 2016 Act.

(3) The department may accept from any source any grant, donation or gift of moneys for deposit in the fund.

**SECTION 3.** (1) Sections 1 and 2 of this 2016 Act are repealed on January 2, 2023.

(2) Any moneys remaining in the Solar Incentivization Fund on the date of the repeal of section 2 of this 2016 Act must be transferred from the Solar Incentivization Fund to the General Fund to be available for general governmental purposes.

**SECTION 4.** In addition to and not in lieu of any other appropriation, there is appropriated to the Oregon Business Development Department, for the biennium beginning July 1, 2015, out of the General Fund, the amount of \$951,561, for the purpose of carrying out the provisions of section 1 of this 2016 Act.

**SECTION 5.** This 2016 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2016 Act takes effect on its passage.

Passed by House February 26, 2016

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Timothy G. Sekerak, Chief Clerk of House

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Tina Kotek, Speaker of House

Passed by Senate March 2, 2016

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Peter Courtney, President of Senate

Received by Governor:

.....M.,....., 2016

Approved:

.....M.,....., 2016

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Kate Brown, Governor

Filed in Office of Secretary of State:

.....M.,....., 2016

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Jeanne P. Atkins, Secretary of State