

**Enrolled**  
**House Bill 2134**

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 low-income electric bill payment assistance; amending ORS 757.612; and prescribing an effective date.

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

**SECTION 1.** ORS 757.612 is amended to read:

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

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

(b) For an aluminum plant that averages more than 100 average megawatts of electricity use per year, [*beginning on March 1, 2002,*] the electric company or Oregon Community Power [*whose*], **whichever serves** territory **that** abuts the greatest percentage of the site of the aluminum plant, shall collect from the aluminum company a public purpose charge equal to one percent of the total revenue from the sale of electricity services to the aluminum plant from any source.

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

(b) [*Subject to paragraph (e)*] **Except as provided in paragraph (e)** of this subsection, funds collected [*by an electric company or Oregon Community Power*] through public purpose charges **under subsection (2) of this section** shall be allocated as follows:

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

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

(C) Thirteen percent for new low-income weatherization.

(D) Five percent [*shall be transferred to*] **for deposit** in the Housing and Community Services Department Electricity Public Purpose Charge Fund established by ORS 456.587 (1) [*and used*] for the purpose of providing grants as described in ORS 458.625 (2).

(c) The costs of administering subsections (1) to (6) of this section for an electric company or Oregon Community Power shall be paid out of the funds collected through public purpose charges. The commission may require [*that*] an electric company or Oregon Community Power **to** direct funds collected through public purpose charges to [*the*] state agencies responsible for implementing subsections (1) to (6) of this section in order to pay the costs of [*administering such responsibilities*] **administering subsections (1) to (6) of this section.**

(d) The commission shall direct the manner in which public purpose charges are collected and spent by an electric company or Oregon Community Power and may require an electric company or Oregon Community Power to expend funds through competitive bids or other means designed to encourage competition, except that funds dedicated for **new** low-income weatherization shall be directed to the Housing and Community Services Department [*as provided in subsection (7) of this section*] **for purposes related to new low-income weatherization.** The commission [*may also direct that*] **may also require** funds collected [*by an electric company or Oregon Community Power*] through public purpose charges **to** be paid to a nongovernmental entity for investment in public purposes described in subsection (1) of this section. Notwithstanding any other provision of this subsection:

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

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

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

(B) A school district that receives funds under this paragraph shall use the funds first to pay for energy audits for schools located within the school district. A school district may not expend additional funds received under this paragraph on a school [*facility*] until an energy audit has been completed for that school [*facility*]. To the extent practicable, a school district shall coordinate with the State Department of Energy and incorporate federal funding in complying with this paragraph. Following completion of an energy audit for an individual school, the school district may expend funds received under this paragraph to implement the energy audit. Once an energy audit has been conducted and completely implemented for each school within the school district, the school district may expend funds received under this paragraph for any of the following purposes:

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

(ii) [*Weatherization*] **Weatherizing school district facilities** and upgrading the energy efficiency of school district facilities.

(iii) Energy conservation education programs.

(iv) Purchasing electricity from environmentally focused sources [*and*].

(v) Investing in renewable energy resources.

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

(g) If the commission [*directs*] **requires** funds collected through public purpose charges to **be paid to** a nongovernmental entity, the entity shall:

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

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

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

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

(E) **Annually** file with the commission [*annually*] the entity's budget, action plan and quarterly and annual reports for public review.

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

(h) The commission may remove from the board of directors of a nongovernmental entity an officer or director who fails to provide an annual disclosure of economic interest, or **who fails to** declare **an** actual or potential conflict of interest, as described in paragraph (g)(B) and (C) of this subsection, [*in connection with*] **if the failure is connected to** the allocation or expenditure of funds collected through public purpose charges and [*directed*] **paid** to the entity.

(4)(a) An electric company that satisfies its obligations under this section [*shall have*]:

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

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

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

(A) [*Shall have*] **Has** no [*other*] **further** obligation to invest in **new cost-effective energy** conservation, new market transformation or new low-income weatherization, or to provide a commercial energy conservation services program; and

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

(5)(a) A retail electricity consumer that uses more than one average megawatt of electricity at any site in the prior year shall receive a credit against public purpose charges billed by an electric company or Oregon Community Power for that site. The amount of the credit shall be equal to the total amount of qualifying expenditures for new **cost-effective** energy conservation, not to exceed 68 percent of the annual public purpose charges, and the above-market costs [*of purchases*] of new renewable energy resources incurred by the retail electricity consumer, not to exceed 19 percent of the annual public purpose charges, less administration costs incurred under **this paragraph and paragraphs (b) and (c)** of this subsection. The credit may not exceed, on an annual basis, the lesser of:

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

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

(b) To obtain a credit under **paragraph (a)** of this subsection, a retail electricity consumer shall file with the State Department of Energy a description of the proposed conservation project or new

renewable energy resource and a declaration that the retail electricity consumer plans to incur the qualifying expenditure. The State Department of Energy shall issue a notice of precertification within 30 days of receipt of the filing, if such filing is consistent with **paragraph (a)** of this subsection. The credit may be taken after a retail electricity consumer provides a letter from a certified public accountant to the State Department of Energy verifying that the precertified qualifying expenditure has been made.

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

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

(B) A retail electricity consumer shall be entitled each year to the credit described in this [subsection] **paragraph** unless a subsequent independent audit determines that new conservation investment opportunities are available. The State Department of Energy may require that a new independent audit be performed on the site to determine whether new conservation measures are available, provided that the independent audits [shall] occur no more than once every two years.

(C) The retail electricity consumer shall pay the cost of the independent audits described in this [subsection] **paragraph**.

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

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

*[(b) The commission shall establish the amount to be collected by each electric company in calendar year 2008 from retail electricity consumers served by the company, and the rates to be charged to retail electricity consumers served by the company, so that the total anticipated collection for low-income electric bill payment assistance by all electric companies in calendar year 2008 is \$15 million. In calendar year 2009 and subsequent calendar years, the commission may not change the rates established for retail electricity consumers, but the total amount collected in a calendar year for low-income electric bill payment assistance may vary based on electricity usage by retail electricity consumers and changes in the number of retail electricity consumers in this state. In no event shall a retail electricity consumer be required to pay more than \$500 per month per site for low-income electric bill payment assistance.]*

**(b) The commission shall establish the amount to be collected by each electric company from retail electricity consumers, and the rates to be charged by each electric company to retail electricity consumers, so that the forecasted collection by all electric companies in calendar year 2018 is \$20 million. In subsequent calendar years, the commission may not decrease the rates below those established for calendar year 2018. The commission may temporarily adjust the rates if forecasted collections or actual collections are less than \$20 million in any calendar year. A retail electricity consumer may not be required to pay more than \$500 per month per site for low-income electric bill payment assistance.**

(c) Funds collected [by] **through** the low-income electric bill payment assistance charge shall be paid into the Housing and Community Services Department Low-Income Electric Bill Payment Assistance Fund established by ORS 456.587 (2). Moneys deposited in the fund under this paragraph

shall be used by the Housing and Community Services Department **solely** for *[the purpose of funding]* **purposes related to** low-income electric bill payment assistance<sup>[.]</sup> **and for the Housing and Community Services** Department's cost of administering this subsection. *[shall be paid out of funds collected by the low-income electric bill payment assistance charge. Moneys deposited in the fund under this paragraph shall be expended solely for low-income electric bill payment assistance.]* Funds collected *[from]* **by** an electric company or Oregon Community Power **under this subsection** shall be expended in the service area of the electric company or Oregon Community Power from which the funds are collected.

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

(B) The **Housing and Community Services** Department, **in consultation with electric companies**, shall investigate and may implement alternative delivery models *[in consultation with electric companies]* to effectively reduce service disconnections and related costs to retail electricity consumers and electric utilities.

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

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

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

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

(8) For purposes of this section, "retail electricity consumers" includes any direct service industrial consumer that purchases electricity without purchasing distribution services from the electric utility.

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

**SECTION 2. This 2017 Act takes effect on January 2, 2018.**

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**Passed by House March 30, 2017**

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Timothy G. Sekerak, Chief Clerk of House

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Tina Kotek, Speaker of House

**Passed by Senate May 23, 2017**

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Peter Courtney, President of Senate

**Received by Governor:**

.....M,....., 2017

**Approved:**

.....M,....., 2017

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Kate Brown, Governor

**Filed in Office of Secretary of State:**

.....M,....., 2017

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Dennis Richardson, Secretary of State